

Midge's Massive Timeline -- Notes on *The Color of Law* by Rothstein

1866: [Civil Rights Act of 1866](#) (1866 CRA) passed. 1866 CRA declares blacks' property rights equal to whites', explicitly addressing real estate, and asserts neither custom nor "color of law" is an excuse for unequal property rights, a vestige of slavery.

1883: SCOTUS rules that excluding blacks from housing markets is, for some reason, *not* a violation of the 1866 CRA, despite the CRA's specifically stating that equal rights before the law include equal rights in real estate.

1910: Baltimore becomes the first of many cities to adopt zoning ordinance mandating segregation. Difficulty enforcing ordinance demonstrates how integrated some areas of Baltimore already were.

1913: Wilson administration implements segregation of government employees. FDR supervises naval segregation.

1917: Lochner-era SCOTUS strikes down Louisville, KY, racial zoning ordinance as violating freedom of contract in [Buchanan](#) ruling. Many municipalities will ignore this ruling, or evade ruling through creative use of zoning variances, anti-miscegenation laws, "slum clearance", and other proxies for housing segregation.

Also 1917: Panicked by Russian Revolution, Wilson's Department of Labor promotes homeownership (among whites) as a patriotic duty, fearing non-homeowners might forsake capitalism for communism.

1921: Government officials (including FDR, Hoover, and Coolidge) lead the nominally private "Better Homes in America" to continue promoting homeownership as patriotism and (as Hoover later phrases it) "expressions of racial longing". Hoover organizes a federal Advisory Committee on Zoning, filled with town planners advocating zoning "to maintain the nation and the race." To nominally satisfy *Buchanan* ruling, the Advisory Committee promotes implicit, not explicit, racial zoning.

1922: Hoover's Advisory Committee on Zoning [issues the SZEA](#), a "Standard State Zoning Enabling Act," as a model law for zoning throughout the US.

1926: In [Euclid v. Ambler](#), (still Lochner-era) SCOTUS overturns a lower court's ruling that Euclid, OH, had enacted racial zoning by proxy in defiance of *Buchanan* and the 1866 CRA. This boosts Americans' confidence that exclusionary zoning *can* be used for racial purposes under color of law, contrary to the CRA.

1933: HOLC created to nationalize relief refinancing for distressed mortgages. In 1935 HOLC will create "residential security maps" outlining the "riskiest" neighborhoods in red, classifying neighborhoods as red simply for having black residents, even if residents' credit is otherwise good. This is known as redlining.

1934: [National Housing Act](#) creates the FHA, which insures fully-amortized 20-year mortgages covering 80% of purchase price, mortgages banks won't offer without this insurance. FHA adopts redlining, deeming the presence of blacks a categorical risk to a neighborhood, and FHA appraisal standards include a whites-only requirement. The VA will come to adopt FHA standards. FHA approval will also be used to secure government-backed loans for ubiquitous suburban subdivision construction.

1937: [Housing Act of 1937](#) authorizes federal government to subsidize local housing authorities. This subsidized housing is intended for working-class families, usually white, aspiring to the middle class.

1938: Federal government begins considering aid to interstate highways specifically as a means of “slum clearance”.

1942: DC appeals court, in unusual ruling, notes that whites-only restrictive covenants actually damage property values in the area and refuses to uphold such restrictive covenants.

1947: Construction on Levittown, NY, approved by the FHA and representative of US postwar housing development, begins.

1948: Most US housing construction financed by congressionally-authorized guaranteed bank loans, under FHA/VA approval, including racial approval (almost always limited to whites).

Also 1948: SCOTUS rules racial covenants and deed restrictions aren’t private agreements if they depend on government power for enforcement. The FHA and fellow federal agencies

1949: [Housing Act of 1949](#) passed as part of Truman’s Fair Deal. Republicans attempt to defeat the act by including a “poison pill” amendment forbidding segregation and racial discrimination in public housing. Act passes without amendment, authorizes more FHA mortgage insurance, more public housing, and “slum clearance”. “Slum clearance” often meaning replacing black or integrated neighborhoods with all-white neighborhoods.

1950: Half of US mortgages insured by FHA or VA.

1956: Interstate highway program becomes law, absent language permitting compensation of displaced residents (not so subtly failing to remind participants [the Takings Clause](#) exists).

1957: Levittown developer, William Levitt, testifies to congress that developments like his “are 100% dependent on Government.”

1960: NJ court rules that New Jersey’s Levittown (begun 1958) relies on government backing so heavily it counts as “publicly assisted housing” and therefore cannot refuse blacks under NJ law. This ruling goes unnoticed outside NJ.

1962: Highway Research Board boasts of interstates’ success in “eating out slums”.

1965: Federal government requires interstate planners to provide housing for displaced residents -- *after* interstate system is mostly complete.

Also 1965: [HUD](#) founded as a cabinet department, several previous federal housing agencies are rolled into HUD.

1968: Fair Housing Act prohibits housing discrimination, outlawing redlining, *after* the boom in affordable suburban development is over, and government-sponsored segregation is already well-entrenched.

1970: HUD secretary George Romney tries to pursue housing integration through an Open Communities initiative, requiring recipients of federal funds to relax exclusionary zoning requirements. Initiative so angers members of Nixon’s base that Romney is eventually forced from office.

1974: SCOTUS Justice Potter Stewart explains residential segregation happens because of “unknown and unknowable factors” in a Detroit school segregation case, despite the plaintiff showing, and the trial judge agreeing, that residential segregation in Detroit was in large part caused by government measures.

1977: SCOTUS upholds zoning ordinance of Arlington Heights, IL, despite the publicly-promoted “benefits” of the ordinance being racial discrimination.

1987: Cities like Norfolk and Kansas city still using spot zoning decisions to zone by race.

1992: SCOTUS Chief Justice Anthony Kennedy writes his “stubborn facts of history” opinion in [*Freeman v Pitts*](#), saying, “vestiges of past segregation by state decree do remain in our society and in our schools. Past wrongs to the black race, wrongs committed by the State and in its name, are a stubborn fact of history. And stubborn facts of history linger and persist.”

1998: Miami’s policy of giving whites receiving public housing the option of vouchers, but denying vouchers to blacks, finally ends.

2007: SCOTUS Chief Justice John Roberts builds on Kennedy’s 1992 “stubborn facts of history” opinion, emphasizing that discrimination “not traceable to [government’s] own actions” cannot justify a constitutional remedy, which, while true in its own right, may ignore how much housing discrimination *has* been traceable to government’s own actions.

2008: The City of Cleveland, OH, files suit against many subprime lenders, charging these private actors created a public nuisance. Federal court dismisses suit, noting mortgage lending is still so heavily regulated at all levels of government that government cannot blame any nuisance thereby created on private actors.