Racial Equity and Social Justice (RESJ) Impact Statement

Expedited Bill 30-21: Landlord-Tenant Relations- Restrictions During Emergencies- Extended Limitations Against Rent Increases and Late Fees

Summary

The Office of Legislative Oversight (OLO) anticipates that Expedited Bill 30-21 will disproportionately benefit Black and Latinx residents because they experience the highest rates of housing insecurity in the County. In turn, the Bill could help reduce future housing inequities associated with the displacement of low-income residents of color due to rising rents resulting from increased real estate development (i.e., gentrification).

Purpose of RESJ Impact Statement

The purpose of RESJ impact statements is to evaluate the anticipated impact of legislation on racial equity and social justice in the County. Racial equity and social justice refers to a **process** that focuses on centering the needs, power, and leadership of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.[1] Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.[2]

Purpose of Expedited Bill 30-21

Housing insecurity can make it challenging for households to quarantine and social distance during the pandemic. To enhance housing security for renters, the County Council enacted the COVID-19 Renter Relief Act (Bill 18-20) on April 23, 2020 to limit rent increases during the COVID-19 state of emergency declared by Governor Hogan. Expedited Bill 30-21, Landlord-Tenant Relations - Restrictions During Emergencies- Extended Limitations Against Rent Increases and Late Fees - was introduced on July 13, 2021. The bill's purpose is to extend the COVID-19 pandemic limitation on rent increases from 90 days to one year after the expiration of the emergency.[3] The bill would also prohibit landlords from charging late fees accrued during the emergency and for one year after.[4]

Housing Insecurity and Racial Equity

Low-wealth and low-income households have been negatively impacted by the financial burdens associated with the pandemic. These households lacking access to affordable and safe housing, also known as secure housing, are also at greater risk of experiencing evictions and homelessness.[5] Many of these households who are disproportionately Black and Latinx in Montgomery County were at risk for evictions and homelessness prior to the pandemic.

To understand the drivers of racial and ethnic inequities in housing that preceded the COVID-pandemic, this RESJIS describes local data on housing security by race and ethnicity and describes the roles that housing segregation and the racial wealth divide have played in creating housing inequities in the County. The intent of this overview is to demonstrate that racial and ethnic disparities in housing security are neither natural nor random, but instead reflect in part government's role in creating and maintaining racial and ethnic inequity in housing.

Data on Housing Insecurity. Local data on three metrics of housing insecurity - rent-burdened households, rental assistance during the pandemic, and homelessness - demonstrate that Black and Latinx households in Montgomery County are especially housing insecure. More specifically, in Montgomery County:

- Among renter households in 2019, rent-burden (expending 30 percent or more of income on rent) was experienced among 66 percent of Latinx renters and 60 percent of Black renters compared to 40 percent of White renters and 33 percent of Asian renters.[6]
- Among COVID Relief Rental Program clients (approved as of April 4, 2021), 43 percent were Black and 37 percent were Latinx while 9 percent were White and 3 percent were Asian or Pacific Islander.[7]
- Among single adults experiencing homelessness in 2020, 60 percent were Black, 30 percent were White, 17 percent were Latinx, and 5 percent were Asian and Pacific Islanders.[8]
- Among families experiencing homelessness in 2020, 78 percent were Black, 15 percent were White, 9 percent were Latinx, and 2 percent were Asian.[9]

Data on homeownership also demonstrates housing inequities by race and ethnicity where 75 percent of White and Asian households in Montgomery County resided in owner-occupied units in 2019 compared to 50 percent of Latinx and Native American households and 42 percent of Black households.[10]

Racial Segregation in Housing. Segregation by race and ethnicity characterizes the housing market in Montgomery County where White residents are concentrated in the most affluent communities. More specifically, in 2015:[11]

- White residents accounted for 47 percent of County residents but comprised 72 percent of District 1 residents (Chevy Chase, Bethesda, and Potomac) where a near majority of households (47 percent) had annual incomes exceeding $200,000 and 13 percent of households had annual incomes less than $75,000.
- Asian residents accounted for 15 percent of County residents but comprised 19 percent of District 3 residents (Rockville and Gaithersburg) where a fifth of households (21 percent) had annual incomes exceeding $200,000 compared to a third of households that had annual incomes less than $75,000.
- Black residents accounted for 18 percent of County residents but comprised 32 percent of District 5 residents (Takoma Park, Silver Spring and Burtonsville) where less than a fifth of households had annual incomes exceeding $200,000 compared to 40 percent of households that had annual incomes less than $75,000.
- Latinx residents accounted for 18 percent of County residents but comprised 26 percent of District 4 residents (Wheaton and Olney) where a sixth of households had annual incomes exceeding $200,000 compared to a third of households that had annual incomes less than $75,000.

While some attribute segregation in the housing market to personal preferences and differences in household income and educational attainment by race and ethnicity, these explanations often ignore the role of systemic discrimination as drivers of preferences, income, educational attainment, and housing segregation itself.[12] Moreover, defining housing segregation as a function of personal preferences ignores the role of government in creating segregated housing.

The role of government in creating and sustaining housing segregation begins with the origins of the nation. Slavery, sharecropping, Jim Crow laws, and the Homestead Act were government policies designed to build wealth among White residents by extracting resources from people of color. Government policies reinforcing housing segregation continued with the New Deal as the Federal Housing Administration (FHA) provided government subsidized financing to White residents and developers to purchase or build homes in White-only enclaves.[13] As noted by Oliver and Shapiro:

> "African Americans who desired and were able to afford homeownership found themselves consigned to central-city communities where their investments were affected by the "self-fulfilling proficiencies" of the FHA appraisers: cut off from sources of new investment, their homes and communities deteriorated and lost value in comparison to those homes and communities that FHA appraisers deemed desirable."[14]

Accompanying these benefits for White homeowners and communities were racial covenants attached to residential property and redlining of neighborhoods predominantly occupied by people of color.[15] Between 1902 and 1948, for example, Silver Spring enacted more than 50 racially restrictive covenants that prohibited the owning or renting "the whole or any part of any dwelling or structure thereon, to any person of African descent." [16] Further, Colonel Edward Brook Lee attached racially restrictive covenants to all of his suburban properties in Montgomery County.[17] The GI Bill was also implemented in racially exclusionary ways that denied Black veterans' loans and reinforced segregation.[18]

Collectively, taxation, housing, and transportation policy lead to the suburbanization of America, enabling 35 million White families to purchase homes in the suburbs but restricting Black families to central cities between 1933 and 1978.[19] Prior to the Fair Housing Act of 1968, affordable government-backed mortgages created a platform for wealth in White neighborhoods while only two percent of these secured mortgages were issued to Black applicants.[20] And while the Fair Housing Act of 1968 eliminated racially explicit segregation in housing, the policies that built the segregated housing market "have never been remedied and their effects endure."[21]

The suburbanization of the Washington Metropolitan region driven by White flight from Washington, D.C. drove the growth of Montgomery County. Housing segregation within Montgomery County also reflects the migration of **Black, Indigenous, and people of color** (BIPOC) families from D.C. to Prince George's County and the eastern parts of Montgomery County followed by White flight from those environs to the western parts of the County (e.g., Bethesda and Potomac). Moreover, given the value and investments made in greenlined areas, the value of segregated White housing increased exponentially compared to housing in mixed and predominantly Black areas that were undervalued and underinvested in due to redlining.[22]

Today, racial discrimination in housing continues with predatory lending practices targeted to communities of color (e.g. subprime and other undesirable loans or denied loans),[23] racial and ethnic bias in the rental and real estate markets,[24] and the "implicitly racialized tax code" that favor asset holdings with lower tax rates over income earned, and mortgage holders over renters.[25] Montgomery County's 2015 Analysis of the Impediments to Fair Housing Choice acknowledges that housing discrimination in the County on the basis of source of income also persists despite County law that makes such discrimination illegal.[26]

The Racial Wealth Divide. The racial wealth divide - the difference in wealth by race - is also a significant driver of disparities in housing security by race and ethnicity. Wealth refers to the difference between assets and obligations. Researchers generally note that the racial wealth divide reflects the cumulative impact of intergenerational transfers of resources and differential access to wealth-building opportunities over time by race and ethnicity. It takes wealth to build wealth – to invest in homes, education, new businesses and future generations.[27] Wealth also enables families to absorb the financial shocks of recessions, including the economic impact of the COVID-19 pandemic. Conversely, low-wealth households with low-incomes demonstrate the greatest risk for housing insecurity, evictions and homelessness.

Available data demonstrates wide wealth gaps in the Washington Metropolitan region by race and ethnicity. Data compiled by the Urban Institute found that White households had more than 80 times the wealth of U.S. Born Black households and 21 times the wealth of Latinx households in 2014. More specifically their survey of families in the District of Columbia region that included parts of Montgomery County found that:

- White households had a median wealth of $284,000 compared to $13,000 for Latinos, $3,500 for U.S.-born Black households, and $3,000 for African-born Black households.
- Chinese households had slightly less wealth than White households ($220,000), although the difference was not statistically significant.
- Korean ($496,000), Vietnamese ($423,000), and East Indian ($573,000) households reported the highest amounts of median wealth, though they were not statistically significant.

Racial discrimination created and perpetuated by government is at the root of the racial wealth divide. As noted by the Federal Reserve Bank of Boston:

> "(T)he practices and policies that laid the groundwork for and built the U.S. were explicitly designed to ensure an absolute accumulation of intergenerational wealth and concentrated power for White people, particularly men. A legacy of land theft, slavery, racial segregation, disenfranchisement, and other exclusive policies against Black and Indigenous … and (other) people of color produced a racialized economy that decimated these communities and intentionally barred survivors and descendants from building wealth, socioeconomic well-being and resilience."[28]

Moreover, Oliver and Shapiro note that "historic wealth-amassing government policies" including the Homestead Acts, Federal Housing Act, and the GI Bill "facilitated property ownership, homeownership, business development, and education largely for Whites, why systematically excluding similar opportunities" for BIPOC. They find that the racial wealth gap is a "result of both this historic legacy and enduring contemporary racial discrimination."

The Urban Institute's "The Color of Wealth in the Nation's Capital" provides an extensive history of the structural barriers in policies, Supreme Court rulings, government programs, and practices that created wealth for many White families and prevented or stripped wealth accumulation from Black families.[29] The barriers noted include:

- The failure to fully implement Reconstruction and provide land to Black people who had been held in bondage.
- Violent attacks on Black people and communities by White people, destroying individual and community assets.
- Outlawing lucrative forms of entrepreneurship and skilled private sector jobs for Black people, and severely restricting employment of Black people in government jobs.
- Requiring free Black people to pay taxes, but forbidding them to attend public schools, causing them to pay again to build and be educated in private schools.
- Using restricted racial covenants to prevent Black people from buying White-owned houses.
- Using redlining to limit loans to Black and mixed-race communities.
- Using mass incarceration to disproportionately imprison and disenfranchise Black people and undermine asset accumulation for Black families and communities.
- Targeting Black people and neighborhoods with subprime loans, further stripping them of wealth.

As BIPOC experienced barriers to asset accumulation, many White residents amassed generational wealth and power. For example, the Social Security Act of 1935 crafted a social safety net for White populations while eligibility criteria for these supports disproportionately hurt people of color by excluding farm and domestic workers, two-thirds of who were

BIPOC (i.e. Black, Mexican, or Asian). Researchers estimate that the exclusion from this part of the safety net cost Black people alone over $143 billion.[30]

Anticipated RESJ Impacts

OLO anticipates that Expedited Bill 30-21 extending rent controls enacted at the beginning of the pandemic and limiting late fees will disproportionately benefit Black and Latinx residents because they experience the highest rates of housing insecurity in the County. More specifically, Black and Latinx residents are over-represented among rent-burdened families and households in need of rental assistance to avoid evictions. Black individuals and families are also over-represented among persons experiencing homelessness in the County.

Overall, OLO anticipates that the bill could reduce the displacement of low-income residents of color resulting from rising rents in neighborhoods with increased real estate development. Displacement associated with the loss of affordable housing would exacerbate current housing inequities by race and ethnicity. Further, Bill 30-21 aligns with best practices recommended by the Eviction Lab at Princeton, the Urban Institute, and PolicyLink for reducing the risk of evictions among low-income households.[31]

Recommended Amendments

The County's Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJIS.[32] OLO finds that Expedited Bill 30-21 could narrow racial and ethnic inequities in housing security by reducing evictions associated with rising rents, particularly in response to increased development in affordable communities across the County (e.g. communities along the Purple Line).

Should the Council desire to actualize more significant reductions in housing inequities via legislation, PolicyLink's Priorities for Advancing Racial Equity Through the American Rescue Plan offers the following recommendations for investing in "frontline, Covid-impacted, and disinvested communities" and for "preventing displacement and increased community ownership of land and housing" that could be considered as potential amendments to this bill:

- **Support projects that affirmatively further fair housing** by ensuring BIPOC residents have equitable access to low-poverty neighborhoods with community assets and also by investing in low-income communities. Strategies aimed at increasing access to low-poverty neighborhoods include inclusionary zoning and increasing the value of housing voucher payments in low-poverty neighborhoods. The County's Moderate Price Dwelling Unit Program aligns with recommended practices for promoting inclusionary zoning in low-poverty communities.[33]
- **Maintain strong eviction moratoria for one year beyond the expiration of the pandemic and provide funding to eliminate rent debt** and support struggling landlords and nonprofit affordable housing providers. Best practices include pairing landlord assistance with eviction protections and lease renewals, protecting renters from exorbitant rent increases, and programs that ensure undocumented people can access services. The County has expanded funding for legal services for households facing evictions, Bills 18-20 and 30-21 limit exorbitant rent increases, and evidence of legal status is not required for the COVID Rental Relief Program.[34]
- **Expand services and acquire permanent housing for people without housing**. The County currently provides a continuum of services for individuals and families experiencing homelessness, but most clients do not receive permanent housing. Among single adults served in 2020, 44 percent were placed in permanent supportive

housing while the remainder received rental support or time-limited rental subsidies of up to 24 months; among families served in 2020, only 12 percent were placed in permanent supportive housing.[35]

- **Fund acquisition strategies to transfer housing and land to community ownership and stewardship,** including rapid-response acquisition funds, community land trusts, and land banks to quickly purchase properties that come up for sale and compete with speculators. Montgomery County's Housing Investment Fund (HIF) and Housing Acquisition and Preservation Funds could potentially be used toward these ends.

Caveats

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging, analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

Contributions

Dr. Elaine Bonner-Tompkins, OLO Senior Legislative Analyst, drafted this RESJ impact statement.

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[1] Adopted from definition of racial equity described in the Racial Equity Policy Scorecard included in "Applying a Racial Equity Lens into Federal Nutrition Programs," authored by Marlysa Gamblinni; see the Government Alliance for Race and Equity's "Advancing Racial Equity and Transforming Government" resource guide for understanding the historical role of government in maintaining racial inequities https://racialequityalliance.org/wp-content/uploads/2015/02/GARE-Resource_Guide.pdf
[2] Adopted from racial equity definition provided by Racial Equity Tools. https://www.racialequitytools.org/glossary
[3] Montgomery County Council Expedited Bill 30-21, Landlord-Tenant Relations- Restrictions During Emergencies- Extended Limitations Against Rent Increases and Late Fees, Introduced on July 13, 2021.
[4] Ibid.
[5] Housing insecurity and the COVID-19 pandemic, March 2021, Consumer Financial Protection Bureau. https://files.consumerfinance.gov/f/documents/cfpb_Housing_insecurity_and_the_COVID-19_pandemic.pdf
[6] American Community Survey, Gross Rent as a Percentage of Household Income, 2019 1-Year Estimates, United States Census Bureau. https://data.census.gov/cedsci/table?t=-00%20%20All%20available%20races%3AIncome%20and%20Poverty%3ARace%20and%20Ethnicity&g=0500000US24031&tid=ACSSPP1Y2019.S0201
[7] Linda McMillan memorandum to County Council regarding FY22 Operating Budget: Homeless Services, Rental Assistance, and Housing Initiative, May 11, 2021 (Agenda Item #30, Joint Committee Worksession), see page circle 13. https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2021/20210512/20210512_30.pdf
[8] Ibid, see page circle 8.
[9] Ibid.
[10] Calculations based on American Community Survey, 2019 1-Year Estimates, Table ID S2502.
[11] Data from Leah Hendy and Lily Posey, Racial Inequities in Montgomery County, Urban Institute, Detailed Tables, December 2017. https://www.urban.org/research/publication/racial-inequities-montgomery-county-2011-15
[12] Richard Rothstein, The Color of Law: A Forgotten History of How Government Segregated America, 2017
[13] Ibid.
[14] Melvin Oliver and Thomas Shapiro, "Disrupting the Racial Wealth Gap" Sociology for the Public, May 7, 2019
[15] Kilolo Kijakazi, et. al, The Color of Wealth in the Nation's Capital, November 2016 https://www.urban.org/research/publication/color-wealth-nations-capital

[16] History of Montgomery County, Consumer Health Foundation
[17] Ibid.
[18] Kijakazi
[19] Ibid.
[20] Thomas Hatchett, “The Other Subsidized Housing: Federal Aid for Suburbanization 1940’s – 1960’s” in John Bowman, et. al, From Tenements to Taylor Homes: In Search of an Urban Policy in Twentieth Century America, 2000
[21] Rothstein
[22] Kijakazi
[23] Keeanga-Yamahtta Taylor, Race for Profit: How Banks and the Real Estate Industry Undermined Black Homeownership, 2019
[24] https://www.urban.org/features/exposing-housing-discrimination
[25] Dorothy Brown, The Whiteness of Wealth: How the Tax System Impoverishes Black Americans and How We Can Fix it, 2021
[26] Montgomery County, Maryland 2015 Analysis of Impediments to Fair Housing Choice
[27] Andrea Flynn, et. al, The Hidden Rules of Race: Barriers to An Inclusive Economy, 2017
[28] Field Note, 2020-2, December 2020 – Turning the Floodlights on the Root Causes of Today’s Racialized Economic Disparities: Community Development Work at the Boston Fed Post-2020, Regional and Community Outreach
[29] Kijakazi
[30] Ibid.
[31] See citations for The Eviction Lab and Urban Institute cited by Natalia Carrizosa, COVID-19 Recovery Outlook: Evictions in Rental Housing, Office of Legislative Oversight, June 16, 2020, and PolicyLink, 10 Priorities for Advancing Racial Equity Through the American Rescue Plan: A Guide for City and County Policymakers. https://www.policylink.org/resources-tools/american-rescue-plan-10-priorities
[32] Montgomery County Council, Bill 27-19, Administration – Human Rights - Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee - Established
[33] PolicyLink
[34] https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2021/20210512/20210512_30.pdf
[35] Ibid, circle page 9.