

The history of NJ's practices of redlining and exclusionary zoning practices is well documented in a report from the NJ Institute for Social Justice. ***“Erasing New Jersey’s Red Lines: Reducing the Racial Wealth Gap through Homeownership and Investment in Communities of Color”***

The following information has been shared from this report. To see the complete report click [here](#).

From the enslavement of Black people to early forms of sharecropping, there is a direct line to restrictive covenants, the denial of homeownership opportunities through the GI Bill for Black World War II veterans, redlining, exclusionary zoning policies, and predatory lending practices. New Jersey, by law and in practice, has created a racialized system of economic advancement through homeownership for its white communities at the expense of its Black residents.

In the early 20th century, racially restrictive covenants—which prohibit the purchase, lease, or occupation of a property by a certain group of people⁴⁵— prevented Black homeownership across the nation and in New Jersey.⁴⁶ From the 1920s through the late 1940s,⁴⁷ racially restrictive covenants were used by local white communities to prevent Black people from living there.⁴⁸ To ensure the persistence of these legal agreements over time, covenants were enforced by community associations.⁴⁹ While the Supreme Court held in 1917 that racially exclusionary zoning mandated by municipalities was unconstitutional,⁵⁰ the ruling did not apply to individuals or private agreements.⁵¹ As a result, due to New Jersey’s strong local control through home rule,⁵² racially restrictive covenants flourished throughout the state.⁵³ Only with the Supreme Court’s 1948 *Shelley v. Kraemer* decision—which held that judicial enforcement of racially restrictive covenants in private agreements was unconstitutional—did enforcement of such covenants end.⁵⁴

Housing discrimination was furthered by the entrenched practices of the federal government, which explicitly discriminated against communities of color, particularly Black communities. In 1935, the Federal Housing Authority first published underwriting manuals outlining appraisal guidelines for government insurance of bank mortgages that discouraged investment in Black communities.⁶⁹ The Home Owners’ Loan Corporation (HOLC) also produced maps of major metropolitan areas across the nation where it outlined Black communities in red, signaling that these areas were risky to lending institutions issuing federally-insured mortgage loans.⁷⁰ This process, known as “redlining,” dried up lending options in Black communities. The lack of borrowing opportunities caused by redlining precipitated a downward trend in these communities as families, rejected by traditional institutions and denied access to capital, became vulnerable to decreasing property values,⁷¹ predatory lending practices,⁷² and renting instead of homeownership.⁷³

Redlined communities thus became self-fulfilling prophecies as investment followed federal insurance dollars to communities outside of the “red lines” and away from residents of color who, lacking the resources to relocate, remained in these urban neighborhoods that increasingly lacked financial opportunities for investment.⁷⁴

Redlining’s impact lingered well after the HOLC went defunct in 1954, affecting New Jersey urban centers like Atlantic City⁷⁵ and Camden.⁷⁶ Recent examples of redlining highlight this pattern. For example, the U.S. Department of Justice in 2015 determined that the Hudson City Savings Bank denied qualified borrowers of color access to fair mortgage loans in communities throughout New Jersey, New York, Connecticut, and Pennsylvania.⁷⁷ The racially discriminatory redlining practices of the New Jersey-based bank were so egregious that the U.S. Department of Justice issued the largest redlining settlement in its history, requiring Hudson to pay \$33 million in restitution.⁷⁸ While

redlining has “officially” ended, its substantial and lasting effects on urban communities have greatly shaped current segregation in U.S. cities today and continue to lead to lower homeownership rates and home values in communities that experienced government redlining in the past.⁷⁹

The Great Recession of 2007-2009 saw a continuation of New Jersey’s system of racialized housing discrimination and exclusionary practices that began during slavery and continued through the 20th century. During this period, banks targeted Black communities with predatory lending practices.⁸⁰ To carry out this scheme, banks offered prospective homebuyers subprime loans, which carry higher interest rates.⁸¹ Accordingly, many Black homeowners in urban communities, unable to pay off these exorbitant loans, defaulted on subprime loans and were beset with foreclosures.⁸² And, although New Jersey has a number of protections to guard against predatory lending practices—such as the New Jersey Homeownership Security Act of 2002⁸³ and the New Jersey Consumer Fraud Act⁸⁴—these improper practices were pervasive in New Jersey. For example, Wells Fargo, dating back to 2010,⁸⁵ has entered into several state settlement agreements with New Jersey and other states—including a recent \$535 million settlement of which New Jersey received \$17 million⁸⁶—for its predatory lending practices and consumer protection violations.

These discriminatory lending practices have had lasting, wealth-stripping effects in New Jersey’s Black communities. For one, as a result of these wrongful practices, the worth of already undervalued homes in redlined Black communities in New Jersey has remained low.⁸⁷ The average price of homes in Trenton, for example, was \$108,400 in 2007, but by 2010, the average price dropped to \$89,500.⁸⁸ Home values in Trenton have yet to return to their pre-Recession heights; in 2019, the average Trenton home sold for \$67,900.⁸⁹

In addition, these predatory practices have had a lasting impact on foreclosure rates in New Jersey’s redlined communities. Since 2015, New Jersey has had the highest foreclosure rate in the nation.⁹⁰ In fact, Atlantic City and Trenton—two cities with sizable Black populations—continue to lead the nation with the highest number of foreclosures in the country.⁹¹ This property loss has devastated the homeownership rates in these communities. Currently, residents in New Jersey’s Black, redlined epicenters are largely renters: In Atlantic City, only 27 percent of households are living in owner-occupied homes; 37 percent in Trenton; and 39 percent in Camden.⁹²

Notes

45 Fair Hous. Ctr. of Greater Bos., 1920s-1948: Racially Restrictive Covenants (last visited Mar. 31, 2020), <https://www.bostonfairhousing.org/timeline/1920s1948-Restrictive-Covenants.html>.

46 Steven Lemongello, *Black History Month: Whites-Only ‘Covenants’ Shaped Region’s Racial Makeup*, Press of Atlantic City (Feb. 13, 2012), https://www.pressofatlanticcity.com/news/top_three/black-history-month-whites-only-covenants-shaped-region-s-racial/article_09232f80-55dc-11e1-9e40-0019bb2963f4.html.

47 See Fair Hous. Ctr. of Greater Bos., *supra* note 45. 48 See generally Rothstein, *supra* note 1.

49 See *id.* at 79.

50 *Buchanan v. Warley*, 245 U.S. 60, 81–82 (1917).

51 Legal Servs. of Cent. N.Y., *Housing Segregation Timeline*, <https://www.lscny.org/app/uploads/2019/08/The-Color-of-Law-Timeline.pdf>.

52 Courage to Connect N.J., *What is Home Rule?*, http://www.couragetconnectnj.org/what_is_home_rule (“**Home Rule** is a political structure where each municipality is organized with a separate administration and government. The causes of home rule are rooted in history. During the 19th century religious, ethnic, economic and social differences caused towns to form separate governments. This has resulted in up to 567 independent municipalities in NJ.”).

⁵³ See Lemongello, *supra* note 46.

⁵⁴ *Shelley v. Kraemer*, 334 U.S. 1 (1948). Of note, while this case rendered racially restrictive covenants unenforceable, the Fair Housing Act prohibited the writing of racially restrictive covenants into deeds. For a number of reasons, however, such covenants still exist in deeds throughout the country. See, e.g., Nancy H. Welsh, *Racially Restrictive Covenants in the United States: A Call to Action*, 2018 *Agora J. of Urb. Plan. and Design* 130.

⁶⁹ See Rothstein, *supra* note 1, at 65.

⁷⁰ *Id.* at 63-64.

⁷¹ Sarah Mikhitarian, *Home Values Remain Low in Vast Majority of Formerly Redlined Neighborhoods*, Zillow (Apr. 25, 2018), https://www.zillow.com/research/home-values-redlined-areas-19674/?mod=article_inline.

⁷² Christopher J. Brooks, *Redlining's Legacy: Maps Are Gone, But the Problem Hasn't Disappeared*, CBS News (Feb. 19, 2020), <https://www.cbsnews.com/news/redlining-what-is-history-mike-bloomberg-comments/> (describing reverse redlining, in which banks target formerly redlined communities for improper lending practices).

⁷³ Kevin A. Park et al., Penn Inst. For Urb. Res., *Who Lends Beyond the Red Line?: The Community Reinvestment Act and the Legacy of Redlining* 9 (2019), https://penniu.upenn.edu/uploads/media/Park_Quercia.pdf.

⁷⁴ See generally Jan, *supra* note 1.

⁷⁵ Christina Jackson, *In Atlantic City, the Legacy of Segregation and Redlining Endures*, Medium (Nov. 14, 2019), <https://medium.com/@UrbanResilience/in-atlantic-city-the-legacy-of-segregation-and-redlining-endures-8dd1b37fbd5>.

⁷⁶ Colleen O'Dea, *As Redlining Persists, Camden Area Among Hot Spots in U.S. for Mortgage Denials*, NJ Spotlight (Feb. 16, 2018), <https://www.njspotlight.com/2018/02/18-02-16-as-redlining-persists-camden-area-among-hot-spots-in-us-for-mortgage-denials/>.

⁷⁷ Press Release, Consumer Financial Protection Bureau, CFPB and DOJ Order Hudson City Savings Bank to Pay \$27 Million to Increase Mortgage Credit Access in Communities Illegally Redlined (Sept. 24, 2015) (While the press release headline states that the settlement was for \$27 million, its text states as follows: "Hudson City will pay \$25 million in direct loan subsidies to qualified borrowers in the affected communities, \$2.25 million in community programs and outreach, and a \$5.5 million penalty.").

⁷⁸ *Id.*

⁷⁹ See generally Brooks, *supra* note 72; Park, *supra* note 73; Jan, *supra* note 1.

⁸⁰ Sarah Burd-Sharps & Rebecca Rasch, *Impact of the US Housing Crisis on the Racial Wealth Gap Across Generations* 6, 8 (2015), https://www.aclu.org/sites/default/files/field_document/discrimlend_final.pdf.

⁸¹ See generally Nathalie Baptiste, *Staggering Loss of Black Wealth Due to Subprime Scandal Continues Unabated*, Am. Prospect (Oct. 13, 2014), <https://prospect.org/justice/staggering-loss-black-wealth-due-subprime-scandal-continues-unabated/>.

⁸² See generally Patrick Bayer et al., *What Drives Racial and Ethnic Differences in High Cost Mortgages? The Role of High Risk Lenders* (National Bureau of Economic Research, Working Paper No. 22004, 2016), <https://www.nber.org/papers/w22004.pdf>.

⁸³ New Jersey Home Ownership Security Act of 2002, N.J. Stat. Ann. §§46:10B-22 to -35.

⁸⁴ Consumer Fraud Act, N.J. Rev. Stat. §§56:8-1 to -195 (2016). Of note, questions have been raised as to the scope of the Act's applicability to real estate sales. See Robert J. Rohrberger, *When Does the NJ Consumer Fraud Act Apply to a Sale of Real Estate?*, LAW.com (Feb. 6, 2020), <https://www.law.com/njlawjournal/2020/02/06/when-does-the-nj-consumer-fraud-act-apply-to-a-sale-of-real-estate/?sreturn=20200212160602>.

⁸⁵ Press Release, N.J. Off. of the Att'y Gen., Attorney General Announces Settlement with Wells Fargo Home Mortgage; Company Providing \$67 Million in Loan Modifications, Paying State \$3.98 Million (Oct. 6, 2010), <https://www.nj.gov/oag/newsreleases10/pr20101006a.html>.

⁸⁶ Press Release, N.J. Off. of the Att'y Gen., Attorney General Grewal Announces Start of Wells Fargo Consumer Redress Review Program (Feb. 27, 2019), <https://www.nj.gov/oag/newsreleases19/pr20190227b.html>.

⁸⁷ See generally 1994-2019 Average Residential Sales Price, N.J. Treasury: Div. of Tax, <https://www.state.nj.us/treasury/taxation/lpt/class2avgsales.shtml> (select PDF file under "2007," "2008," "2009," and "2010" heading).

⁸⁸ See *id.* for Trenton under "2007" and "2010" heading.

⁸⁹ See *id.* under "2019" heading.

⁹⁰ *U.S. Foreclosure Activity Drops to 15-Year Low in 2019*, ATTOM Data (Jan. 14, 2020), <https://www.attomdata.com/news/market-trends/foreclosures/attom-data-solutions-2019-year-end-u-s-foreclosure-market-report/>.

⁹¹ *Id.*

⁹²U.S. Census Bureau, Quick Facts, Atlantic City, <https://www.census.gov/quickfacts/atlanticcitycitynewjersey>;
U.S. Census Bureau, Quick Facts, Trenton,
<https://www.census.gov/quickfacts/fact/table/trentoncitynewjersey,US/PST045219>; U.S. Cen-
sus Bureau, Quick Facts, Camden, [https://www.census.gov/quickfacts/fact/table/camdencitynewjersey,trentoncitynewjersey,US/
PST045219](https://www.census.gov/quickfacts/fact/table/camdencitynewjersey,trentoncitynewjersey,US/PST045219).