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*By LaDavia S. Hatcher **

In 1997, thousands of people celebrated the 50th anniversary of the Levittown suburb in Long Island, New York.[1] However, the happiness shared by the community who moved into Levittown in 1947 was not shared by the over one million African-American World War II veterans,[2] most of whom were systematically locked out of Federal Housing Authority ("FHA") and Veterans Authority ("VA") funded communities because of the color of their skin.[3]

Although VA loans made housing assistance available to African-American World War II veterans, the federal government supported FHA insurance policies that made it nearly impossible for VA loans to be insured for African Americans.[4] This practice began with the 1944 enactment of the Servicemen's Readjustment Act[5] and continued until President Kennedy's 1962 Executive Order that renounced federally funded housing with restrictive covenants.[6]

By the mid 1970s, 11 million Americans had purchased homes through FHA-VA financing.[7] Yet, an overwhelmingly large percentage of the 11 million homes that were federally-insured and federally-guaranteed were acquired by, and limited to, ownership by White Americans.[8] Therefore, as a result of racial restrictions, less than 2% of the housing financed and insured with federal mortgage assistance was available to African Americans.[9] In fact, World War II African-American servicemen still remember the pain caused by federal financed restrictive covenants.[10] During a 1997 interview commemorating the Levittown anniversary, World War II veteran Eugene Burnett stated, "The anniversary leaves me cold . . . . [W]hen I hear 'Levittown' what rings in my mind is when the salesman said: 'It's not me, you see, but the owners of this development have not as yet decided whether they're going to sell these homes to Negroes.'"[11]

This article presents the arguments and substance of a proposed reparations statute to address the federal government's housing discrimination practices, which led to systematic housing prejudice toward over one million African Americans that fought in World War II.

History

The long history of housing discrimination has had a lasting effect on African-American communities.[12] Housing is the largest component of wealth for most American families.[13] However, African Americans are less likely to be homeowners and their homes tend to be less valuable than those of White Americans.[14] This disparity can be traced back to deliberate government policies and programs that predominantly provided homeownership for White Americans.[15] Although all African Americans were prejudicially targeted as unworthy for federal housing assistance, this article focuses on the narrow group of African-American World War II veterans who were statutorily entitled to federal financing through the Servicemen's Readjustment Act of 1944[16], but were denied these entitlements because of their race.

The Roosevelt administration created the New Deal legislation, a portion of which sought societal stability by making continued homeownership a reality.[17] The Home Owners Loan Corporation ("HOLC"), the FHA, and the VA implemented this legislation.[18] The HOLC, which provided longer term and fully amortized mortgages, came into being in the 1930s.[19] Thereafter, the FHA was created.[20] However, unlike the HOLC, the FHA insured federal mortgage loans instead of making mortgage loans.[21] Since home loans were now insured by the FHA, lenders were willing to make loans on terms that were acceptable by the FHA.[22] Then the Servicemen's Readjustment Act of 1944 created the VA, offering federally financed mortgage loans to World War II veterans.[23] To the dismay of African-American servicemen, the administration of VA loans conformed to the attitudes and accepted the procedures of the FHA.[24] The FHA used its biased discretion to decide which loans it would insure. As a result, loans in "high-risk" areas, such as urban communities and inharmonious racial areas, would most likely not be insured. Thus, in order to make certain that its loans were insured, the VA complacently conformed to the FHA's prejudice.

In essence, from its conception, the FHA set itself up as the protector of the all-White-American neighborhood by implementing several racially restrictive policies. One policy focused on specific appraisal standards in the FHA Underwriting Manual. The manual blatantly instructed that "the presence of inharmonious racial or nationality groups made a neighborhood's housing undesirable for insurance."[25] Moreover, the underwriting explicitly recommended racially restrictive covenants and warned, "[I]f a neighborhood is to retain stability, it is necessary that properties should continue to be occupied by the same social and racial classes."[26] Thus, although racially restrictive covenants were made judicially unenforceable after *Shelley v. Kraemer*,[27] the FHA and VA continued to require the covenants.[28] In fact, Franklin D. Richards, the FHA commissioner during *Shelley*, stated that the court's action would "in no way affect the programs of [the FHA]."[29]

In response to advocacy by the National Association for the Advancement of Colored People and Presidential intervention, the FHA lifted its ban against integration. In 1949, FHA officials announced that the FHA would refuse to issue mortgage insurance on properties bound by racially restrictive covenants recorded after February 15, 1950.[30] Nevertheless, FHA officials

publicly announced that the newly adopted policy in no way encouraged open occupancy.[31] In a clearly prejudicial effort to encourage federally funded housing discrimination, the executive board of the FHA agreed that "it should be made entirely clear that violation [of the new rules] would not invalidate insurance."[32] Consequently, both the Truman and Eisenhower presidential administrations rejected requests to bar FHA aid to any segregated housing.[33]

It was not until President Kennedy issued Executive Order 11,063 that the government considered federal assistance for housing that excluded people because of their race, color, or creed unfair and against the public policy of the United States.[34] Furthermore, it was only after there seemed to be no hope for the World War II-generation minorities seeking federally financed homeownership that President Kennedy issued the order.[35] Therefore, although the Servicemen's Readjustment Act of 1944 made federally financed home loans exclusively available to World War II veterans, these loans were not available to African-American veterans for at least two and a half decades. As a result, a lasting dent was impressed into their wealth portfolios and overall future advancements.

While, federally encouraged racial restrictive covenants did appear to end in 1962, the effects of the prejudice live on today in the form of lost opportunities, wealth, and property accumulation. Acclaimed authors Melvin Oliver and Thomas Shapiro stated it best when they described the plight of African Americans as follows:

> [L]ocked out of the greatest mass-based opportunity for wealth accumulation in American history, African Americans who desired and were able to afford home ownership found themselves consigned to central-city communities where their investments were affected by the self-fulfilling prophecies of the FHA appraisers: cut off from sources of new investment, their homes and communities deteriorated and lost value in comparison to those homes and communities that FHA appraisers deemed desirable.[36]

Basic Approach to the Concept of Reparations

Before presenting why reparations are owed to African-American World War II veterans, it is important to place the concept of reparations into perspective by breaking it down into its essential parts. Historically, the term "reparations" takes on a different definition for different people in different cultures. Nevertheless, a constant theme in reparations is the concept of human injustice. In his anthology, *The Age of Apology,* Roy Brooks captures the ideas of many by describing reparations as, "responses that seek atonement for the commission of an injustice."[37] Furthermore, Brooks defines human injustice as, "the violation or suppression of human rights or fundamental freedoms recognized by international law."[38] For this article, the concept of reparations will be generally defined as a response that seeks atonement for the commission of an injustice that is a violation or suppression of human rights or fundamental freedoms recognized by international law.

However, before an argument for reparations can be asserted, there are five prerequisites for a meritorious reparations claim: (1) a human injustice has been committed; (2) the human injustice is well documented; (3) the victims are a distinct group that is identifiable; (4) the current members of the group continue to be harmed; (5) and the harm is causally connected to the injustice.[39] After a meritorious claim is presented, the decision as to appropriate redress follows. Examples of such redress include apologies, apologies with payment, payment without apologies, and the investment of money or services into the communities of the harmed groups.[40] The events that cause the need for reparations are sometimes ignited by racism, power, greed, or complacency. This article argues that reparations continue to serve as the only concrete way to create mass public awareness of previous human injustices to prevent human tragedies in the future.

Reparations Paradigm

During recent history, redress for injustice has become a phenomenon in both the international and national arenas. Apologies, sometimes coupled with monetary and non-monetary payments for human injustices, have gained both national and international momentum. Brooks calls it the "Age of Apology."[41] Yet, the distinction between an apology with payment and simple payment is of paramount importance. The apologies by individuals or entities, even without monetary reparations, send a message of atonement, whereas offered and paid reparations without more seem to be settlements. Apologies send a message of acknowledgment and a desire to recognize the past in order to change the future. However, the offered and paid reparations without apologies appear to be mere settlements to quiet the claimants and relieve the perpetrators of liability.

Domestically, federal and state governments have offered apologies and in some instances granted reparations to prejudicially affected groups. For example, President Clinton apologized to Hawaiians for the illegal U.S.-aided overthrow of their sovereign nation. Similarly, the federal government offered reparations to the African-American victims of the Tuskegee syphilis experiment.[42] In addition, the U.S. government apologized and offered limited reparations for Japanese Latin Americans kidnapped from Latin American countries and held hostage in U.S. internment camps during World War II.[43] It also granted statutory reparations to Japanese-American survivors of the World War II Japanese internments camps.[44] Further still, the Florida legislature awarded reparations to survivors of the Rosewood Massacre.[45]

Specifically, the internment of Japanese in America began in 1942 under the direction of President Roosevelt, when he issued Executive Order 9066.[46] The mission of the order was to "prescribe military areas from which any or all people may be excluded who might threaten national security by sabotage or espionage."[47] As a result, 120,000 people of Japanese ancestry from the West Coast were evaluated, relocated, and interned by

the U.S. military. Almost two-thirds or over 77,000 of those interned were American-born citizens.

A Commission on Wartime Relocation and Internment of Civilians ("CWRIC") was set up by the United States Congress to consider redress for the Japanese affected by the internment orders.[48] It provided five recommendations, which were all enacted as the Civil Liberties Act of 1988.[49] First, CWRIC recommended creation of a joint congressional resolution acknowledging and apologizing for the wrongs done in 1942. Second, it recommended a presidential pardon for persons convicted of violating the statutes establishing and enforcing evacuation and incarceration. Third, it encouraged Congress to instruct the government to deal with applicants for restitution. Fourth, CWRIC recommended that Congress set aside money for the establishment of a special foundation to sponsor research and public educational activities."[50] Finally, it recommended that Congress grant a one time, tax free, per capita compensation of $20,000 to each person that survived incarceration."[51]

Then, in 1995, arising from the legal claims of families and survivors of the 1923 Rosewood Massacre, the Florida legislature passed the Rosewood Compensation Act.[52] This legislation marked the first time in American history that an American administration accepted responsibility for an act of racial violence committed against African Americans.[53] Prior to the massacre, the town of Rosewood was a prosperous oasis for African Americans, despite its geographical placement in a predominately White-American county in Florida. The Massacre began when White-American residents of the county believed that an African-American man sexually assaulted a White-American woman. Local and state law enforcers either participated or stood by and idly watched White-American residents kill African-American men, women, and children and burned their small town to the ground.[54] As a result of the violence, Rosewood was literally wiped off the Florida state map.

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Although the Florida government did not apologize for the massacre, the state acknowledged its responsibility for failing to prevent the tragedy and recognized that White Americans were responsible for destroying Rosewood. In addition, the Act required a criminal investigation and directed state universities to conduct research on the Rosewood incident. Monetary reparations were paid to nine survivors of the horrific tragedy in the amount of $150,000; while, the 145 decedents of residents were paid between $375 and $22,535 for property damage.[55] Moreover, in the form of non-monetary reparations, individual educational grants under the Rosewood Family Scholarship Fund were made available.[56] The scholarship gives preference to those students that are direct descendents of the Rosewood family.[57]

These events mark essential published accounts where American governmental entities granted and actually paid monetary reparations. Drawing specifically from the rationales for awarding Japanese interment detainees and Rosewood survivors statutory reparations, a foundation should be created for the successful implementation of a statute granting monetary compensation and an apology to African-American World War II veterans - standing as a definite and concrete apology with tangible weight.[58]

Defeating General Arguments Against African-American Claims to Reparations

Critics of African-American reparations employ legalisms to support reparation resistance.[59] Specifically, African-American reparation opponents present five distinct arguments. First, they argue the statute of limitations has run, asserting that slavery happened over one hundred years ago. Next, they argue the absence of directly harmed individuals because all ex-slaves have been dead for at least a generation. Third, critics point to the absence of individual perpetuators, stating that White Americans living today have not injured African Americans and should not be required to pay for the sins of their slave master forbearers. Fourthly, critics use a lack of direct causation argument. This critique states that slavery did not cause the present ills of African-American communities. Last is the indeterminacy of compensation amounts. In this argument, critics claim that it is impossible to determine who should get what and how much.[60]

All of the mentioned criticisms are legally strong. However, not one can defeat the argument for granting reparations to African-American World War II veterans. For instance, both the Japanese internment camp and the Rosewood Massacre challenges were brought decades after the tragedies. Thus, the statute of limitations did not restrain those successful challenges. The second and third arguments are defeated because perpetuators and harmed individuals are identifiable by way of military and government official records. Furthermore, direct causation exists between federally supported FHA racially restrictive policies and those veterans who were directly harmed by those policies. This disproves the fourth argument. Finally, compensation is easily calculated by using the increased value of homes financed and insured by FHA and VA assistance, which will be paid directly to veterans or their surviving spouses.

Framing the Reparations Argument for the African-American World War II Veterens

The following presents a model by which the African-American World War II veterans' claim for reparations has an

even higher probability of success. In general, the paradigm suggests that a claim must be able to identify the victims and perpetuators, successfully identify causation, and ascertain damages that serve as final payment in order to fit in the individual rights paradigm. Furthermore, admittedly, research has revealed short-comings associated with general reparations arguments. Nevertheless, the Japanese-American and Rosewood survivors' claims succeeded because they fit tightly within the individual rights paradigm of the law. The claim for African-American World War II Veterans does so as well.[61]

In fact, there are several reasons why the Japanese-American reparations claim was successful under the individual rights paradigm. First, the Japanese-American internees' claims addressed a specific executive order and ensuing military orders. Second, the challenge was based on then-existing constitutional norms. Yet, more importantly, a congressional Commission and the courts identified specific facts that proved a violation of those norms. Third, the claimants and the government agents were easily identifiable and those governmental agents' wrongful acts were the direct cause of harm, stemming from the imprisonment of innocent people. Lastly, while the damages were uncertain, they were fixed by time and limited to survivors.

The claim by African-American World War II veterans also fits tightly within the individual rights paradigm, mirroring the rationale applied in claims asserted by Japanese Americans. First, discriminatory policies of the FHA administration and governmental materials[62] provide tangible evidence of the discrimination sought to be redressed. Second, this challenge is based on then-existing constitutional norms (the Equal Protection Clause and the Privileges and Immunities Clause of the U.S. Constitution). In addition, the court in *Shelly v. Kramer* found that racially restrictive covenants were unenforceable,[63] providing support for the proposition that factual findings prove violation of those constitutional norms. Moreover, the government agents, FHA Commissioner Franklin D. Richards, the FHA executive board, and the Truman and Eisenhower administrations, are all easily identifiable as perpetuators of the wrong.[64] In short, the perpetuators were directly responsible for the systematic denial of federal housing funding and insuring,[65] to which African-American World War II veterans were entitled vis-à-vis the Servicemen's Readjustment Act of 1944.[66] This denial resulted in wealth-advancement harm. Lastly, the damages may be uncertain, but they are fixed by time (from the end of World War II until the issuance of Executive Order 11,063 in 1962)[67] and limited to African-American veterans of World War II or their surviving spouses.

THE EQUALPROTECTION CLAUSE OF THE UNITED STATES CONSTITUION

The grant of statutory reparations is a remedy that can retroactively cure the effects of unlawful discrimination, whereas legislative measures only seek to prevent such conduct in the future. In contrast, Congress has enacted numerous laws to prevent discrimination and its effects. In theory, claimants could use these statutory measures to claim reparations. The Fourteenth Amendment grants equal protection under the law for all persons born or naturalized in the United States.[68] By its terms, the Equal Protection Clause appears only to restrain state governments.[69] However, the Fifth Amendment's Due Process guarantee, beginning with the 1954 decision in *Bolling v. Sharpe*,[70] is interpreted as imposing the same restrictions on the federal government.[71]

Pursuant to the Equal Protection Clause, African-American World War II veterans are entitled to a remedy for federally encouraged housing discrimination. The legislature provided for the enactment of the Servicemen's Readjustment Act of 1944[72] and the Constitution provides the means by which all men entitled to that right are protected.[73] African-American World War II veterans were and have always been citizens of the United States; thus, they should be afforded protection under its laws. The federal government abandoned and traded in its own Constitution to subject its veterans to racially motivated housing discrimination. Accordingly, the U.S. government is constitutionally obligated to right this immoral abandonment of the laws of the Constitution by granting them equal protection under the law. Reparations serve as the most effective vehicle to reverse a monetary loss of a constitutional right.

THE FAIR HOUSING ACT

Although veterans were without substantial legal recourse to fight institutionalized discrimination during and shortly after the war, the Civil Rights Act of 1964[74] provided hope. Subsequently, other legislation sought to continue the purposes set forth by the Civil Rights Act, including the Fair Housing Act of 1968 which prohibited housing discrimination in the lease, sale, or rental of housing on the basis of race, color, religion, sex, familial status, or national origin.[75]

The Fair Housing Act provides relief for housing discrimination in the following forms: compensatory damages, civil penalties, punitive damages, injunctions, and attorney's fees.[76] There are two types of compensatory damages, tangible and intangible.[77] Some examples of tangible relief include "lost wages for time spent searching for alternative housing, the cost of temporary housing…and time spent preparing the case and attending the hearing." With regard to intangible loss, the majority of its claims are brought under the theory of emotional distress. The two ways to establish a claim of emotional distress[79] due to housing discrimination are by a complainant using direct testimony or the fact finder inferring emotional distress from the evidence even without medical evidence.[80] In fact, case law provides a foundation for the proposition that African-American World War II servicemen have a valid legal claim for reparations by asserting emotional distress as an additional factor for relief.[81] Three cases provide precedent demonstrating that emotional distress is an intangible loss for which relief can be sought in claims of housing discrimination under the Fair Housing Act and other civil rights laws.

In *United States Department of Housing and Urban Devel-*

opment ("HUD") v. Kogut,[82] the court awarded the plaintiff tenant relief for emotional distress as a result of discriminatory eviction due to her sex.[83] The tenant was evicted after refusing a sexual advance made by the defendant property manager.[84] The court found that the defendant violated the Fair Housing Act when he denied the plaintiff housing and caused her embarrassment and temporary concern for her security. Both amounted to emotional distress.[85]

Similarly, in *HUD v. Lashley*,[86] the court awarded the plaintiff and her children compensatory damages for intangible losses due to emotional distress.[87] The plaintiff and her children were continually harassed in their previous neighborhood.[88] White Americans in the community called them "Niggers" and caused the family to fear for their lives by placing a bomb under their house containing a flammable liquid and wick.[89] As a result of the constant threat and torture to their lives, the family was forced to move from their suitable community into a less desirable community.[90] Pursuant to the Fair Housing Act, the court ordered the two perpetrators to compensate the family for their emotional distress due to housing discrimination (denying a dwelling) based on race.[91]

Finally, in *HUD v. Sams*,[92] the court awarded the plaintiff compensatory relief for housing discrimination based on familial status. The plaintiff family was set to relocate and join the father in a new city until their plans were halted by a landlord who decided not to rent to the family because of the number of children.[93] The plaintiff's marriage suffered and the children became distressed due to the sudden denial.[94] The family was awarded $24,000 for emotional distress due to housing discrimination.[95]

These cases illustrate the types of discrimination against protected classes that warrant compensation for intangible harms under the Fair Housing Act. They also provide support for the proposition that monetary compensation for emotional distress due to housing discrimination is a reality and it should be considered in this case. Like the plaintiffs in the above cases, the African-American World War II servicemen endured housing discrimination that is prohibited by the Fair Housing Act. They were discriminated against while serving in the military and emotionally abused after their service, as a result of being denied the right to federal housing assistance. The government assumed that these men were not men at all under the laws of the United States. For these reasons, statistical information providing proof of emotional distress may be unavailable, but the veteran's emotional abuse from discrimination is a reality and should be considered as an additional factor supporting a grant of reparations.

Recommendations: Compensating the Victim

Beginning with compensation, the statute granting reparations to Japanese Americans based payment amounts on personal and real property loss and damages.[96] Similarly, the basis for African-American World War II veterans' compensation is the loss of real property and the damage to the wealth portfolios due to exclusion from federal assistance. Opponents may argue that compensation for such a loss is too illusory and hard to calculate. However, hard evidence is available to demonstrate the increased value of homes that were financed and insured with federal assistance. For example, White-American homeowners who took advantage of FHA and VA assistance saw the value of their homes increase dramatically, especially when housing prices tripled in the 1970s.[97] Thus, those locked out of the housing market by FHA racially restrictive covenants and who later sought to become first time homebuyers faced an increase in housing costs.[98]

Calculating compensation for the loss incurred could follow a method created by Professor Kathleen Engel known as the "Calculating Lost Access to Community Method" or the "CLAC Method."[99] This method seeks to approximate the value of living in a desirable community versus the value that a complainant of housing discrimination has incurred by obtaining housing in a less desirous community.[100] Using the sales price differentials between the two homes in different communities, Engle provides an example of how her method would work. She describes a person who sought to purchase a home for $150,000 in a good neighborhood versus his alternative, purchasing a home in a less desirable neighborhood for $100,000.[101] The value of his lost access to the community that he originally sought to purchase a home in, based on the price differential, would be $50,000. The complainants "opportunity cost is the discounted present value of the interest that he could have earned on the $50,000 if he had invested it in an income-generating vehicle."[102] The argument that not all African-American World War II veterans would have invested their opportunity cost fails to consider that the investment could have been made in intangible assets such as education or wealth advancements that would have provided entry into aspects of society otherwise unattainable.

Additionally, Professor Engel offers two other methods of calculation. The first involves establishing the value of a community based on the difference in the size of a complainant's actual interest payments.[103] By applying the housing prices in the above example, the first step would be to calculate the discounted present value of the interest the complainant actually would have paid on the $50,000. Next would be to compound the discounted present value of the interest. This calculation would account for the opportunity cost that arose because the complainant would not be able to invest the money that he would be spending on interest. In the end, the total after discounting and compounding would reflect the value the complainant placed on living in the more desirable community.[104] The third method is to simply calculate the loss by estimating the appreciated property value of homes that were federally financed and insured by the FHA and VA between the 1944 enactment of the Servicemen Readjustment Act[105] and the 1962 Executive Order formally restricting federal support of racially restrictive housing.[106]

Identifying the Victim

The Japanese-American statute provided eligibility to "persons of Japanese ancestry detained, interned, or paroled and

subsequently released."[107] Likewise, African-American World War II veterans are easily identified as those who served in World War II from 1941 to 1945 or their spouse if they are deceased.

Recommended Reparation Payment Duration

The Civil Liberties Act of 1988 set the claim and payment duration for Japanese Americans in motion.[108] Before enactment of the Civil Liberties Act of 1988, there was a payment duration discrepancy. This is demonstrated by the fact that the original duration was supposed to last only eighteen months after July 2, 1948 and the actual first reparation payment in 1991.[109] To avoid such a discrepancy in future reparation payments, African-American World War II veterans should be allowed to assert claims until all possible recipients are identified and notified of their entitlement. A response from the veteran or his spouse should be required to ascertain that notification was achieved. This claim process will curb common mistakes by the government and beneficiaries regarding administrative and human errors.

Conclusion

The prerequisites for legal success in granting reparations to African-American World War II veterans who were discriminated against by the federal government are present in this case. Several conditions are necessary for redress. First, legislators, not judges, must receive demands or claims for redress. Second, political pressure must be applied uniformly to the legislature. Freedom has no color, therefore all citizens of free America must pull together to support this measure. Finally, the claim must present independent legal merit.

A federally supported statute granting reparations to World War II veterans will educate many federally sanctioned discrimination policies in American history that need not be repeated. The American government must acknowledge its liabilities addressed by this article and take steps to correct the harm caused. The substance of this article should prevent future African-American veterans from reliving the struggle and bitter feelings of those African-American World War II veterans locked out of governmentally encouraged communities such as Levittown. Our society must learn from its transgressions and honor the sacrifice of all African-American veterans in an effort to correct the past by placing the families of African-American World War II veterans in their rightful financial positions.

Endnotes

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[1] *See* Bruce Lambert, *At 50, Levittown Contends with Its Legacy of Bias*, N.Y. TIMES, Dec. 28, 1997, at A1, *available at* 1997 WL 4817282 (Levittown, Long Island, New York, is one of many communities built post World War II to provide federally funded communities for veterans returning from the war).
[2] *See* Richard Wormser, *Jim Crow Stories: U.S. in World War II (1941-45), in* THE RISE AND FALL OF JIM CROW (2002), http://www.pbs.org/wnet/jimcrow/stories_events_ww2.html.
[3] *See generally* Lambert, *supra* note 1, at A1 (discussing Levittown housing discrimination policy against African Americans).
[4] *See* Florence Wagman Roisman, *Teaching About Inequality, Race, and Property*, 46 ST. LOUIS U. L.J. 665, 676-80 (2002).
[5] *See* 38 U.S.C.A. § 3701 (West 2006).
[6] *See* Exec. Order No. 11,063, 3 C.F.R. 652 (1959-1963), *reprinted as amended in* 42 U.S.C.A. § 1982 (West 2006).
[7] *See* Thomas W. Hanchett, *The Other "Subsidized Housing:" Federal Aid to Suburbanization, 1940-1960's, in* FROM TENEMENTS TO THE TAYLOR HOMES: IN SEARCH OF AN URBAN HOUSING POLICY IN TWENTIETH-CENTURY AMERICA 163, 165-66 (John F. Bauman et al. eds., 2000).
[8] *See* Roisman, *supra* note 4, at 681.
[9] *See* MARK I. GELFAND, A NATION OF CITIES: THE FEDERAL GOVERNMENT AND URBAN AMERICA 1933-1965, 221 (Oxford University Press, Inc. 1975).
[10] *See* Lambert, *supra* note 1, at A1.
[11] *See* Lambert, *supra* note 1, at A1.
[12] This statement is a fact through the eyes of the author of this article who was born and raised in one of America's largest inner-cities.
[13] *See generally* John Karl Scholz & Kara Levine, *U.S. Black-White Wealth Inequality: A Survey, in* SOCIAL INEQUALITY 895 (Kathryn Neckerman ed., 2004), *available at* http://www.econ.wisc.edu/~scholz/Research/Wealth_survey_v5.pdf (discussing the disparity in wealth between white and black Americans).
[14] *Id.* at 30.
[15] Scholz & Levine, *supra* note 13, at 30.
[16] *See* 38 U.S.C.A. § 3701 (West 2006).
[17] *See* Arnold R. Hirsh, *Choosing Segregation: Federal Housing Policy Between Shelly and Brown, in* FROM TENEMENTS TO THE TAYLOR HOMES: IN SEARCH OF AN URBAN HOUSING POLICY IN TWENTIETH-CENTURY AMERICA 163, 208 (John F. Bauman et al. eds., 2000).
[18] *See generally* Hirsch, *supra* note 17, at 208.
[19] *See* Roisman, *supra* note 4, at 676.
[20] 12 U.S.C. § 3701 (1994) (The FHA was created by the National Housing Act of 1934).
[21] *See* Roisman, *supra* note 4, at 677.
[22] *See* Roisman, *supra* note 4, at 677.
[23] *See* 38 U.S.C.A. § 3701 (West 2006).
[24] *See* Roisman, *supra* note 4, at 677.
[25] *See* Roisman, *supra* note 4, at 677.
[26] *See* Roisman, *supra* note 4, at 677-78.
[27] *See*, 334 U.S. 1, 20 (1948).
[28] *See* Roisman, *supra* note 4, at 678.
[29] *See* Roisman, *supra* note 4, at 678.
[30] *See* Hirsh, *supra* note 17, at 221.
[31] *See* GELFAND, *supra* note 9, at 221.
[32] Roisman, *supra* note 4, at 680.
[33] *See* GELFAND, *supra* note 9, at 426 n.64.
[34] *See* Exec. Order No. 11,063, 3 C.F.R. at 652, *reprinted as amended in* 42 U.S.C.A. § 1982.
[35] *Id.*
[36] MELVIN L. OLIVER & THOMAS M. SHAPIRO, BLACK WEALTH/WHITE WEALTH: A NEW PERSPECTIVE ON RACIAL INEQUALITY 18 (Routlege 1997) (1995).
[37] Roy L. Brooks, *The Age of Apology, in* WHEN SORRY ISN'T ENOUGH: THE CONTROVERSY OVER APOLOGIES AND REPARATIONS FOR HUMAN INJUSTICE 3, 8 (Roy L. Brooks ed., New York University Press 1999).
[38] *Id.* at 8.
[39] *Id.*
[40] *See generally* Brooks, *supra* note 37, at 8-11.
[41] *See generally* Eric K. Yamamoto, *Racial Reparations: Japanese American Redress and African American Claims*, 19 B.C. THIRD WORLD L.J. 477, 483-84 (1998) (reviewing Japanese-American reparations and the claims by African Americans).
[42] *Id.*
[43] *Id.* at 483-84.
[44] *Id.* at 477.
[45] *Id.* at 483.

[46] *See* Roy L. Brooks, *Japanese American Redress and the American Political Process: A Unique Achievement*, *in* WHEN SORRY ISN'T ENOUGH: THE CONTROVERSY OVER APOLOGIES AND REPARATIONS FOR HUMAN INJUSTICE, *supra* note 37, at 157.
[47] *See* Roy L. Brooks, *Japanese American Redress and the American Political Process: A Unique Achievement*, *in* WHEN SORRY ISN'T ENOUGH: THE CONTROVERSY OVER APOLOGIES AND REPARATIONS FOR HUMAN INJUSTICE, *supra* note 37, at 157.
[48] *See* Yamamoto, *supra* note 41, at 490, 523 n. 48; *See generally* Roger Daniels, *Relocation, Redress and the Report: A Historical Appraisal, Redress Achieved, 1983-1990* & *Relocation, Redress, and the Report: A Historical Appraisal in* WHEN SORRY ISN'T ENOUGH: THE CONTROVERSY OVER APOLOGIES AND REPARATIONS FOR HUMAN INJUSTICE, *supra* note 37, at 185-89.
[49] *See* 50 U.S.C.A. § 1989 (2006).
[50] *Id*.
[51] 50 U.S.C.A. § 1989b-4 (2006).
[52] *See* Kenneth B. Nunn, *Rosewood*, *in* WHEN SORRY ISN'T ENOUGH: THE CONTROVERSY OVER APOLOGIES AND REPARATIONS FOR HUMAN INJUSTICE, *supra* note 37, at 435.
[53] *See* Kenneth B. Nunn, *Rosewood*, *in* WHEN SORRY ISN'T ENOUGH: THE CONTROVERSY OVER APOLOGIES AND REPARATIONS FOR HUMAN INJUSTICE, *supra* note 37, at 435.
[54] *See* Kenneth B. Nunn, *Rosewood*, *in* WHEN SORRY ISN'T ENOUGH: THE CONTROVERSY OVER APOLOGIES AND REPARATIONS FOR HUMAN INJUSTICE, *supra* note 37, at 435.
[55] Yamamoto, *supra* note 41, at 490.
[56] *See* Nunn, *supra* note 52, at 436.
[57] *See* Nunn, *supra* note 52, at 436.
[58] It is important to note that reparations were paid in these instances because in the past the American government has offered reparations without a record of payment and apologies without reparations payment.
[59] *See* Yamamoto, *supra* note 41, at 487-88.
[60] *Id.* at 491.
[61] *Id.* at 490.
[62] *See* Roisman, *supra* note 4, at 677-80 (the policies noted include the FHA manual, which specifically instructed that the presence of inharmonious racial and nationality group made a housing undesirable for insurance and recommended of racially restrictive covenants neighborhood's); *see also* Exec. Order No. 11,063, 3 C.F.R. at 652, *reprinted as amended in* 42 U.S.C.A. § 1982 (Executive Order No. 11,063, which sought to right the wrong of prejudicial federal housing assistance exclusion of African Americans).
[63] *See* 334 U.S. at 20.
[64] *See generally* Roisman, *supra* note 4, at 678-80.
[65] *See generally* Roisman, *supra* note 4, at 678-80.
[66] *See* 38 U.S.C.A. § 3701 (West 2006).
[67] *See* Exec. Order No. 11,063, 3 C.F.R. at 652, *reprinted as amended in* 42 U.S.C.A. § 1982.
[68] *See* U.S. CONST. amend. XIV, § 1.
[69] *See generally* U.S. CONST. amend. XIV, § 1.
[70] *See* 347 U.S. 497 (1954).
[71] *See Bolling* Explanation, 347 U.S. 483 (1954) (the majority opinion held that while the Fourteenth Amendment, whose Equal Protection Clause was cited in *Brown v. Board of Education* 347 U.S. 483 (1954), in order to declare segregation unconstitutional did not apply in the District of Columbia, the Fifth Amendment did apply.).
[72] *See* 38 U.S.C.A. § 3701 (West 2006).
[73] *See generally* U.S. CONST. amend. XIV, § 1.
[74] *See* Civil Right Acts of 1964, Pub. L. No. 88-352, 78 Stat. 241 (1964).
[75] *See* Pub. L. No. 90-284, 82 Stat. 81 (1968) (codified as amended at 42 U.S.C.A. §§ 3601-3631 (West 2006)).
[76] *Id*. at 1161.
[77] *See* 42 U.S.C.A. § 3613 (West 2006).
[78] Alan W. Heifetz & Thomas C. Heinz, *Separating the Objective, the Subjective, and the Speculative: Assessing Compensatory Adjudications*, 26 J. MARSHALL L. REV. 3, 10-14 (1992).
[79] *Id*.
[80] *Id.* at 14-17.
[81] *See* Kathleen C. Engel, *Moving Up the Residential Hierarchy: A Remedy for An Old Injury Arising From Housing Discrimination*, 77 WASH. U. L.Q. 1153, 1159 (1999) (providing a unique remedy for the loss of access to communities because of discrimination through a case study analysis in cases where monetary damages were awarded under the Fair Housing Act for emotional distress).
[82] *See* 2 Fair Housing-Fair Lending (P-H) P 25,100 (H.U.D.A.L.J. April 17, 1995) at 1.
[83] *Id*. at 15.
[84] *Id*. at 2-6.
[85] *Id*. at 6.
[86] *See*, 2 Fair Housing-Fair Lending (P-H) P 25,039 (H.U.D.A.L.J. December 7, 1992) at 1.
[87] *Id*. at 7.
[88] *Id*. at 2.
[89] *Id.* at 2.
[90] *Id*. at 2-3.
[91] *See* Lashley, 2 Fair Housing-Fair Lending (P-H) P 25,039 at 7.
[92] *See* 2 Fair Housing-Fair Lending (P-H) P ¶ 25,069 (H.U.D.A.L.J March 11, 1994).
[93] *See generally id*. at 4-5.
[94] *Id*.
[95] *Id*. at 10.
[96] Civil Liberties Act of 1988, Pub. L. No. 100-383, 102 Stat. 904 (1988) (codified as amended at 50a U.S.C. § 1981(a) (West 2006)).
[97] Roisman, *supra* note 4, at 682.
[98] Roisman, *supra* note 4, at 682.
[99] *See* Engel, *supra* note 81, at 1168.
[100] *See generally* Engel, *supra* note 81, at 1168-69.
[101] *See* Engel, *supra* note 81, at 1171-72.
[102] *See* Engel, *supra* note 81, at 1172.
[103] *See* Engel, *supra* note 81, at 1173.
[104] *See* Engel, *supra* note 81, at 1173.
[105] *See* 38 U.S.C.A. § 3701 (West 2006).
[106] *See* Exec. Order No. 11,063, 3 C.F.R. at 652, *reprinted as amended in* 42 U.S.C.A. § 1982.
[107] *See* Civil Liberties Act, *supra* note 96, at § 1981(b)(3).
[108] *See* Civil Liberties Act, *supra* note 96.
[109] *See* Yamamoto, *supra* note 41, at 477.