Part I: Background

A. The Problem of Bias in the Appraisal Industry

The Appraisal System Historically Undervalued Homes in Communities of Color

For much of America's history, communities of color were systematically excluded from economic opportunities through explicit policy decisions.[4] In particular, the New Deal's federal Home Owners Loan Corporation ("HOLC") developed one of the most harmful policy decisions in the housing and financial services markets by creating a system that included race as a fundamental factor in determining the desirability and value of neighborhoods.[5] This system included Residential Security Survey forms that explicitly captured the percentage of "Negro" populations and other racial groups living in an area and then utilized that race-based data to grade the neighborhood. The HOLC's policies and procedures helped systematize redlining as well as the unfounded association between race and risk in U.S. housing and financial services markets.

The HOLC appraisal system also included the creation of appraisal maps that were color-coded to evaluate, grade, and indicate the desirability of neighborhoods. Communities of color – and even neighborhoods with small numbers of Black residents – were coded as "hazardous" and signified by red shading on the map and were assigned a lower value. Moreover, areas that were adjacent to communities with Black residents could be downgraded simply based on their proximity to a community of color.

Notably, the data used to create the maps was not just collected randomly, but was based on the opinions of the leading real estate professionals at the time, including appraisers. Later, the Federal Housing Administration adopted these maps and race-based policies as the basis for its mortgage insurance underwriting decisions. Thus, the maps not only reflected the race-conscious views of the nation's housing industry leaders at the time, but were also used to amplify and codify these views throughout the housing system.

A collaboration of academics has produced an interactive online tool known as "Mapping Inequality," which documents how real estate professionals, including appraisers, and the HOLC used their racially-biased views to determine the economic value of a community on the basis of race.[6] Below are examples of the tool and an archived HOLC map of Baltimore.

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[4] *See* Lisa Rice, *The Fair Housing Act: A Tool for Expanding Access to Quality Credit,* The Fight for Fair Housing: Causes, Consequences, and Future Implications of the 1968 Federal Fair Housing Act (Gregory Squires, 1st ed. 2017) (providing a detailed explanation of how federal race-based housing and credit policies promoted inequality).

[5] The Home Owners' Loan Act of 1933 established the HOLC as an emergency agency under the Federal Home Loan Bank Board. 12 U.S.C. § 1461 *et seq.*

[6] *See* University of Richmond, Virginia Tech, University of Maryland, and Johns Hopkins University, *Mapping Inequality* (documenting the maps and area descriptions created by the HOLC between 1935 and 1940), https://dsl.richmond.edu/panorama/redlining/#loc=3/41.245/-105.469&text=intro.

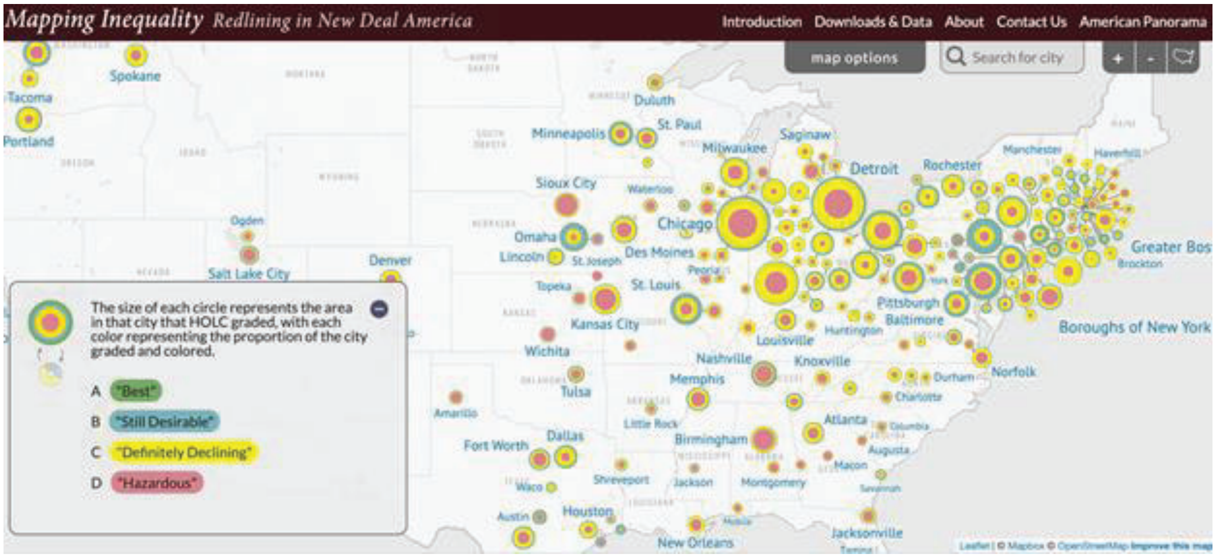

Figure 1. Source: Mapping Inequality

This is one of the initial pages of the "Mapping Inequality" tool. The graphic at the left shows the HOLC map legend where red signifies a community that was deemed "Hazardous."

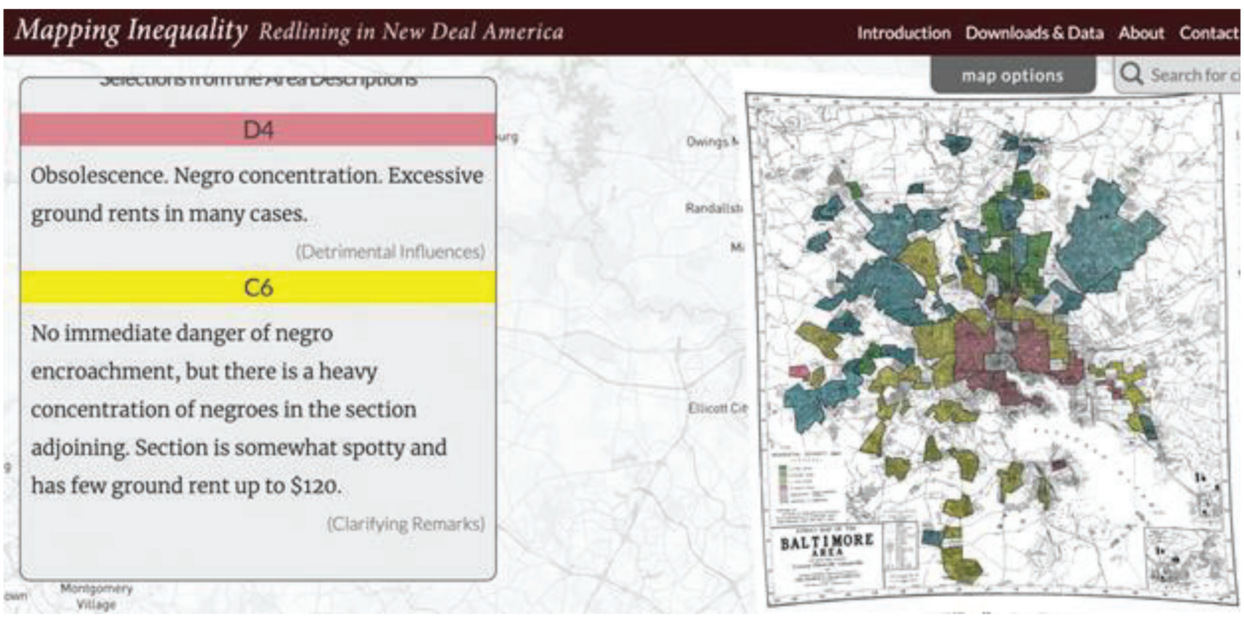

Figure 2. Source: Mapping Inequality

This is the HOLC's map of Baltimore, which color-coded the communities of color as red and "hazardous" based in part on "Negro concentration."

Appraisal Principles and Practices Perpetuated an Unfounded Association Between Race and Risk

In addition to the mapping system, explicitly discriminatory principles and practices perpetuated an unfounded association between race and risk in the nation's housing and financial markets. These practices also promoted the idea a home should be valued based on its neighborhood and that a homogenous, all-White neighborhood held the highest value. Following are excerpts from a few appraisal texts and manuals (emphasis added).

- 1932: Valuation of Real Estate –
  "There is one difference in people, namely **race,** which can result in very rapid decline [in real estate values].
- 1935: American Institute of Real Estate Appraisers Manual, Real Estate Appraisal –
  "To have the attributes of a good residential area, it is essential that protection be afforded against the **infiltration of inharmonious racial groups….**"

- 1938: Federal Housing Administration Underwriting Manual –
  "Areas surrounding a location are investigated to determine whether **incompatible racial and social groups** are present, for the purpose of making a prediction regarding the probability of the locations being **invaded** by such groups. If a neighborhood is to retain stability, **it is necessary that properties continue to be occupied by the same social and racial classes**. A change in social or racial occupancy generally contributes to instability and a **decline in values**."

- 1946: McMichael's Appraising Manual, Third Edition –
  "Those nationalities and races having the most favorable influence [in Chicago] come first in the list and those exerting detrimental effects come last:

    1. English, Germans, Scotch, Irish, Scandinavians.
    2. North Italians.
    3. Bohemians or Czechs.
    4. Poles.
    5. Lithuanians.
    6. Greeks.
    7. Russian, Jews (lower class)
    8. South Italians.
    9. Negroes.
    10. Mexicans."

- 1967: American Institute of Real Estate Appraisers Textbook, The Appraisal of Real Estate –
  "The causes of racial and ethnic conflicts are not the appraiser's responsibility. However, he must recognize the fact that **values change when people who are different from those presently occupying an area advance into and infiltrate a neighborhood."**

Notably, although the Fair Housing Act had passed in 1968, the explicitly discriminatory appraisal guidance continued:

- 1973: American Institute of Real Estate Appraisers Course Material – "**Ethnological information also is significant** to real estate analysis. As a general rule, homogeneity of the population contributes to stability of real estate values. Information on **the percentage of** native-born whites, foreign whites, and **non-white population is important,** and the changes in this composition have a significance…. As a general rule, minority groups are found at the bottom of the socio-economic ladder, and problems associated with **minority group segments of the population can hinder community growth."**

In 1976, after decades of these explicitly discriminatory principles and practices, the U.S. Department of Justice ("DOJ") filed suit against the American Institute of Real Estate Appraisers and three other defendants for alleged violations of the Fair Housing Act.[7] The DOJ alleged that the four defendants had engaged in unlawful discriminatory practices by promulgating standards and offering educational materials which had caused appraisers and lenders to treat race and national origin as negative factors in determining the value of dwellings and in evaluating the soundness of home loans, and by failing to take adequate steps to correct the continuing effect of past discrimination and ensure non-discrimination by appraisers and lenders whose practices were subject to the influence or authority of the four organizations. The parties eventually entered into a settlement agreement in which the American Institute of Real Estate Appraisers agreed to adopt the following policy statements:

1) It is improper to base a conclusion or opinion of value upon the premise that the racial, ethnic, or religious homogeneity of the inhabitants of an area or of a property is necessary for maximum value.

2) Racial, religious, or ethnic factors are deemed unreliable predictors of value trends or price variance.

3) It is improper to base a conclusion or opinion of value, or a conclusion with respect to neighborhood trends, upon stereotyped or biased presumptions relating to race, color, religion, sex, or national origin or upon unsupported presumptions relating to the effective age or remaining life of the property being appraised or the life expectancy of the neighborhood in which it is located.

In sum, these historical maps and policies resulted in homes in neighborhoods with similar amenities being systematically undervalued primarily on the basis of race and national origin. This approach led to the modern-day term "redlining," which refers to restricting access to credit in communities of color. Discriminatory valuation systems and policies developed by the HOLC, the Federal Housing Administration, the American Institute of Real Estate Appraisers, and other entities also helped create, entrench, and perpetuate residential segregation. Real estate professionals used the redlining maps to racially steer people of color into red-coded or "hazardous" areas and to establish racially restrictive covenants to keep areas racially homogenous. Unfortunately, racial disparities in homeownership, wealth, health, education, and

[7] *United States v. American Institute of Real Estate Appraisers*, 442 F. Supp. 1072 (N.D. Ill. 1977).

other key factors of success continue to follow the harmful redlining patterns set forth in these historical maps, policies, and practices.

Discrimination in Appraisals Continues on an Individual and Systemic Basis

Discrimination in Appraisals Continues on an Individual Basis

Unfortunately, the appraisal system continues to suffer from bias on an individual and systemic basis. Recent news stories have highlighted anecdotal evidence on an individual basis:

- California. A Black couple in Marin City, California seeking to refinance received an initial appraisal of $995,000. Suspecting that the valuation of their home was unjustifiably low, they asked a White friend to pose as the homeowner and then received an appraisal of $1,482,500, which was almost $500,000 more than the appraisal conducted just weeks earlier. The homeowner said, "There are implications to our ability to create generational wealth or passing things on if our houses appraise for 50 percent less than its value."[8]

- Colorado. A mixed-race couple in Denver, Colorado scheduled an appraisal in connection with a home equity loan. When the Black husband greeted the appraiser, the home was valued at $405,000 based on comparison to homes selected by the appraiser in a Black neighborhood in a different location. When the White wife greeted the second appraiser, the home was valued at $550,000, which was an increase of $145,000. The wife stated, "Race obviously played a role in how we were treated. But what's deflating is that this experience put a dollar figure on it."[9]

- Connecticut. After receiving an initial appraisal of $340,000, a Black family in Bloomfield, Connecticut removed all family photos and asked a White neighbor to pose as the homeowner. This time, the home appraised for just over $400,000. The homeowner stated, "[T]his kind of experience not only robs you of the ability to refinance, but also affects opportunities at building generational wealth."[10]

- Indiana. After receiving an initial appraisal of $110,000, a Black woman in Indianapolis, Indiana removed all family photos, Black art and books; declined to identify her race on the refinancing application; communicated with the appraiser by email only; and asked a

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[8]Fair Housing Advocates of Northern California, *Discrimination Lawsuits Filed Alleging Discrimination in Home Appraisal Process*, Press Release (Dec. 2, 2021), https://www.fairhousingnorcal.org/uploads/1/7/0/5/17051262/press_release_-_austin_case.final.pdf. Julian Glover, *Black California Couple Lowballed by $500K in Home Appraisal, Believe Race Was a Factor,* ABC7News (Feb. 12, 2021), https://abc7news.com/black-homeowner-problems-sf-bay-area-housing-discrimination-minority-homeownership-anti-black-policy/10331076/.
[9] Troy McMullen, *For Black Homeowners, A Common Conundrum with Appraisers,* Washington Post (Jan. 21, 2021), https://www.washingtonpost.com/realestate/for-black-homeowners-a-common-conundrum-with-appraisals/2021/01/20/80fbfb50-543c-11eb-a817-e5e7f8a406d6_story.html.
[10] *Id.*

White friend to pose as her brother and meet the appraiser.[11] This time, the home appraised for $259,000. Upon seeing that amount, the homeowner was first overcome with joy. But then the hurt set in of how she had had to erase herself from her home in order to get a value that was fair and accurate.

- Florida. After receiving an initial appraisal of $330,000, a mixed-race couple in Jacksonville, Florida removed all photos of the Black wife and her side of the family, books by Black authors, and holiday cards from Black friends. When the White husband greeted the second appraiser, the home appraised at $465,000, which was an increase of more than 40 percent. After posting the story on Facebook, the homeowners received over 2,000 comments, many of which were from Black homeowners saying that they had a similar experience. The wife stated, "[I]n the Black community, it's just common knowledge that you take your pictures down when you're selling your house."[12]

Discrimination in Appraisals Exists on a Systemic Basis

While the individual stories of discrimination in appraisals are alarming, the analyses of systemic bias are even more stunning and disturbing. Recent studies contain the following findings:

- Freddie Mac. In a groundbreaking study, researchers at Freddie Mac analyzed millions of appraisals submitted for purchase transactions and found unexplained racial disparities in the percentage of properties that received an appraisal value lower than the contract price (the "appraisal gap").[13] More specifically, the research showed that:
    - *For Black/Latino neighborhoods*. An appraisal gap is more likely to occur in Black or Latino census tracts than White census tracts.
        - For example, Freddie Mac's researchers reported that 12.5% of the properties in Black census tracts received an appraisal value lower than the contract price, as compared to 7.4% of the properties in White census tracts. Thus, there was an "appraisal gap" of 5.2% – meaning that homes in majority Black census tracts were much more likely to be appraised at less than the contract price.
        - As the concentration of Black or Latino individuals in a census tract increased, there was a corresponding increase in the appraisal gap.
        - The results held at the national level and at the Metropolitan Statistical Area level (which suggests that the results are pervasive and not limited to one geographic area).
        - The results held even after controlling for structural and neighborhood characteristics.

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[11] Fair Housing Center of Central Indiana ("FHCCI"), *FHCCI Announces HUD Complaints Alleging Discrimination in Home Appraisals*, Press Release (May 4, 2021), https://www.fhcci.org/wp-content/uploads/2021/05/5-4-21-HUD-Appraisal-Filings-Revised.pdf.
[12] Debra Kamin, *Black Homeowners Face Discrimination in Appraisals,* The New York Times (Aug. 25, 2020), https://www.nytimes.com/2020/08/25/realestate/blacks-minorities-appraisals-discrimination.html.
[13] Melissa Narragon, et al., *Racial and Ethnic Valuation Gaps in Home Purchase Appraisals*, Freddie Mac Economic and Housing Research Note (Sept. 2021) ("Freddie Mac Research Note"), http://www.freddiemac.com/fmac-resources/research/pdf/202109-Note-Appraisal-Gap.pdf.

- *For Black/Latino individuals*. Similarly, an appraisal gap is more likely to occur for Black or Latino mortgage applicants than White mortgage applicants, regardless of the neighborhood where the property is located.
- *Across appraisers*. The majority of appraisers reviewed showed an appraisal gap. (That is, the issue was not limited to just "a few bad apples," but rather the majority of appraisers reviewed were more likely to show an appraisal gap for properties in Black or Latino census tracts than for properties in White census tracts.)

- Federal Housing Finance Agency ("FHFA"). FHFA recently analyzed appraisal reports and found that thousands of the reports contained potential race-related flags in the "Neighborhood Description" and other free-form text fields.[14] FHFA advised that "[i]nstitutions and other market participants should be aware that the discretionary nature of the free-form commentary is a key risk factor that requires appropriate risk mitigation." FHFA further noted that "[t]he racial and ethnic composition of the neighborhood should never be a factor that influences the value of a family's home. [FHFA's] observation of appraisals suggests that racial and ethnic compositions of a neighborhood are still sometimes included in commentary, clearly indicating the writer thought it was important to establishing value." Some examples that FHFA found in its analysis include:
  - The languages spoken in an area: "The most common language spoken is English. Other important languages spoken here include Italian and Spanish."
  - Amenities specifically geared to a race, ethnic, or religious group: a "commercial strip featuring storefronts supplying Jewish Households."
  - A town was described as having a "Black race population above state average."
  - Noting that "Koreatown is considered 'highly diverse' ethnically," listing the percentages of residents from various races and nationalities and describing that the number of foreign-born persons was "considered high compared to the city as a whole."
  - The ethnic groups that have immigrated to a neighborhood over the course of many years and noted it was "one spicy neighborhood."
  - A reference to a neighborhood being originally "White-Only," before becoming a "White-Flight Red-Zone" to explain why the neighborhood is mostly "Working-Class Black" now.
  - A neighborhood described as "predominately Hispanic" and that the residents have "assimilated their culture heritage" into the neighborhood.
  - Noting that "there is more Asian influence of late" buying the market.
  - Noting an area's "decline in population, which transitioned from being predominately Eastern European to having a substantial amount of Black and Hispanic people."
  - An area that was "'not especially-diverse' ethnically, with a high percentage of white people."
  - A property being in a "homogenous neighborhood with good schools."

- The Brookings Institution. A 2018 Brookings Institution study of 2016 American Community Survey homeowner estimates and 2012-2016 Zillow data found that homes in majority Black neighborhoods had values that were 23 percent less than properties in

[14] FHFA, *Reducing Valuation Bias by Addressing Appraiser and Property Valuation Commentary*, FHFA Insights Blog (Dec. 14, 2021), https://www.fhfa.gov/Media/Blog/Pages/Reducing-Valuation-Bias-by-Addressing-Appraiser-and-Property-Valuation-Commentary.aspx.

mostly White neighborhoods, even after controlling for home features and neighborhood amenities.[15] That is, differences in home and neighborhood quality could not fully explain the devaluation of homes in Black neighborhoods, raising questions about whether discrimination was the determining factor. The study estimated that homes in majority-Black neighborhoods were undervalued by $48,000 per home on average, leading to a $156 billion cumulative loss in value nationwide. One of the study's authors summarized, "We still see Black people as risky."

  - This study was recently updated to address concerns raised[16] about model selection and potential omitted variables that could explain the disparity. Researchers found that even after controlling for additional variables, a statistically significant unexplained disparity remained.[17] Thus, the study continues to raise questions about whether discrimination was the determining factor.

- Howell/Korver-Glenn. A 2020 study of American Community Survey homeowners' estimates from 1980 to 2015 found that neighborhood racial composition was an even stronger determinant of a home's value in 2015 than it was in 1980.[18] Researchers Dr. Junia Howell and Dr. Elizabeth Korver-Glenn found that the value gap had in fact doubled since 1980.[19] The researchers suggested that this was primarily because the sales comparison approach predominantly utilized by appraisers results in historically undervalued properties continuing to determine current values. The study stated, "Since no steps were taken to rectify the historic inequities, this approach has enabled such inequalities to persist."

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[15] Andre M. Perry, Jonathan Rothwell, and David Harshbarger, *The Devaluation of Assets in Black Neighborhoods,* The Brookings Institution Metropolitan Policy Program (Nov. 2018), https://www.brookings.edu/wp-content/uploads/2018/11/2018.11_Brookings-Metro_Devaluation-Assets-Black-Neighborhoods_final.pdf. https://www.brookings.edu/research/biased-appraisals-and-the-devaluation-of-housing-in-black-neighborhoods/?utm_campaign=Brookings%20Brief&utm_medium=email&utm_content=184613964&utm_source=hs_email; *See also* Junia Howell and Elizabeth Korver-Glen, *Neighborhoods, Race, and the Twenty-first Century Housing Appraisal Industry,* 4 Sociology of Race and Ethnicity 473 (2018), https://journals.sagepub.com/doi/abs/10.1177/2332649218755178?journalCode=srea (finding substantial differences in home values in communities of color even after controlling for home features, neighborhood amenities, socioeconomic status and consumer demand).

[16] *See, e.g.,* Edward J. Pinto and Tobias Peter, *Special Briefing on the Impact of Race and Socio-Economic Status on the Valuation of Homes by Neighborhood*, American Enterprise Institute (Aug. 5, 2021), https://www.aei.org/economics/special-briefing-the-impact-of-race-and-socio-economic-status-on-the-value-of-homes-by-neighborhood/.

[17] Jonathan Rothwell and Andre M. Perry, *Biased Appraisals and The Devaluation of Housing in Black Neighborhoods*, The Brookings Institution Metropolitan Policy Program (Nov. 17, 2021), https://www.brookings.edu/research/biased-appraisals-and-the-devaluation-of-housing-in-black-neighborhoods/?utm_campaign=Brookings%20Brief&utm_medium=email&utm_content=184613964&utm_source=hs_email.

[18] Junia Howell and Elizabeth Korver-Glenn, *The Increasing Effect of Neighborhood Racial Composition on Housing Values, 1980-2015,* Social Problems (2020), https://academic.oup.com/socpro/advance-article-abstract/doi/10.1093/socpro/spaa033/5900507?redirectedFrom=fulltexthttps://journals.sagepub.com/doi/abs/10.1177/2332649218755178?journalCode=srea.

[19] Brentin Mock, *Decades after Housing Reform, Race Has Become an Even Greater Determinant of Home Appraisal in Black and Latino Neighborhoods, New Research Finds,* Bloomberg CityLab (Sept. 21, 2020), https://www.bloomberg.com/news/articles/2020-09-21/race-gap-in-home-appraisals-has-doubled-since-1980.

As Currently Structured, the Sales Comparison Approach Can Perpetuate the Unfounded Association between Race and Risk

As currently structured, the sales comparison approach to valuation predominantly used by appraisers for single family residential valuation is a highly subjective process that gives the appraiser broad discretion to determine a home's value and opens the door for implicit or explicit discrimination. Essentially, the primary role of appraisals in the mortgage loan process is to provide evidence that the collateral value of the property is sufficient to avoid losses for the lender if the borrower is unable to repay the loan.[20] While there are several possible methods of valuation, the GSEs generally require the use of the sales comparison approach.

On its face, the sales comparison approach is not necessarily discriminatory. According to the Fannie Mae Single Family Selling Guide: "The sales comparison approach to value is an analysis of comparable sales, contract sales, and listings of properties that are the most comparable to the subject property."[21] However, the GSEs give appraisers broad discretion to determine each aspect of the appraisal, including the selection of comparable homes, and also emphasize the connection between the home's value and the neighborhood. Both discretion and geography-based decisioning have long been viewed as key fair lending risk factors.[22] The Fannie Mae Single Family Selling Guide states: "The appraiser is responsible for determining which comparables are the best and most appropriate for the assignment… Comparable sales from within the same neighborhood (including subdivision or project) as the subject property should be used when possible."[23] Again, on its face, this is a race-neutral approach, but it must be understood in the context of historical discrimination.

From the very beginning, the nation's housing finance market inextricably linked the sales comparison approach to the unfounded association between race and risk. In the 1930's, the sales comparison approach was first officially adopted by the HOLC and Federal Housing Administration, which, as described above, also adopted a valuation method explicitly equating race with risk.[24] In particular, the Federal Housing Administration Underwriting Manual instructed appraisers to focus on the homogeneity of neighborhoods, with the presumption that the highest value would be assigned to all-White neighborhoods. For example, the manual instructed appraisers that "[a]reas surrounding a location are investigated to determine whether **incompatible racial and social groups** are present, for the purpose of making a prediction regarding the probability of the locations being **invaded** by such groups."[25] (emphasis added) As

[20] *See* General Accounting Office ("GAO"), *Regulatory Programs: Opportunities to Enhance Oversight of the Real Estate Appraisal Industry*, GAO-03-404, at 6 (May 2003), https://www.gao.gov/assets/gao-03-404.pdf.
[21] Fannie Mae Single Family Selling Guide, *Sales Comparison Approach Section of the Appraisal Report*, B4-1.3-07 (April 15, 2014), https://selling-guide.fanniemae.com/Selling-Guide/Origination-thru-Closing/Subpart-B4-Underwriting-Property/Chapter-B4-1-Appraisal-Requirements/Section-B4-1-3-Appraisal-Report-Assessment/1032992461/B4-1-3-07-Sales-Comparison-Approach-Section-of-the-Appraisal-Report-04-15-2014.htm.
[22] *See, e.g.,* FFIEC, *Interagency Fair Lending Examination Procedures* (2009), https://www.ffiec.gov/PDF/fairlend.pdf.
[23] *See id* at *Comparable Sales*, B4-1.3-08 (Oct 2, 2018).
[24] *See* Elizabeth Korver-Glenn, *Race Brokers: Housing Markets and Segregation in 21st Century Urban America* at 117 (2021).
[25] FHA, *Underwriting Manual* (1938) (emphasis added).

described above, even after passage of the Fair Housing Act in 1968, the American Institute of Real Estate Appraisers continued this race-based approach well into the 1970s until the DOJ reached a settlement requiring a non-racialized approach to valuation.

Although guidance on the sales comparison approach no longer contains explicit race-based references, the historical undervaluation of communities of color as well as the broad discretion leaves open the opportunity for appraisers to perpetuate bias on a passive or active basis. That is, appraisers may passively or unwittingly perpetuate bias by continuing to use the undervalued comparable sales in neighborhoods of color. The undervaluation began in the 1930s and was never rectified. Under the current structure of the sales comparison approach, appraisers are instructed to limit the comparable sales to homes within the same undervalued neighborhood of color, even if there are similar homes with higher values in comparable White neighborhoods. Thus, appraisers must rely on biased data, which further perpetuates the bias.

In some instances, appraisers may be more active participants in perpetuating discrimination. For example, the Freddie Mac Research Note showed that the majority of the appraisers in the sample were more likely to determine that the appraisal value was lower than the contract price in majority Black or Latino census tracts than in majority White census tracts.[26] In other words, even when a buyer and seller agreed upon a value in an arms-length transaction, the appraiser was less likely to support and validate that value in neighborhoods of color than in White neighborhoods. This raises the question of whether these appraisers were actively distorting the market and further depressing the value of homes that were already undervalued because they were located in historically-redlined neighborhoods of color. That is, it may be difficult to rely on arms-length market forces to increase the values of the homes in these neighborhoods of color to match the value of homes in comparable White neighborhoods, because some appraisers are actively distorting the market and keeping the values lower based on unfounded associations between race and risk.

The qualitative research conducted by Dr. Elizabeth Korver-Glenn also raises concerns about the extent to which appraisers may be active participants in a race-based market distortion using the sales comparison approach. In the recent book *Race Brokers,* Dr. Korver-Glenn details the results of interviews with appraisers, including appraisers of color, regarding the steps they use to value a home based on their interpretation of the sales comparison approach.[27] Many of the appraisers in the study "assumed that White buyers were the standard for determining an area's desirability, with White areas meeting this standard and receiving the highest values and non-White areas falling below the standard."[28] Following is a sample of the feedback from some of the appraisers in the study:

- Allan, a White appraiser, assumed that neighborhoods of color were low-income and poorly maintained, stating: "It's kind of generalizing, but it seems to me that neighborhoods where I go to [appraise] where there are pockets where they're very

[26] Melissa Narragon, et al., *Racial and Ethnic Valuation Gaps in Home Purchase Appraisals*, Freddie Mac Economic and Housing Research Note (Sept. 2021) ("Freddie Mac Research Note"), http://www.freddiemac.com/fmac-resources/research/pdf/202109-Note-Appraisal-Gap.pdf.
[27] Elizabeth Korver-Glenn, "Appraising Value," *Race Brokers: Housing Markets and Segregation in 21st Century Urban America*, at 116-143 (2021).
[28] *Id.* at 141.

strictly one ethnicity – it just seems like they're generally lower priced, and overall the properties aren't as well kept."[29]

- Allan also assumed that values would rise as a neighborhood became more homogenous and Whiter, stating: "And then up here [north of Montrose] it's getting better because of all the Mexican people moving out...."[30]
- Larry, a White appraiser, stated that an "influx of minorities" to a neighborhood would be perceived by White homeowners as having a "negative impact," which would cause White homeowners to leave, which would lower home values.[31]
- Carl, a White appraiser, explained how he thought a White prospective homeowner would react to a home being sold by a Black homeowner: "I did [appraise] a house one time over in Riverstone. And you walked inside and it was purple, it was Black. I guess he was very ethnic to his race. I thought when I walked in – because [the homeowner wasn't] home – but I thought right away when I walked in, this is a Black guy. I think people want to be near their own kind. And I feel 100 percent about that. And I think it's factual when you look at the racial makeup of neighborhoods."[32]

It seemed that the appraisers in this study did not necessarily feel that they were injecting their own biases into the valuation, but that they felt that, under the sales comparison approach, their valuation should reflect the market's biased perception of certain neighborhoods, based on that neighborhood's dominant race or ethnicity.

Dr. Korver-Glenn's research also raises questions about the limits of the usefulness of increasing diversity in the appraisal profession as a way to minimize bias. One Latino appraiser in her study seemed to fully subscribe to the notion that buyers make their decisions based on their racial identities and, under the sales comparison approach, the market value of a home should follow accordingly. This Latino appraiser stated:

- "I think that ethnicity has something to do with [where a person buys a home]. So a person who's buying for that market group is buying in [the majority Latino] Second Ward, they probably aren't going to go to [the majority Black] Fifth Ward and buy a house. Ultimately, I think what's important to look at is your quality of buyer."[33]
- "If I didn't buy this house in [the majority Black] Fifth Ward today, what else am I going to buy? Well, so, the demographics are going to dictate that I'm probably going to go to [the majority Black] Kashmere Gardens.... But am I going to go to [the majority Latino] Second Ward? The demographics are completely different, and I don't think that they directly compete because of that."[34]

Thus, although the appraisal profession would benefit from greater diversity, such diversity should not be viewed as a silver bullet that will solve the problem of biased valuations. With little guidance and unfettered discretion, even appraisers of color may believe that the sales comparison approach requires incorporating the market's perceived racial bias into the valuation.

[29] *Id.* at 126.
[30] *Id.* at 131.
[31] *Id.* at 128.
[32] *Id.* at 129.
[33] *Id.* at 129.
[34] *Id.* at 137.

Recent appraisal bias cases, as well as expert research, also suggest that appraisers may be using their discretion to establish neighborhood boundaries and, in this way, arbitrarily restricting which comparables are used to establish a property's value. The above statements reflected in Dr. Korver-Glenn's research clearly illustrate that some appraisers link the demographics of an area with neighborhood boundaries. The high levels of segregation in many communities likely contribute to perceptions about neighborhood boundaries. But those boundaries are not objective and fixed, and, in some instances, can be changed when the homeowner's race changes. Such was the case with Carlette Duffy, a Black homeowner who asked a White friend to stand in for her when a third appraisal was performed on her home. The price of her home doubled with the third appraisal when comparables closer to her home were used to evaluate her property because the homeowner was perceived to be White.[35]

In sum, as these individual stories and systemic analyses show, discrimination persists in the appraisal system, which unfairly limits the ability of many borrowers and communities of color to receive a fair valuation of their biggest financial asset and to build wealth and opportunities. Moreover, while many appraisers determine a home's value in a fair and unbiased manner, without rectifying previous historical undervaluation, controlling for discretion, and conducting robust compliance oversight, the opportunity remains for the appraiser to perpetuate discrimination in an active or passive manner. Given the continued bias, the appraisal industry would benefit from a comprehensive review of the current structure, approach, policies, forms, and practices.

Appraisal Discrimination Is One of the Key Drivers of Today's Wealth Gap

These discriminatory policies have created distinct advantages for White families, leading to massive homeownership, wealth, and credit gaps that persist today. In particular, because home value has been the cornerstone of intergenerational wealth in the United States, the historical appraisal practices have had long-term effects in creating some of the current wealth inequalities where White wealth has soared while Black wealth has remained stagnant. In 2019, White family wealth sat at $188,200 (median) and $983,400 (mean).[36] In contrast, Black families' median and mean net worth were $24,100 and $142,500, respectively.[37] These wealth disparities, in turn, reflect intergenerational transfer disparities: 29.9 percent of White families have received an inheritance, compared with only 10.1 percent of Black families.[38]

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[35] *See*, *Black Homeowner's Appraisal Doubled After White Friend Stood in for Her*, CNN (May 19, 2021), https://www.cnn.com/videos/business/2021/05/19/black-woman-says-home-appraisal-increased-after-white-friend-stood-in-for-her-carlette-duffy-newday-vpx.cnn.

[36] Neil Bhutta, Jesse Bricker, Andrew Chang, et al., *Changes in U.S. family Finances from 2016 to 2019: Evidence from the Survey of Consumer Finances,* 106(5) Fed. Res. Bulletin (Sept. 2020), https://www.federalreserve.gov/publications/files/scf20.pdf.

[37] *Id.*

[38] Neil Bhutta, et al., *Disparities in Wealth by Race and Ethnicity in the 2019 Survey of Consumer Finances,* FEDS Notes, Board of Governors of the Federal Reserve System (Sept. 2020), https://www.federalreserve.gov/econres/notes/feds-notes/disparities-in-wealth-by-race-and-ethnicity-in-the-2019-survey-of-consumer-finances-20200928.htm.

In addition to the wealth gap, undervalued home appraisals can have other significant consequences. Inaccurate appraisals can result in distortions in the loan-to-value ratio and in cancelled home sales contracts or refinancing offers. Finally, low appraisals can pose significant challenges for using home equity for advancement opportunities, such as payment for college tuition or security for small business loans. Accurate home valuations are critically important to the advancement and security of people and communities of color.

Appraisals Can Also Raise the Unique Challenge of Overvaluation

While the vast majority of recent instances of appraisal bias affecting communities of color has been comprised of an undervaluation of properties, there have also been cases of harmful, excessive, and abusive overvaluation of properties. That is, the discretion in the appraisal system can be used to overvalue homes, target people of color for predatory loans, and further rob communities of color of wealth. Specifically, many subprime loans were based on appraisals that were highly inflated resulting in homeowners being upside down in their mortgages. In many instances, the subprime home loan involved some collusion between loan originators and appraisers.[39] Even ten years after the Great Recession, six million homeowners still owed more on their mortgage loans than what their properties were valued.[40] This problem disproportionately impacted communities of color who were much more likely to receive subprime loans than their White counterparts[41] and were also more likely to receive subprime loans when they qualified for prime mortgages.[42]

The overvaluation of appraisals has a deleterious impact on consumers and communities because it is often tied to abusive and excessive fees and equity stripping. It serves to lock borrowers in unfair and often unsustainable loans, prohibits the ability of consumers to refinance into safer and more affordable products, limits people's ability to sell their homes, and often leads to other predatory practices.

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[39] *See, e.g.,* National Consumer Law Center and National Association of Consumer Advocates, Comment Letter to the Federal Reserve, *Interim Final Rule on Appraiser Independence Standards*, https://www.nclc.org/images/pdf/foreclosure_mortgage/predatory_mortgage_lending/comments-appraisal-independence.pdf.

[40] NPR, *A Decade Out from The Mortgage Crisis, Former Homeowners Still Grasp for Stability,* (May 22, 2016), https://www.npr.org/2016/05/22/479038232/a-decade-out-from-the-mortgage-crisis-former-homeowners-still-grasp-for-stabilit.

[41] Debbie Gruenstein Bocian, Keith Ernst, and Wei Li, *Unfair Lending: The Effect of Race and Ethnicity on the Price of Subprime Mortgages,* Center for Responsible Lending (May 31, 2006), https://www.responsiblelending.org/mortgage-lending/research-analysis/rr011-Unfair_Lending-0506.pdf.

[42] *See, e.g.,* DOJ, *Justice Department Reaches $335 Million Settlement to Resolve Allegations of Lending Discrimination by Countrywide Financial Corporation* (Dec. 21, 2011), https://www.justice.gov/opa/pr/justice-department-reaches-335-million-settlement-resolve-allegations-lending-discrimination.

The Appraiser Workforce Suffers from a Lack of Diversity

A diverse workforce of appraisers and inspectors may help mitigate the fact that the current appraisal system undervalues homes for borrowers and communities of color. That is, appraisers from diverse communities may be better prepared to value the community appropriately. Unfortunately, the appraisal profession does not currently reflect the racial composition of the U.S. According to the U.S. Bureau of Labor Statistics, about 96.5% of property appraisers are White and about 70% are men.[43]

Increasing the diversity of the appraiser workforce is likely to lead to better outcomes for all,[44] as well as help solve the problem of appraiser shortages across the country.[45] A diverse workforce may be less susceptible to unconscious or intentional bias based on the race or ethnicity of the borrower or community, and may be better prepared to train others to spot such bias. Such a workforce may better understand value based on objective factors, such as housing features and neighborhood amenities, rather than preconceived or historical notions of value based on race. Moreover, research has shown that diverse teams are more innovative and productive[46] and that companies with more diversity are more profitable.[47] Finally, people with diverse backgrounds and experiences bring unique and important perspectives to understanding different segments of a market.[48]

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[43] *See* U.S. Bureau of Labor Statistics, *Labor Force Statistics from the Current Population Survey*, (Jan. 22, 2021), https://www.bls.gov/cps/cpsaat11.htm. . *See also*, Cherelle L. Parker, Ira Goldstein, and Gregory D. Squires, *Home Appraisals Drive America's Racial Wealth Gap - 95% of Philly's Appraisers Are White*, PBS WHYY (Feb. 25, 2021), https://whyy.org/articles/home-appraisals-drive-americas-racial-wealth-gap-95-of-phillys-appraisers-are-white/.

[44] *See, e.g.,* Michael Neal and Peter J. Mattingly, *Increasing Diversity in the Appraisal Profession Combined with Short-Term Solutions Can Help Address Valuation Bias for Homeowners of Color*, Urban Institute (July 1, 2021), https://www.urban.org/urban-wire/increasing-diversity-appraisal-profession-combined-short-term-solutions-can-help-address-valuation-bias-homeowners-color.

[45] *See* Jeff Ostrowsky, *How Big Mortgage Lenders Hope to Clear the Appraisal Logjam*, Bankrate.com (Oct. 27, 2021), https://www.bankrate.com/mortgages/fannie-freddie-expand-desktop-appraisals/.

[46] *See, e.g.*, John Rampton, *Why You Need Diversity on Your Team and 8 Ways to Build It*, Entrepreneur (Sept. 6, 2019), https://www.entrepreneur.com/article/338663.

[47] *See, e.g.*, Patrick Kline, Evan Rose, and Christopher Walers, *Systemic Discrimination among Large U.S. Employers,* National Bureau of Economic Research (Aug. 2021), http://www.nber.org/papers/w29053 (finding that racially discriminatory hiring practices among firms are negatively correlated with firm profitability); David Rock and Heidi Grant, *Why Diverse Team Are Smarter*, Harvard Business Review (Nov. 4, 2016), https://hbr.org/2016/11/why-diverse-teams-are-smarter (reporting that companies in the top quartile for ethnic and racial diversity in management were 35% more likely to have financial returns above their industry mean, and those in the top quartile for gender diversity were 15% more likely to have returns above the industry mean); Cedric Herring, *Does Diversity Pay? Race, Gender, and the Business Case for Diversity*, American Sociological Review (2009), https://www.jstor.org/stable/27736058 (finding that among for-profit business organizations, racial diversity in the workforce is associated with positive performance indicators like increased sales revenue, greater market share, and greater relative profits).

[48] *See, e.g.*, Inioluwa Deborah Raji et al., *Closing the AI Accountability Gap: Defining an End-to-End Framework for Internal Algorithmic Auditing*, Conference on Fairness, Accountability, and Transparency 33, 39 (2020), https://dl.acm.org/doi/pdf/10.1145/3351095.3372873 (stressing the importance of "standpoint diversity" as algorithm development implicitly encodes developer assumptions of which they may not be aware).