HUD's Proposal to Revise the Disparate Impact Standard Will Impede Efforts to Close the Homeownership Gap

Michelle Aronowitz
LAW OFFICE OF MICHELLE ARONOWITZ

Edward Golding
URBAN INSTITUTE

September 2019

Racial discrimination in our nation's housing and lending markets has a long but often forgotten history, driven by the federal government, state and local governments, private industry, and individual actors (Rothstein 2017). Less obvious but still potent forms of housing discrimination continue to this day, as do the toxic effects of both present and past discrimination. The latest proposal from the US Department of Housing and Urban Development (HUD) for redressing systemic housing discrimination would nonetheless give the upper hand to those defending potentially discriminatory housing practices.[1] No disparate impact claim challenging the use of an algorithmic risk model, for example, would survive as long as the lender, insurer, or secondary purchaser sticks to industry standards and protocols. This is essentially a safe harbor or exemption from disparate impact liability for the entire industry. Plaintiffs can still attempt to prove intentional discrimination, but the Supreme Court ruled just a few years ago, in *Texas Dept. of Housing and Community Affairs v. Inclusive Communities Project*, that Congress plainly intended for plaintiffs to have the option to proceed under a disparate impact method of proof, which "permits plaintiffs to counteract unconscious prejudices and disguised animus that escape easy classification as disparate treatment."[2] For this and other reasons, we do not expect HUD's proposal to survive legal challenge. If the proposal does survive and goes into effect, however, we anticipate it will worsen the homeownership and racial wealth gaps. Our concerns have some urgency because of evolving mortgage standards driven by financial technology (fintech) and new underwriting models the government-sponsored enterprises (GSEs) are developing.

Background on Housing Discrimination and Minority Homeownership

The Urban Institute has documented the large homeownership gaps for black and Latinx households, who have approximately 30 and 25 percent lower homeownership rates, respectively, than non-Latinx white households.[3] Although the homeownership gaps had been declining since the 1970s, following the 2008 financial crisis, the black-white homeownership gap is now wider than it was in 1968 when the Fair Housing Act was passed.

Although the most egregious discriminatory practices, such as the Federal Housing Administration's redlining policies, ended following passage of the Fair Housing Act, and even though racial zoning and racially restrictive covenants were declared unconstitutional or at least unenforceable by the Supreme Court some time before then, subtler forms of housing discrimination persist.[4] Moreover, the vestiges of more than a hundred years of institutionalized housing discrimination remain, in the form of segregated communities and large homeownership and wealth gaps.

Mortgage practices leading up to the Great Recession exacerbated the homeownership gap. Racially targeted predatory lending (reverse redlining) and government foreclosure policies wiped out 30 years of homeownership gains among black and Latinx households (Steil et al. 2018). By 2006, more than half of subprime borrowers actually qualified for prime products. Black homeownership rates dropped more than 2 percentage points from 2000 to 2010 and slid another 5 percentage points after 2010. If black homeownership rates recovered to their precrisis level in 2000, there would be an estimated 770,000 additional black homeowners.[5]

But post-2008 business models and government policies, with their hidden and not-so-hidden biases, restrict mortgage credit and made it disproportionately more difficult for black and Latinx families to finance a home, often without economic justification.[6] One example is the overreliance on an applicant's debt-to-income (DTI) ratio in underwriting decisions through a single-factor maximum DTI cutoff, regardless of the strength of the loan. The DTI overlay disproportionately disadvantages black and Latinx households and does so unfairly because the DTI ratio is a poorly measured variable that on its own is only weakly predictive of default (Golding, Goodman, and Zhu 2017; Stein and Calhoun 2019). Another example is the risk-based pricing by the GSEs and private mortgage insurers that selectively measures risk to the detriment of black and Latinx households.[7] Also, arbitrary minimum down payment requirements prevent black and Latinx households from receiving mortgages (Center for Responsible Lending 2012). These and other overly restrictive credit practices continue even though mortgage credit risk is low, as measured by Urban's Housing Credit Availability Index, and financial institutions are making record profits.[8]

The Recent HUD Proposal on Disparate Impact

The latest federal policy threatening to widen the homeownership gap is HUD's August 19 notice of proposed rulemaking (NPRM), which seeks to revise the existing Fair Housing Act standard for redressing systemic housing discrimination. The current method for proving discrimination under the Fair Housing Act without evidence of intent, using a disparate impact method of proof, was formalized by HUD in a 2013 final rule.[9] Disparate impact has been used to prove discrimination under the Fair Housing Act for 40 years and was approved by every federal appellate court to have reviewed the issue and all but one federal district court. In 2015, it was approved by the US Supreme Court in *Texas v. Inclusive Communities*. After reciting the long history of housing discrimination, the court, in an opinion by Justice Anthony Kennedy, recognized that the vestiges of such discrimination remain today.[10] The court's opinion concluded with the reminder that "'[t]he [Fair Housing Act] must play an important part in avoiding the Kerner Commission's grim prophecy that '[o]ur nation is moving toward two societies, one black, one white—separate and unequal.'"[11]

Three Flaws in HUD's Notice of Proposed Rulemaking

Because most people cannot afford to buy a home without a mortgage, we discuss the application of the proposed rule to housing finance. Our concerns focus on three areas: (1) the complete defense for algorithmic and other models, (2) shifting responsibility to third parties, and (3) increased burden of proof on plaintiffs.

As a threshold point, there is no need to revise the disparate impact standard. The case HUD points to as justification for the proposed rule—*Texas v. Inclusive Communities*—decided a single question: are disparate impact claims cognizable under the Fair Housing Act? The Texas housing agency had asked the court to decide the subsidiary question as well: if disparate impact claims are cognizable, what standards and burdens of proof should apply? The court declined to accept the second question for review and answered only the first, with cautionary language directed toward avoiding an overreliance on race that could raise constitutional concerns. HUD's 2013 rule was quoted multiple times in the court's opinion. The 2013 rule is entirely consistent with *Texas v. Inclusive Communities* and remains the governing law. It closely tracks disparate impact case law, and as Justice Kennedy pointed out in *Texas v. Inclusive Communities*, disparate impact liability has been in effect for decades and "'has not given rise to…dire consequences.'"[12] Indeed, the private market has operated quite profitably during this time.

1. The Complete Defense for Those Who Design and Use Models Is Too Broad and Operates as an Exemption or Safe Harbor

Congress provided certain exemptions to the prohibitions in the Fair Housing Act. Given the federal government's history of housing discrimination, it should come as no surprise that HUD has not been granted authority to create its own exemptions or safe harbors.[13] Indeed, HUD has never done so—until now. The complicated process HUD proposes provides an exemption or safe harbor for entities that design or rely upon algorithmic-based or other models.

Today, nearly all mortgage lending is through automated underwriting. HUD's NPRM carves out special treatment for these algorithmic risk assessment models. Under the NPRM, a lender will not be liable for disparate impact discrimination if it uses a model produced, distributed, or maintained by a “recognized” third party that determines industry standards and if the lender uses the model as intended by the third party.[14]

Most mortgages result from the use of these third-party models, typically provided by the GSEs. Even if these models were to exclude all or almost all black and Latinx applicants (today, only 3 to 4 percent of GSE loans are to black borrowers), under the proposed rule, if the model is used as intended, the lenders would have a complete defense from disparate impact liability with no need to defend the business necessity of the model and no opportunity for the plaintiff to refute that defense by showing a less discriminatory alternative.

For 40 years, business necessity has been the hallmark of the disparate impact standard and for good reason. The effects test does not prohibit all practices with an adverse disparate impact. It prohibits only those not required for the entity’s sound operation. Only by preserving this benchmark can the Fair Housing Act serve what Justice Kennedy described as its “continuing role in moving the nation toward a more integrated society.”[15] Instead, HUD’s proposed rule would protect lenders from disparate impact liability even in the extreme example above. The Fair Housing Act’s role in moving the mortgage industry to nondiscriminatory standards would be limited to policing intentional discrimination.

The defense offered to lenders for their use of their own models is almost as broad as the defense for their use of a third-party model. Under the proposed rule, the defendant that uses its own model is protected from disparate impact liability if it can show two things: no material factors in the model are “substitutes or close proxies” for race, national origin, or other characteristic protected by the Fair Housing Act; and the model is “predictive of credit risk or some other similar valid objective.”[16] In the first prong, “substitutes or close proxies” implies that the correlation with race must be one-to-one or close to it, which suggests an intentional discrimination standard. In the second prong, no level is specified for “predicting risk.” Any positive correlation appears to be sufficient. In other words, a defendant that uses its own model is shielded from disparate impact liability as long as the model is not intentionally discriminatory and the model has some correlation with risk or another valid objective other than risk.

This complete defense for a lender’s use of its own model appears much easier for the lender to satisfy than the current business necessity standard, primarily because it would be available even where there could be a less discriminatory alternative to the challenged practice. Say the lender’s model excludes 100 percent of black applicants. The lender would be entitled to a complete defense even if a tweak to the model could exclude only 50 percent of the applicants, and the 50 percent accepted are creditworthy under standard underwriting criteria. Such a defense is anathema to the fundamental nature of the disparate impact standard as explained in *Texas v. Inclusive Communities*. They threaten not only to eliminate an application of disparate impact liability but to take with it critical incentives for industry participants to consider less discriminatory alternatives to any of their exclusionary practices. They would make obsolete the Fair Housing Act’s protections for self-testing.[17]

This backing off of rigorous fair housing testing of algorithmic models is especially troubling given trends in the financial service industry. Fintech, driven by blockchain and artificial intelligence, is using big data and sophisticated models to disrupt how housing finance is delivered (Choi, Kaul, and Goodman 2019). The verdict is still out on whether this innovation will ameliorate or exacerbate fair lending concerns. But under HUD's proposed rule, if a fintech model becomes an industry standard, anyone relying on that model as intended would be immune from disparate impact liability under the Fair Housing Act.

The GSEs' use of credit scoring models is also being revisited.[18] Any new model that influences the decision to extend a mortgage must be scrutinized for compliance with traditional disparate impact standards, not the if-everyone-is-doing-it standard proposed in HUD's NPRM.

2. Allowing Defendants to Shift Responsibility for Their Conduct to Third Parties Eliminates an Important Incentive for Industry Participants to Ensure Their Practices Do Not Discriminate

In addition to protecting the use of a model from disparate impact liability, HUD proposes to protect any entity whose discretion is shown to be "materially limited" by a third party, giving as examples a federal, state, or local law; a binding or controlling court, arbitration, regulatory, or administrative order; and an administrative requirement.[19] This defense is hardly self-explanatory, though the preamble to the NPRM explains that the third-party defense would allow a defendant to challenge causation.[20] The preamble further explains that the defense would operate like a safe harbor by ensuring that defendants will never be placed in a "'double bind of liability' where they could be subject to suit under disparate impact for actions required for good faith compliance with another law."[21]

The proposed third-party defense does more than simply allow a defendant to challenge causation—which the defendant is already entitled to do without a regulatory safe harbor. It gives the defendant a blank check to violate the Fair Housing Act by pointing the finger at someone else.

For example, if a landlord evicts domestic violence victims to avoid sanctions from a property nuisance ordinance, depending on the facts, both the city and the landlord could be liable for disparate impact discrimination based on sex, race, or other protected characteristic (Desmond and Valdez 2013). Although the landlord may not always be sued for such discrimination, liability would not necessarily be limited to the city, as the proposed rule would have it. Or, if a town adopts a residency preference for newly constructed affordable housing, with the effect of limiting affordable units to white families, the town might be subject to Fair Housing Act liability under a disparate impact theory. But so too might others that implement the ordinance, such as the state agency that financed the discriminatory housing or the developer that built it.[22]

The purported "double bind of liability" is easier to unwind than the NPRM would suggest. The Fair Housing Act contains a preemption clause that invalidates conflicting state and local laws: "any law of a state, a political subdivision, or other such jurisdiction that purports to require or permit any action that would be a discriminatory housing practice under [the Fair Housing Act] shall to that extent be invalid."[23] The Fair Housing Act's preemption clause is grounded in the supremacy of federal law required by the US Constitution.

It is thus hard to tie HUD's proposed third-party defense to the lack of causation because in many cases, the purported limitation on a defendant's discretion not to discriminate would be an invalid state or local law. Nor is the automatic safe harbor for material limitation consistent with the common law principle that there can be more than one proximate cause.

HUD's proposed safe harbor is also not in keeping with the well-established economic principle of externalities—that is, to achieve efficiency, all contributing parties must be responsible for damages. It would thwart a plaintiff's ability to get full relief for housing discrimination, which under the Fair Housing Act requires the elimination of past discriminatory effects and the prevention of future discrimination. Under HUD's proposal, parties necessary for full relief—such as the property owners in the earlier eviction and refusal-to-rent examples—appear to be automatically immune from liability.

Moreover, HUD's proposed safe harbor would remove an important incentive for such actors to evaluate their own practices to ensure they are not discriminatory. Where a homeowners' insurance policy requires a landlord to either evict its Section 8 tenants or pay a higher premium, for example, the landlord can likely sue the insurance company for disparate impact discrimination under the Fair Housing Act.[24] If the landlord instead decides to evict its Section 8 tenants, or passes the excess insurance costs on to the tenants, the tenants may have a disparate impact claim against both the landlord and the insurance company. Under HUD's proposed third-party defense, arguably no one would be liable. The insurance company could attempt to escape liability by blaming the landlord as the intervening third party causing the violation, while the landlord could attempt to blame the insurance company for limiting its discretion. Instead of taking steps to ensure their practices do not discriminate, parties would have more reason to look for ways to shift responsibility to others.

The preamble to the NPRM repeatedly discusses McCarran-Ferguson reverse preemption in the context of the proposed third-party defense, and vice versa. Congress enacted the McCarran-Ferguson Act to protect state insurance law from conflict with certain federal laws. It is an odd juxtaposition, as HUD has no authority to interpret the McCarran-Ferguson Act, and whatever effect McCarran-Ferguson may have on the Fair Housing Act is the subject of conflicting court decisions. For this reason, the 2013 HUD rule left any McCarran-Ferguson questions for the federal courts to decide. But however the courts ultimately rule, the proposed third-party defense cannot be used to nudge McCarran-Ferguson reverse preemption to a "material limitation" standard.

3. The Burden of Proof for the Plaintiff to Prevail Is Often Insurmountable

The complicated process HUD proposes to address disparate impact claims is stacked against any plaintiff. It is also inconsistent with *Texas v. Inclusive Communities* and 40 years of Fair Housing Act case law.

For historical, practical, and legal reasons, the 2013 HUD rule is grounded in 40 years of Fair Housing Act case law and tracks the test for proving disparate impact discrimination under Title VII of the Civil Rights Act of 1964 and the Equal Credit Opportunity Act, which was enacted in 1974. The Title VII disparate impact standard was affirmed by the Supreme Court in 1971 and codified by Congress in 1991.[25] The Equal Credit Opportunity Act disparate impact standard, which Congress intended should mirror the Title VII effects test, was first put in place by the Board of Governors of the Federal Reserve System and later ratified by the Consumer Financial Protection Bureau in its 2013 regulation.[26]

The three-step burden-shifting test for proving disparate impact discrimination is fundamentally the same across the three statutes, with minor variations to respond to the different statutory contexts: housing, employment, and credit (including auto loans, credit cards, and mortgages). Under each statute, the plaintiff first proves that a neutral practice caused an adverse disparate impact, after which the burden shifts to the defendant to prove a business defense. The plaintiff is given the opportunity to rebut the defense by proving a less discriminatory alternative. This three-step burden-shifting process, and especially the business necessity defense, ensures, as expressed by the court in *Texas v. Inclusive Communities*, that "disparate-impact liability mandates the 'removal of artificial, arbitrary, and unnecessary barriers,' not the displacement of valid governmental policies."[27]

The elements a plaintiff must prove to win its case are referred to as its *prima facie* case. Once a plaintiff satisfies its *prima facie* case, the defendant can rebut. HUD's proposal for a new five-factor *prima facie* case is unusual for several reasons, primarily because to prevail, the plaintiff would have to prove its affirmative claim of discrimination *and* prove that no rebuttal is possible. That is, instead of the defendant proving its own interest in the challenged practice, the plaintiff must prove, as part of its *prima facie* case, that the defendant's practice serves no valid or legitimate objective. Indeed, the plaintiff would have to plausibly plead the defendant's lack of any justification for the challenged practice before the plaintiff would be entitled to request evidence to prove the defendant's lack of any justification. The defendant would have no burden to justify its own practices or put forth any evidence. The defendant would be permitted, but not obliged, to offer evidence of a valid interest and would be granted the powerful defenses discussed above.

Requiring the plaintiff to prove that no defense is possible imposes an enormous and virtually insurmountable additional burden upon the plaintiff. It is also the opposite of what the Supreme Court contemplated in *Texas v. Inclusive Communities* when it stated that Fair Housing Act defendants must be allowed to maintain a challenged policy "if *they can prove it is necessary* to achieve a valid interest" (emphasis added).[28]

Conclusion

The proposed rule significantly stacks the odds against any plaintiff alleging discriminatory practices. We believe few cases will proceed if this standard is adopted. Given the current crisis in minority homeownership and the impending changes in financial services driven by new technologies, now is not the time to reduce the odds for minority homebuyers and to back away from the Fair Housing Act.

Notes

[1] HUD's Implementation of the Fair Housing Act's Disparate Impact Standard, 84 Fed. Reg. 42854 (August 19, 2019).

[2] *Texas Dept. of Housing and Community Affairs v. Inclusive Communities Project Inc.*, 135 S. Ct. 2507, 2522 (2015).

[3] "Reducing the Racial Homeownership Gap," Urban Institute, Housing Finance Policy Center, accessed September 6, 2019, https://www.urban.org/policy-centers/housing-finance-policy-center/projects/reducing-racial-homeownership-gap; Sarah Strochak, Caitlin Young, and Alanna McCargo, "Mapping the Hispanic Homeownership Gap," *Urban* Wire (blog), Urban Institute, August 12, 2019, https://www.urban.org/urban-wire/mapping-hispanic-homeownership-gap.

[4] Terry Gross, "A 'Forgotten History' of How the U.S. Government Segregated America," *Fresh Air*, NPR, May 3, 2017, https://www.npr.org/2017/05/03/526655831/a-forgotten-history-of-how-the-u-s-government-segregated-america; Kriston Capps, "Breaking 'the Backbone of Segregation,'" *CityLab*, November 5, 2017, https://www.citylab.com/equity/2017/11/breaking-the-backbone-of-segregation/544913/; and Motoko Rich, "Restrictive Covenants Stubbornly Stay on the Books," *New York Times*, April 21, 2005, https://www.nytimes.com/2005/04/21/garden/restrictive-covenants-stubbornly-stay-on-the-books.html.

[5] Caitlin Young, "These Five Facts Reveal the Current Crisis in Black Homeownership," *Urban Wire* (blog), Urban Institute, July 31, 2019, https://www.urban.org/urban-wire/these-five-facts-reveal-current-crisis-black-homeownership.

[6] Laurie Goodman, Jun Zhu, and Taz George, "Tight Credit Has Hurt Minority Borrowers the Most," *Urban Wire* (blog), Urban Institute, April 7, 2019, https://www.urban.org/urban-wire/tight-credit-has-hurt-minority-borrowers-most.

[7] Nikitra Bailey, "Time to Correct Overcorrections on Credit Availability," *BankThink* (blog), *American Banker*, February 28, 2017, https://www.americanbanker.com/opinion/give-all-creditworthy-borrowers-mortgage-loans-regardless-of-race; "Much Left to Do for Homeownership," National Association of Real Estate Brokers, accessed September 3, 2019, http://www.nareb.com/50-years-of-struggle-realizing-democracyinhousing-2/.

[8] Laurie Goodman, Jun Zhu, and Bing Bai, "Overly Tight Credit Killed 1.1 Million Mortgages in 2015," *Urban Wire* (blog), Urban Institute, November 20, 2016, https://www.urban.org/urban-wire/overly-tight-credit-killed-11-million-mortgages-2015; "Housing Credit Availability Index, Q1 2019," Urban Institute, Housing Finance Policy Center, last updated July 16, 2019, https://www.urban.org/policy-centers/housing-finance-policy-center/projects/housing-credit-availability-index.

[9] Implementation of the Fair Housing Act's Discriminatory Effects Standard, 78 Fed. Reg. 11460 (February 15, 2013).

[10] *Texas Dept. of Housing and Community Affairs,* 135 S. Ct. at 2515.

[11] *Texas Dept. of Housing and Community Affairs,* 135 S. Ct. at 2526.

[12] *Texas Dept. of Housing and Community Affairs,* 135 S. Ct. at 2525.

[13] Application of the Fair Housing Act's Discriminatory Effects Standard to Insurance, 81 Fed. Reg. 69014 (October 5, 2016).

[14] HUD's Implementation of the Fair Housing Act's Disparate Impact Standard, 84 Fed. Reg. 42862 (August 19, 2019).

[15] *Texas Dept. of Housing and Community Affairs,* 135 S. Ct. at 2525–26.

[16] HUD's Implementation of the Fair Housing Act's Disparate Impact Standard, 84 Fed. Reg. 42862 (August 19, 2019).

[17] Fair Housing Act, 42 U.S.C. § 3614-1 (Incentives for Self-Testing and Self-Correction).

[18] Validation and Approval of Credit Score Models, 83 Fed. Reg. 65575 (December 21, 2018).

[19] HUD's Implementation of the Fair Housing Act's Disparate Impact Standard, 84 Fed. Reg. 42862 (August 19, 2019).

[20] HUD's Implementation of the Fair Housing Act's Disparate Impact Standard, 84 Fed. Reg. 42859 (August 19, 2019).

[21] HUD's Implementation of the Fair Housing Act's Disparate Impact Standard, 84 Fed. Reg. 42860 (August 19, 2019).

[22] Dathan Williams, "Lawsuit Challenges Discriminatory Zoning in Suburban Great Neck Plaza," Fair Housing Justice Center, June 9, 2014, https://www.fairhousingjustice.org/newsletters/opening-acts-newsletter-may-29-2014/; and Katie Garcia, "Preferences in Westchester Town's Zoning Code Discriminate against African Americans," Fair Housing Justice Center, July 26, 2017, https://www.fairhousingjustice.org/newsletters/opening-acts-july-26-2017/.

[23] Fair Housing Act, 42 U.S.C. § 3615 (Effect on State Laws).

[24] *Viens v. America Empire Surplus Lines Ins. Co*., 113 F. Supp. 3d 555 (D. Conn. 2015).

[25] Civil Rights Act of 1991, 42 U.S.C. § 2000e–2(k) (Burden of Proof in Disparate Impact Cases).

[26] Equal Credit Opportunity Act, Regulation B, 12 CFR 1002.6(a).

[27] *Texas Dept. of Housing and Community Affairs,* 135 S. Ct. at 2522.

[28] *Texas Dept. of Housing and Community Affairs,* 135 S. Ct. at 2523.

References

Center for Responsible Lending. 2012. "The Negative Impact of a Government-Mandated 10 Percent Down Payment for Qualified Residential Mortgages (QRMs)." Durham, NC: Center for Responsible Lending.

Choi, Jung Hyun, Karan Kaul, and Laurie Goodman. 2019. "FinTech Innovation in the Home Purchase and Financing Market." Washington, DC: Urban Institute.

Desmond, Matthew, and Nicol Valdez. 2013. "Unpolicing the Urban Poor: Consequences of Third-Party Policing for Inner-City Women." *American Sociological Review* 78 (1): 117–41.

Golding, Edward, Laurie Goodman, and Jun Zhu. 2017. "Fannie Mae Raises the DTI Limit." Washington, DC: Urban Institute.

Rothstein, Richard. 2017. *The Color of Law: A Forgotten History of How Our Government Segregated America.* New York: Liverlight.

Steil, Justin P., Len Albrieght, Jacob S. Rugh, and Douglas S. Massey. 2018. "The Social Structure of Mortgage Discrimination." *Housing Studies* 33 (5): 759–76.

Stein, Eric, and Michael Calhoun. 2019. *A Smarter Qualified Mortgage Can Benefit Borrowers, Taxpayers, and the Economy*. Durham, NC: Center for Responsible Lending.

About the Authors

Michelle Aronowitz is a civil rights attorney in private practice in New York. She is the founder of the Law Office of Michelle Aronowitz, a civil rights law and consulting firm focusing on fair housing and fair lending, immigration and public benefits, public and affordable housing, and employment and other civil rights–related issues. Aronowitz recently served in the Obama administration as deputy general counsel for enforcement and fair housing at the US Department of Housing and Urban Development. Before that, she was deputy solicitor general for the State of New York, associate counsel to President Clinton, and trial attorney at the US Department of Justice Civil Rights Division, Appellate Section and Housing and Civil Enforcement Section. Aronowitz was an adjunct professor for appellate advocacy at Howard University School of Law and a judicial law clerk on the US Court of Appeals for the Ninth Circuit. She also was a summer associate at the NAACP Legal Defense and Education Fund and the Center for Reproductive Rights. She graduated from Stanford Law School and Yale University. She serves on the board of directors for the Fair Housing Justice Center and the New Economy Project in New York City.

Edward Golding is a nonresident fellow in the Housing Finance Policy Center at the Urban Institute. He is also a consultant on housing finance matters and works with Vista Data Services. He is an adjunct professor of finance at Columbia Business School. For 30 years, he has worked in mortgage finance, serving most recently as head of the Federal Housing Administration (FHA) in the US Department of Housing and Urban Development (HUD). During his tenure, the FHA provided more than a million families an opportunity to purchase their first home. Before heading the FHA, Golding was a senior adviser to the secretary of HUD. Golding was a senior fellow at the Urban Institute in 2013. He started his career at the Federal Home Loan Bank Board as a specialist assistant to a board member during the savings and loan crisis and then joined Freddie Mac for 23 years. At Freddie Mac, Golding had various responsibilities, ranging from investor relations to strategy and research. Before working in mortgage finance, Golding taught at the University of Pennsylvania and the University of Florida. From 2008 through 2012, he taught a spring course on financial markets at Princeton University's Woodrow Wilson School of Public and International Affairs. Golding has an AB in applied mathematics from Harvard University and a PhD in economics from Princeton University.

Acknowledgments

The Housing Finance Policy Center (HFPC) was launched with generous support at the leadership level from the Citi Foundation and John D. and Catherine T. MacArthur Foundation. Additional support was provided by The Ford Foundation and The Open Society Foundations.

Ongoing support for HFPC is also provided by the Housing Finance Innovation Forum, a group of organizations and individuals that support high-quality independent research that informs evidence-based policy development. Funds raised through the Forum provide flexible resources, allowing HFPC to anticipate and respond to emerging policy issues with timely analysis. This funding supports HFPC's research, outreach and engagement, and general operating activities.

This brief was funded by these combined sources. We are grateful to them and to all our funders, who make it possible for Urban to advance its mission.

The views expressed are those of the authors and should not be attributed to the Urban Institute, its trustees, or its funders. Funders do not determine research findings or the insights and recommendations of Urban experts. Further information on the Urban Institute's funding principles is available at urban.org/fundingprinciples.

URBAN INSTITUTE

500 L'Enfant Plaza SW
Washington, DC 20024

www.urban.org

ABOUT THE URBAN INSTITUTE

The nonprofit Urban Institute is a leading research organization dedicated to developing evidence-based insights that improve people's lives and strengthen communities. For 50 years, Urban has been the trusted source for rigorous analysis of complex social and economic issues; strategic advice to policymakers, philanthropists, and practitioners; and new, promising ideas that expand opportunities for all. Our work inspires effective decisions that advance fairness and enhance the well-being of people and places.