

Living Apart: How the Government Betrayed a Landmark Civil Rights Law



<http://www.propublica.org/article/living-apart-how-the-government-betrayed-a-landmark-civil-rights-law>

In the early 1900s, African Americans abandoned the South for better lives in the North. Discriminatory landlords and government policies crowded them into ghettos, transforming the demographics of America's largest cities. (Jeff Larson and Al Shaw)

by [Nikole Hannah-Jones](#)

ProPublica, Oct. 29, 2012,

A few months after Congress passed a landmark law directing the federal government to dismantle segregation in the nation's housing, President Nixon's housing chief began plotting a stealth campaign.

The plan, George Romney wrote in a confidential memo to aides, was to use his power as secretary of Housing and Urban Development to remake America's housing patterns, which he described as a "high-income white noose" around the black inner city.

"Living Apart" is available [as an e-book](#) with an exclusive afterword by Nikole Hannah-Jones and documents from the Richard Nixon Presidential Library and the George Romney Papers.

The 1968 Fair Housing Act, passed months earlier in the tumultuous aftermath of the Rev. Martin Luther King Jr.'s assassination, directed the government to "affirmatively further" fair housing. Romney believed those words gave him the authority to pressure predominantly white communities to build more affordable housing and end discriminatory zoning practices.

Romney ordered HUD officials to reject applications for water, sewer and highway projects from cities and states where local policies fostered segregated housing.

He dubbed his initiative "Open Communities" and did not clear it with the White House. As word spread that HUD was turning down grants, Nixon's supporters in the South and in white Northern suburbs took their complaints directly to the president.

Nixon intervened immediately.

"Stop this one," Nixon scrawled in a note on a memo written by John Ehrlichman, his domestic policy chief.

In a 1972 "eyes only" memo to Ehrlichman and H.R. Haldeman, another aide, Nixon explained his position. "I am convinced that while legal segregation is totally wrong that forced integration of housing or education is just as wrong," he wrote.

The president understood the consequences: "I realize that this position will lead us to a situation in which blacks will continue to live for the most part in black neighborhoods and where there will be predominately black schools and predominately white schools."

Romney, the former governor of Michigan and father of Republican presidential candidate Mitt Romney, held his ground. Notations and memos in his private papers show that he viewed the blighted black ghettos as a root cause of the inner-city riots of the 1960s. "Equal opportunity for all Americans in education and housing is essential if we are going to keep our nation from being torn apart," he wrote in talking points he drew up for a meeting with the president.

Romney's stance made him a pariah within the administration. Nixon shut down the program, refused to meet with his housing secretary and finally drove him from the Cabinet.

Over the next four decades, a ProPublica investigation shows, a succession of presidents — Democrat and Republican alike — followed Nixon's lead, declining to use the leverage of HUD's billions to fight segregation.

Their reluctance to enforce a law passed by both houses of Congress and repeatedly upheld by the courts reflects a larger political reality. Again and again, attempts to create integrated neighborhoods have foundered in the face of vehement opposition from homeowners.

"The lack of political courage around these issues is stunning," said Elizabeth Julian, a former senior HUD official. "The failures of fair housing are not just by HUD but by the country."

Nixon's vision for America largely came to pass and the costs have been steep. More than 20 years of research has implicated residential segregation in virtually every aspect of racial inequality, from higher unemployment rates for African Americans, to poorer health care, to elevated infant mortality rates and, most of all, to inferior schools.

HUD's largest program of grants to states, cities and towns has delivered \$137 billion to more than 1,200 communities since 1974. To receive the money, localities are supposed to identify obstacles to fair housing, keep records of their efforts to overcome them, and certify that they do not discriminate.

ProPublica could find only two occasions since Romney's tenure in which the department withheld money from communities for violating the Fair Housing Act. In several instances, records show, HUD has sent grants to communities even after they've been found by courts to have promoted segregated housing or been sued by the U.S. Department of Justice. New Orleans, for example, has continued to receive grants after the Justice Department sued it for violating that Fair Housing Act by blocking a low-income housing project in a wealthy historic neighborhood.

ProPublica submitted 41 questions to HUD about its failure to use its authority to promote integrated housing. It issued a statement which did not address that issue but said the agency has worked hard to enforce provisions of the law that bar discrimination against individuals.



Dr. Martin Luther King Jr. ducks after being hit in the head by a rock during a housing discrimination protest in Chicago on Aug. 5, 1966. (Bettmann/Corbis/AP Images)

Scholars have traced the history of housing segregation in several notable books and articles. ProPublica has obtained new documents and interviewed key figures in the four-decade battle over the Fair Housing Act.

Present and former officials in HUD's Office of Fair Housing and Equal Opportunity said their attempts to enforce the 1968 law were met with indifference or opposition from the agency's senior officials.

The office has the smallest staff and budget of HUD's four major programs. Several officials in key positions said they had never been trained to enforce the law's requirement to "affirmatively further" fair housing. In most cases, HUD does not even check the paperwork filed by cities and states about their efforts to deal with segregation and other issues that stymie integrated housing; it simply writes checks.

"People say integration has failed," said Julian, an assistant secretary for fair housing during the Clinton administration. "It hasn't failed because it's never been tried."

The Fair Housing Act was the most contentious of the civil rights-era legislation, blocked for years by Northern and Southern senators alike. It took infernos in more than 125 cities following King's assassination to force the bill's revival.

Former Vice President Walter Mondale, the floor manager of the legislation as a freshman senator from Minnesota, said King's death provided a powerful but brief urgency to eradicate the nation's ghettos.

Other laws and presidential orders have integrated the military, opened opportunities for higher education and provided protections against workplace discrimination.

But despite the Fair Housing Act, levels of residential segregation have barely budged in many of the large metropolitan areas where most African Americans live.

Today, as in the 1960s, many argue that the separation of the races is a matter of personal choice. But numerous surveys show that African Americans, more than any other group, want to live in integrated neighborhoods.

Others say income disparities are behind the color-coded American metropolises, that lower-income African Americans simply can't afford to live in wealthier white areas. Yet black Americans earning \$75,000 a year typically live in poorer neighborhoods than white Americans earning \$40,000 a year, according to an analysis of census data by John Logan of Brown University.

Mondale, now 84, said the law "hasn't created this integrated vision that we were talking about. One of the great moral failings of our country, despite the Great Society and despite what we tried to do, is the deprivation of justice for the people who have come from behind. It's something I worked on all of my life and I am very disheartened by it."

The Obama administration — prodded by private lawsuits — has done somewhat more than its predecessors. It has taken the unprecedented step of withholding money from Joliet, Ill., and Westchester, N.Y., for not meeting civil rights obligations.

But advocates say the administration has fallen far short of its promises to reform this broken system. After nearly four years, federal housing officials have yet to issue regulations that would precisely define what communities need to do to "affirmatively further" fair housing.

Perhaps the starkest measure of the law's squandered potential is how little the torrent of federal dollars released by its passage has done to integrate U.S. communities.

Over the last two decades, taxpayers have sent \$400 million in HUD block grants to Milwaukee, to no discernible effect. Milwaukee remains locked in a tie with Detroit for the title of America's most segregated metropolitan area for African Americans.

New York City, home to the nation's largest black population, has reeled in \$4 billion in block grants since 1993. Yet in that time, demographers say, racial segregation has eased by just 3 percent. Today, 80 percent of black New Yorkers would have to move to create a city in which they were evenly integrated with whites.

Myron Orfield, a professor at the University of Minnesota Law School and one of the nation's leading experts on segregation, said when the federal government abandoned Romney's efforts it turned away from a critical opportunity to reshape American life.

"Segregation would have been cut by half and possibly eliminated," Orfield said. "The country would have been very different."

Hopes of the Great Migration Quickly Fade



Members of the American Nazi Party march with signs across the street from Chicago's Greater Mount Hope Baptist Church, the site of a meeting between Dr. Martin Luther King Jr. and civil rights workers on Aug. 19, 1966. (AP Photo)

In the first decades of the 20th century, African Americans began to resist the brutally oppressive post-Civil War South the only way they could — with their feet. Sneaking onto trains, they traded the tobacco and cotton fields of steamy Southern towns for the cold winters and cramped tenements of the North.

When the Great Migration began in 1910, just 10 percent of black Americans lived outside the South. Six decades later, nearly half of the country's 22.5 million African Americans called other states home. In all, 6 million African Americans left the South, a flow of humanity that redrew the nation's racial map.

The migrants sought jobs in booming Northern cities such as New York, Chicago, Milwaukee, Cleveland, Detroit and Philadelphia. In the early years, they moved into white neighborhoods, rarely living in places that were more than 30 percent black, according to sociologists Douglas Massey of Princeton University and Nancy Denton of the State University of New York at Albany.

It didn't last.

Cities and towns began adopting zoning codes that designated neighborhoods as all-white and all-black. When the U.S. Supreme Court struck down those laws as unconstitutional, real estate agents wrote "codes of ethics" that included bans on selling homes to African Americans outside of black areas. In some cities, white residents responded to the arrival of black families with riots, home bombings, and cross burnings. They formed associations dedicated to blocking even a single black family from moving in.

White communities also embraced racial covenants — legal language in deeds that barred any subsequent purchaser from selling to African Americans.

Still, African Americans kept moving north. By 1930, the black population in Northern cities had grown by 40 percent as another 1 million left the South.

Around this time the federal government began promoting the racial division of Northern cities, primarily through New Deal loan programs.

The Home Owners' Loan Corporation, created in 1933, introduced the practice of redlining, marking in red ink swaths of cities in which it would not lend. It rated white neighborhoods as the least risky and black neighborhoods as the most. It would not lend to a black person seeking to buy in a white neighborhood, or vice versa.

When the Federal Housing Administration opened its doors a year later, it adopted the same practices. As a result, 98 percent of the loans the FHA insured between 1934 and 1962 went to white borrowers. The policies encouraged white flight as even neighborhoods with small numbers of African Americans were rated as "hazardous." White residents who didn't mind black neighbors found their home values decreasing as the government refused to insure mortgages for new buyers.

A 1938 manual for the FHA encouraged officials to avoid mixing "inharmonious racial or nationality groups" and "the occupancy of properties except by the race for which they are intended."

With the end of World War II, a grateful nation made available vast amounts of credit to returning soldiers, who could borrow money through the GI Bill to buy their dream homes in the suburbs.

But banks often refused to approve loans for black soldiers attempting to use the GI Bill to buy homes. The Veterans Administration and the FHA officially supported racial covenants banning African Americans in new suburban developments until 1950, refusing to underwrite loans that would bring "incompatible" racial groups into newly created white areas.

Federal housing and development programs worked alongside state and local governments to bulldoze black and integrated neighborhoods for redevelopment and relocate African Americans to designated city corridors.

In their place, the government built public housing towers, home to thousands and thousands of people, nearly all of whom were black.

"As the new century wore on, areas of acceptable black residence became more and more narrowly circumscribed. The era of the ghetto had begun," Massey and Denton wrote in their book "American Apartheid."

As the boundaries of black neighborhoods expanded, white residents began to abandon cities altogether. Once again, federal policies accelerated segregation.

The government built highways and mass transit systems that made it possible for millions of white Americans to work in the inner city yet live in the suburbs.

It took just 60 years — not even a lifetime — to divide communities in nearly every metropolitan area along racial lines. Northern cities had become the most segregated in the country, analysis of census data shows.

LBJ Tries to Change Minds in the '60s



A man hurls a shoe at Detroit police on July 23, 1967. Then-Michigan Gov. George Romney was profoundly affected by the riots and worked for housing integration during both his governorship and while secretary of the Department of Housing and Urban Development in the Nixon administration. (AP Photo)

When the 1960s brought protests in the South against Jim Crow laws, civil rights leaders found an unlikely ally in the White House.

President Lyndon B. Johnson brushed aside the Southern leaders of his own party, pushing through landmark legislation that outlawed discrimination in voting, employment, public accommodations and public education.

One issue remained beyond the reach of Johnson's legendary persuasive skills: housing. The president had contemplated introducing fair housing legislation as early as 1964, but his staff advised against it.

Johnson persisted, arguing that residential segregation was the wellspring of all other racial inequities. Just as Congress was passing some of the most far-reaching civil rights laws since Reconstruction, Northern ghettos erupted. In the three years before King's assassination, African Americans took to the streets in more than 100 cities. The rioting prompted Johnson to press harder for legislation to undo the nation's segregated housing patterns.

In 1966, he turned for help to Mondale, a 38-year-old senator from Minnesota not long into his first term. A former majority leader, Johnson held personal relationships with the Senate's most powerful figures. But housing was so toxic an issue, the president couldn't find anyone else to lead the fight.

"I was young and I thought I could do anything," said Mondale, now grayer but still an optimist. "I was a bit flattered that I'd get a bill that was so important."

With the help of co-sponsors Mondale and Edward Brooke of Massachusetts, then the only African American in the Senate, Johnson proposed a bill to ban discrimination in the sale or rental of housing. It went nowhere.

Mondale understood why his liberal colleagues were discomfited by the measure. If it came to the floor, pressure from constituents would force them to vote against it, making them look like hypocrites.

"A lot of civil rights was about making the South behave and taking the teeth from George Wallace," Mondale said, referring to the famously racist governor of Alabama who ran for president in 1964, 1968, 1972 and 1976. "This came right to the neighborhoods across the country. This was civil rights getting personal."

Johnson, who had considered the 1966 housing bill his most devastating political defeat, did not back down. In the summer of 1967, Mondale called a black veteran to testify. Decorated for his service in Vietnam, Carlos Campbell had been appointed to a job in the Pentagon. Standing rigid in a crisp white uniform, he told the Senate housing and urban affairs subcommittee how he and his wife were unable to rent an apartment in the white neighborhoods near his new post in Arlington, Va., even with the help of the Defense Department's housing office.

"Up until the spring of 1965 I was largely convinced that our racial problems were rapidly diminishing and that education, professional credibility, and financial integrity were the necessary vehicles for obtaining full rights as a citizen," Campbell said. Once off the military base, he said, he'd been forced to "re-examine my philosophy." The man who had, in his own words, been entrusted with "safeguarding the nation's most delicate secrets" told senators that he had been turned away from more than 36 apartments because of his race.

"I remember old Dick Russell, that old segregationist, said, 'I am for segregation, but how do we tell black Americans who have fought and died for us that they have to go back in the box?'" Mondale said. "That was always the Achilles' heel, and this helped bring that to the front." Minds were slowly changing. But the bill died again.

Two developments revived it.

Johnson had asked a blue-ribbon panel to study the riots and make recommendations on how to prevent such violence in the future.

The Kerner Commission's searing conclusion — that the United States was "moving toward two societies, one black, one white — separate and unequal" — is enshrined in the history books.

What is less well-remembered was the basis for that finding. The commission blamed housing segregation for the riots. "What white Americans have never fully understood — but what the Negro can never forget — is that white society is deeply implicated in the ghetto," the panel wrote. "White institutions created it, white institutions maintain it, and white society condones it." The report called for a federal fair housing law.



Sen. Walter Mondale, D-Minn., who would later go on to become vice president, was tapped by President Lyndon B. Johnson to help push through legislation to undo segregated housing patterns in the U.S. (Charles Tasnadi/AP Photo)

Days later, on April 4, 1968, an assassin killed King on the balcony of a Memphis motel. Black communities again exploded in riots.

Washington, D.C., which had recently become majority black, was among the hardest hit.

Mondale recalled flying over the nation's capital in a helicopter thinking, "By God, it looks like Vietnam."

"You could see the fires from the Capitol and the whole place seemed to be in flames," he said.

"The city was locked down, the Capitol was under guard, and nobody knew what was going to happen. The nation came close to pulling apart."

Many lawmakers shared Mondale's fear that the horrific conditions of the nation's ghettos had set the stage for a cycle of deepening violence and confrontation.

Johnson used the shock following King's assassination to his advantage, urging Congress to pass the long-delayed housing bill as a tribute to the slain leader.

The housing legislation, Mondale said, had been the most filibustered bill in history. But when lawmakers took up the bill this time, "They didn't dare," Mondale recalled. "They didn't dare hold it up."

Just six days after King died, Congress passed Title VIII of the 1968 Civil Rights Act, commonly known as the Fair Housing Act. As the votes in the House were tallied — 250-171 — armed National Guardsmen ringed the Capitol to protect Congress from the rioters in burning slums just a few blocks away.

Johnson signed the bill into law April 11. "We have passed many civil rights pieces of legislation," he said. "But none is more important than this."

The law banned racial discrimination in the sale or rental of housing, block busting (in which real estate agents move a black family into a white neighborhood and use it to frighten white homeowners into selling, turning the neighborhood from white to black), racial steering (in which real estate agents steer home seekers to racially distinct neighborhoods), and intimidation and coercion.

Then it went a step further. The law required federal officials to do everything possible to "affirmatively further" fair housing. This odd turn of phrase, which was not further defined, distinguished the housing law from almost all other civil rights legislation. It didn't just ban discrimination. It charged the government to act to bring about "integrated and balanced living patterns," according to Mondale's statements at the time.

To accomplish this, the law directed HUD to create a civil rights office that would enforce the new law. According to Brooke, the intent was to enable the government to "withhold funds or defer action" to dismantle segregation.

By including this provision, lawmakers were acknowledging that previous statutes and presidential orders addressing housing discrimination had been ignored. President Kennedy had signed an executive order in 1962 banning discrimination in federally subsidized housing. Nothing changed. The 1964 civil rights law banned racial discrimination by any agency that received federal money. It, too, made no difference.

Mondale and the bill's floor managers made concessions to secure the law's passage that weakened HUD's enforcement powers.

One key compromise limited HUD's ability to punish discriminatory landlords and real estate agents. The original draft envisioned a mounting schedule of fines. The final version gave HUD only the authority to seek voluntary settlements. If landlords refused, the agency could do

nothing but inform those complaining of discrimination to file private lawsuits. Moreover, by capping damages for successful claims at \$1,000, the act made such lawsuits thoroughly impractical.

Mondale viewed the law as a first step, envisaging a succession of bills that would address weaknesses in the Fair Housing Act.

From the start, HUD was whipsawed by conflicting mandates. Cobbled together from agencies that just a few years earlier had openly pushed segregation, HUD was supposed to transform itself into a force for civil rights. Not surprisingly, the agency's predominant focus remained on creating housing as fast as possible.

"For 40 years we tried to get interest in enforcement," Mondale said. "There have been many times that I have been disappointed with federal enforcement of this law."

Nixon's 'Serious Romney Problem'

Johnson never got an opportunity to administer the law. Battered by protests over the Vietnam War, he declined to run for re-election. Hubert Humphrey, his vice president, lost a closely contested election to Richard Nixon, a Republican whose winning coalition was built around former Southern Democrats and white Northerners.



Clouds of smoke rise from burning buildings in northeast Washington, D.C., on April 5, 1968, one day after Dr. Martin Luther King Jr. was assassinated. Then-Sen. Mondale recalled flying over the nation's capital in a helicopter thinking it looked like Vietnam. (AP Photo)

Nixon named an avowed opponent of housing segregation as his first secretary of Housing and Urban Development.

George Romney, who unsuccessfully ran against Nixon early in the presidential campaign, had championed housing integration as governor in his home state of Michigan.

The 1967 Detroit riots, which destroyed 2,000 buildings and took 43 lives, profoundly affected Romney. On the night National Guard and Army combat troops backed by tanks finally quelled the violence, Romney delivered a "Report to the People" that was broadcast statewide.

"Some already are saying the answer is brute force such as would be used on mad dogs," the governor said. "Others are questioning present social and economic programs because they claim Negroes don't appreciate what has already been done."

"Some white people and public officials will advocate the return to state's rights as a way to legalize segregation," he continued. "As citizens of Michigan, as Americans, we must unhesitatingly reject all these divisive courses."

Instead, Romney enacted a statewide fair housing law. He called for an end to local zoning that encouraged segregation and for the creation of low-cost housing throughout metropolitan Detroit and the state.

"Force alone will not eliminate riots," Romney wrote in letters responding to angry citizens. "We must eliminate the problems from which they stem."

Romney knew his ideas went against the grain of the Nixon administration, but his papers, housed at the University of Michigan's Bentley Historical Library, show that he viewed open housing as a moral obligation regardless of political cost.

So Romney and his staff crafted a secret agenda to use HUD's powers under the 1968 act. Romney staff members debated how much to let the White House, and the public, know about their efforts.

In a memo to Romney dated Aug. 15, 1969, HUD Undersecretary Richard Van Dusen said that federal housing subsidies, along with urban renewal policies and suburban water and sewer grants, had increased segregation. Those same programs, or the threatened loss of them, could be used to integrate suburbs that counted on the money but also blocked the construction of affordable housing.

The memo anticipated opposition from Nixon, Congress, the Republican Party and mayors.

"Judgments must be made as to what steps may be taken quietly and without formal policy announcement," the memo said. "It seems probable that a frontal attack which publicly seeks to redress the ghetto problem would arouse major political opposition."

Soon after, Romney launched his Open Communities program. Separately, he ordered his staff to draft legislation that allowed the government to override local zoning that kept out federally subsidized housing.

"Romney recognized these places got a lot of stuff from the federal government," said Orfield, the University of Minnesota law professor. "And Romney said if the federal government is going to build you a new freeway and sewer systems — the government was footing about 80 percent

of the cost — you are not going to build communities at the end of those freeway and sewer systems for only affluent white people."

Romney's campaign achieved some initial successes. HUD terminated grants to the Boston, Baltimore and Toledo metro areas after they rejected low-income housing slated for white neighborhoods, and won concessions.

The program could not be kept secret for long. On June 22, 1970, Nixon's most trusted domestic adviser, John Ehrlichman, sent Romney a note.

"The White House is receiving the strongest sort of representations regarding the proposed 'open communities' policy," he wrote. "This proposal has not had the usual policy review...May I ask the present status...?"

Romney sent back a less-than-truthful reply. The department had not created a new policy, he wrote. It was merely reviewing "a range of alternatives."

A month later, the new HUD chief decided to test the program in territory he knew well — the 99 percent-white Detroit suburb of Warren. The once-sleepy town had undergone a population boom as whites fled Detroit in the '60s. Its residents were openly hostile to the idea of African Americans moving into their town. After local police failed to protect an interracial couple who'd moved there, then-Gov. Romney dispatched the state police.



U.S. troops stand guard on the steps of the Senate wing of the Capitol Building in Washington, D.C., on April 5, 1968. Armed National Guardsmen were again called in a few days later as Congress passed Title VIII of the 1968 Civil Rights Act, commonly known as the Fair Housing Act. (AP Photo)

Romney told Warren that HUD would withhold federal dollars if the city didn't agree to build affordable housing. Warren's mayor pleaded for leniency. Romney stood firm, saying: "Black people have just as much right to equal opportunities as we do."

Local officials in Warren complained in a letter to the White House about HUD's "integrationist misfits." The president responded immediately, denying the White House had a plan to tie HUD dollars to integration. He ordered Romney to release the money.

The confrontation over Warren marked a critical moment in the history of the Fair Housing Act. For the first time enforcement of the law collided with the political realities of a president thinking about re-election.

In the weeks after the Warren case, Southern congressmen angrily assailed Romney's plans to integrate the suburbs, particularly in metropolitan Atlanta.

Sen. Strom Thurmond of South Carolina, segregationist candidate for president in 1948, and other southern leaders took their complaints directly to Nixon. "We in the South are motivated by race," Georgia Congressman Fletcher Thompson told the president, according to notes from the session. The group warned that Nixon appeared "anti-South" because of Romney's actions.

Some Southerners, they said, had derisively begun to refer to Nixon as "Mister Integrator."

Remarkably, Romney continued to press ahead with his Open Communities program. By the fall of 1970, Nixon had lost patience with his HUD secretary. A memo from Ehrlichman outlining options for Nixon's "Post-Southern strategy" for the 1972 campaign called HUD's effort to integrate the suburbs "a serious Romney problem which we will apparently have as long as he is here."

"This is no approved program," Ehrlichman wrote. "But he keeps loudly talking about it in spite of our efforts to shut him up."

Not long after, Nixon asked Romney to leave the Cabinet and become U.S. ambassador to Mexico.

Romney turned down the job. In a Nov. 16, 1970, letter, he said he understood that the president believed they were "on a collision course because of a difference in ideology with respect to the racial aspects of HUD's programs." He asked for a meeting "to discuss my views personally with you."

At the end of the letter, Romney again made his argument for integration. "It is becoming increasingly clear that the lower, middle income and the poor, white, black and brown family, cannot continue to be isolated in the deteriorating core cities without broad scale revolution." He underlined the words.

Nixon froze Romney out, refusing to meet with the HUD secretary.

Weeks later, as the year came to a close, Romney, isolated and disgruntled, prepared notes for his long-delayed conversation with the president.

"President only wants yes-man," he wrote before outlining the same concerns — suburban integration and HUD funding — that had enraged Nixon. It appears the meeting never took place.

With Romney unwilling to take the ambassadorship, Nixon decided that he, not HUD, would set the nation's policy on fair housing. The president asked his staff to figure out just how narrowly he could construe the Fair Housing Act. He began referring publicly to Romney's approach as "forced integration."

Nixon's special counsel, Leonard Garment, tried to craft a strategy consistent with both the courts' interpretations of the law and Nixon's political needs. White House aides hoped that Garment would come up with a rationale for confining the fair housing law to overt acts of discrimination. But when Garment studied the court cases, he concluded this was not possible.

Again and again, federal judges had interpreted the "further fair housing phrase" to mean that the federal government had an active role to play in desegregation.

Ehrlichman shopped for another opinion, turning to Tom Stoel, a lawyer who worked in the president's executive office. Stoel argued that the government could restrict enforcement of the law to "cases of individual discrimination" and need not get involved in zoning issues or press communities to build affordable housing. This would "avoid any hint of 'forced integration'" but, he warned, "may not fulfill the Government's obligation under the law."

Ignoring Stoel's caution, Nixon ordered HUD to stop all efforts to pressure cities and states to foster integrated housing.

As the Nixon White House geared up for the 1972 re-election campaign, Romney gave up.

"Developments in recent months and days have convinced me that you are no longer interested in my counsel and advice before making policy and operating decisions directly affecting the activities of the Department I head," Romney wrote to Nixon in August 1972. "Consequently, I have concluded more can be accomplished in the future if the Department is headed by someone whose counsel and advice you want."

Though Romney's formal resignation letter in November 1972 made no reference to the civil rights battle that had been his downfall, insiders may well have detected an ironic turn of phrase in the words he chose.



President Lyndon B. Johnson signs into law the Fair Housing Act during a ceremony in the East Room of the White House in Washington, D.C., on April 11, 1968. (AP Photo)

"I want to thank you for the privilege of serving the nation under your great leadership," Romney wrote. "The experience has been a rewarding and invaluable one that, among other things, has deepened my understanding of our country's political processes."

With that, the federal government's only large-scale effort to integrate the segregated suburbs it helped create sputtered to a close. The Fair Housing Act was just four years old.

Block Grants: Another Missed Opportunity

In the last years of the Nixon presidency, HUD officials drew up plans to consolidate the agency's array of programs into a single block grant that would automatically flow to communities. Previously, cities and states had to apply for money to pave a road or build a sewer. Under what Nixon called "The New Federalism," local officials would decide how to spend the federal aid they received.

This approach should have been a boon for enforcement of the Fair Housing Act. Block grants gave HUD a single choke point to cut off money to recalcitrant communities.

But that's not what happened.

The bill drafted by the Nixon administration required localities accepting block grants to comply with the Civil Rights Act of 1964, which banned racial discrimination by entities receiving federal dollars. The draft made no mention of the 1968 fair housing act or its mandate for the government to "affirmatively further" fair housing.

This angered HUD officials charged with enforcing the Fair Housing Act. Samuel Simmons, HUD's assistant secretary for Fair Housing and Equal Opportunity, sent a memo to HUD's general counsel noting that the omission "is poor policy and will certainly be cited as evidence that the administration is not concerned with effective civil rights enforcement."

After the Watergate scandal forced Nixon out of office in 1974, Congress passed the Housing and Community Development Act as conceived by Nixon's aides.

"The zeal with which Federal officials carried out policies of discrimination in the early days of the Government's housing effort has not been matched by a similar enthusiasm in carrying out their current legal mandate of equal housing opportunity," the U.S. Commission on Civil Rights wrote in its assessment of the fifth anniversary of the Fair Housing Act. "Residential segregation, which the Federal government helped to foster, remains a fact of life in the Nation's metropolitan areas."

HUD did not withhold a block grant from a single community between 1974 and 1983.

That year Congress passed a law directing HUD to release money only to communities that documented their compliance with the requirement to "affirmatively further fair housing." It took five more years before that law became part of the regulations for block grants.

HUD could provide no records on how many times the agency has withheld grants from communities for violating the housing act since then. As best as can be determined from interviews with longtime staff, HUD secretaries used their new powers twice from 1988 to the present.

Through the 1980s, federal judges lambasted HUD for maintaining segregated housing and using its housing dollars to maintain segregation.

"It has been clear at least since the passage of Title VIII(1968) — if not from the date of Executive Order 11063 (1962) and HUD's inception as a federal agency (1965) — that HUD has had an affirmative duty to eradicate segregation," one particularly irate judge ruled in a Texas case accusing the agency of financing segregated public housing. "HUD has a duty to know how its money is spent, and in fact has known that it is supporting segregated housing in East Texas.

Notwithstanding, it has continued to actively support the system in perhaps the most effective possible way — by paying for it."

In 1988, on the 20th anniversary of the Fair Housing Act's passage, Congress gave HUD the authority to impose tougher penalties on landlords caught discriminating. But on the crucial issue of what Congress meant by the phrase "affirmatively further fair housing," lawmakers made no changes.

The Wealthy County That Could

Just a few miles north of the White House, one of the nation's wealthiest and whitest suburbs charted a different course.

Without prodding from HUD or federal officials, the council for Montgomery County, Md., moved in the 1970s to enact a zoning ordinance that required developers to include affordable units in each large development.



HUD Secretary George Romney and President Richard Nixon during a Cabinet meeting on June 23, 1969. (Jack E. Kightlinger/National Archives and Records Administration)

Montgomery County seemed an implausible place for such a move. The 92 percent-white suburb bordered on 65-percent black Washington, D.C. and had desegregated its schools just a decade before. But the civil rights struggles of the 1960s brought a new generation into local government. They were shocked when a study found that many African Americans in the county lived in shacks that lacked running water or sewer connections.

"We saw the segregation," said Joyce Siegel, county housing commissioner at the time. "It was a fairness issue — that one part of the county wasn't going to have more affordable housing than another. We had to be fair."

The Suburban Maryland Fair Housing group, which had been fighting real estate covenants, joined forces with the League of Women Voters. They championed an ordinance that would ensure decent housing for African Americans and lower-income people and bar the county from concentrating its affordable housing in desolate pockets.

The proposed law said any development of more than 50 units (it has since been lowered to 20) must set aside no less than 15 percent of the housing for lower-income residents. Even more radical, the ordinance allowed the county to purchase up to a third of the affordable units for use as public housing.

No community within the county's jurisdiction was excluded.

The measure met fervid resistance from many suburban communities within the county. At one point, Siegel said, she needed a police escort. It took six years to pass the law. One advocate brought a birthday cake before the council each year to mark its failure.

When the council finally approved the legislation in 1973, the county executive vetoed it, only to see his veto over-ridden. The ordinance became law in January 1974, a time when other cities and towns were rushing to put up zoning barriers to keep out lower-income housing.

Montgomery County's law was the first such zoning ordinance in the country, and it has spurred construction of more than 13,000 affordable housing units tucked into some of the county's most exclusive zip codes.

From the standpoint of desegregation, Montgomery County has become a model of what could have been.

Over three decades, its black population more than tripled to 18 percent. It remains one of the nation's richest counties, yet segregation has fallen well below the national average.

Committed to Change, Resigned to Concessions

Bill Clinton was 11 when President Eisenhower sent federal troops to protect black students attempting to integrate Central High School in Little Rock, Ark. He came to Washington in 1992 vowing to take a more assertive stance on civil rights.

To transform HUD, he turned to Henry Cisneros, a former four-term mayor of San Antonio committed to making full use of the powers provided under the 1968 Fair Housing Act.

Cisneros had grown up in a working-class San Antonio neighborhood of bungalows and tidy yards that he says resembled Norman Rockwell's paintings in every way but one: All the faces were brown. He remembers riding through the city with his mother as she pointed out water fountains and restrooms designated "colored" and "white."

In April 1992, Cisneros sat watching a Lakers game from his Texas home when images of burning Los Angeles neighborhoods flashed across his screen. Black residents in Watts rioted following a jury's acquittal of three white cops in the videotaped beating of Rodney King, a black motorist. Cisneros immediately phoned L.A. Mayor Tom Bradley, offering to help.

The next day, Cisneros flew past the billowing smoke that darkened Los Angeles' skies, witnessing a scene similar to what Mondale glimpsed in 1968 as he flew over the nation's capital.

Cisneros went on television, pleading for peace between Latinos and African Americans who were battling police and, sometimes, each other. Broom in hand, he urged people to stop destroying their own neighborhoods and start cleaning up. Fifty-three people died in the riots. Like Romney a quarter century earlier, Cisneros was deeply affected.

"It was a very profound moment for me. Anger. Pain. Desperation," Cisneros recalled in an interview. "It touched me that these emotions would be so raw in our country, that despite all of the efforts to put out programs in housing and entrepreneurship and health, that we weren't really making enough of a difference to prevent that level of desperation."

Cisneros saw HUD's failure to fight segregation as a cause of the riots. He told the senators at his confirmation hearing that if he became HUD secretary, the agency's passivity would end.

Underscoring his commitment to demolishing HUD's existing culture, he named two civil rights attorneys to lead the agency's fair housing efforts. Elizabeth Julian had spent years suing the

agency for fostering segregation. Roberta Achtenberg was a co-founder of the National Lesbian Law Center and had served on San Francisco's Board of Supervisors.

Cisneros met with Massey and Denton, two scholars whose account of the government's role in residential segregation had just been published. His aides contacted others who had documented the perils of ghetto life, including Alex Kotlowitz, whose 1992 book "There Are No Children Here" exposed the plight of families in Chicago's segregated housing projects.



A fire department crew sprays water on a burning mini-mall in south Los Angeles on April 30, 1992 after a night of rioting. The riots took place after a jury acquitted police officers in the beating of Rodney King, a black motorist. (Mike Nelson/AFP/Getty Images)

The team knew it would face political headwinds from both Capitol Hill and local government. But they were taken aback by the fierce resistance from the ranks of HUD's career officials.

"Until we got inside and started poking around, nobody realized that HUD had either been asleep at the wheel for a number of years, or in some cases some things were known about and allowed to take place because nobody had the courage to intervene," Achtenberg said. "We had problems in all our departments."

Much of HUD's staff and budget was devoted to building new housing units. Success was measured in the billions of dollars of grants and loan guarantees that flowed to cities. The civil rights lawyers looked at projects through the lens of race and the 1968 act. Their job was to say no.

"There was often conflict around whether we were enforcing the laws and regs as strenuously as Fair Housing thought we should be," said Bob Berlan, who retired from HUD in 2008 after 37 years in community development. "That was the case from the day I entered HUD to the day I left."

Robbie Herndon, who retired from HUD in 2006 as regional fair housing director based in Kansas, saw the issue from the other side of the table. Development officials in the department,

she said, "would tell recipients they didn't have to comply with fair housing regulations — I know this because some of the recipients were bold enough to tell us."

Herndon joined the agency in the '70s to advance civil rights but left disillusioned. "It was a battle throughout my whole career, and it saddened me that these communities receive millions and have received millions and have not been held accountable for not serving all their constituents," she said. "We used to call it the Title VI blues. It's like you're swimming with sharks and many of the sharks were HUD people."

Some say that HUD had created its own caste system. The Fair Housing and Equal Opportunity Office, HUD's civil rights arm, has traditionally been more heavily African American than the other HUD offices. Currently, the office is 57 percent black and 27 percent white. By contrast, the Community Development division, which disburses grants, is 51 percent white and 32 percent black.

In conversations with HUD officials, the fair housing office is frequently referred to as a "stepchild." Achtenberg said this was evident even in the agency's pay structure, in which staffers in the fair housing office earned less than comparably experienced counterparts elsewhere in the agency.

Achtenberg said she tried to erase the disparity but was unsuccessful.

"HUD is considered the most disfavored of all agencies," she said. "And FHEO is the most despised of all."

A list of HUD employees by pay grade shows the fair housing office has a smaller percentage of employees at the highest pay grade than the agency's three other large programs. It is unclear from the data, which ProPublica obtained under the Freedom of Information Act, why this would be.

"I think it's more they weren't respected," said Manuel Ochoa, a former HUD deputy assistant secretary under President George W. Bush. "There was a lack of professionalism" and other HUD programs "didn't feel they had a capable partner."

He paused, then added, "That sounds hurtful."

When Cisneros arrived, the agency was defending itself in court against a swarm of civil rights lawsuits. HUD's standard response was to argue that law was a general statement of principles which did not require the agency to take any specific steps to foster integrated housing. Cisneros looked at the cases and concluded that the government was wrong.

"We were complicit in discrimination, and I gave instructions to fix it," Cisneros said. "That put us in the position of the department having to admit that what we had done before was inadequate, it was wrong."

One long-running confrontation over fair housing centered on Vidor, a small Texas town that had been ordered to desegregate its all-white public housing as part of a class-action suit filed against HUD. Vidor, a historic center of Klu Klux Klan activity, had defied the order for a decade.

Cisneros decided it was time for HUD to do its job. When his attempt to move in black families crumbled under threats and harassment from local residents, Cisneros called in the U.S Marshals, the FBI and police to escort four black adults and seven children into the buildings.

When he took over Vidor's public housing authority, it marked the first time HUD had ever taken control of a local housing agency for civil rights violations. Yet even in this case, HUD didn't withhold funding to the city.

Cisneros did order sweeping changes to other HUD housing programs. He oversaw the new Hope VI program, which knocked down housing projects and replaced them with mixed-income developments. He provided vouchers that allowed poor African Americans and Latinos to move to better communities. He cracked down on predatory lending and moved to expand homeownership among racial minorities.



Henry Cisneros, the former mayor of San Antonio, Texas, acknowledges his family on Dec. 17, 1992, after being appointed secretary of Housing and Urban Development by President-elect Bill Clinton. In his confirmation hearing, Cisneros told senators that if he became HUD secretary, the agency's passivity on integration would end. (Chris Wilkins/AFP/Getty Images)

Clinton, whose press office said he would not agree to be interviewed for this story, backed his HUD secretary, emerging as the first president to openly press for integrated housing since LBJ.

"Racial and ethnic segregation, both in the private housing market and in public and assisted housing, has been well documented," Clinton wrote in a 1994 memo to agency heads announcing a new executive order. "We can do better."

The president's executive order established the Cabinet-level President's Fair Housing Council. The council was to assess federal programs with an eye toward promoting integrated housing.

Clinton ordered it to design a pilot program that would help inner-city families move to the suburbs.

Housing advocates applauded the initiatives. But officials overseeing HUD's development and housing programs often opposed them.

Many in Community Planning and Development, which administers the block grant program, viewed the agency's civil rights efforts as an irritating nuisance, current and former HUD officials say.

"CPD did not see itself as having civil rights responsibilities — they saw themselves as getting the money out and keeping the mayors happy," Julian said. "I liked those folks, but I always felt like when I walked in a room I was a thorn in their sides because I was asking them to do something that made their jobs more difficult."

The fair housing push also didn't sit well with congressional Republicans, who held a dim view of the agency. When the GOP took control of the House in the 1994 midterm elections, it slashed HUD's budget and threatened to do away with the agency altogether.

Still, Cisneros, Achtenberg and Julian pushed forward. In 1996, they released the Fair Housing Planning Guide. For the first time, HUD gave communities receiving block grants some advice on how to comply with the fair housing law. It urged local communities to prepare a report every three to five years detailing impediments to fair housing and suggested that block grant recipients set measurable goals and study the effect of local zoning laws.

The guide came with significant shortcomings. It set no requirements and provided no specific examples of actions — such as locating all affordable housing in predominantly black or Latino areas — that would lead to the withdrawal of HUD funds. It said that unless someone raised a concern, HUD would assume its grantees weren't violating any civil rights laws.

Even as the work inched forward, Cisneros was in trouble. An independent prosecutor was examining whether he had lied about payments he made to a former mistress. With his legal fees mounting, Cisneros stepped down. He ultimately pleaded guilty to a misdemeanor count of lying to the FBI.

By 1997, Cisneros, Julian and Achtenberg had all resigned.

"It's hard to get anything done in a federal bureaucracy, but particularly anything fair housing and anything dealing with race," Julian said. "I never felt so ineffective at achieving things that I felt were important than when I was at HUD."

As Andrew Cuomo Steps Up, Mayors Stomp Down

To replace Cisneros, Clinton named Andrew Cuomo, the son of former New York Gov. Mario Cuomo, who had founded a nonprofit to develop low-income housing called Housing Enterprise for Less Privileged.

In 1998, Cuomo proposed a regulation that defined what it meant to "affirmatively further fair housing."

The rule made clear that HUD would deny funding if it found a community's efforts "did not result in meaningful and measurable progress," or if HUD or the Justice Department had charged the community with violating the Fair Housing Act.

Local leaders, used to receiving HUD's billions with no strings attached, raised a hurricane of opposition, enlisting members of Congress and complaining vociferously to agency officials.

Three decades earlier, the U.S. Conference of Mayors had pushed for such measures, saying "for the Federal government to proceed otherwise would be to publicly sanction and perpetuate patterns of residential segregation."

Things had changed.



A woman exits a van before she enters a house in Vidor Village in Vidor, Texas, a historic center of Klu Klux Klan activity, on Jan. 13, 1994. HUD Secretary Henry Cisneros called in the U.S. Marshals, the FBI and police to escort four black adults and seven children into the buildings. (Hillary F. Hoffman/AP Photo)

In March 1999, the conference sent Cuomo a letter saying the "proposed rule would have a devastating impact on a city's ability to achieve housing, economic development and fair housing goals."

"The threat of withholding critical HUD funding should not be the standard for affirmatively furthering fair housing," the group wrote.

It had taken HUD a year and half of internal wrangling to release the rule to the public. The cities and counties killed it in just a few weeks.

In a letter to the mayors' group a few weeks later, Howard Glaser, a senior aide to Cuomo, wrote, "HUD has not only heard but listened to the issues you and the USCM leadership have raised."

Hobbled by the Monica Lewinsky scandal, the Clinton administration had little appetite for a public fight over integration. The President's Fair Housing Council, as far as anyone can recall, met only once. It took no action.

The election of George W. Bush once again pushed civil rights issues aside at HUD, according to three high-ranking officials who served at the agency during his administration. No one talked about what it would take to affirmatively further fair housing. Segregated communities continued to receive billions in HUD dollars without even pretending to take steps to address fair housing issues.

New Hope Under Obama, Same Dim Prospects

In 2007, a decade after leaving HUD, Cisneros joined another former HUD secretary, George H.W. Bush appointee Jack Kemp, to lead a seven-member commission assessing the enforcement of the 1968 Fair Housing Act.

On the 40th anniversary of the act's passage, the panel delivered a blistering indictment.

"The current federal system for ensuring fair housing compliance by state and local recipients of housing assistance has failed," the report found. "HUD requires no evidence that anything is actually being done as a condition of funding, and it does not take adverse action if jurisdictions are directly involved in discriminatory actions or fail to affirmatively further fair housing." The election of Barack Obama as president in 2008 raised hopes that HUD might finally assert its powers.

As his HUD secretary, Obama tapped an affordable housing advocate, Shaun Donovan, who had done graduate work on federal housing vouchers and integration. Donovan turned to John Trasvina, a civil rights lawyer and head of the Mexican American Legal Defense Fund, to lead HUD's fair housing office.

Top HUD officials began publicly talking about segregation for the first time in years.

"The folks fighting segregation aren't social engineering. Segregation was created by social engineering," Donovan said in speeches across the country. "Far more often than not, segregation, isolation and poverty don't occur in spite of government. They happen because of government — by government dollars and government decisions made with government authority."

The issue of HUD's complicity in housing segregation hit the headlines just a few weeks after Obama took the oath of office. Ruling on a lawsuit brought by a nonprofit, a federal judge concluded that under HUD's watch Westchester, a wealthy county just outside New York City, had "utterly failed" to live up to its fair housing obligations.

Westchester moved to settle the suit and HUD agreed to oversee the terms of the deal, which required the county to attack exclusionary zoning and create housing affordable to low and moderate income African Americans and Latinos in its whitest communities.

The department also settled a lawsuit brought during the Bush administration that had accused HUD and the state of Louisiana of discriminating against African American homeowners in the post-Katrina rebuilding program. It agreed to pay \$62 million to 1,300 victims.

The administration made other inroads as well, nearly doubling the funding for private fair housing enforcement agencies to \$42.5 million. In November, HUD threatened to cut off more than \$10 million in block grants targeted for hurricane recovery in St. Bernard Parish, La. Civil rights advocates had accused the parish of trying to keep out African Americans by restricting rentals. That same month, the department rejected Texas' proposal to use \$1.7 billion in block grant funds for hurricane repairs, in part because of civil rights concerns.

Meanwhile, a series of government studies documented the extent to which the law's requirements had been ignored.



HUD Secretary Shaun Donovan testifies on Capitol Hill on May 8, 2012. After President Obama tapped the affordable housing advocate, top HUD officials began publicly talking about segregation for the first time in years. (Win McNamee/Getty Images)

A 2009 internal HUD study found that many communities were not even bothering to complete the required fair housing paperwork when they applied for block grants. In a sample of 70 applicants, 35 had not provided an "analysis of impediments" to fair housing, prompting HUD to conclude that they were "apparently not performed at all." Nearly all of the reports received were considered substandard, the review found.

A year later, investigators from the Government Accountability Office confirmed what civil rights advocates had long known: HUD's system for ensuring compliance with the fair housing law was a sham.

GAO officials reviewed documents filed by 441 recipients of block grants, a step HUD officials do not routinely take.

They found that about one-third of the fair housing materials were out of date. More than one in 10 hadn't been updated since the '90s. Communities in the Midwest and Northeast — the most-segregated regions of the country — performed the worst.

The GAO dismissed the analyses of impediments to fair housing that some communities provided as worthless because of their "brevity and lack of content." Most did not offer time frames for when the communities would eliminate barriers to integration or include the required signatures of the relevant elected officials.

Investigators noted that 25 recipients of block grants had filed no analysis, "raising questions about whether some jurisdictions may be receiving federal funds without preparing the documents required to demonstrate that they have taken steps to affirmatively further fair housing."

According to the GAO, HUD staffers in seven regions had read the key documents for just 17 of 275 block grant recipients. Efforts to ensure "the integrity of the AI process...were not common," the report said.

The GAO made a number of recommendations. But HUD didn't even adopt the simplest one: to require that grantees submit their analysis of impediments for HUD to review.

In interviews, many HUD officials acknowledged they have no idea how to enforce the provision for affirmatively furthering fair housing. Already overstretched, they focus on what is clear: the disability accommodations provision of the Fair Housing Act. It's simple, they say, to check off whether an apartment door is wide enough for a wheelchair or if a parking lot has enough handicapped spots.

But compliance officers stumble when it comes to race and segregation.

One said she received little training on how to apply the 1968 act to block grant recipients. "The one week of training I was sent to, you focus on the civil rights law as a whole," she said.

"You're not focused per se on segregation." The official said she did not review broader issues such as the impact of discriminatory zoning "because I don't even know what they are."

Rolando Alvarado supervised fair housing enforcement for HUD in New Jersey for more than a decade. When asked to define "affirmatively furthering fair housing," he exhaled and then paused. Ten seconds passed.

"That is tricky. There is no exact regulation, it's a gray area," said Alvarado, who retired in 2009. "I've never seen anything that clearly defines that in my time at HUD."

Alvarado said he relied on his staff to ensure enforcement of the mandate. But how could his subordinates enforce something he himself could not explain?

"You are right. I don't know," he said. "It was reliance on if staff had conducted enough investigations and compliance reviews they would have an inkling of what to look for."

Alvarado said he could not recall a single instance in which he challenged a community's assertions about its efforts to further fair housing. When it comes to these issues, he said, "You are basically taking them at their word."

After the Westchester settlement, in which the judge criticized the department for failing to enforce the law, the word came down from HUD leaders that there should not be a recurrence.

Officials say that directive was not accompanied by any training, additional staff or instructions on what practices should be examined.

"The message is that we need to be more aggressive but absent the new rule, there is very little guidance as to what would constitute a failure to affirmatively further fair housing," said a senior fair housing official. "There's a car here and nobody knows how to drive it."

Trasvina promised Congress in January 2010 that by the end of the year the agency would release a rule requiring communities that receive money from the agency to "promote integration." More than two years later, those regulations have not been issued. HUD has declined to say when they might appear or give a reason for the delay.

The focus of HUD's civil rights work appears to have veered away from race. In March, the department issued a rule banning discrimination against gay and transgender people in HUD-assisted housing and by lenders receiving guarantees from the Federal Housing Authority.

Asked what they are doing to fulfill the Fair Housing Act's mandates, HUD officials pointed to Joliet, Ill., where HUD has withheld block grant funds over the city's attempt to demolish a mostly black federally subsidized apartment complex. HUD also has withheld block grant money from Westchester County, which the Justice Department says has failed to live up to the terms of its settlement agreement.

Brian Sullivan, a spokesman for the housing agency, said in an email that HUD "very nearly" cut off block grant money for Galveston, Texas, and threatened to do so in Delaware's Sussex County.

But other communities with serious questions about fair housing continue to receive federal housing dollars, and fair housing officials say the agency still brushes civil rights concerns aside. One senior housing official pointed to New Orleans, which hasn't lost its block grant despite the Department of Justice lawsuit. "If that's not enough to reject a grantees' funding," he said. "Any finding from the fair housing office will not ever be sufficient."

Another example is Waukesha County, Wisc. HUD launched an investigation of the 90 percent-white county last year following a complaint from a fair housing group. The group accused the county of allowing its nearly all-white communities to block rental housing to keep out African

Americans and Latinos from neighboring Milwaukee. African Americans and Latinos account for 57 percent of the city's population.

Yet the agency treats Waukesha County no differently from racially integrated Montgomery County, which has a 30-year track record of placing affordable housing in its most prosperous neighborhoods. Waukesha still receives its automatic influx of HUD dollars.

"It is fair to say, it is accurate to say, that the only situation in which HUD is doing anything effectively to affirmatively further fair housing are situations where there has been litigation," said Florence Wagman Roisman, a law professor at Indiana University. "Then it does as little as possible, as grudgingly as possible."

Prospects for substantial change appear dim.

Obama administration officials say that if the president is re-elected, they will complete work on the long-delayed rules defining what it means to "affirmatively further fair housing."

At a private fundraising event in Florida in April, Mitt Romney said he would consider closing down HUD if he wins the election.

"I'm going to take a lot of departments in Washington, and agencies, and combine them," he said. "Things like Housing and Urban Development, which my dad was head of, that might not be around later."