

# **E**FFORTS TO PROMOTE HOUSING INTEGRATION IN ATRIUM VILLAGE AND THE SOUTH SUBURBS

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**I**LLINOIS ADVISORY COMMITTEE  
TO THE UNITED STATES  
COMMISSION ON CIVIL RIGHTS

*This summary report of the Illinois Advisory Committee to the United States Commission on Civil Rights was prepared for the information and consideration of the Commission. Statements and viewpoints in the report should not be attributed to the Commission or to the Advisory Committee, but only to individual participants in the community forum where the information was gathered.*

**A S U M M A R Y R E P O R T**

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TO THE UNITED STATES  
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APRIL 1990

## THE UNITED STATES COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights, created by the Civil Rights Act of 1957 and reestablished by the United States Commission on Civil Rights Act of 1983, is an independent, bipartisan agency of the Federal Government. By the terms of the Act, the Commission is charged with the following duties pertaining to discrimination or denials of equal protection based on race, color, religion, sex, age, handicap, or national origin, or in the administration of justice: investigation of individual with respect to discrimination or denials of equal protection; the appraisal of the laws and policies of the United States with respect to discrimination or denials of equal protection; the maintenance of a national clearinghouse for information respecting discrimination or denials of equal protection; and the investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

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LETTER OF TRANSMITTAL

Illinois Advisory Committee to the  
U.S. Commission on Civil Rights  
April 1990

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Attached for Commission review and action is a summary report of a community forum convened in Chicago on August 11, 1989, to obtain information on efforts to promote housing integration in Atrium Village and the south suburbs. The Advisory Committee voted 10 to 0 to approve submission of this report to you.

In 1959 the U.S. Commission on Civil Rights issued its first report and found that "housing ... seems to be the one commodity in the American market that is not freely available on equal terms to everyone who can afford to pay." During the 1960s, numerous steps were taken to eliminate legal barriers to housing for minorities. In 1968, Congress passed the first national fair housing law, Title VIII of the Civil Rights Act of 1968, and most recently the enactment of the Fair Housing Amendments Act of 1988, which expands the coverage of Title VIII. However, the removal of legal barriers have not eliminated residential segregation. With increasing residential segregation, housing experts, fair housing advocates, and other community groups have begun to look elsewhere for answers to residential segregation. On this issue, two opposing views have emerged. Some people attest that integrated communities are desirable and that the use of racial quotas or integration maintenance programs are necessary to maintain such communities. Others argue that efforts to keep communities racially integrated through the use of racial quotas or integration maintenance programs are discriminatory and are being used to control the movements of minorities, particularly blacks. Although segregation is illegal, the strategies for achieving and maintaining housing integration remain unclear from a legal standpoint. Two communities in Chicago, Atrium Village and the south suburbs, who have attempted to maintain integrated communities are the focus of this report.

The report summarizes information received during the forum as well as background preparations. Every effort was made to include a diversity of viewpoints on the issues by inviting participation from housing experts, fair housing organizations, Realtors, government officials, and other local community groups with divergent views on efforts to promote housing integration. The Committee considers the views expressed as important and believes they should be shared with appropriate local, State, and Federal officials and the general public.

The information does not result from exhaustive review of housing integration, but does identify certain issues and concerns about the climate of opinion on this problem, which the Advisory Committee may decide merit further investigation and analysis.

Respectfully,

/s/

Hugh J. Schwartzberg, Chairperson  
Illinois Advisory Committee

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CONTENTS

Introduction..... 1

Background..... 1

Forum..... 6

    Trends in Residential Segregation..... 6

    Race and Housing Choice.....11

    Fair Housing Amendments of 1988.....13

    Atrium Village.....18

    South Suburbs.....30

Summary.....47

Table I.....53

Table II.....53

Table III.....54

Table IV.....55

## Introduction

One of the most troubling civil rights issues today is segregated housing. For that reason, housing integration aggressively pursued by two communities, Atrium Village and the south suburbs, have captured State and national attention. These two communities have been in the forefront in their attempts to maintain racially balanced communities. To prevent segregated communities, Atrium Village and the south suburbs have addressed this problem through the use of racial quotas and integration maintenance programs.

For the purpose of briefing the Advisory Committee and the Commissioners, the information received assessed efforts to promote housing integration in Atrium Village and the south suburbs of Chicago. The information received included: trends in residential segregation, an assessment of methods used to maintain racial balance or diversity, the extent to which discrimination occurs through the use of racial quotas and integration maintenance programs, and an update on the Fair Housing Amendments of 1988.

## Background

### Atrium Village

Atrium Village is a 309-unit low- and mid-rise apartment complex located in Chicago on the near north side, between the Cabrini Green public housing project and the city's posh Gold Coast. Atrium Village was built as a private effort by several



area churches. Various city, State, and Federal agencies were involved in the development of Atrium Village. The city of Chicago provided urban renewal land. The Illinois Housing Development Authority (IHDA) provided mortgage assistance and the U.S. Department of Housing and Urban Development (HUD) provided subsidies for some of the units. According to representatives of Atrium Village, all of these agencies supported the use of racial quotas and approved the use of them to maintain an integrated housing development.<sup>1</sup> Currently the racial composition of Atrium Village is 50 percent black and 50 percent white.<sup>2</sup>

Atrium Village representatives indicated that this balance is now being maintained without the use of quotas. Since 1983 several lawsuits have been filed against Atrium Village regarding their use of quotas to maintain integration. In 1983 a resident of Cabrini Green filed a lawsuit in the U.S. District Court for asserted violation of the Federal fair housing laws. In May 1986 the city also sued Atrium Village under the city's fair housing ordinance on behalf of Cabrini Green residents. On May 27, 1987, the U.S. Justice Department filed suit against Atrium Village for use of racial quotas in violation of Title VIII of the Civil Rights Act (the Fair Housing Act of 1968, as amended). Although the Justice Department stated that it understands that the goal of Atrium Village's rental policy is to assure the continued

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<sup>1</sup> Atrium Village Fact Sheet, June 16, 1987, pp. 1-2, on file at CRD.

<sup>2</sup> Transcript of community forum, p. 116, on file at CRD.

existence of integrated housing, such purpose is unlawful. The then Assistant Attorney General of the Justice Department, Civil Rights Division, William Bradford Reynolds, stated in the New York Times:

Stripped of its rhetoric, such conduct, no matter how well intended, constitutes discrimination plain and simple. Once again in the name of integration, blacks are being discriminatorily denied housing on the basis of race. . .<sup>3</sup>

The Justice Department's suit against Atrium Village had not progressed until February 1990 when a consent decree was presented to the U.S. District Court and agreed to by both parties that racial criteria shall not be used in selecting tenants unless approved by the courts.

Within the community, various fair housing groups such as the Leadership Council for Metropolitan Communities support the concept of integrated housing as exemplified in Atrium Village. However, Kale Williams, executive director, contends that quotas should only be used to remedy past discrimination and that quotas that benefit whites are unjustified. Atrium Village Tenants for Integrated Living came out strongly on the side of Atrium Village by filing a motion to intervene on the side of the developers in

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<sup>3</sup> Dirk Johnson, "U.S. Sues Integrated Housing Complex in Chicago on Use of Racial Quotas," New York Times, July 24, 1987, p. 14, on file at CRD.

their efforts to maintain racial quotas.<sup>4</sup>

### South Suburbs

The nine racially diverse municipalities located in the southern part of Chicago's suburbs include Blue Island, Calumet City, Chicago Heights, Country Club Hills, Hazel Crest, Matteson, Park Forest, Richton Park, and University Park. The increase in black residents in the near south suburban areas during the 1960s and 1970s such as Harvey, Dixmoor, Markham, and Phoenix resulted in segregated communities.

In 1973 Park Forest residents began efforts to maintain racial diversity in their community through the use of an integration maintenance program that is now used or promoted by nine municipalities in the southern suburbs. The South Suburban Housing Center (SSHC), a regional fair housing agency, which coordinates this effort, is responsible for promoting and encouraging multiracial communities. The SSHC's activities include "testing" for discriminatory real estate practices and suing those found to be engaged in such practices, conducting fair housing educational programs for organizations in the housing industry and the general public, and assisting various government units in carrying out fair housing efforts.

The south suburban housing controversy between the SSHC and

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<sup>4</sup> Ibid. and "Atrium Village Integration Fought," Chicago Defender, Dec. 16, 1987, on file at CRD; "Residents May Join Integration Countersuit," Chicago Sun-Times, Dec. 15, 1987, p.32, on file at CRD; "Apartment Owners Told to Abandon Quota System," Chicago Sun-Times, June 22, 1987, on file at CRD.

the Greater South Suburban Board of Realtors (GSSBR) and its parent group, the National Association of Realtors (NAR), began in 1982 when the SSHC and the suburbs sued two Realtors for racial steering. In 1983 tensions accelerated between the housing group and the Realtors over a practice known as "affirmative marketing." Affirmative marketing consists of race conscious efforts to promote integration or prevent segregation through special marketing of real estate. The purpose is to attract persons of particular racial classifications who are not likely to be aware of the availability of certain real estate without such efforts. The GSSBR and NAR objected to the use of affirmative marketing because they viewed it as a discriminatory practice. This resulted in a lawsuit in which the SSHC sued the GSSBR and its parent organization for removing houses from the multiple listing that had been involved in the affirmative marketing program. In 1984 the GSSBR and NAR filed a countersuit against the SSHC and the nine suburbs. The Realtors charged that the villages and the housing center violated fair housing laws through affirmative marketing and other programs designed to promote racially diverse communities.<sup>5</sup> On December 21, 1983, the U.S. district court ruled in favor of integration maintenance programs and stated that these efforts were consistent with and supportive of the national commitment to the promotion of

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<sup>5</sup> Walter M. Perkins, "National Precedent, Landmark Housing Ruling Due in South Suburbs Case," Chicago Reporter, September 1988, p. 3, on file at CRD.

integrated housing.<sup>6</sup>

Some black suburbanites view these prointegration housing efforts as discriminatory and used to limit the numbers of blacks moving into a given area. Representatives of the Far-South Suburban Branch of the NAACP have publicly stated that integrated maintenance programs are an attempt to control the black population in a given community in order to limit white flight at the expense of blacks.<sup>7</sup>

#### Forum

The Advisory Committee brought together 15 participants from different perspectives to share their views on housing segregation and efforts to promote integration in Chicago. The following segments of the community made formal presentations to the Advisory Committee: (1) housing experts, (2) Realtors, (3) fair housing groups, (4) community-based organizations, and (5) government officials.

#### Trends in Residential Segregation

Dr. Nancy Denton, research associate at the Population and Research Center, University of Chicago, has conducted extensive seminal works on housing segregation. She has coauthored with

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<sup>6</sup> Findings of Fact and Conclusion of Law in South Suburban Housing Center v. Greater South Suburban Board of Realtors and National Association of Realtors v. City of Blue Island, et al., No. 83 C 8149, Dec. 22, 1988, on file at CRD; "Housing Ruling Reaction Divided," Chicago Tribune, Dec. 25, 1988, p. 17, on file at CRD.

<sup>7</sup> Walter M. Perkins, "National Precedent, Landmark Housing Ruling Due in Southern Suburbs Case," Chicago Reporter, September 1988, p. 5, on file at CRD.

Dr. Douglas Massey, University of Chicago, the following 4 studies: "Trends in the Residential Segregation of Blacks, Hispanics, and Asians, 1970-1980; Residential Segregation of Blacks, Hispanics, and Asians by Socioeconomic Status and Generation"; "Suburbanization and Segregation of Mexicans, Puerto Ricans and Cubans in Selected U.S. Metropolitan Areas"; and most recently has completed the study "Hypersegregation in U.S. Metropolitan Areas: Black and Hispanic Segregation Along Five Dimensions."

Dr. Denton described the trends in housing segregation between 1970 and 1980, followed by an examination of some of the factors that explain segregation and the broad context in which integration efforts must operate. Although many metropolitan areas were studied, the primary focus of Dr. Denton's presentation was Chicago.

Dr. Denton presented an overview of the methodology used in the Massey/Denton research. The following summarizes the methodology used:

--The data used is based upon 1970 and 1980 census.

--The study applies to large metropolitan areas more so than small ones.

--The study was conducted over 5 years covering 60 metropolitan areas and three racial ethnic groups (blacks, Hispanics, and Asians). The areas contained 72 percent of metropolitan blacks, 80 percent of metropolitan Hispanics, and 68 percent of metropolitan Asians.

--The study uses census tracts as proxies for neighborhoods.

--The different measures of segregation used are

dissimilarity or evenness, exposure, clustering, centralization and concentration. The measure used most often is the dissimilarity index which compares each neighborhood minority proportion to the overall metropolitan areas minority proportion. This is interpreted as the percentage of minority members who would have to change neighborhoods in order to be evenly spread across the neighborhoods in the metropolitan area.

--The Massey/Denton study views segregation from the perspective of population rather than neighborhoods.

Dr. Denton stated that the first goal of the Massey/Denton research was to document the change in the level of segregation according to the above defined measures between 1970 and 1980. As shown in Table I, the overall segregation for blacks was much higher than for Hispanics and Asians in both years in four cities: New York, Chicago, Miami, and Los Angeles. The researchers found that black segregation declined only slightly, and of the cities, Chicago had the highest level of segregation. The table indicates that in 1970 almost 92 percent of the black population in Chicago would have had to move in order to be evenly distributed across the neighborhoods in the metropolitan area. In 1980 the percentage of blacks needed to move in the metropolitan area declined to nearly 88 percent, according to the table. The corresponding figures for Hispanics and Asians in 1980 are nearly 64 percent and nearly 44 percent according to the table. Dr. Denton reported that, in general, black segregation declined most in smaller metropolitan areas in the southern and western areas of the United States, but that in large metropolitan areas, such as Chicago, black segregation remained

very high despite the passage of the Fair Housing Act of 1968.

Dr. Denton indicated that historically, one way that ethnic groups have assimilated into the mainstream is by moving to the suburbs; however, as shown in Table II, the data collected on center city versus suburban segregation revealed that blacks do not live in the suburbs to the same extent as Asians and Hispanics. Table II indicates that in 1970 only 10 percent of blacks in Chicago lived in the suburbs. That grew to nearly 16 percent in 1980 as compared to 27 percent for Hispanics and 49 percent for Asians. From an interpretation of the data in Table II an argument can be made that for all groups, segregation in the suburbs of Chicago is lower than in the central city. However, the data presented by the Massey/Denton study also suggest that black segregation in the suburbs is still higher than the segregation experienced by Hispanics and Asians in both the central city and the suburbs of Chicago, meaning that 75 percent of the black population would have to move to be evenly distributed throughout the suburbs.

Dr. Denton indicated that another way of assimilating into society is by improving one's socioeconomic status. Table III shows segregation by income for the three groups. Table III demonstrates that although segregation declines as income rises, it declines much more for Hispanics and Asians than it does for blacks. According to Table III, blacks begin at a higher level of segregation than either of the other two groups as well as experience less of a decline. Based upon Table III, an argument



can be made that in Chicago, blacks making \$30,000 a year are more segregated than Hispanics and Asians earning only \$5,000 a year. According to Dr. Denton, for blacks, the American dream of working one's way up does not imply residential integration in the same way it does for Hispanics and Asians.

The Massey/Denton data in Table IV shows that blacks in the four cities studied, and particularly Chicago, score very high in all five of the measures of segregation. According to Table I, approximately 92 percent of the black population would have to move in order to be evenly distributed across the neighborhoods in the metropolitan areas. The results of the four other measures indicate that isolation for blacks is extreme at a score of 0.828, neighborhoods are highly centralized with a score of 0.872, and blacks are crowded into a small number of geographically small neighborhoods at a score of 0.887. The Massey/Denton data demonstrates that compared with Hispanics, not only are blacks more segregated on any single measure, they are also likely to be segregated on all five measures simultaneously, which never occurs for Hispanics. Dr. Denton indicated that Asian segregation is low enough that calculations were not necessary.

As a result of these high scores, Massey/Denton concluded that blacks in Chicago are "hypersegregated," meaning that they experience an extreme level of residential segregation across multiple dimensions simultaneously that had not been previously imagined. This same condition prevails for blacks in nine other

metropolitan areas, namely, Detroit, Cleveland, Milwaukee, Newark, Gary, Philadelphia, Los Angeles, Baltimore, and St. Louis. Summarizing the report Dr. Denton said:

As of 1980, blacks are still unable to translate their socioeconomic achievements into greater integration within mainstream society, to the same extent as other groups. The American dream of working one's way up is not a viable option at least in terms of residence....other work we have done and are continuing to do strongly suggests that separate is not equal when it comes to living conditions. No matter what their educational or occupational achievements--this is speaking for blacks as a group--blacks are exposed to higher crime rates, less effective educational systems, higher mortality risks, more dilapidated surroundings, and a poorer socioeconomic environment than whites simply because of the persistence of strong barriers to residential integration that I think, needs some care and attention if we're going to focus on it as a goal. There's nothing in my research that tells me it's going to happen sort of automatically with us doing nothing. And so, breaking this pattern of neighborhood turnover is something that integration programs can try to do.<sup>8</sup>

#### Race and Housing Choice

Dr. William Sampson, sociology professor at Northwestern University, Evanston, Illinois, has produced several works on race and housing choice that include "Racial Preference and Housing Choice: Blacks Do Have A Say" and "Race and Housing Satisfaction in the City." His research focused on the extent to which blacks prefer to live among blacks based upon survey data collected on selected metropolitan areas. In contrast to the Massey/Denton research, his works point to housing preferences of blacks as a contributing factor to housing separation. He

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<sup>8</sup> Transcript of community forum, pp. 37, 38, 40, on file at CRD.

argues:

.....there are multiple causes of housing separation: economic factors, discrimination (though it is not clear that it plays a major role), desire of people, black and white, but especially whites, to avoid poor people, racial preferences, access to jobs and public transportation, and probably what might be called "community." By "community" I mean a group of people who share common interests and have a feeling of solidarity. While the data presented only hint at the existence of this "community" (in terms of the importance of being close to friends/relatives, and to places of worship), given the emphasis in black communities since the 1960s upon solidarity and togetherness, this is certainly fertile ground for future research. Certainly there have been a number of studies of black communities, but rarely is the question raised as to why they exist, and when it is raised, it is often assumed that it is only the preference and power of whites which need to be considered.<sup>9</sup>

Dr. Sampson's basic premise is that a significant number of blacks prefer to live among other blacks. Based upon his research he found that if left to their own preferences, black and white, holding economics constant, will experience segregation. Dr. Sampson suggests that whites prefer neighborhoods that do not contain any more than 20 percent black, and blacks appear to prefer neighborhoods where they are in the majority and that blacks will tolerate 60 to 40 neighborhoods but beyond that point they feel less comfortable. Dr. Sampson pointed out that economics contributes greatly to housing preferences. He said:

Nobody, including poor folks, prefer to live close to poor folks and that's part of the problem because blacks are disproportionately poor and even poor black

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<sup>9</sup> William A. Sampson, "Racial Preferences and Housing Choice: Blacks Do Have A Say (Northwestern University, 1989), pp. 14-15.

folks don't want to live among them. So, if we left folks to their own preferences, we'd have a state of affairs somewhat like what we have now.<sup>10</sup>

Dr. Sampson pointed out that his research found very few black people who believed they had been discriminated against in their search for housing. However, he believed that this perception is due to the fact that blacks do not search for housing in areas where they are likely to be discriminated against.

Dr. Sampson summarizes his position on efforts to promote integration by stating that he is opposed to managed integration and that minorities should be able to live wherever they want to live and can afford. He opposes efforts to break up black communities and suggested that there are political and economic trade offs to be considered by blacks if integration is the goal, such as the lost of a strong black voting bloc and the demise of black businesses. He proposed that instead of moving blacks, efforts should focus on improving the quality of life where blacks now reside and where they are going to live in spite of managed integration.

#### Fair Housing Amendments of 1988

Thomas Higgenbothan, regional director for Fair Housing and Equal Opportunity, U.S. Department of HUD, Region V, provided an update and overview of the Federal fair housing law. This law was originally enacted as Title VIII of the Civil Rights Act of

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<sup>10</sup> Transcript of community forum, pp. 45-46, on file at CRD.

1968.

Mr. Higgenbothan stated that the purpose of the law was to protect people from discrimination in housing based upon race, color, religion, and national origin. The Housing and Community Development Act of 1974 amended Title VIII and added a prohibition against housing discrimination based upon sex. The Fair Housing Amendments Act of 1988, passed on September 13, 1988, became effective on March 12, 1989. The Fair Housing Amendments Act of 1988 and Title VIII of the Civil Rights Act of 1968 taken together constitute the Federal Fair Housing Law, according to Mr. Higgenbothan. Mr. Higgenbothan stated that the law provides protection against discriminatory housing practices if they are based on race, color, religion, sex, or national origin. Mr. Higgenbothan stated that as a result of the amendments, the coverage also includes discrimination in the sale or rental of housing on the basis of a handicap, including a requirement that the design and construction of new covered multifamily dwellings meet certain adaptability and accessibility requirements by March 1991. He also said that the act prohibits discrimination in the sale or rental of housing because there are children in a family. Prior to the passage of the Fair Housing Amendments Act of 1988, only persons who were injured by discriminatory housing practices could file a complaint according to Mr. Higgenbothan. He went on to explain that under the amended Federal Fair Housing Law, the Secretary of HUD has the authority to initiate investigations upon receiving information

of possible discriminatory housing practices. Mr. Higgenbothan stated that the Secretary of HUD now has the authority to file a complaint against any person or entity covered by law if he believes a person has been or is about to be harmed by discriminatory housing practices.

Mr. Higgenbothan reported that a HUD market practices survey conducted in the late 1970s estimated that 2 million incidents of discrimination occur each year against blacks. The study also concluded that a black person had a 48 percent chance of being discriminated against in a sales transaction and a 72 percent chance of being discriminated against in a rental transaction.

Mr. Higgenbothan noted that since the effective date of the new law, the number of complaints received in Region V had doubled. He said that about 30 percent of this increase is in the new protected classes of the disabled and families with children. The new law provides up to 4 years for State and localities to bring their laws up to equivalency with the new Federal law according to Mr. Higgenbothan. He indicated that as a result of aggressive leadership by the Governor and the Illinois Department of Human Rights, Illinois is one of the first States in the country to pass its own legislation equivalent to the new Federal fair housing law.

Mr. Higgenbothan stated that other significant changes to the fair housing law are that an aggrieved person has 1 year to file a complaint with HUD after an alleged discriminatory housing practice, and 2 years to file a complaint in court. Formerly,

the time period was 180 days, Mr. Higgenbothan explained. If HUD finds reasonable cause, he said, then the department can issue a charge on behalf of the aggrieved person. If HUD then issues the charge, Mr. Higgenbothan said, then the parties have the option of proceeding before an administrative law judge or of going into Federal district court with a civil action.

He explained that the new law also clarifies that Federal agencies with regulatory or supervisory authority for financial institutions such as the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the Comptroller of the Currency are also required to cooperate with HUD to achieve the purposes of fair housing. Mr. Higgenbothan also noted that the law now allows the administrative law judge to access actual damages, injunctive or other equitable relief, and civil penalties that range from \$10,000 for a first violation and up to \$50,000 for the third and succeeding violations, and that the Justice Department can seek access up to \$50,000 for a first violation and up to \$100,000 for any subsequent violations.

Mr. Higgenbothan stated that in connection with provisions for the handicapped, the law specifies three types of conduct which are discriminatory: refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises if these modifications are necessary to give the person full enjoyment of the dwelling and/or its amenities; refusal to make reasonable accommodations in rules, policies, and practices or services to give a handicapped person full enjoyment of a

dwelling or its amenities; and failure to design and construct covered multifamily dwellings for first occupancy after March 12, 1991, in a manner that makes the public and common areas accessible for handicapped persons.

Regarding families with children, Mr. Higgenbothan explained that the definition of familial status includes one or more persons under 18 who live with a parent or legal custodian, as well as persons who are pregnant or seeking legal custody of a child. Finally, he explained that the fair housing law provides an exemption for housing older persons. Housing for older persons is exempt when the housing is provided under a State or Federal program specifically designed and operated to assist elderly people; the housing is intended for and solely occupied by persons 62 years of age or older; or the housing is intended to operate for occupancy by at least one person 55 years of age or older according to Mr. Higgenbothan. The specific qualifications he cited include:

- the dwelling or complex must have significant facilities and services designed to meet the physical or social needs of older persons;

- at least 80 percent of units must be occupied by persons 55 years of age or older; and

- the management has expressed its intent to provide housing for older persons through its publications, policies and procedures.

Mr. Higgenbothan reported that under the new law the number of complaints received by the Chicago office had increased. As of September 22, 1989, cases of discrimination based on handicap



equal approximately 11 percent; familial status, 30 percent; and race, sex, color, religion, and/or national origin account for 59 percent.<sup>11</sup>

Mr. Higgenbothan stated that in the area of integrated housing, HUD does take into consideration integration efforts in establishing site locations. Some informal discussions have been held on this issue at meetings of the Community Housing Resource Board as well as with a variety of community groups, but there has been no formal planning with city or State officials to develop integrated housing in the greater Chicago metropolitan area he said. He indicated that the Federal Government has yet to formally address this issue. He said that Congress held hearings on integration maintenance, but it has not issued any findings.

#### Efforts to Promote Integration in Atrium Village

Perspectives and opinions on efforts to promote integration in Atrium Village were presented by Greg Heine, executive vice president, Crane Development, Inc.; Michael Shakman, a member of the law firm of Miller, Shakman, Nathan and Hamilton, and an attorney for Atrium Village; James Shannon, executive director of Fair Housing Center, Leadership Council of Metropolitan Open Communities; Jesse White, State representative and resident of Atrium Village; and Clarence Page, editorial writer, Chicago

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<sup>11</sup> Documentation by HUD, Region V for the United States Civil Rights Commission, submitted by Thomas Higgenbothan, director, Oct. 6, 1989, on file at CRD.

Tribune.

Greg Heine, executive vice president for Equal Employment Opportunity and Minority Business Enterprise for Crane Development Company, Inc. (Crane), spoke on behalf of Crane and the Chicago Orleans Housing Corporation, which includes the five member churches associated with the development of Atrium Village. Crane and the Chicago Orleans Housing Corporation are the developers and general contractors of Atrium Village. Mr. Heine's presentation focused on how and why Atrium Village was created as a model of racially and economically integrated housing.

Mr. Heine described Atrium Village as the result of over a decade of planning by five neighborhood churches, LaSalle Street Church, St. Matthew's Methodist Church, the Fourth Presbyterian Church, Holy Family Lutheran Church, and St. Joseph's Catholic Church. Mr. Heine said that prior to the construction of Atrium Village, the character of the area was dominated by a large Chicago Housing Authority project known as Cabrini-Green. According to Mr. Heine, Cabrini-Green is known as a segregated, all-black, very low-income public housing project. He stated that the area was referred to by local residents as "no man's land," and was considered to be a buffer zone between Cabrini-Green and the more affluent area to the east called the "Gold Coast." Mr. Heine said that it was in response to these circumstances that Atrium Village was conceived.

Mr. Heine related to the Advisory Committee that the

churches and the developer worked with the city of Chicago to obtain urban renewal land for the development, and the Illinois Housing Development Authority (IHDA) to obtain mortgage assistance. In addition Mr. Heine said, they contacted HUD to obtain rental and other subsidies for some of the units. All of these agencies supported integration at Atrium Village and the use of quotas to generate that integration according to Mr. Heine. Without quotas, Mr. Heine said, the developers feared Atrium Village would become an all-black, all-poor project like Cabrini-Green--a result that would have violated State and Federal laws. Therefore, according to Mr. Heine, one paramount goal of the developers was to create integrated housing which contained a tenant mix of persons from a variety of racial and socioeconomic backgrounds.

Mr. Heine indicated that in response to IHDA's and HUD's quota requirement, the developers and IHDA set an initial goal that 40 percent of its tenants be black and 60 percent white--with the hope of shifting to 50/50 when possible. To create economic integration, apartment unit quotas were set at 40 percent subsidized and 60 percent rented at market rates he said. Further, Mr. Heine said that all economic levels would have the same integration goals of 40 percent black and 60 percent white.

Mr. Heine explained that in spite of outreach efforts toward whites and market rate blacks, during the initial phases of the rental process most of the applications received came from black residents of Cabrini-Green who required subsidized units. He

added that this confirmed their view that strongly implemented affirmative action procedures would be essential to create racial and socioeconomic integration. Mr. Heine noted that at no time did racial consideration enter into the tenant selection process until an applicant had been determined to be qualified for tenancy on totally nonracial grounds.

Mr. Heine told the Advisory Committee that the success of Atrium Village is reflected in the fact that by August 1979, the development was almost entirely rented and had accomplished the mandated goal of 60/40. He said that the annual incomes of tenants ranged from a low of approximately \$3,000 per year to a high of \$120,000 per year. Since that time, Atrium Village has shifted its racial composition to 50/50, and that is its present composition he said. Race conscious affirmative action move-in controls have not been utilized for several years according to Mr. Heine. He also pointed out that attempts to achieve integration in other areas of Chicago have been tried by Crane but were unsuccessful. Mr. Heine described the positive benefits that have occurred in the community as a result of the presence of Atrium Village:

Atrium Village today is an economically, racially, and "caring" integrated community. It has provided a better life for its residents and has helped the city of Chicago. It has substantially added to the area's assessed valuation and tax base.....Atrium Village has also sparked redevelopment of the area between Cabrini-Green and the Gold Coast. Atrium Village has provided an example to others of the possibilities of racially and economically harmonious integrated urban living... We have created a model community reflecting the

diversity and vitality of America itself.<sup>12</sup>

Michael Shakman, an attorney representing Atrium Village in litigation with the U.S. Justice Department, discussed the legal issues raised by the use of quotas. Mr. Shakman prefaced his presentation by noting the events and conditions leading up to the development of Atrium Village. Mr. Shakman contended that without a quota to ensure that Atrium Village would be integrated, Atrium Village would have immediately become all black and would have been perceived as an extension of Cabrini-Green. Mr. Shakman contends that integration of Atrium Village was necessary to remedy prior unlawful discriminatory housing practices by government agencies.<sup>13</sup> He said that by the mid-1970s, when Atrium Village was approved, government agencies, including HUD and the Illinois Housing Development Authority, recognized the importance of remedying the pattern of unlawful segregation.

Mr. Shakman explained that from a legal perspective, the Federal courts have approved quotas to remedy prior specific acts of discrimination, most notably in the public schools and in employment.<sup>14</sup> Mr. Shakman stated that similar results have been reached in housing cases. Mr. Shakman said that the two most

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<sup>12</sup> Transcript of community forum, pp. 116-118, on file at CRD.

<sup>13</sup> Hills v. Gautreaux, 425 U.S. 284, 286-91, 296 (1976).

<sup>14</sup> Dayton Board of Education v. Brinkman, 443 U.S. 526, 535-42 (1979); Swan v. Charlotte-Mecklenberg Board of Education, 402 U.S. 1 (1971).

notable cases, the Otero<sup>15</sup> decision in New York City in 1973 and the Shannon<sup>16</sup> decision in Philadelphia in 1970, held that quotas could be used to further the objective of the Fair Housing Act of 1968. Mr. Shakman said that when Congress passed the act, it made clear that its purpose was to generate racially integrated housing. Mr. Shakman stated that when HUD approved Atrium Village, the Otero and Shannon decisions were specifically mentioned by the government decisionmakers, and afforded a proper basis for their concluding that racial integration by the use of quotas was not only permitted, but required, at Atrium Village.

Mr. Shakman noted that most recently the U.S. Court of Appeals for the Second Circuit in the Starrett City<sup>17</sup> case rejected the use of quotas to maintain integration at the Starrett City project in New York. Several aspects of that decision as related to Atrium Village were noted by Mr. Shakman. He stated that the decision held only that the Fair Housing Act did not allow the use of "rigid racial quota of indefinite duration." Mr. Shakman argued that Atrium Village has not used a quota of indefinite duration but rather, a quota was used only as long as necessary to generate integration. Once stable integration was achieved, the quota was discontinued, stated Mr.

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<sup>15</sup> Otero v. New York City Housing Authority, 484 F.2d 1122 (2d Cir. 1973).

<sup>16</sup> Shannon v. HUD, 436 F.2d 809 (3d Cir. 1970).

<sup>17</sup> United States v. Starrett City Associates, 840 F.2d 1096 (2d Cir. 1988).

Shakman. Mr. Shakman indicated that the court in Starrett City noted that the use of quotas could be justified by a specific history of racial discrimination. Mr. Shakman contended that Atrium Village passes this test. Mr. Shakman asserted that all Chicago public housing was segregated as a result of government action. He maintained that the use of quotas to remedy that segregation is exactly the sort of remedy the Starrett City court had in mind when it referred to the fact that the use of quotas should be based on a specific history of racial discrimination.

Finally, Mr. Shakman explained that in Starrett City the court approved the prior holding in Otero, noting that in Otero quotas were necessary to prevent the creation of a "pocket ghetto" on the lower east side of New York, an area that had experienced a steady loss of white population and was in danger of becoming segregated if preferences were not given to white residents to live in the development being built. Mr. Shakman believed that this legal reasoning justifies the quotas that were used at Atrium Village.

Mr. Shakman stated that the Justice Department brought suit against Atrium Village in 1987, almost 10 years after the project was completed and rented. Mr. Shakman hopes the Bush administration will analyze what has been done at Atrium Village from the point of view of what is legal, fair, and reasonable. He believed that the better view of the law in this matter is expressed in Judge Newman's dissent in the Starrett City case:

The Fair Housing Act does not make unlawful quotas created to provide integration, whatever their duration

and whatever the history of specified discrimination in the area may be.<sup>18</sup>

James Shannon, executive director of the Fair Housing Center, Leadership Council for Metropolitan Communities (council), presented his views on affirmative action for racial diversity in housing. He contended that conscious means for achieving long-term integration of Chicago's neighborhoods have never been given serious attention by Chicago's leaders. He stated that the process of ghettoization, practiced intensely in Chicago, has devastating consequences that we are now challenged by. He defines ghettoization as a pattern and practice in which segregated white and black neighborhoods are maintained rigidly for a time, followed by the movement of a few black families across these boundaries, followed by a rapid transition from white to black residency, and the establishment of a new segregated black neighborhood with a new boundary. He believed this process has shattered entire neighborhoods, uprooted thousands of black and white families, dramatically diminished cities' resources, irreparably damaged their commercial and social infrastructures, and increased the cost of running our cities while eroding the tax base and ability to pay these costs. Mr. Shannon said that in the many efforts to sustain racially integrated communities within a housing market, the council is opposed to quotas but supports affirmative action to achieve open housing and racial and economic diversity, so long as these

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<sup>18</sup> Ibid.



actions clearly remedy past discrimination and do not deny housing to minority homeseekers.

Such approaches were validated in the recently amended Fair Housing Act regulations: "Nothing in the amendments to the Fair Housing Act or their legislative history would support a conclusion that Congress thought to make choice-broadening activities, such as the Department's affirmative fair housing marketing program, unlawful discriminatory housing practices."<sup>19</sup>

Mr. Shannon pointed out that although the courts and HUD have consistently upheld the validity of affirmative and choice expanding race conscious methods for furthering fair housing and promoting integration, the matter of quotas is more complex. He acknowledged that Atrium Village is an outstanding racially and economically mixed development that probably would not have attained racial or even economic integration without the use of quotas. Although the council does not endorse the use of quotas, they would generally agree with Robert Rosenberg, Starrett City's general manager who, following the Federal appeals court decision, stated:

It is unfortunate that United States government should challenge a successful social experiment instead of aiming its efforts at the many segregated developments that exist.<sup>20</sup>

Mr. Shannon said along these same lines, the council would like

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<sup>19</sup> Implementation of the Fair Housing Amendments Act, 54 Fed. Reg. 3235.

<sup>20</sup> Transcript of community forum, p. 185, on file at CRD.

to see less attention devoted to integration maintenance and more attention to the problem of segregation maintenance. Mr. Shannon believed areas such as Atrium Village can be integrated without the use of quotas but the area must be marketed properly. Mr. Shannon spoke of Du Page County. He stated that there is not one town in Du Page County that does not have a black family but integration came about through a natural process because there were other things such as jobs and commercial development that attracted people to the area. Mr. Shannon stated that estimates based on birth and death statistics indicate that 152 of 258 Chicago suburbs had black population of less than 1 percent in 1986. He said that more energy and resources should be targeted at these areas to ensure open housing. He recommended the following strategy for achieving long-term integration of Chicago's neighborhoods;

1. Convene a blue ribbon panel of community leaders, civil rights and fair housing advocates, real estate officials, city officials, religious, business and civic leaders to identify and implement ways to promote fair housing, neighborhood stability, and positive race relations. The report of the Chicago Community Trust Task Force on race relations might contribute to such a process.
2. Vigorous enforcement of fair housing laws against illegal racial discrimination, panic peddling, and steering by the city. Reintegrating enforcement and human relations functions into one department.
3. Coordinated services and activities among city departments and related public and private agencies to serve a common strategy in integrated areas.
4. Allocation of additional resources for housing and

human relations activities.<sup>21</sup>

Mr. Shannon believed that these actions and the development of responsible and effective policies and practices to stem the process of rapid racial transition are essential if Chicago is to remain a vital, multiracial city.

Jesse White, State representative for the Eighth Legislative District and a 7-year resident of Atrium Village, described Atrium Village as a "cross section of people--working class, doctors, lawyers, policemen, firemen, nurses, students and public aid recipients, all living under one roof in a harmonious fashion."<sup>22</sup> He supports the use of racial and socioeconomic quotas in maintaining this integrated setting. He suggested to the Advisory Committee that the Federal Government should support such communities as Atrium Village and use them as models of housing integration for the Nation.

Clarence Page, columnist and member of the area editorial board of the Chicago Tribune, spoke in support of efforts to promote integration in Atrium Village. He stated that as a matter of policy, the editorial board has opposed the use of hard quotas except as a court ordered remedy for past discrimination. He said that the editorial board believed that Atrium Village met that test and therefore supports their efforts. Mr. Page indicated that the editorial board supports Atrium Village

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<sup>21</sup> Transcript of community forum, pp. 182-183, on file at CRD.

<sup>22</sup> Transcript of community forum, pp. 199-200, on file at CRD.

efforts because they are reasonable and serves as a model of racially and economically balanced housing. In contrast, according to Mr. Page, the editorial board views the Justice Department's position as "ultra pure," meaning that they believe racial quotas are always wrong even when they bring about and preserve integration. Moreover, Mr. Page stated that the editorial board found the Justice Department's position to be curious in light of how the Department, in their opinion, had not been in any way in the forefront of defending minority rights.

Mr. Page cited advantages gained by the community as a result of the Atrium Village. He said that before Atrium Village was built, the nearby neighborhood was viewed as impoverished, dangerous, and in decline. Mr. Page said that partly through the success of racial integration in Atrium Village, property values have climbed and its attractiveness to whites, as well as upwardly mobile blacks, has climbed in ways unforeseen 20 years ago. He also pointed out that Atrium Village is now viewed as the jewel of the community. Mr. Page is convinced that Atrium Village would become more white if its rent and admission policies were thrown open to the free market. He said that when one considers the gentrifying nature of the surrounding community, it is possible that the development could just as easily turn all white and rich as all black and poor.

Mr. Page describes what Atrium Village represents in a mostly segregated city:

Atrium Village stands as the jewel of hope for those of us who hope and pray for a future in which all

Americans can live together in a full realization of Dr. Martin Luther King's dream. I'd hate to see that jewel destroyed and see that dream once again deferred especially by a Justice Department that claims to be fighting for equal rights. In this light, I think the Justice Department's colorblind approach to racial policy would be justified if we had a colorblind society. We do not. And I do not see that sort of a policy moving us in that direction, rather I see it as being a very cynical approach to some very serious and very complex problems that we have.<sup>23</sup>

Mr. Page suggested that these tough civil rights issues should be handled through legislation as opposed to the courts. He would encourage open legislative debate regarding pro-integrative issues.

#### Efforts to Promote Integration in the South Suburbs

Perspectives and opinions on efforts to promote integration in the south suburbs were presented by Alexander Polikoff, director, Business and Professional People for the Public Interest; Karen Martin, executive director, South Suburban Housing Center (SSHC); Robert D. Butters, deputy counsel, National Association of Realtors (NAR); La Vena Norris, Dearborn Real Estate Board and chairperson of Equal Opportunity and Housing Committee; Peter L. Flemister, president, Far-South Suburban Branch of NAACP; William Simpson, secretary of the Far-South Suburban Branch of NAACP and chairman of the Housing Committee; Rev. Roosevelt McGee, chairman of the local chapter of the Southern Christian Leadership Conference (SCLC); Barbara Moore, community relations director, Park Forest Village; and

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<sup>23</sup> Transcript of community forum, p. 328, on file at CRD.

Judith Kramer, community relations director, Matteson Village.

Alexander Polikoff, of Business and Professional People for the Public Interest (BPI), expert on integration maintenance in housing and legal counsel for SSHC, provided a statement on integration maintenance as presented on December 12, 1988, to the Subcommittee on Civil and Constitutional Rights of the Judiciary Committee of the U.S. House of Representatives. Instead of integration maintenance, Mr. Polikoff uses the term "racial and ethnic diversity" to describe programs to foster and maintain integrated housing in a pluralistic society. He conceived of housing integration as a process of healthy competition in the residential marketplace, among various racial and ethnic group homeseekers. He argues that communities in this country which are struggling to promote racial and ethnic diversity are not trying to freeze a status quo, but rather to foster the vitality of a process and the participation in it of homeseekers of all races and ethnic backgrounds. However, he admitted that racial and ethnic diversity in housing is primarily focused on black-white issues. Today there are very few communities in the country which have formal racial diversity programs, he said. Mr. Polikoff stated that the largest number of them are in and around the Cleveland and Chicago metropolitan areas. He described pressures which cause resegregation and the dual housing market as characterized by Kale Williams, director of the Leadership Council for Metropolitan Open Communities in Chicago:

Given decades of history that the entry of blacks into a neighborhood signals its transition to an all black

neighborhood; given that many neighborhoods are still closed to blacks; given the natural tendency of minority families to seek housing in areas where they know they will be welcomed; given the wider range of choice open to whites--all these factors push newly integrated neighborhoods in the direction of becoming all minority neighborhoods. When illegal racial steering is added, the resulting transition to a resegregated neighborhood becomes almost inevitable.<sup>24</sup>

He said that these powerful institutional forces that cause segregated communities, require us to find ways to foster and maintain racial diversity. In this effort, Mr. Polikoff said it is important to distinguish between the techniques which limit or restrict the housing choices of homeseeking families, such as quotas, and techniques which expand and enhance housing choices as practiced in the south suburbs. Mr. Polikoff indicated that the municipalities and fair housing centers that conduct the bulk of the racial diversity programs around the country do not own or control housing and therefore lack even the ability to impose restrictive measures such as quotas. According to Mr. Polikoff, their efforts are aimed at encouraging voluntary housing moves to foster racial diversity.

Mr. Polikoff said that a Starrett City-type quota involves a racially based restriction on the freedom of homeseekers to select and secure the home or apartment they wish. In such cases, he said, families otherwise eligible for the housing in question are passed over for racial reasons, and thereby are

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<sup>24</sup> Alexander Polikoff, "Statement of Alexander Polikoff" (presentation delivered to the Subcommittee on Civil and Constitutional Rights of the Judiciary Committee of the House of Representatives, Washington, D.C., Dec. 12, 1988, p. 4).

denied or delayed in obtaining the housing of their choice. The racial diversity techniques that he supports do not involve quotas or other restrictions on housing choice. He said that racial diversity techniques purpose are to expand and enhance housing choice by combating stereotypical attitudes and behavior in housing markets. This means that minority homeseekers will feel free to include predominantly white neighborhoods among their housing options and white homeseekers will include integrated neighborhoods among theirs. Specific racial diversity techniques cited by Polikoff were race conscious "affirmative marketing; inclusionary technique; fair housing counseling; publicity; equity assurance; and prointegration financial assistance."<sup>25</sup>

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<sup>25</sup> Alexander Polikoff, "Statement of Alexander Polikoff" (presentation delivered to the Subcommittee on Civil and Constitutional Rights of the Judiciary Committee of the House of Representatives, Washington, D.C., Dec. 12, 1988, pp. 8-5, 27-31, Race Diversity Techniques) "Race conscious affirmative marketing as stipulated under HUD's affirmative marketing regulations assures that any group(s) of persons normally not likely to apply for the housing without special outreach efforts, such as minorities in a white suburban area or whites in an area of minority concentration. Inclusionary technique is race conscious affirmative marketing used in nongovernmentally financed housing, either voluntarily by individual homesellers or as part of a municipal racial diversity program. Fair housing counseling encourages home and apartment seekers to consider making pro-integrative housing moves. Publicity is a racial diversity technique that involves no restriction of choice but promotes integrated living patterns. Equity insurance is a racial diversity technique in the form of an insurance program designed to assure homeowners that the integration of their neighborhoods will not cause them harm through diminished property values. Pro-integration financial assistance programs are private or governmental financial assistance programs usually in the form of a mortgage loan, made available to those who are willing to make pro-integration housing moves;" on file at CRD.



Mr. Polikoff noted that critics of racial diversity techniques argue that the use of such techniques caters to white prejudice and stigmatizes blacks. In his view, racial diversity programs are enacted to fight resegregation and the isolation that creates prejudices. Mr. Polikoff maintained that race conscious, nonchoice limiting racial diversity programs support the complimentary goals of integration and free choice.<sup>26</sup>

Karen Martin is executive director of the SSHC, a regional fair housing center serving the 37 communities of Chicago's south suburbs. The center seeks to promote a unitary housing market, to formulate strategies that encourage long-term racially diverse neighborhoods and to reduce discrimination in the housing market. Ms. Martin said the center implements several programs to achieve these goals. She said that the auditing and compliance program tests and monitors for evidence of discrimination; the marketing program creates positive media attention for the area; education outreach informs the public and real estate professionals about racially and culturally diverse communities; and the homeseekers service serves as the affirmative marketing arm of SSHC. According to Ms. Martin, the affirmative marketing program, draws the most fire from both the real estate industry, and some segments of the black community. She said that this program provides special outreach to people who would not normally be expected to apply for housing in a particular area because of

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<sup>26</sup> Ibid., p. 33.

race. She indicated that in this effort, SSHC gathers and disseminates information about communities and housing choices, counsel homeseekers, and encourages nontraditional moves.

Ms. Martin indicated that in reviewing SSHC's affirmative marketing program, it is important to distinguish between their program and the quota system previously employed at Atrium Village. She said that the SSHC does not own or control housing and their efforts are designed to expand the choices of all homeseekers. A news interview with an official of SSHC cited in The Chicago Reporter, September 1988, describes the nature of SSHC's affirmative marketing program:

Affirmative marketing, and this is HUD's definition also, is marketing to everyone and doing something special to outreach to the group that is least likely to know about housing in a particular area. You must understand that we have a very segregated housing market which has existed for a long time. As a result, two separate markets for blacks and whites have developed. Affirmative marketing is really a race conscious way to undo a segregated market.... Affirmative marketing is aimed at all groups depending on the racial demographics of a community. For example, special efforts are taken to make sure minorities are aware of available housing in predominantly white areas. But the perception of many, including some black suburbanites, is that the marketing, sometimes referred to as integration maintenance, is used to limit the number of blacks moving into the area.<sup>27</sup>

Ms. Martin pointed out that the most significant witness to the fact that the SSHC does not discriminate is Judge Harry Leinenweber's decision in South Suburban Housing Center v.

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<sup>27</sup> Walter M. Perkins, "National Precedent, Landmark Housing Ruling Due in Southern Suburbs Case," Chicago Reporter, September 1988, p. 5, on file at CRD.

Greater South Suburban Board of Realtors and the National Association of Realtors v. City of Blue Island, et al., No. 83 C 8149, N.D. Ill. (1988). Ms. Martin said that the decision handed down in December 1988, indicated that there was no evidence to show that the SSHC's advertising or marketing efforts denied equal housing opportunity. Ms. Martin said the judge acknowledged the importance of efforts to promote long-term racial diversity when he stated: "it is a fundamental national policy to promote stable, long term racial diversity in the communities of the United States."<sup>28</sup>

Robert D. Butters, deputy counsel for NAR, stated that NAR is totally committed to ensuring that its members are aware of and comply with their obligations under Title VIII to market real estate without regard to race, religion, color, sex, handicap, familial status, or any other prohibited classification. Mr. Butters stated that NAR's code of ethics obligates every member to provide professional services free of discrimination and that failure to do so can result in disciplinary action against an offender.

Mr. Butters indicated that in 1976 NAR executed a Voluntary Affirmative Marketing Agreement (VAMA) with HUD pursuant to Section 809 of Title VIII, 42 U.S.C. sec. 3609. Mr. Butters said that under this agreement the definition of affirmative marketing

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<sup>28</sup> South Suburban Housing Center v. Greater South Suburban Board of Realtors and the National Association of Realtors v. City of Blue Island, et al., No. 83 C 8149, N.D. Ill. (1988).

was to outreach to the minority population to ensure that they were aware of housing choices in all communities. Mr. Butters said, however, when the agreement was updated and reexecuted through June 1992, HUD redefined affirmative marketing to mean a condition where persons of like economic resources have a like range of housing choices made available to them regardless of race or any other prohibited classification.

Mr. Butters stated that most recently NAR supported the Fair Housing Amendments of 1988. Mr. Butters stressed that the enforcement of nondiscrimination in housing is no longer a debate in the real estate industry. He said that the fundamental issue of utmost concern is whether fair housing laws permit or, indeed, require that race be taken into account in the marketing of real estate, and what are the means that are permissible to do this. Mr. Butters contended that now that the Fair Housing Amendment of 1988 has substantially increased the penalties upon persons found to have engaged in discriminatory housing practice, it is imperative that Congress or the courts come to grips with the absence of any definition concerning what is meant by "fair housing." He asked whether fair housing mean equal housing opportunity with no legal significance attaching to whether or not such free choice produces integration, or whether fair housing permits race to be taken into account if doing so will promote or preserve integration? He emphasized that the answers to these questions are critical to real estate practitioners as they conduct their business.

According to Mr. Butters, Congress intended that Title VIII break down and hopefully eliminate the segregated housing patterns in this country. However, he stressed that the means Congress chose to reduce segregation was to strictly prohibit housing discrimination. He asserted that Congress stopped short of authorizing quotas or other race conscious devices to create or preserve integration. Mr. Butters cited Senator Mondale's statement during the floor debate on Title VIII that the purpose of the act was:

...to replace the ghettos with truly integrated housing patterns... That future does not require imposed residential and social integration... it does require that government protect the freedom of individuals to choose where they wish to live.<sup>29</sup>

Mr. Butters also suggested that open housing does not necessarily, or even probably, produce integration. He said that open housing may produce "white flight," resegregation, or continued racial polarization. He also suggested that open housing may even produce minority concentrations, through the preference of persons, either white or black, for the cultural and social political benefits that such concentration provides.

Mr. Butters pointed out that the court and HUD's interpretation of Title VIII imposes a double standard that allows an organization such as SSHC to interfere or influence a person's housing choice based upon race, although such conduct, if committed by a real estate broker, lender, or appraiser, is

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<sup>29</sup> 114 Cong. Rec. 3422.

unlawful. He argued that race conscious affirmative marketing is lawful because it is described as "choice expanding," while racial steering is illegal because it is described as "choice limiting." He said that it is NAR's contention that the legality of race conscious attempts to influence housing choices should not depend upon the nature or identity of the actor.

In summary, Mr. Butters stated:

We had thought that Title VIII had repudiated for all time the claim that any person had the right to tell another person where he could or should live. If we are now to reestablish a guardian of the racial, religious, or ethnic composition and integrity of our communities, it should be done by Congress or the courts under the Constitution, and not by communities or fair housing organizations operating independently.... And if integration maintenance is to be legal, then a decision must be made as to when a community or neighborhood is sufficiently integrated to permit the minorities deemed overrepresented to be barred or discouraged from entry.... And if integration maintenance is to be legal, then a decision will have to be made as to how we can justify the dispersal of people who would choose to live together without stigmatizing and stereotyping those people as dangerous, undesirable and uncontrollable risks to society.<sup>30</sup>

La Vena Norris spoke on behalf of the Dearborn Real Estate Board (DREB) of which she is chairperson of the Equal Opportunity and Housing Committee. She explained that DREB is the local chapter of the National Association of Real Estate Brokers, Inc. and that members are primarily black. They are called Realtists rather than Realtors. She described her organization as the

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<sup>30</sup> Robert D. Butters, "Statement of the National Association of Realtors" (presentation to the Illinois Advisory Committee to the United States Commission on Civil Rights, Chicago, Illinois, Aug. 11, 1989, pp. 32-33).

counterpart of NAR.

DREB opposes efforts to promote integration maintenance programs. She said that DREB questions the intent of such efforts and believe these programs limit blacks' free access to housing. According to Ms. Norris, the concept of integration maintenance is considered by DREB to be housing manipulation for the benefit of whites who are threatened by the movement of blacks into certain areas. Ms. Norris indicated that upwardly mobile blacks who are able to choose where they desire to live based on their economic capability are most adversely affected by integration maintenance programs. In this context, she said that economic factors are not the issue, which leads her to believe that race is.

Ms. Norris pointed out that large cities such as New York, Chicago, and Cleveland are bastions of the integration maintenance programs. She said that municipalities and housing centers are allowed to use these programs to limit blacks' access to housing. Ms. Norris believed that the only viable alternative to integration maintenance programs is to eliminate stereotypes and discriminatory attitudes by whites. She said that hopefully, this can be accomplished through education and training.

Peter L. Flemister, president of the Far-South Suburban Branch of the NAACP and a resident of the south suburbs, opposes the use of integration maintenance programs. Mr. Flemister noted that the issues of fair housing have always converged on relations between blacks and whites. Mr. Flemister said the

debate on housing integration continues because lawmakers have not addressed this issue. Moreover, views of whites and blacks regarding what constitutes integration are widely divergent he said. According to Mr. Flemister, surveys of blacks and whites reveal that whites generally are not willing to tolerate as much integration as blacks; in that context, conflict is inevitable. He reported that the Far-South Suburban Branch of the NAACP takes the position that the implementation of the fair housing laws has been effective as evidenced by the fact that every community in the south suburbs has black residents in varying numbers. However, Mr. Flemister contended that because this is too much integration for white residents and municipalities, programs such as affirmative marketing and racial diversity are developed to manage the movement of blacks into certain areas. Mr. Flemister suggested that the call for managed integration is tantamount to racial steering predicated upon the assumption that blacks ruin communities. He accused the local fair housing center and the municipalities of engaging in efforts to halt white flight by keeping the number of blacks in certain areas dispersed and at the absolute minimum level. He described practices that he believed were designed with the intent to restrict black access into the south suburbs:

...Equity insurance is sought to preserve property values against the arrival of African-Americans just as one would insure against illness and natural disasters... Municipalities have ordinances in place that permit racial data collection... Depending on what your race is you may be asked to make a prointegration move based on someone's notion of what



an ideal racial mix is...<sup>31</sup>

Mr. Flemister stopped short of stating that the results of these activities have actually decreased the number of blacks moving into the south suburbs.

In a press release dated February 3, 1989, following the court ruling on affirmative marketing, the Far-South Suburban Branch of the NAACP cited the following steps as those which must be taken to ensure fair implementation of the court ruling:

1. Municipalities and housing centers must identify in writing the persons responsible for the actual implementation and administration of their affirmative marketing programs;
2. Municipalities and housing centers must specify in writing all of the detailed criteria that will be used in determining why, when and how any affirmative marketing practice will be implemented including its duration, objective, likely impact and geographic scope;
3. Municipalities and housing centers must collect population data on all of the classes of persons protected by the fair housing laws including race, religion, national origin, sex, color, handicapped and families with children;
4. Municipalities and housing centers must specifically state in writing what constitutes long term diversity in their community for all classes of persons protected by the fair housing laws including race, religion, national origin, sex, color, handicapped and families with children;
5. Municipalities and housing centers must implement their programs for all protected classes and must equally apply the criteria established for affirmative marketing practices to all classes of persons protected by the fair housing laws including religion, race, national origin, color, sex, handicapped or families

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<sup>31</sup> Transcript of community forum, pp 293-294 and p. 304, on file at CRD.

with children.<sup>32</sup>

William Simpson, secretary of the Far-South Suburban Branch of the NAACP and chairman of the Housing Committee, spoke during the open session. Mr. Simpson spoke from a summary statement entitled "In Opposition to Housing Programs and Politics to Control the Number of African-Americans in Buildings, Neighborhoods and Communities for the Purpose of Stopping White Flight, Enticing White Move-Ins or, in General, Maintaining Integration."<sup>33</sup> He stated that the advocacy and implementation of programs and policies by housing centers and HUD throughout the country to maintain integration has raised a broad range of questions concerning the moral and legal ramifications of managing the buying, selling, and renting of houses for the purpose of controlling the percentage racial makeup of buildings, neighborhoods, and communities. He indicated that it is an undeniable reality that whites will move out of or decline to move into areas that have or pretend to have an uncomfortable percentage of black residents. Operating within this context, he asserted that municipal officials and private organizations have been devising a multitude of housing plans to limit the number of black families in designated areas so as to encourage white

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<sup>32</sup> NAACP-Chicago Far-South Suburban Branch-NAACP, "Housing Ruling Allows Steering and Discrimination" (Feb. 1989), pp. 2-3.

<sup>33</sup> Chicago Far-South Suburban Branch-NAACP, "Housing Policies and Programs to Control the Number of African Americans in Buildings, Neighborhoods, and Communities, for the Purpose of Stopping White Flight, or Enticing White Move-Ins," (1989), p. 1.

families to stay or to move in. Such activity he considers potentially devastating to the black community because the use of such programs imply that blacks are dangerous to the health and welfare of the society. Although fair housing laws do not define integration, he stated that advocates of integration maintenance disguise their intentions by maintaining that their policies are in the interest of a legal mandate to achieve housing integration. He stated that fighting discrimination is the only acceptable means of achieving integration.

In July 1989 the Far-South Suburban Branch of the NAACP submitted a resolution to the body of the national NAACP at the 1989 convention to oppose any policy or program promoting integration maintenance programs. The resolution was not accepted but will be submitted for reconsideration in the future.<sup>34</sup>

Rev. Roosevelt McGee, chairman of the local chapter of the Southern Christian Leadership Conference (SCLC), submitted a statement on behalf of SCLC regarding efforts to promote integration in the south suburbs. SCLC indicated their opposition to racially based formulas for preserving integration. He contended that the recent decision in the case of the South Suburban Housing Center v. Greater South Suburban Board of Realtors and the National Association of Realtors v. City of Blue

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<sup>34</sup> William Simpson, Secretary of the Far-South Suburban Branch of NAACP and Chairman of the Housing Committee, telephone interview, Oct. 30, 1989.

Island, et al., No. 83 C 8149, N.O. Ill. (1988) is the result of a national trend of indifference and disrespect for the rights of blacks and minorities in this country. He said that the enactment of a Guaranteed Home Equity Program by the city of Chicago and the State of Illinois point to a general trend that seeks to reverse past progress won by civil rights activists in housing.

Mr. McGee stated that all people must have a moral and legal right to purchase the home of their choice without the use of racial steering to restrict a community's population under the guise of promoting integration. He said that this gives the impression that if too many people of one race are in an area, then that area's home value will decline. He stated that the local chapter of SCLC supports laws and programs that will protect the rights of all Americans to live wherever they choose based upon their economic ability, and encourage understanding and respect for every race without quotas and integration maintenance program.

Barbara Moore, director of Community Relations for the suburb of Park Forest, is a proponent of integration maintenance programs as practiced by Park Forest and SSHC. She described Park Forest as an integrated community of 26,222 located 30 miles south of Chicago's loop. She stressed that Park Forest's racial diversity programs are operated without the use of quotas. Instead, she said that they develop programs to expand housing options for minorities.

Ms. Moore stated that Park Forest has demonstrated a long term commitment to human relations and fair housing. She indicated that the first black family moved to Park Forest in 1959, and although there was some resistance from residents, the local government made a strong effort to make the family feel welcome and to ensure that black families moving to the Village would receive services equal to that enjoyed by white residents. Ms. Moore said that in 1968 Park Forest enacted a fair housing ordinance, which was before the passing of the Federal law, and that they adopted an integration maintenance program in 1973. She said they have defined integration maintenance as the use of education and service programs to encourage the continuation of integration in the community which, in operation, will ensure the continuance of a stable, multiracial community. Ms. Moore indicated that Park Forest has been involved in a variety of activities to attract people of different races, ethnic groups, religions and economic means. She described some of these activities as public awareness and outreach counseling affirmative marketing, collection of resident data, and education and training for Realtors, lenders, and other members of the real estate community.

Ms. Moore described the collection of resident data, which has been called discriminatory by some civil rights groups, as a comprehensive survey system that allows for the regular monitoring of housing traffic and occupancy patterns in order to detect potentially illegal real estate activities; to direct

marketing/public relations efforts; and to identify for special attention areas that have the potential for segregation.

Judith Kramer, director of Community Relations for the suburb of Matteson, indicated her support of the south suburbs integration maintenance programs. She rebutted statements made by opponents of integration maintenance program that the data collection procedures used to gather racial data had decreased or limited the number of minorities moving into certain areas of the south suburbs. She contended that the data collected is designed to determine the extent to which there is any existing patterns to limit options for persons desiring to live in the south suburbs. Moreover, Ms. Kramer said municipalities are incapable of limiting or controlling the number of minorities who may live in an area because they cannot sell homes or act as a real estate vendor.

#### Summary

On August 11, 1989, the Illinois Advisory Committee to the U.S. Commission on Civil Rights conducted a community forum in Chicago to gather information on efforts to promote housing integration in Atrium Village and the south suburbs of Chicago. Participants were invited who were knowledgeable about the issues, whose information or observations stemmed from their personal involvement or the conduct of their duties, and who could provide a wide range of perspectives on issues related to housing integration. It is important to note that the Federal Government's perspective was not addressed during the forum. Due

to pending litigation between the Justice Department and Atrium Village regarding the use of racial quotas, the Justice Department considered itself unable to participate. Despite this, the Committee received a diversity of perspectives from scholars and experts knowledgeable about civil rights and housing, local fair housing and civil rights groups, Realtors and residents of Atrium Village and the south suburbs. In addition, the director of Fair Housing and Equal Opportunity, Region V, HUD provided an update on the newly enacted Fair Housing Amendments of 1988.

Major points of discussion focused on the nature and extent of housing patterns in Chicago, methods employed to maintain racial balance or diversity in communities with the use of quotas and integration maintenance programs, specific efforts made to promote housing integration in Atrium Village and the south suburbs, and the pros and cons on the extent to which discrimination occurs through the use of such efforts.

Among participants, there was a consensus that Chicago is one of the most segregated metropolitan areas in the country. United Way's "Environmental Analysis Report" released in July 1988 identified racial discrimination and segregation in Chicago as major contributors to the present crisis in human needs. In January 1989 the Council of Religious Leaders of Metropolitan Chicago pointed to the costs of segregation, acknowledged the modest progress made in achieving fair housing, and called on leaders to "reverse the old patterns of segregation, create more

integrated neighborhoods and start a new cycle of openness and expanding opportunities for all Chicago residents."

On September 27, 1989, the Human Relations Task Force created by the Chicago Community Trust released a report which concluded a 15-month investigation of race, ethnic, and religious tensions. The report concluded that isolation is the most influential factor in persistent racism and racially based fears in Chicago. Although whites, blacks, and Hispanics might have contact at work or on public transportation, many have no other experiences. The primary point made in the report was that not only is Chicago a segregated city but that racial groups are isolated from each other. In the area of housing, the report stated that "because neighborhoods that are free from hatred and fear are the building blocks of a successful community, it must be the policy of all lending institutions, developers, real estate brokers, civic planners and community leaders to make integrated housing a primary objective of their work." Some of the other recommendations included: creation of an ombudsman for the enforcement of fair housing laws and expansion of the human relations commission, increased interracial contact between children in school, and a recommendation that business and religious leaders should seek out and correct situations of racial and ethnic discrimination.

In this debate over housing integration, a flurry of civil rights lawsuits have been played out in the courts. The SSHC and the nine south suburbs established integration maintenance



programs to promote integration and recently won a court battle in which a Federal judge ruled in favor of the affirmative marketing programs operated by them. In 1987 the Atrium Village project was challenged by the U.S. Department of Justice for using a quota system to maintain racial balance. However, in February 1990 the government agreed to discontinue its lawsuit against the housing development on charges of racial discrimination in United States of America v. Atrium Village Associates, Chicago-Orleans Housing Corporation, and Crane Construction Company, et al., No. 87 C 6527 (1990). A consent decree was presented to the U.S. District Court and agreed to by both parties that racial criteria shall not be used in selecting tenants unless approval is received from the court.<sup>35</sup> The settlement still does not resolve the legality of using quotas to maintain racial balance in housing. The question still remains as to whether or not quotas are lawful to counteract segregated housing. It is important to note that although Atrium Village and the south suburbs' objective is the same--to promote housing integration--the method used to accomplish this task are different. Although the court and HUD have fairly consistently upheld the validity of integration maintenance programs as practiced in the south suburbs, the use of quotas or numerical goals as proposed in Atrium Village is a matter of greater

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<sup>35</sup> United States of America v. Atrium Village Associates, Chicago-Orleans Housing Corporation, and Crane Construction Company, et al., No. 87 C 6527, (1990).

difficulty.

The participants in the forum were clearly divided on the methods used to promote integration and the effect of such programs on the perception of blacks. The debate focused on racial segregation between blacks and whites rather than other minorities.

Although all agreed that Atrium Village is an excellent community, everything that a racially mixed community ought to be, opponents charge that the use of quotas is discriminatory against blacks who seek housing in the complex, while proponents argue that quotas are necessary to break established segregation practices.

Proponents of integration maintenance programs in the south suburbs contended that these programs help to prevent the resegregation of communities from predominantly white to predominantly black. Opponents argue that these programs limit the ability of blacks to move into communities of their choice and raised disturbing questions about how an ideal or acceptable racial composition is determined. The representative of NAR declared that efforts designed to manage the pace of integration smack of precisely the same kind of racial steering that fair housing laws were designed to outlaw. NAR indicated that they will not fully support the use of integration maintenance programs until they know when it is acceptable to use race as a criteria in selling and renting property and when it is not.

Other unanswered questions raised at the forum were: How

can people be compensated for past discriminatory practices without special efforts to overcome what has acted to deny them access? How many blacks are too many in order for a neighborhood or building to be integrated and does anyone have the legal right to make such decisions? When discrimination fosters integration what is most desirable? Do the fair housing laws require the protection of integrated communities so that they do not lapse into resegregation? Although Federal officials have made occasional public statements on these issues, they have failed to issue explicit policy guidance on the questions raised during this forum. It is this Committee's hope that this country's lawmakers will provide answers to these questions which will allow for the possible creation and maintenance of stable and diverse communities.

The Illinois Advisory Committee is grateful to all who participated in this project and for the stimulating exchange of information and viewpoints. It hopes that the information presented will be useful to the U.S. Commission on Civil Rights in its program planning.

TABLE I  
OVERALL SEGREGATION

Dissimilarity between Non-Hispanic Whites and:

SMSA	Blacks			Hispanics			Asians		
	1970	1980	Change	1970	1980	Change	1970	1980	Change
Chicago	.919	.878	-.041	.584	.635	.051	.558	.439	-.120
Los Angeles	.910	.811	-.099	.468	.470	.102	.531	.431	-.100
Miami	.851	.778	-.073	.504	.519	.015	.392	.298	-.094
New York	.810	.820	.010	.649	.656	.007	.561	.481	-.080
Mean All 60	.792	.694	-.098	.444	.434	-.010	.437	.342	-.095

TABLE II  
CENTER CITY VERSUS SUBURBAN SEGREGATION

Proportion of Group in Suburbs

SMSA	Blacks			Hispanics			Asians		
	1970	1980	Change	1970	1980	Change	1970	1980	Change
Chicago	.100	.158	.058	.240	.267	.027	.250	.491	.241
Los Angeles	.314	.421	.107	.571	.576	.005	.424	.503	.079
Miami	.579	.684	.105	.490	.661	.177	.665	.825	.160
New York	.071	.082	.011	.042	.058	.016	.077	.141	.064
Mean All 60	.206	.282	.076	.461	.482	.021	.431	.530	.099

Dissimilarity between non-Hispanic Whites and:

	Blacks			Hispanics			Asians		
	CC	SUB	DIFF	CC	SUB	DIFF	CC	SUB	DIFF
Chicago	.906	.754	-.152	.616	.408	-.208	.527	.371	-.156
Los Angeles	.830	.789	-.041	.611	.539	-.072	.506	.430	-.076
Miami	.775	.754	-.021	.411	.477	.066	.396	.301	-.095
New York	.826	.704	-.122	.639	.399	-.240	.498	.349	-.149
Mean All 60	.691	.573	-.118	.450	.379	-.071	.413	.376	-.037

SOURCE: Population and Research Center of NORC and the University of Chicago, by Douglas S. Massey and Nancy A. Denton. Describes the trends in residential

TABLE III

## SEGREGATION BY SOCIOECONOMIC STATUS

Dissimilarity by Income (in Thousands of Dollars)

	<2.5	\$5	\$10	\$15	\$20	\$25	\$30	\$50+
<b>BLACKS</b>								
Chicago	.911	.897	.872	.855	.853	.858	.853	.863
Los Angeles	.854	.842	.812	.799	.787	.798	.808	.789
Miami	.816	.808	.788	.773	.804	.784	.799	.765
New York	.862	.848	.818	.804	.799	.812	.809	.786
Mean All 60	.796	.776	.738	.731	.731	.749	.744	.802
<b>HISPANICS</b>								
Chicago	.790	.767	.700	.695	.618	.628	.587	.627
Los Angeles	.641	.641	.598	.576	.541	.537	.503	.496
Miami	.598	.590	.577	.586	.564	.586	.551	.473
New York	.767	.727	.668	.636	.606	.631	.601	.662
Mean All 60	.733	.708	.665	.656	.647	.660	.634	.695
<b>ASIANS</b>								
Chicago	.804	.785	.753	.707	.662	.669	.617	.629
Los Angeles	.650	.647	.603	.603	.568	.585	.567	.590
New York	.776	.782	.716	.701	.699	.712	.660	.668
Mean All 60	.822	.818	.779	.777	.768	.795	.760	.783

SOURCE: Population and Research Center of NORC and the University of Chicago, by Douglas S. Massey and Nancy A. Denton, (1988).

Table IV

FIVE DIMENSIONS OF SEGREGATION\*

	Evenness	Exposure	Clustering	Centralization	Concentration
BLACKS					
<u>Chicago</u>	.878	.828	.793	.872	.887
Los Angeles	.811	.604	.765	.859	.695
Miami	.778	.642	.344	.463	.565
New York	.819	.627	.468	.795	.892
Mean All 60	.693	.488	.292	.816	.642
HISPANICS					
<u>Chicago</u>	.635	.380	.317	.813	.746
Los Angeles	.570	.501	.333	.772	.619
Miami	.519	.583	.240	.542	.360
New York	.657	.399	.263	.841	.878
Mean All 60	.436	.201	.090	.713	.398

\*Evenness (dissimilarity) - degree to which the percentage of minority members within residential areas equals the citywide minority percentage; segregation increases as areas depart from the ideal of evenness.

Exposure - degree of potential contact between minority and majority members.

Clustering - extent to which minority areas adjoin one another in space.

Centralization - degree to which minority members are settled in and around the center of an urban area, usually defined as the central business district.

Concentration - relative amount of physical space occupied by a minority group.

SOURCE: Population and Research Center of NORC and the University of Chicago, by Douglas S. Massey and Nancy A. Denton, (1989).