

PROPERTY VALUES: ACCOUNTING FOR RACIAL VALORIZATION AND STIGMATIZATION IN DEVELOPMENT

*By: Audrey G. McFarlane**

My talk was originally intended to focus on wealth inequality and how it affects equitable development and represented my effort to get away from race and focus on wealth. Of course, it is not really possible to get away from race when talking about wealth. In light of where the current public conversation has been going in terms of race, it seems like it is on a trajectory that it may be the case that one day my talk will be prohibited because it uses certain terms that are currently being prohibited. Thus, it occurred to me that it would be important to talk very specifically at this conference about the future of cities, about how and why race matters in development, and to do it in a way that is different than how we normally talk about race.

The vast majority of us talk about race in terms of individual bad actors making bad decisions based on a corollary assumption that colorblindness is the ultimate goal. Thus, talking about race violates these assumptions that we should not see race nor acknowledge anything that we in fact may actually be noticing. Despite our actual perceptions about race, we pretend we can just avoid reality altogether. So, what I would like to do is to explain or talk about race, not in an individual context as an individual bad actor with a bad state of mind, which is pretty much how our law focuses on it, but to talk about how race has intersected with how we have organized this country, how we have conducted development, and how we have constructed property rights. What I would like us to focus on is something more than just the individual state of mind. This is not about identifying bad actors or bad people making bad decisions. Rather, this presentation's purpose is to acknowledge consistent patterns that have been with us since we came up with this imaginary idea of something called "race."

Race is imaginary. It is a concept to which we have ascribed social meaning, and we have attributed certain characteristics based on how someone appears. But this attribution is actually imaginary: it is socially constructed through

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social and legal practices.¹ It is very real, however, to the extent that these imaginations have real impacts and have shaped how we think about problems, how we construct what goods and services we provide for members of our society, and how we think about resolving conflicts. So, in order to think about race beyond the individual and beyond the imaginary, think systematically. Think about patterns and every time I mention something that seems destructive or disadvantageous, consider the advantages provided by those same actions.

To begin, when we think about race and racial inequality, we have a fairly massive wealth gap between the typical Black family whose net worth is about \$17,000, and the typical White family whose net worth is about \$171,000 dollars.² Of course, these numbers vary in terms of individual real-world experiences as people fall in different places along these lines, but overall, there is a large wealth gap between Black and White families.³ This wealth gap has been so consistent that many of us just think it is kind of natural, that it is a reflection of individual efforts, commitment, and doing the right things versus doing the wrong things.

Critical race theory is one of those terms that has been recently bandied about irresponsibly in the media. It has been vilified and so I thought I would explain what exactly critical race theory is.⁴ Critical race theory is a collection of insights by legal scholars that then spread to other disciplines to look at what exactly racism is and how it manifests in legal doctrine and practices.⁵ Racism is something that is deeply embedded in our consciousness, in our institutions, and in our systems. It is not necessarily an aberration; it is actually kind of a consistent, purposeful tool. It is important to speak up about different perspectives and about the way that we view how resources are distributed in society. It is also a critique of liberalism—specifically economic liberalism—in the sense that it questions the belief that creating markets, systems, and practices that are colorblind and neutral will suffice, and that any correction to existing disparities must occur incrementally and gradually.⁶ So, there is a critique of the concept of meritocracy, in the sense that there is more to what we measure in terms of merit than we typically pay attention to. There is also some scholarship about the concept of whiteness and how that has been protected in law as a property right to the extent that it provides tangible and material benefits.⁷ There is a bit of a cynical perspective which says that if you are trying to achieve racial justice, those efforts will cease if it is perceived that the interests of Whites are placed, or perceived to be placed, in danger. So critical race

¹ Ian F. Haney López, *The Social Construction of Race: Some Observations on Illusion, Fabrication, and Choice*, 29 HARV. C.R.-C.L. L. REV. 1, 11 (1994); Cheryl I. Harris, *Whiteness as Property*, 106 HARV. L. REV. 1707, 1713 (1993).

² Kriston McIntosh, Emily Moss, Ryan Nunn, & Jay Shambaugh, *Examining the Black-white Wealth Gap*, BROOKINGS (Feb. 27, 2020), <https://www.brookings.edu/articles/examining-the-black-white-wealth-gap/> [<https://perma.cc/NC99-ADXG>].

³ See *id.*

⁴ See Kevin Brown, *Critical Race Theory Explained by One of the Original Participants*, 98 N.Y.U. L. REV. ONLINE 91 (2023).

⁵ See RICHARD DELGADO & JEAN STEFANCIC, CRITICAL RACE THEORY: AN INTRODUCTION 2–3 (2d ed. 2012); Kimberlé Williams Crenshaw, *Twenty Years of Critical Race Theory: Looking Back to Move Forward*, 43 CONN. L. REV. 1253, 1260 (2011).

⁶ See DELGADO & STEFANIC, *supra* note 5, at 3.

⁷ See, e.g., López, *supra* note 1, at 3–4; Harris, *supra* note 1, at 1720–21.

theory is a way of saying let's look beyond our practices and look beneath them—look more deeply.

Derek Bell was, really, the creator of critical race theory.⁸ I just summarize here some of his observations and insights about how it requires an interest conversion between the interests of Whites in society at large in order for Blacks to obtain advancement in their interests. He cites to the Emancipation Proclamation and the Civil War Amendments—the Thirteenth, Fourteenth, and Fifteenth amendments—coinciding with a way of saving the Union from the strife of the Civil War.⁹ Similarly, *Brown v. Board of Education* is, he argues, a reflection of, or an outcome of, the Cold War and how it was important to the United States to present to the world, and in particular, the communist nations, that the capitalist approach could be fair and equitable.¹⁰ So, Bell noted these convergences exist whenever we see racial progress. But he argues that interest convergence does not work to the extent that Black interests are perceived as being advanced to the disadvantage of White interests.¹¹ One of the key observations and the most compelling yet controversial of Professor Bell's statements is his point that racism is permanent.¹² People have found that a very despairing thing. But he says we need to acknowledge that racism is permanent in order to realistically think about how to strategize around some of its negative effects.¹³

Another observation about race and development is the concept of racial capitalism. Racial capitalism is based on an observation by Cedric Robinson, who said that capitalism is actually based on needing a difference between people in order to make a profit.¹⁴ Capitalism relies upon a difference in knowledge. It relies upon a difference in economic situation. Robinson argued that those differences were first practiced in Europe on other Europeans.¹⁵ Perhaps the English versus the Irish would be an example of behavior where one group of people treats another group differently in order to gain economic advantage.¹⁶ Robinson argued that this hierarchical economic structure is where race was born to create a venalized, exploitable group versus a venerated group.¹⁷ Racial capitalism is the notion that we

⁸ See generally Derrick Bell, *Racial Realism*, 24 CONN. L. REV. 363 (1992).

⁹ Derrick Bell, *supra* note 8, at 372, 376.

¹⁰ Derrick A. Bell, Jr., *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 HARV. L. REV. 518, 524–25 (1980).

¹¹ *Id.* at 523.

¹² See Derrick Bell, *supra* note 8, at 377.

¹³ See *id.* at 377–78.

¹⁴ See CEDRIC ROBINSON, *BLACK MARXISM: THE MAKING OF THE BLACK RADICAL TRADITION* 27 (1983).

¹⁵ *Id.* at 10.

¹⁶ *Id.* at 45.

¹⁷ Jodi Melamed, *Racial Capitalism*, 1 CRITICAL ETHNIC STUDS. 76, 77 (2015).

need to have this gap, and we need to have this difference, and race is what we use to produce and maintain that gap and difference.¹⁸

I did research on slavery, and I am currently writing about race and its influence on property. I will admit I did not know that something like our estates in land and future interests, our life estates, things where co-owners today can bring actions for waste—all of those property doctrines were used on enslaved people who were held as chattel property.¹⁹ In one waste case, for example, someone purchased a widow's life estate in a slave and allowed the enslaved person to be independent, to go out and work and keep the money they earned.²⁰ The children who held the remainder interest to the life estate were unhappy about this and were able to sue successfully that such independence constituted waste because the life estate holder failed to subordinate and oppress the slave to ensure that all enslaved persons understood that they held second degree, subjugated status.²¹

I mentioned slavery as the origin of the use of the terms “Black” and “White.”²² We used Black and White as concepts to distinguish who suffers from oppression, who is rewarded with liberation, and who should have agency. We continued that system until we had a conflagration, the Civil War, and we abandoned it because there was great discord in society over the institution of slavery. Then we had a period of reconstruction, which did not last very long. It lasted about eleven years. After that, we had a period of Jim Crow for nearly one hundred more years.²³ I wonder if we are now on the cusp of the end of what I would say is our second reconstruction brought on by the Civil Rights Acts of the 1960s. We also reinvigorated statutes that had been originally passed in the 1860s. We set about on a liberation, and it seems to me that our challenge right now is whether the gains made by Blacks is something that we will denigrate by calling it “DEI.” That is just a question to keep in mind.

After slavery, we have a history of formerly enslaved people, now mobile, free to move, free to work, free to support themselves, not given any assistance to transition from their enslaved state to their free state. Our efforts have been, with respect to development, focused on containing the movement of these people. Starting in the 20th century, we see various iterations of efforts made to what I call “racializing space,” which is to designate where people should live based on their racial identity. The result of it is, for example, Baltimore's redlining map. What we have ended up with is a system where we have concentrated poverty in many urban

¹⁸ See *id.*; Carmen Gonzales & Athena Mutua, *Mapping Racial Capitalism: Implications for Law*, 2 J. L. & POL. ECON. 127, 131 (2022).

¹⁹ See *Ellis v. Shell*, 4 S.C. Eq. 611, 611–13 (1815); see generally Justin Simard, *Citing Slavery*, 72 STAN. L. REV. 79 (2020).

²⁰ *Worthington v. Crabtree*, 58 Ky. 478, 481 (1858).

²¹ *Id.* at 481–82.

²² See Luther Wright Jr., *Who's Black, Who's White, and Who Cares: Reconceptualizing the United States's Definition of Race and Racial Classifications*, 48 VAND. L. REV. 513, 521 (1995).

²³ See Darrell A. H. Miller, *White Cartels, the Civil Rights Act of 1866, and the History of Jones v. Alfred H. Mayer Co.*, 77 FORDHAM L. REV. 999, 1024, 1036 (2008).

places and concentrated affluence. We usually talk about concentrated poverty; we do not really talk about concentrated affluence.²⁴

Baltimore was the site of the first racial zoning ordinance in 1910. The city used its police powers, powers that are analogous to saying its policy powers, to designate who could live in which city blocks.²⁵ Why did they do this? Because there was a Black lawyer who moved into an area that was perceived to be upscale and White, and the city wanted a way to prohibit that kind of movement.²⁶ At the time, the city's actions in passing this ordinance were considered so extraordinary it caused the New York Times to send a reporter down in Baltimore to see what was going on there.²⁷ The resulting news story is very interesting as to how all the players talked about what this racial zoning ordinance meant to them.²⁸ George McMechen, the Black lawyer whose move into a white, upscale neighborhood prompted the agitation for and passage of the racial zoning legislation highlighted that his intention was not to force social integration but to seek more comfortable living conditions.²⁹ McMechen also pointed out that Blacks were paying higher rents than the previous White occupants, challenging the White residents' fears that the presence of Black residents would devalue White properties.³⁰

Racial zoning was declared unconstitutional using Louisville's racial summing ordinance in a case called *Buchanan v. Warley*.³¹ After *Buchanan* was adopted, Baltimore, St. Louis, and other cities that had these racial zoning ordinances quickly met to form committees for segregation and come up with ways that they could continue to enforce segregation.³² Before *Buchanan*, but certainly after and since 1917, we started using our land ownership system to adopt racially restrictive covenants in our land and in our deeds.³³ They were adopted all over the United States, everywhere from Seattle, Chicago, Austin, and who would be prohibited would be based on who was the local out group in the particular community.³⁴ I have

²⁴ See Edward G. Goetz, Anthony Damiano & Rashad A. Williams, *Racially Concentrated Areas of Affluence: A Preliminary Investigation*, 21 CITYSCAPE 99, 100 (2019).

²⁵ See David Friedman, *Baltimore Tries Drastic Plan of Race Segregation*, SUNDAYMAGAZINE.ORG (Dec. 24, 2010), <https://sundaymagazine.org/2010/12/24/baltimore-tries-drastic-plan-of-race-segregation/> [<https://perma.cc/HEG3-V4UK>].

²⁶ *Id.*

²⁷ See generally *id.*

²⁸ See generally *id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Buchanan v. Warley*, 245 U.S. 60, 82 (1917).

³² See Christopher Silver, *The Racial Origins of Zoning in American Cities* in URBAN PLANNING AND THE AFRICAN AMERICAN COMMUNITY: IN THE SHADOWS 23, 24 (1997).

³³ See *id.* at 25.

³⁴ See Catherine Silva, *Racial Restrictive Covenants History: Enforcing Neighborhood Segregation in Seattle*, UNIV. OF WASH. (2009), https://depts.washington.edu/civilr/covenants_report.htm [<https://perma.cc/S9Q8-RQ6A>]; Arnold R. Hirsch, *Restrictive Covenants*, ELEC. ENCYCLOPEDIA OF CHI., <http://www.encyclopedia.chicagohistory.org/pages/1067.html> [<https://perma.cc/4GQ2->

an example of a covenant that included Armenians, Jews, Hebrews, Persians, and Syrians.³⁵ The list of who would be excluded would vary. Consistent, however, is every one of these racially restrictive covenants would include Blacks.

Redlining. [Posing a question to the audience.] Would anyone be willing to admit they do not know what redlining is? During the Great Depression, we had millions of foreclosures, and the government got involved in creating something radical. That radical new type of loan was the thirty-year fixed interest loan.³⁶ It was radical because if I asked you to borrow money, would you give me thirty years to pay you back? The redlining maps were the federal government's way of assuring, first, that they were going to insure the mortgages, but also that those mortgages would be safe.³⁷ Racial concepts of the time were used to define what was a safe neighborhood and what was safe was racial homogeneity. The federal government felt that racial mixing of any kind was unstable and would not contribute to high property values. These residential security maps were drafted and created for every city and place in the United States as a way of guiding underwriting decisions.³⁸ It is these originally redlined areas that manifest problems in cities today like low property values, high infant mortality, and higher crime rates. But what we do not often talk about are, well, what about the greenlined areas? The greenlined areas received an incredible benefit under this system. They received the benefit of cheap financing to purchase homes, and the cheap financing was predicated on race. The fact that it was predicated on race meant that access to home ownership was given to lower income working class people based on race. Today's kind of upper income trend toward White people was created using this system by giving exclusive access to home ownership. This example of redlining and home financing highlights the importance of looking not only at discriminatory practices but also at the benefits resulting from such practices.

There are also many indirect practices that accompanied redlining.³⁹ Professor Bratspies's specialty in environmental justice exists largely because zoning, which is a legal system of land regulation, was allowed to repeatedly locate toxic uses near Black neighborhoods.⁴⁰ Where we decided to build highways was

AT3U]; Moulay Anwar Sounny-Slitine, *Racially Restrictive Covenants in Austin, Texas*, YOUTUBE (Jul. 16, 2021), <https://www.youtube.com/watch?v=0k6x0BQxb68> [<https://perma.cc/WTS6-6JTY>].

³⁵ Justin Wm. Moyer, *Racist Housing Covenants Haunt Property Records Across the Country. New Laws Make Them Easier to Remove*, WASH. POST (Oct. 22, 2020), https://www.washingtonpost.com/local/racist-housing-covenants/2020/10/21/9d262738-0261-11eb-8879-7663b816bfa5_story.html [<https://perma.cc/VH6J-B699>].

³⁶ Todd Zywicki, *The Behavioral Law and Economics of Fixed-Rate Mortgages (and Other Just-So Stories)*, 21 SUP. CT. ECON. REV. 157, 158 (2014).

³⁷ See generally *Mapping Inequality: Redlining in New Deal America*, UNIV. OF RICH., <https://dsl.richmond.edu/panorama/redlining> [<https://perma.cc/5Y37-HPTL>] [hereinafter *Mapping Inequality*]; Todd M. Michney, *How the City Survey's Redlining Maps Were Made: A Closer Look at HOLC's Mortgagee Rehabilitation Division*, 21(4) J. PLAN. HIST. 316, 326–27 (2022).

³⁸ See *Mapping Inequality*, *supra* note 37 (containing residential security maps for 200 U.S. cities).

³⁹ See Silver, *supra* note 32, at 38.

⁴⁰ Professor Bratspies also presented at the *Kansas Journal of Law and Public Policy* Spring 2025 Symposium. Her presentation can be found at page 285 of this publication.

based on race.⁴¹ Where and how we decided to build public housing was based on race.⁴² How we decided to locate schools, parks, and other public facilities was based on race.⁴³ How we designated places as slums to be torn down was based on race.⁴⁴

To give you a small example from Baltimore, there was actually a mixed neighborhood because, before this intervention, there was mixing in neighborhoods.⁴⁵ The mixed neighborhood had been considered a problem by the local government and so the city used federal urban renewal funds to tear down the mixed neighborhood, build homes, designate them for White residents, and then the public housing that was built was designated for Blacks.⁴⁶ This chart here shows Baltimore's efforts to address a very significant problem of vacant and abandoned housing.⁴⁷ If you look at which areas received an "A" rating—and thus were more likely to receive the city's attention and funding—those are the areas that were "greenlined."⁴⁸ By contrast, the areas marked in peach tones, which are harder to distinguish on the map, tend to be located toward the center of the city and have been described in the work of a local researcher, Lawrence Brown, as the "Black Butterfly."⁴⁹ This "Black Butterfly" is the area where the city has said those are the areas that we cannot focus on right away because market conditions will not allow it, even though the market was created by or influenced by racial decisions earlier.⁵⁰

Earlier, I mentioned concentrated affluence and racially concentrated poverty. We are focused on the concentrated poverty, but less so on the concentrated affluence. As we are experiencing significant gentrification in certain areas, which is accompanied by displacement and transition, we end up with concentrated affluence in many places where it just was not considered possible, but the concentrated poverty is still something that continues as a problem. In fact, there have been many studies done on gentrification.⁵¹ There was a study done in Chicago that showed that it was not necessarily any investments or amenities that determined

⁴¹ Silver, *supra* note 32, at 38.

⁴² *Id.*

⁴³ *Id.* at 37.

⁴⁴ *Id.* at 38.

⁴⁵ See Arnold R. Hirsch, *Searching for a "Sound Negro Policy": A Racial Agenda for the Housing Acts of 1949 and 1954*, 11 HOUS. POL'Y DEBATE 393, 411 (2000).

⁴⁶ *Id.*

⁴⁷ DEP'T OF PLANNING, *Baltimore City's 2017 Housing Market Typology*, CITY OF BALTIMORE, https://planning.baltimorecity.gov/sites/default/files/distFINAL_HMT2017_11x17_0518.pdf [<https://perma.cc/FK3S-LTFZ>].

⁴⁸ *Id.*

⁴⁹ *Id.*, LAWRENCE T. BROWN, *THE BLACK BUTTERFLY: THE HARMFUL POLITICS OF RACE AND SPACE IN AMERICA* 9 (2021).

⁵⁰ See BROWN, *supra* note 49.

⁵¹ See, e.g., Goetz et al., *supra* note 24, at 100, JOE CORTRIGHT & DILLION MAHMOUDI, *LOST IN PLACE: WHY THE PERSISTENCE AND SPREAD OF CONCENTRATED POVERTY—NOT GENTRIFICATION—IS OUR BIGGEST URBAN CHALLENGE* 3–4 (2014).

where gentrification would happen.⁵² It was literally the presence of White people moving into the area, which was used as the marker to interpret whether or not an area is worthy of investment,⁵³ worthy of building, worthy of getting that first Starbucks, the Whole Foods and not the Dollar General or the Save-a-Lot, which are some of the grocery stores in Baltimore.

On that topic, I want to mention how the market decides where everything goes. Why does one area get a Nordstrom, and another area gets a Dollar General? It is based on something called “Geodemographic Profiling.”⁵⁴ This method of spatial analysis uses ZIP Codes and other data as ways to measure the economic wealth in the community, the racial identity of the community, and data to create a demographic assessment of what types of development should take place.⁵⁵ You can see the names for the different labels that different areas get if you go to the Claritas PRIZM website and type in your ZIP code to see what your classification is.⁵⁶ Under the Geodemographic Profiling, they use these assessments to determine where to make investments.

Another way in which race shaped development and segregation was also this phenomenon of something called sundown towns, which were areas that declared that Blacks, Latinos, or Native Americans, but typically Blacks, needed to be out of their towns by sundown.⁵⁷ These were racially hostile places that maintained themselves as all White.⁵⁸ The data on this slide is from Illinois.⁵⁹ There is a website where you can also look and see where these sundown towns were.⁶⁰ They are harder to identify because some of them had signs that said it explicitly, but many of them did not.⁶¹ The author, James Lowen, used different demographic ways of assessing which areas were likely sundown towns.⁶²

⁵² Jesse Mumm & Carolina Sternberg, *Mapping Racial Capital: Gentrification, Race and Value in Three Chicago Neighborhoods*, 59(3) URB. AFFS. REV. 794, 794, 823–24 (2023).

⁵³ *Id.* at 823–24.

⁵⁴ See Audrey G. McFarlane, *Who Fits the Profile?: Thoughts on Race, Class, Clusters and Redevelopment*, 23 GA. ST. U. L. REV. 877, 879 (2007).

⁵⁵ See generally *Identify Syndicated Audience Segmentation*, CLARITAS, <https://www.claritas.com/syndicated-audiences/> [https://perma.cc/3E76-G9EY].

⁵⁶ *ZIP Code Look-up*, CLARITAS, https://claritas360.claritas.com/mybestsegments/?_ga=2.163827325.310384874.1742951083-726082120.1742951083#zipLookup [https://perma.cc/Z63V-T8RH].

⁵⁷ JAMES W. LOEWEN, *SUNDOWN TOWNS: A HIDDEN DIMENSION OF AMERICAN RACISM* 4 (2005).

⁵⁸ *Id.*

⁵⁹ See generally *Location: Illinois*, HIST. & SOC. JUST., <https://justice.tougaloo.edu/location/illinois/> [https://perma.cc/AQ4D-EK2G].

⁶⁰ See generally *Historical Database of Sundown Towns*, HIST. & SOC. JUST., <https://justice.tougaloo.edu/sundown-towns/using-the-sundown-towns-database/state-map/> [https://perma.cc/J6GR-6KAN].

⁶¹ See LOEWEN, *supra* note 57, at 193–95.

⁶² See *id.* at 379–420 (documenting how thousands of towns across the United States systematically excluded Black residents—often through violence, threats, and policy. Uses demographic data, including the near-total absence of Black people to reveal patterns of anti-Black exclusion that persisted long after formal segregation ended); see generally WUSA9, *What are Sundown Towns and Do They Exist in the DMV? Leading Expert Says “Yes”*, YOUTUBE (June 4, 2021), <https://www.youtube.com/watch?app=desktop&v=2QEIGnmTPtc> [https://perma.cc/MTH7-XT3R].

One manifestation of all of this racial decision-making has been in property values and in particular, how subjective property values are. It turns out that there is a dual problem. The first part of the problem is the undervaluing of black-owned properties when it comes to assessments, if you are either trying to sell or trying to refinance.⁶³ There have recently been quite a number of stories in the media of appraisals that grossly undervalued the properties.⁶⁴ There is the case of Nathan Connolly, a professor at Johns Hopkins in Baltimore, who called an appraiser and got a value that was several hundreds of thousands of dollars below what he knew was the prevailing price in the neighborhood, the fair market value.⁶⁵ So, the Connollys concealed their identity as Black people, took away all their photos, any indicia of their racial identity, got a White colleague to stand in for them and the property values shot up by more than \$200,000.⁶⁶ This undervaluation happens quite frequently and there is a lot of work being done on property appraisals to look at how those original redlining maps and that decision-making are still being manifested in discretionary aspects of property appraisal. When a property appraiser comes to a parcel and sees who the owner is, how does that affect their property value assessment? On the flip side, there is the second part of the problem regarding property tax appraisals.⁶⁷ Somehow, those appraisals are overvalued meaning that properties owned by Blacks are over-assessed.⁶⁸ There have been some studies done about what the causes of this are. A number of authors argue that Blacks do not challenge or do not win property assessments as often and so there is work to be done on that.⁶⁹

⁶³ See ANDRE PERRY, JONATHAN ROTHWELL & DAVID HARSHBARGER, *THE DEVALUATION OF ASSETS IN BLACK NEIGHBORHOODS: THE CASE OF RESIDENTIAL PROPERTY*, BROOKINGS 15 (2018), https://www.brookings.edu/wp-content/uploads/2018/11/2018.11_Brookings-Metro_Devaluation-Assets-Black-Neighborhoods_final.pdf [<https://perma.cc/S79H-KED7>].

⁶⁴ E.g., Jonathan Edwards, *A Black Couple Says an Appraiser Lowballed Them. So, they "Whitewashed" Their Home and Say the Value Shot Up*, WASH. POST (Dec. 6, 2021) <https://www.washingtonpost.com/nation/2021/12/06/black-couple-home-value-white-washing/> [<https://perma.cc/B39X-9ZYP>]; Alexandria Burris, *Black Homeowner Had a White Friend Stand in for Third Appraisal. Her Home Value Doubled*, INDIANAPOLIS STAR (May 13, 2021, 5:53 AM), <https://eu.indystar.com/story/money/2021/05/13/indianapolis-black-homeowner-home-appraisal-discrimination-fair-housing-center-central-indiana/4936571001/> [<https://perma.cc/G3DX-78GR>].

⁶⁵ See Debra Kamin, *Lawsuit Alleging Racial Bias in Home Appraisals is Settled*, N.Y. TIMES (Mar. 25, 2024) <https://www.nytimes.com/2024/03/25/realestate/racial-bias-appraisal-settlement.html> [<https://perma.cc/6NJZ-5Y5D>].

⁶⁶ *Id.*

⁶⁷ KIRWAN INST., FRANKLIN COUNTY AUDITOR REPORT: INVESTIGATING THE APPRAISAL PROCESS 5 (2021), <https://franklincountyauditor.com/AUDR-website/media/Documents/Community%20Relations/In%20the%20News/Kirwan-Institute-Franklin-County-Auditor-Report-Investigating-the-appraisal-process.pdf> [<https://perma.cc/N2FD-7K3Y>].

⁶⁸ *Id.*

⁶⁹ Carlos Avenancio-León & Troup Howard, *The Assessment Gap: Racial Inequalities in Property Taxation* (July 2021) (unpublished manuscript), <https://www.maxwell.syr.edu/docs/default->

I wanted to close by talking about *Sex and the City*, which was a great TV show in the early 2000s. There was a scene that stuck in my mind. In this scene, Miranda was looking for an apartment for herself and her son somewhere in lower Manhattan, in an area that was formerly Ukrainian, and, in the midst of the crowd, Miranda saw a White guy with a baby heading toward a building. As she herself was looking for a suitable vacancy, Miranda declared, “wherever he’s going, that’s where we need to be.”⁷⁰ If we look at this scene using the individualistic approach, we would say, oh, she should not have done that. She should not have noticed that he was White and made that the basis of her decision. Whereas, if we look at it on a more structural level, we would say she was actually making a correct assessment that there was racial change happening in the neighborhood and that she could use his identity as the guideline of where she would feel safe or comfortable.⁷¹ And if she, the individual apartment or condo seeker uses this as a guideline, how do landlords decide who to rent to or to evict? How do developers decide what types of buildings to build and where to locate them? How do cities decide which areas to rezone, which projects to greenlight and which to ignore? So, it is this notion that race in development has created consistent patterns of racial stigmatization and valorization. It reflects the stigmatization of Blacks and affects how property decisions are made either directly or indirectly. It also reflects how whiteness is valorized which affects decision making directly.

I will close with Toni Morrison, who has argued that both whiteness and blackness have served as a social glue.⁷² The concepts provide an identifying indication of how to make distinctions. It is a unifying force creating insider and outsider sets of identities. That means that it is wholly consistent that when new immigrants come to the United States, they quickly assess where on that whiteness or blackness divide they would like to fall which thus replicates the dynamic. That means that none of the work that we do with respect to cities can ignore this history. Race is consistently, persistently, and purposefully pursued as a basis of decision-making. It is embedded in our geography and the ways that we do things. Our challenge is to keep aware of this and use it to inform all of our policies and to think through all of our policies in terms of what we think people are entitled to, what we think makes a good community, and what trade-offs we may need to make from what seems ideal to ensure that it is actually, at the very least, inclusive. Repairing some of what race has been used to do would be wonderful. But at the very least, ensuring that it does not persist going forward in shaping our cities of the future is also important, so thank you.

source/research/cpr/property-tax-webinar-series/2021-2022/howard-the-assessment-gap.pdf [https://perma.cc/352R-Q982]; See generally Randall K. Johnson, *Who Wins Residential Property Tax Appeals?*, 6 COLUM. J. TAX L. 209 (2015).

⁷⁰ *Sex and the City: The Movie* (Warner Bros. Pictures 2008).

⁷¹ See Mumm & Sternberg, *supra* note 52, at 823–24.

⁷² See Bonnie Angelo & Toni Morrison, *Toni Morrison: The Pain of Being Black*, TIME (May 22, 1989, 12:00 A.M.), <https://time.com/archive/6702572/toni-morrison-the-pain-of-being-black/> [https://perma.cc/NGU2-MVG2].