



DELAYED UNTIL DOWNSIZED OR DENIED:

Neighborhood Associations Lead the Charge Against Affordable Housing and Perpetuate Segregation in New Orleans



LOUISIANA
**FAIR HOUSING
ACTION CENTER**

Louisiana Fair Housing Action Center

1340 Poydras Street, Suite 710

New Orleans, LA 70112

(504) 596-2100

(877) 445-2100

www.lafairhousing.org

Board of Directors

Michael Dunn, Board Chair

Annie Clark

Jeanie Donovan

Rosa Gomez-Herrin

Kathleen Legendre

Sarah Omojola

Victoria Adams Phipps

Reuben Thomas

Sharonda Williams

Justin Woods

Contributing Staff

Monique Blossom, Policy Analyst

Maxwell Ciardullo, Director of Policy & Communications

Cashauna Hill, Executive Director

Sahar Punjwani, Former Intern

Kate Rose, Former Intern

Sarah Carthen Watson, Legal Director

Karl h Wilson, Former Policy Analyst

TABLE OF CONTENTS

I.	Executive Summary.....	3
II.	Voices of the Neighborhood?.....	4
III.	White Voices are the Loudest—and the Most Listened To.....	9
IV.	NIMBYism Reinforces Segregation.....	15
V.	Racist Stereotypes and NIMBYism Leads to Missing Units.....	18
VI.	NIMBYism and the Fair Housing Act.....	21
VII.	Recommendations.....	25

I. Executive Summary

Federal policies like redlining laid the foundation for our current patterns of residential segregation, but local land-use policy has always been an important tool of white supremacy as well. Starting with an unconstitutional racist zoning law in 1927, New Orleans' zoning code has historically encouraged segregation.¹ Almost a century later, well-resourced groups of mostly-white homeowners still play an outsized role in determining local zoning and housing policy.

This report shows that local politicians and our existing land-use approval process grants neighborhood associations significant power over land-use decisions. That practice reinforces segregation when the groups consistently oppose affordable housing in gentrifying and high-opportunity neighborhoods, or neighborhoods with better access to jobs, green space, high-performing schools, grocery stores, and other amenities. In fact, in the past 15 years, Not In My Back Yard (NIMBY) opponents of affordable housing have killed 422 apartments for working-class New Orleanians and delayed another 184 that might already be under construction or completed were it not for sustained opposition. All total, 606 affordable homes are missing in New Orleans because of this opposition.

To better understand how neighborhood associations impact land-use policy, Louisiana Fair Housing Action Center (LaFHAC) staff researched the demographics of neighborhood association board members as compared to the demographics of their neighborhood, tracked neighborhood association political activity in recent land-use debates, and catalogued their crusades against affordable and mixed-income developments. We found that New Orleans neighborhood associations skew whiter and more affluent, and are disproportionately homeowners, while the city is majority Black, majority working-class, and majority renter.

Neighborhood associations with majority-white boards and service areas also dominated the land use debates around the rewrite of the Comprehensive Zoning Ordinance (CZO) and short-term rental regulations, and impacted policy outcomes. In disputes over affordable housing, this means that groups with boards controlled by white residents are weighing in most often on homes that will serve lower-income Black residents. Not surprisingly, in nearly every instance of the delay, downsizing, or death of an affordable housing development we catalogued, neighborhood associations led the opposition.

This deference to small, but well-organized groups of mostly white homeowners has denied hundreds of New Orleanians affordable homes, but it doesn't have to be our destiny. Local elected officials can choose to implement the recommended policies and zoning provisions in this report that prioritize community engagement with the most marginalized voices, equitable development, and integrated communities.

¹ Stacy Seicshnaydre, Robert Collins, Cashauna Hill, and Maxwell Ciardullo. "Rigging the Real Estate Market: Segregation, Inequality, and Disaster Risk." *New Orleans Prosperity Index: Tricentennial Collection*. The Data Center. April 5, 2018. Available: www.datacenterresearch.org/reports_analysis/rigging-the-real-estate-market-segregation-inequality-and-disaster-risk/.

As the LaFHAC staff was finalizing this report, Southeast Louisiana was pummeled by Hurricane Ida. We hope this report will serve as an important reminder that especially in the aftermath of disasters, local governments must prioritize the voices of the most impacted in recovery planning, not just the loudest, best organized groups.

II. Voices of the Neighborhood?

Neighborhood associations serve a variety of positive civic functions in New Orleans, like hosting community events and raising funds to keep up parks and playgrounds. Elected officials also regularly offer them an outsized amount of influence over land-use issues within their boundaries, including on zoning decisions related to affordable housing development. This is particularly problematic because New Orleans neighborhood associations are private organizations, often with barriers to access, and whose boards are rarely representative of the neighborhood. Our research found that neighborhood association boards are heavily skewed toward more affluent, whiter homeowners, despite New Orleans being a working-class, majority Black, and majority renter city. Families in need of affordable housing in New Orleans are also disproportionately Black,² meaning that unrepresentative, disproportionately white neighborhood associations often have more say in affordable housing decisions than the Black residents those developments might serve.

For this report, LaFHAC staff relied on publicly available data on neighborhood associations and their board members, as well as *Towards Equitable Institutions of Civic Engagement: How Race, Class, and Gender Impact Public Engagement in New Orleans*, a Tulane honors thesis by Katherine Rose, which included a survey of neighborhood association board members.³ Publicly available data included neighborhood association boundaries as listed on the Office of Neighborhood Engagement webpage,⁴ board members as listed on neighborhood association websites and social media, neighborhood association board member demographics listed on voter records, and New Orleans Tax Assessor records. Neighborhood association boundaries were matched as closely as possible to census tract boundaries in order to compare board demographics to American Community Survey (ACS) racial and demographics data.

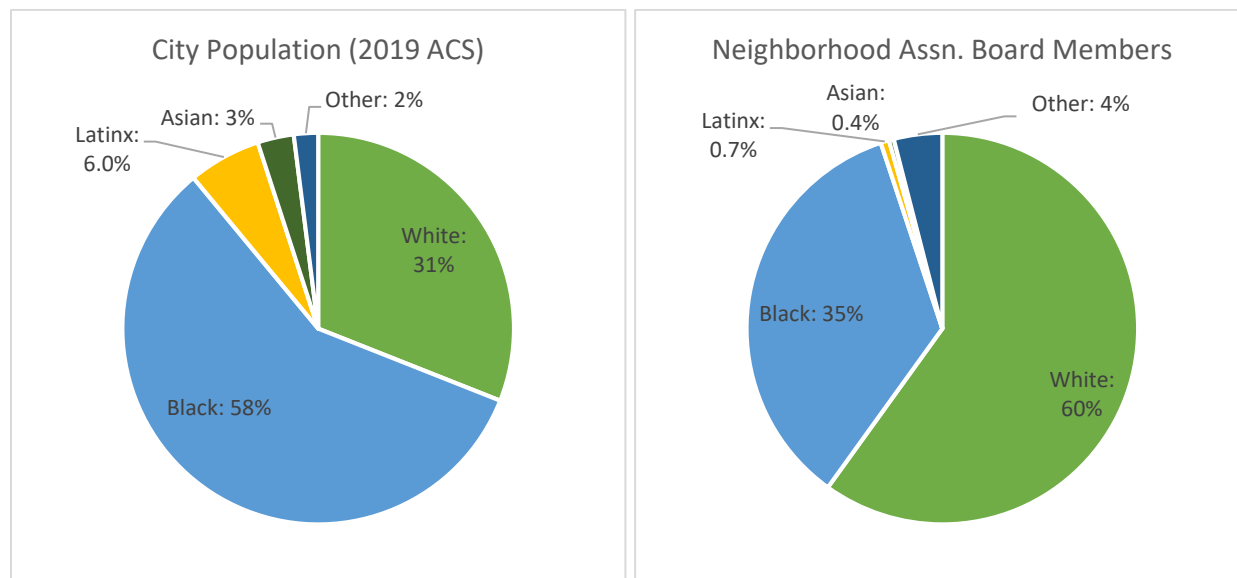
The data shows that neighborhood association boards almost always tilt whiter than the neighborhoods they represent. Of the total 852 neighborhood association board members whose race could be identified, 60% are white, 35% are Black, 0.7% are Latinx, 0.4% are Asian, and 4% identified another race. That means that white people have nearly twice as much representation on neighborhood association boards than in the

² One measure of families in need of affordable housing is the Housing Authority of New Orleans' HCVP ("Section 8") waitlist, which is 92% Black. *Annual PHA Plan*. HANO. 2020. Available: <http://hano.org/plans/HANOAnnualPlanFY2020.pdf>.

³ Katherine Rose. *Towards Equitable Institutions of Civic Engagement: How Race, Class, and Gender Impact Public Engagement in New Orleans*. April 28, 2021. Tulane University. Available: <https://digitallibrary.tulane.edu/islandora/object/tulane%3A122397>.

⁴ City of New Orleans Office of Neighborhood Engagement: <https://www.nola.gov/neighborhood-engagement/organizations/>

city as a whole, and Black people have about half as much representation on these boards as they should based on their share of the city's total population.



Survey data with a smaller sample of 172 board members responding to questions about race found even more pronounced disparities. Of those who responded, 76% identified as white, 20% identified as Black, 2% identified as Latinx, and 1% identified as Asian.⁵

This disparity is most pronounced in neighborhoods that are majority people of color. In neighborhoods that are only 10% to 19% white, neighborhood association board members are 32% white.⁶ In areas that are 30% to 39% white, board members are 59% white, on average. Once a neighborhood reaches more than 50% white, its neighborhood association board members are almost universally more than 90% white.

	Percentage of Neighborhood That is White									
	0-9	10-19	20-29	30-39	40-49	50-59	60-69	70-79	80-89	90-100
Percentage of Board Members That are White	8%	32%	45%	59%	70%	94%	90%	89%	95%	92%

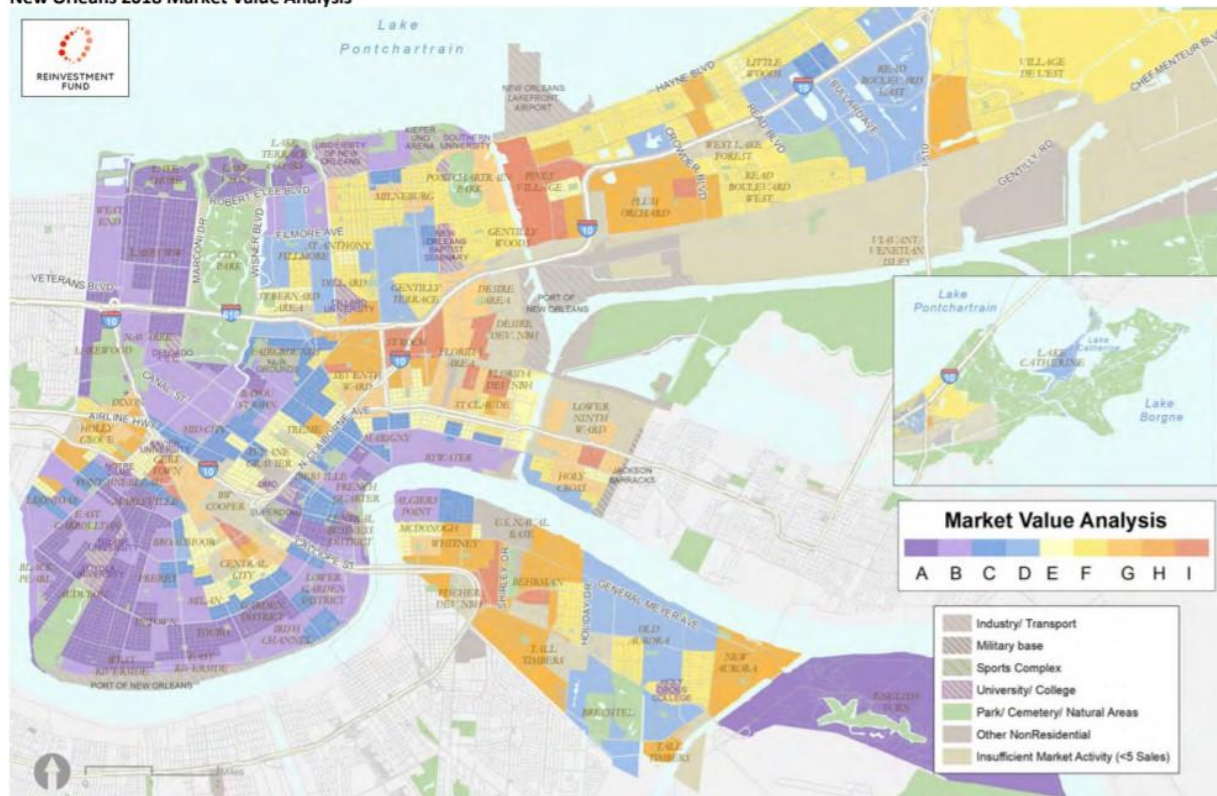
Not surprisingly, white neighborhood association board members are especially overrepresented in the gentrifying and high-opportunity neighborhoods where they

⁵ Rose. *Towards Equitable Institutions of Civic Engagement*.

⁶ Neighborhood associations were grouped based on the demographics of their service areas. Within each decile, total board members identified as white by publicly available sources was compared against total board members whose race could be identified. In each decile the share of board members for whom race could be identified was 82% or higher.

have often been responsible for some of the staunchest opposition to affordable housing developments in the past fifteen years.⁷ For this analysis, high-opportunity neighborhoods were defined as those categorized as A and B markets by the 2021 New Orleans Market Value Analysis (MVA), while C, D, and E neighborhoods were considered gentrifying if they were adjacent to a high-opportunity area, and F, G, H, and I neighborhoods were considered lower opportunity.⁸

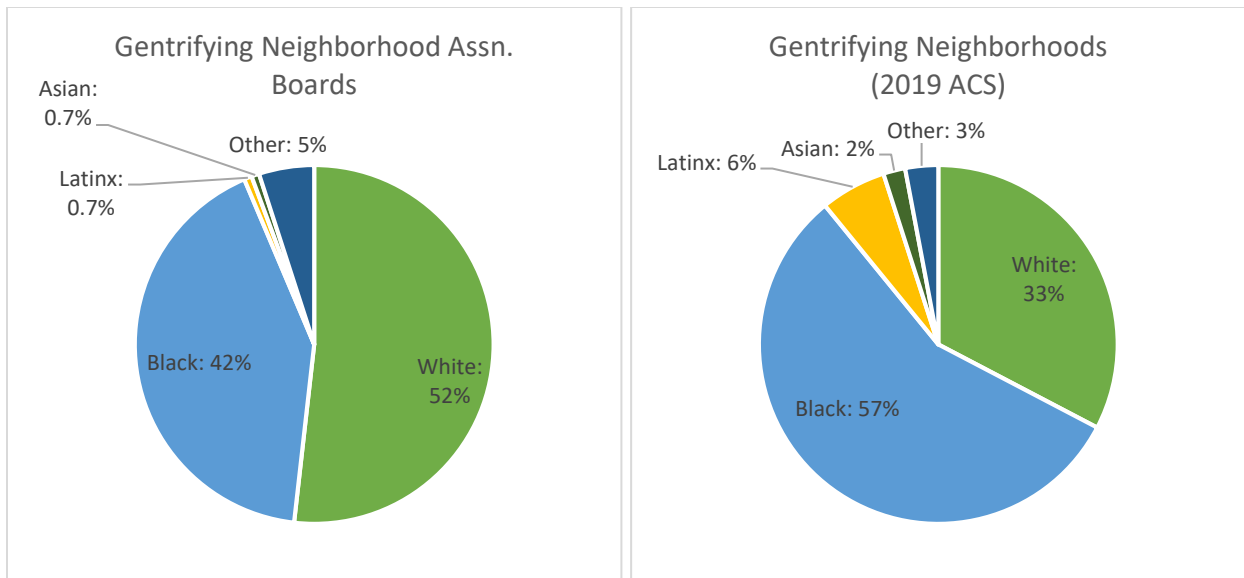
New Orleans 2018 Market Value Analysis



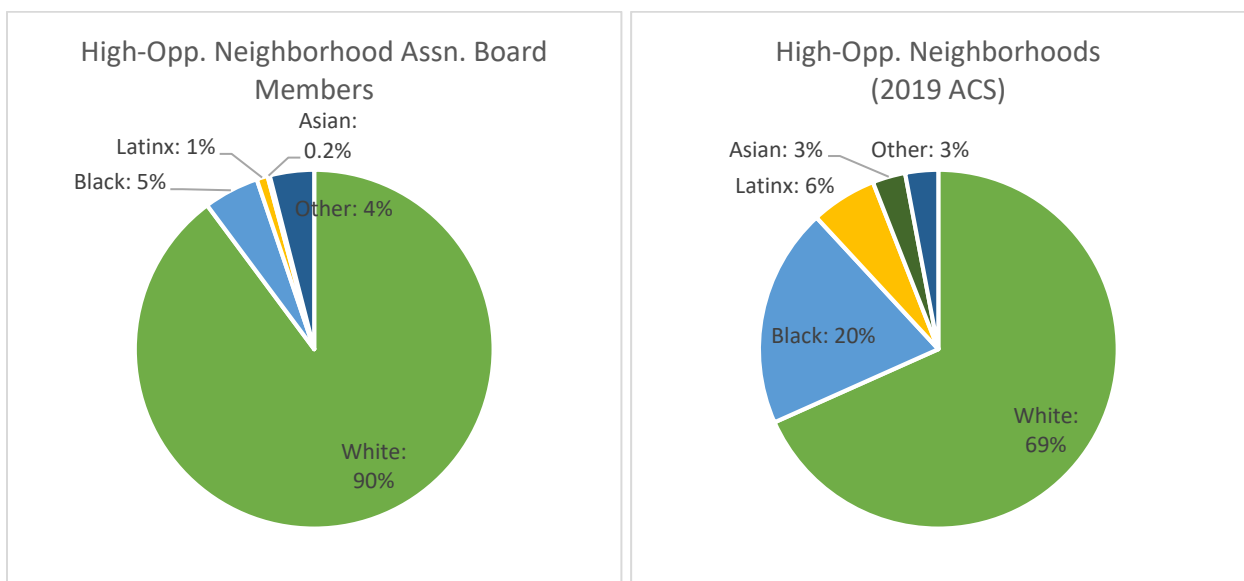
In gentrifying neighborhoods, 52% of neighborhood association board members are white, even though gentrifying neighborhoods are typically only 33% white. Only 42% of board members are Black, despite the neighborhoods being 57% Black. Latinx and Asian Americans are also underrepresented on neighborhood association boards in these areas, where they make up 6% and 2% of the population, respectively, but less than 1% of board members.

⁷ Michael Isaac Stein. "Bywater affordable housing development takes a big step forward." *The Lens*. May 23, 2019. Available: <https://thelensnola.org/2019/05/23/bywater-affordable-housing-development-takes-a-big-step-forward>; Jessica Williams. "Plan for affordable housing in Leonidas, Lower Garden District faces neighborhood criticism; mayor, City Council in support." NOLA.com. September 8, 2020. Available: www.nola.com/news/politics/article_f47834c8-ed3e-11ea-8560-8763bdb26542.html.

⁸ New Orleans Market Assessment—Analysis of Trends and Conditions. Prepared by the Reinvestment Fund for the New Orleans Redevelopment Authority (NORA). June 2021. Available: https://www.noraworks.org/images/ReinvestmentFund_NOLA-Market-Assessment-FINAL-6.25.21.pdf.



In high opportunity-areas, neighborhood association board members are 90% white and only 5% Black, even though these neighborhoods are typically only 69% white and 20% Black. Only in neighborhoods with fewer resources and amenities do the racial demographics of the neighborhood associations match the census data. In those areas, boards members are 84% Black and neighborhoods are 86% Black.



Neighborhood association boards also appear to overrepresent property owners, especially in areas that are majority renter. In the City as a whole, homeowners make up just under half of households (49.5%), but they make up at least 78% of all neighborhood association board members. That is likely a significant undercount, as our research relied on matching known neighborhood association board members to New Orleans Tax Assessor records. Many board members may own their homes but not be counted in our data due to anomalies in the Assessor's database or because their home is listed under the name of a spouse or family member in the Assessor's records.

Even with that undercount, neighborhoods that are less than 25% homeowners have neighborhood association board members that are 65% homeowners. Neighborhoods with 25% to 49% homeowners have board members that are 74% homeowners. Self-reported survey data showed an even starker disparity, with 90% of all neighborhood association board members noting that they are homeowners and only 10% responding that they are renters.⁹

This mismatch is concerning because opponents of affordable housing developments have leveraged anti-renter sentiment in their messages. One homeowner in the Touro neighborhood recently went so far as to argue that renters “are not stakeholders in the community.” In his opposition to plans to develop the McDonogh 7 school building into affordable apartments for seniors, he further implied during a Neighborhood Participation Program meeting that renters should be considered more of a security risk.¹⁰

Income data shows the same gulf between neighborhood association board members and the neighbors they ostensibly represent. Of 155 survey respondents who answered questions about income, 54% said they have an annual income of \$100,000 or more compared to only 24% of New Orleans households who have an income that high.¹¹ The median household income in New Orleans is only \$45,161 per year, but 90% of neighborhood association board members who took the survey reported their incomes at more than \$40,000 per year.¹²

Despite the failure of many neighborhood associations to elect boards that demographically represent their service areas, residents have little recourse to demand change. To begin with, neighborhood associations are rarely open to all residents without barriers to access. Most require annual dues and their voting procedures are controlled by their boards through bylaws rather than city or state code.

By comparison, residents in many communities have successfully sued for better representation in local councils or boards when voting systems make one racial group's votes less effective than another's. In numerous cases in the early 2000s, the U.S. Department of Justice and federal courts found that electing city councilmembers exclusively via at-large seats violated Sec. 2 of the Voting Rights Act. In Morgan City, LA; Freeport, TX; Charleston, SC; and many other areas, at-large only elections had ensured all white councils even when these cities had significant Black populations.¹³ The lack of geographically based district seats disenfranchised the jurisdictions' non-white racial groups.

⁹ Rose. *Towards Equitable Institutions of Civic Engagement*.

¹⁰ Sharon Lurye. “City plans to turn McDonogh 7 site into affordable housing.” *Uptown Messenger*. June 22, 2021. Available: <https://uptownmessenger.com/2021/06/city-plans-to-turn-mcdonogh-7-site-into-affordable-housing/>.

¹¹ Katherine Rose. *Towards Equitable Institutions of Civic Engagement*; ACS 2019, 1 year estimates.

¹² Katherine Rose. *Towards Equitable Institutions of Civic Engagement*; ACS 2019, 1 year estimates.

¹³ Sue Sturgis. “Challenging the racism of at-large elections.” *Facing South*. February 15, 2017. Available: www.facingsouth.org/2017/02/challenging-racism-large-elections.

Neighborhood associations in New Orleans regularly maintain white majorities on their boards, even in neighborhoods that are mostly Black and Brown. They also play a role in local governance when elected officials defer to them on many land-use decisions, but residents cannot rely on the Voting Rights Act's protections in these scenarios because the groups are private, non-profit organizations.

III. White Voices are the Loudest—and the Most Listened To

Neighborhood associations exist across New Orleans, but a number of different measures of activity show that the neighborhood associations that have the most influence over local land-use decisions are those with majority-white boards. The City of New Orleans' informal community engagement system often defers to these associations as the "voice of the neighborhood," but our research suggests that only some neighborhoods are truly being heard in this system.

There were 186 neighborhood and community organizations listed on the Office of Neighborhood Engagement's webpage when LaFHAC began this analysis in late 2020. They are mostly traditional neighborhood associations; however, some describe themselves as specifically homeowners' associations, while others are business associations, and a few are state-created security districts. LaFHAC's analysis excluded the easily identifiable business associations and security districts, leaving 171 groups. A quarter of the groups have no website or social media presence, 40% have no recorded activity of any kind after 2015, and the vast majority held no meetings in the year prior to the pandemic (March 2019 to February 2020) or in the first year of the pandemic (March 2020 to February 2021).¹⁴

Activity Measure	Share of Neighborhood Associations
No website or social media	25%
No activity since 2015	40%
No meetings in year prior to COVID-19	61%
No meetings in first year of COVID-19	69%

In order to capture activity specifically related to neighborhood associations' influence over political decisions—as opposed to community clean-up events or fundraisers—LaFHAC created an activity score that captures the number of committee, board, and general member meetings of each association, as well as the number of meetings with local politicians, city agency representatives, or calls to attend City Council or other city board or commission meetings.

¹⁴ LaFHAC staff scoured websites and social media for any advertising about or mention of association meetings.

Political Activity Score	Number of Meetings in a Year
0	0
1	1-5
2	6-10
3	11-15
4	16-20
5	21+

In the year before COVID-19, the most active neighborhood associations also had the whitest boards. Board members of associations with political activity scores of 3, 4 or 5 were between 65% and 78% white. They included groups like the Lower Garden District Association (4), Neighbors First for Bywater (4), and the Mid-City Neighborhood Association (5). In fact, there was a correlation between the political activity score and the whiteness of a group's board; the groups that scored 0 also had the lowest share of white board members and the highest share of Black board members.

Pre-COVID-19 Political Activity					
Score	# of Assns.	% White Board	% Black Board	% Latinx Board	% Asian Board
0	104	50%	46%	0%	0%
1	32	56%	39%	1%	1%
2	13	61%	34%	2%	0%
3	11	78%	11%	1%	2%
4	7	66%	32%	0%	0%
5	3	65%	32%	0%	0%

Data for the first year of the pandemic largely followed the same trend, though there was one exception among groups scoring a five on the Political Activity Score. Slightly more groups had no activity in this year, but as activity increased, so too did the whiteness of the neighborhood association boards. Only three groups achieved the highest score by having 21 or more meetings in the year, and their board members were 78% Black and 22% white. This divergence from the overall trend is likely due to the small number of groups in this category and the large number of board members on the East New Orleans Neighborhood Advisory Council (ENONAC), one of the included groups. The other two groups were the Holy Cross Neighborhood Association and Tall Timbers Homeowners Association. Though racial demographics were more representative of the city among this most active tier of groups, board members were still 89% homeowners, suggesting that these groups also leave out many important voices in their service areas.

First Year of COVID-19 Political Activity					
Score	# of Assns.	% White Board	% Black Board	% Latinx Board	% Asian Board
0	117	51%	45%	0%	0%
1	27	60%	33%	2%	0%
2	13	77%	18%	0%	1%
3	7	86%	10%	0%	0%
4	3	62%	24%	7%	3%
5	3	22%	78%	0%	0%

The data shows that relying on neighborhood associations as the “voice of the neighborhood” means largely relying on associations dominated by white board members in a city that is majority Black. In disputes over affordable housing, this means that groups with boards controlled by white individuals are weighing in far more often on homes that will serve lower-income Black residents.

In addition to these activity scores, LaFHAC also researched which neighborhood associations were most active in two of New Orleans’ most significant zoning and land use debates since Hurricane Katrina: 1) the 2015 rewrite of the Comprehensive Zoning Ordinance (CZO), and 2) the multi-year effort to regulate short-term rentals (STRs). Staff reviewed City Planning Commission (CPC) and City Council archived meeting videos and tallied how often commenters spoke on behalf of neighborhood associations as well as individuals that identified themselves with specific neighborhoods. LaFHAC also performed a content analysis of *NOLA.com* archives to understand which groups were quoted or mentioned most often in stories about these issues, as earned media can have a substantial impact on policy. Not surprisingly, it is neighborhood associations with majority-white boards and often in majority-white or gentrifying neighborhoods that dominated the conversation and ultimately had far more influence over the final results of both of these processes.

Revisions to the CZO first began in 2010 and then were ultimately presented to the public for comment at CPC and City Council hearings starting in 2014. The process involved the first rewrite of the entire code since the 1970s, encompassing every neighborhood in the city. Every neighborhood would be expected to have an interest in this overhaul in land use policy, but only a select few had board members with the resources and time to make public comments. Of the 13 associations that provided comment, four spoke more than 10 times: Vieux Carré Property Owners, Residents, and Associates (VCPORA); Neighbors First for Bywater; Faubourg Marigny Improvement Association (FMIA); and French Quarter Citizens. All four represent majority-white neighborhoods and have all-white or nearly all-white boards. Of all comments from neighborhood association board members during the hearings on the CZO, 90% came from neighborhood associations with majority-white service areas, and 96% came from neighborhood associations with majority-white boards.

Neighborhood Association	# of Comments	% of Service Area that is White
VCPORA	16	88%
Neighbors First for Bywater	14	63%
FMIA	12	77%
French Quarter Citizens	11	88%
Bywater Neighborhood Assn.	7	63%
Garden District Association	4	83%
Holy Cross Neighborhood Assn.	4	17%
Algiers Point Association	4	65%
Eastern N.O. Neighborhood Advisory Council	3	3%
Warehouse District Neighborhood Assn.	2	66%
Carrollton/Riverbend Neighborhood Assn.	1	36%
Touro-Bouligny Neighborhood Assn.	1	77%
Lafayette Square Assn.	1	59%

Commenters who noted their neighborhood, but were not representing a neighborhood association, also overwhelmingly came from the same mostly white areas. Of all commenters who noted a neighborhood, 29% hailed from the Bywater, another 27% mentioned the French Quarter, and 20% noted the Marigny. Nearly all CPC and City Council meetings where the CZO was discussed took place during the day and on weekdays. In addition, commenters often had to sit for hours before having a chance to speak. Given these constraints, it should come as no surprise that commenters from affluent, white neighborhoods and the associations that represent them dominated the process.

Because only a handful of mostly-white organizations had the time and resources to sit in Council Chambers for hours at a time on multiple occasions, it was those same organizations who also had their messages amplified in the local press. Articles about the process in *NOLA.com* quoted representatives of Neighbors First for Bywater twice, the Bywater Neighborhood Association twice, FMIA twice, and a group from Bayou St. John once. Coverage of the CZO in the local paper also focused almost exclusively on the issues most important to residents of the French Quarter, Marigny, and Bywater neighborhoods.¹⁵ Not a single article mentioned a majority-Black neighborhood and zoning issues that might be important in those areas.

Less than a year after the new CZO was passed in 2015, zoning issues related to STRs began to dominate conversations at the CPC and City Council and again, largely white neighborhood associations were often the loudest voices. Maps of STR permits and listings show that this is an issue that primarily impacted more affluent historic

¹⁵ Staff analyzed 10 *NOLA.com* articles about the CZO process and noted nine different instances of coverage of the French Quarter, Marigny, or Bywater.

neighborhoods, as well as nearby gentrifying areas.¹⁶ Therefore, LaFHAC limited its analysis to the most impacted neighborhoods as described in Jane Place Neighborhood Sustainability Initiative's 2018 report, *Short-Term Rentals, Long-Term Impacts*.¹⁷ These most-impacted neighborhoods include affluent, majority-white areas with very active neighborhood associations like the Marigny, Bywater, and Lower Garden District, however, they also include majority-Black gentrifying neighborhoods like Tremé, Seventh Ward, and Central City. In fact, these majority-Black areas regularly had the most listings.

Data from the meetings shows that these majority-Black neighborhoods were not nearly as well represented. Among the neighborhood associations that spoke at the meetings, the Historic Faubourg Tremé Association, the Fairgrounds Triangle Association, Carrollton United, and the Gentilly Terrace & Garden Improvement Association were present. Still, 92% of all comments from neighborhood associations came from majority-white areas, with the French Quarter and Garden District dominating the debate with 66% of all comments.

Neighborhood Associations Commenting on STRs	# of Comments	% of Comments
Representing Majority-White Areas	162	92%
Representing Majority-POC Areas	15	8%

Not surprisingly, the French Quarter and Garden District are the two neighborhoods that managed to convince Councilmembers that their areas were so historically important as to require total bans of STRs. Councilmembers did not consider the majority-Black areas adjacent to these neighborhoods important enough to warrant a ban, even though Central City is home to many notable civil rights markers and Tremé is the oldest Black neighborhood in America. The table below shows that a number of majority-people of color neighborhoods (in bold) have high numbers of STR listings, but had little or no representation at the CPC or City Council, especially when compared to the best represented areas like the French Quarter, Garden District, and Marigny.

¹⁶ *Short-Term Rentals, Long-Term Impacts: The Corrosion of Housing Access and Affordability in New Orleans*. Jane Place Neighborhood Sustainability Initiative. 2018. Available: https://storage.googleapis.com/wzukusers/user-27881231/documents/5b06c0e681950W9RSePR/STR%20Long-Term%20Impacts%20JPNSI_4-6-18.pdf.

¹⁷ *Short-Term Rentals, Long-Term Impacts*.

Neighborhood	# of STR Listings, 2018	% White	Neighborhood Assn. Commenting	# of Comments
CBD	720	59%	Lafayette Square Association	4
Tremé-Lafitte	356	36%	Historic Faubourg Tremé Association	2
Seventh Ward	348	18%	N/A	
Central City	325	20%	N/A	
Marigny	308	77%	Faubourg Marigny Improvement Association	20
Mid-City	303	40%	N/A	
Lower Garden District	225	69%	Warehouse Dist. Neighborhood Assn.	2
St. Claude	212	29%	N/A	
Bywater	205	64%	Neighbors First for Bywater	9
Bayou St. John	131	64%	N/A	
St. Roch	122	9%	N/A	
Leonidas	120	36%	Carrollton United	3
Fairgrounds	119	37%	Fairgrounds Triangle Neighborhood Assn.	4
Audubon	114	72%	Maple Area Residents	2
Irish Channel	111	67%	N/A	
Uptown	104	78%	N/A	
West Riverside	98	72%	N/A	
French Quarter	95	88%	French Quarter Citizens + VCPORA	67
East Riverside	93	64%	N/A	
Marlyville-Fountainbleau	90	60%	N/A	
Garden District	N/A*	90%	Garden District Association	60
Algiers Point	N/A*	85%	Algiers Point Association	8
Gentilly Terrace	N/A*	16%	Gentilly Terrace & Gardens Improvement Association	6

* Data on the number of listings per neighborhood is from Figure 2.2 in *Short-Term Rentals, Long-Term Impacts* which shows the top 20 neighborhoods by the number of STR listings. The Garden District, Algiers Point, and Gentilly Terrace had too few listings to be included in the top 20.

It seems reasonable to imagine that more voices from neighborhoods where the increase of STRs was happening alongside high eviction rates and rising rents, might have changed the debate as well. LaFHAC's own analysis of Airbnb reviews in these neighborhoods also showed tourists often described the areas with racially coded language like "ghetto" or "sketchy," and research in multiple cities has found that Airbnb guests do not spend money at local businesses in majority-Black and Latinx neighborhoods.¹⁸

¹⁸ Alyakoob, Mohammed and Rahman, Mohammad Saifur. *Shared Prosperity (or Lack Thereof) in the Sharing Economy*. May 17, 2018. Available: <http://dx.doi.org/10.2139/ssrn.3180278>.

Affordable housing advocates did their best to fill this gap and ensure the debate over STRs focused on displacement, but Councilmembers heard far more from neighborhood associations in majority-white areas focused on noise, trash, and quality of life issues. Had neighborhood associations in Central City, the Seventh Ward, and other majority-Black gentrifying areas had the same resources to attend meetings, Councilmembers might have felt more pressure to enact stronger regulations in those areas and the Mayor's office might feel more pressure to rigorously enforce the new rules.

IV. NIMBYism Reinforces Segregation

Our current system of neighborhood engagement clearly prioritizes the voices of neighborhood associations dominated by white New Orleanians and homeowners in land-use planning. Taken together with demographic shifts and gentrification since Hurricane Katrina, this power imbalance and lack of representation has only reinforced residential segregation. As chronicled in the Data Center's *Rigging the Real Estate Market* paper, many high-ground and historic neighborhoods lost Black population after the storm as higher-income white people moved back to the city and home prices and rents increased dramatically.¹⁹ Neighborhoods like Bywater, Irish Channel, and Black Pearl flipped from majority Black to majority white.²⁰ A review of affordable housing developments during the same time shows that as neighborhoods gained white residents, their neighborhood associations consistently opposed affordable developments and contributed to their delay, downsizing, or death. Despite affordable housing consistently ranking in the top three priorities of city residents,²¹ this trend resulted in the loss of hundreds of affordable housing units and helped ensure that these recently whiter and better-resourced neighborhoods would remain difficult to access for Black New Orleanians.

One of the first post-Hurricane Katrina examples of this NIMBYism was in 2008 when the Coliseum Square Association (now the Lower Garden District Association) killed a proposed 210 unit mixed-income building planned for Tchoupitoulas St., near the river.²² Eighty of the units would have been reserved for lower-income workers. The census tract in the Lower Garden District where the building was proposed was not quite majority-Black before Katrina, but its demographics did shift significantly in the following years. It was 44% Black and 53% white in 2000 and by 2010, the share of Black residents had dropped to 23%, while the share of white residents had increased to 67%.²³

The 150 ft building proposed by Volunteers of America would have been 50 ft below the height allowed by the zoning code at the time, and the proposal received the recommendation of the city planning staff. Still, fierce opposition from the

¹⁹ Seicshnaydre, Collins, Hill, and Ciardullo. "Rigging the Real Estate Market."

²⁰ U.S. Decennial Census 2000; American Community Survey, 5-year estimate, 2011-2015.

²¹ The Big Easy Budget Game, <https://www.cbno.org/peoplesbudget>; "New Orleans Municipal Poll." Enterprise Community Partners. 2017. Available: www.enterprisecommunity.org/sites/default/files/media-library/where-we-work/gulf-coast/enterprise-poll-new-orleans-likely-voters.pdf.

²² Bruce Egger. "Riverside high-rise proposal challenged." NOLA.com. December 9, 2008. Available: www.nola.com/news/article_22d794ed-275b-5b3e-9b94-b441005fa2c8.html.

²³ U.S. Decennial Census 2000; American Community Survey, 5-year estimate, 2006-2010, Census Tract 77.

neighborhood association led to a 6-0 vote against the development by the City Planning Commission (CPC), including one commissioner who was a former president of the Coliseum Square Association. Only a year earlier, the neighborhood association did not oppose raising the height limit in the zoning code, but once a development with affordable housing was proposed, they changed their position. As one board member put it, "We don't want to be used as a test tube for this experiment."²⁴

A year later in 2009, neighborhood groups significantly downsized another mixed-income development on the other side of town. The Aloysius Apartments sit on a corner where the French Quarter, Tremé, 7th Ward and Marigny meet. Though caddy-corner from the Quarter, they fall in a census tract that was 90% Black before the storm and is now only 58% Black.²⁵ The developer originally proposed 77 units on the site with 70% to be affordable. After strong opposition from neighborhood associations in the French Quarter and Tremé, the size was reduced to 54 units, and then again to 49. The total number of affordable units was cut by over 60%, down to only 20.

In this instance, neighbors took their opposition a step further, saying that "they fear the entire building could become home to low-income residents in a few years, dragging down property values and spawning crime."²⁶ Rather than disguising their animus toward affordable housing and the people who reside in it in height objections, they invoked debunked stereotypes about how affordable units would decrease property values and increase crime. Research has shown neither are true, but similar stereotypes are often repeated by neighbors and neighborhood association members.²⁷ This case also shows how beholden elected officials often are to neighborhood associations, as the district councilmember engaged in "lengthy backroom negotiations" with the associations and the developer that also included the area's state representative.²⁸ Even after the parties reached a downsized compromise, two members of the City Council still registered their displeasure with the development by showering the developer with skeptical questions at the final hearing.²⁹

Unfortunately, this opposition to affordable housing is not just a relic of the building boom that immediately followed Hurricane Katrina. The number of high-profile NIMBY cases has increased significantly in the past few years as the Housing Authority of New Orleans (HANO) has begun to follow the recommendations of the City's housing plans and actually redevelop its scattered site properties. Both the New Orleans Assessment of Fair Housing (AFH) and the HousingNOLA plan involved extensive community

²⁴ Egger. "Riverside high-rise proposal challenged."

²⁵ U.S. Decennial Census 2000; American Community Survey, 5-year estimate, 2015-2019.

²⁶ Bruce Egger. "City Council approves mixed-income apartments on Esplanade Ave., but with strings attached." *NOLA.com*. April 3, 2009. Available: www.nola.com/news/article_8aeb5f55-446c-5f4f-9009-6882de9578c2.html.

²⁷ Cheryl Young. *There Doesn't Go the Neighborhood: Low-Income Housing Has No Impact on Nearby Home Values*. Trulia. November 16, 2016. Available: <https://www.trulia.com/research/low-income-housing/>; Keri-Nicole Dillman, Keren Mertens Horn, Ann Verrilli. "The What, Where, and When of Place-Based Housing Policy's Neighborhood Effects." *Housing Policy Debate*, February 17, 2017. Vol. 27, Issue 2. Available: www.tandfonline.com/doi/pdf/10.1080/10511482.2016.1172103?casa_token=HwbkFLHUfolAAAAA%3A933y1G7QuMEFOqECrACNtgEQhFV0zH4_uH45tfzfgJGQYRI4_adQyVveJ2dTXCT93Pmii_Z70rw&.

²⁸ Egger. "City Council approves mixed-income apartments."

²⁹ Egger. "City Council approves mixed-income apartments."

engagement with residents that actually mirror the demographics of the city, and both plans call for HANO to rebuild affordable housing on the vacant properties it owns.³⁰ Both plans also urge HANO to prioritize building on the properties it owns in gentrifying and high-opportunity neighborhoods like Bywater and Uptown. Despite the strong support for these goals from residents who participated in the planning process, neighborhood associations have opposed these developments and seriously slowed their progress.

The first instance of this was a development planned for an empty square block in the Bywater. HANO owns the land in what used to be a majority-Black neighborhood but is now an incredibly well-resourced, majority-white neighborhood. In addition to gaining more white people, the Bywater also gained a \$30+ million riverfront park, a redeveloped recreation center, a nearby grocery store, and huge increases in home prices and rents. The initial plans for the development submitted to the City in 2019 called for 150 total units on the site, with 90 reserved as affordable. The City Planning staff and Commissioners recommended the zoning change needed to move the development forward, again citing the development's consistency with the Master Plan, as well as the AFH and HousingNOLA plans.

Unfortunately, the development faced fierce opposition from white homeowners in the area and from one of the neighborhood associations, Neighbors First for Bywater, which began with "muttered, hissed, or yelled opposition to the project" throughout a presentation at one of the first public meetings.³¹ Notably, the other neighborhood association in the area, the Bywater Neighborhood Association, distinguished itself as one of the only neighborhood associations that LaFHAC researchers could find that has supported an affordable housing development. The Neighbors First group leveraged their resources to drive negative comments at the CPC and Council hearings and even created a new "Just Push Pause" webpage dedicated to stopping the zoning change.³² Though the representatives of the organization were careful to always say publicly that they support the concept of affordable housing, their petitions referred to the development as a "monstrosity" and a "Housing Project," comparing it to past public housing developments.³³ Other opponents stepped up their coded racist comments, including a white homeowner who said the development would be a "ghetto" in an op-ed and commenters at City Council who compared the development to a prison that would create security problems in the neighborhood.³⁴

³⁰ AFH and HousingNOLA

³¹ Jesse Lu Baum. "Four Historic Trees." *Big Easy Magazine*. December 1, 2018. Available: www.big easymagazine.com/2018/12/01/four-historic-trees/.

³² "Ask City Council to JUST PRESS PAUSE!" Neighbors First for Bywater. May 12, 2019. Screenshots on file and available from LaFHAC.

³³ "We want All Affordable Housing! Not Warehousing for HANO's Profit." Petition Circulated by NFB board member, Mark Gonzalez, at May 2019 public meeting. Screenshots on file and available from LaFHAC.

³⁴ Frederick Starr. "Massive Bywater public housing proposal would be a big step backwards." *The Lens*. May 21, 2019. Available: <https://thelensnola.org/2019/05/21/massive-bywater-public-housing-proposal-would-be-a-big-step-backwards/>; Jessica Williams. "After compromise, New Orleans City Council approves Bywater affordable housing deal" *NOLA.com*. May 23, 2019. Available: www.nola.com/news/article_c0aa6976-f31d-5f27-93d8-7d428a0f246d.html.

As with past developments, the district councilmember was ready to defer to this small group of loud neighbors until a few days before the City Council vote, when a compromise was negotiated that downsized the development to 136 total units (82 affordable), delayed final approval, and allowed the neighborhood association more input on the design.³⁵ Though it received all the necessary local approvals in 2019, the development still hasn't broken ground because Neighbors First for Bywater members have used a federal historic preservation review process to continue their opposition and further delay development. At a City Council Budget Committee meeting on August 25, 2021, a representative from the City also confirmed that these delays had caused the development to lose \$1.75 million in City funding, which could ultimately threaten its viability.³⁶

Similar opposition is now growing in the Touro area to an affordable senior development proposed at a former school building. In this case, the neighborhood association actually sued the school district to prevent a land swap between the district and HANO that would allow for the building to be used for affordable housing.³⁷ At the Neighborhood Participation Program (NPP) meetings about the development, opponents unleashed a stream of racially coded opposition. Among other things, they suggested that the residents would require additional security checks, asserted that the development would be a "crime magnet," asked multiple questions about the "vetting" for residents, and even inquired about the "ethnic diversity" of the "housing complex."³⁸ Commenters also repeated the inaccurate assumption that lower-income residents drive down property values and asserted that renters "are not stakeholders in the community."³⁹

V. Racist Stereotypes and NIMBYism Leads to Missing Units

All of this opposition builds on racist stereotypes of overwhelmingly Black affordable housing residents as lazy and more prone to crime and disorder. These stereotypes were on full display after Hurricane Katrina when then Congressman Richard Baker was overheard telling D.C. lobbyists, "We finally cleaned up public housing in New Orleans. We couldn't do it, but God did."⁴⁰ Local politicians participated too, with the then City Council President commenting, "We don't need soap-opera watchers right now," in reference to displaced public housing residents.⁴¹ It's worth noting that since the

³⁵ Williams. "After compromise, New Orleans City Council approves Bywater."

³⁶ Testimony of Marjorianna Willman, Director of the Office of Housing Policy and Community Development, to the New Orleans City Council Budget Committee. August 25, 2021. Available: <https://council.nola.gov/meetings/>.

³⁷ Marta Jewson. "Orleans School Board moving ahead with McDonogh 7 land swap for former dumpsite" *The Lens*. May 22, 2019. Available: <https://thelensnola.org/2019/05/22/orleans-school-board-moving-ahead-with-mcdonogh-7-land-swap-for-former-dumpsite/>.

³⁸ Lurye. "City plans to turn McDonogh 7."; Additional Zoom comments on file and available from LaFHAC.

³⁹ Lurye. "City plans to turn McDonogh 7."

⁴⁰ Anya Kamenetz. "Road Block." *Gambit*. December 19, 2005. Available: www.nola.com/gambit/news/article_bc66eb98-a1c5-5d24-9f6f-330fe367d0af.html.

⁴¹ Adam Nossiter. "In New Orleans, Ex-Tenants Fight for Projects." *The New York Times*. December 26, 2006. Available: www.nytimes.com/2006/12/26/us/nationalspecial/26housing.html?hp&ex=1167195600&en=3f1537af659e1f23&ei=5094&partner=homepage&r=4&.

integration and white flight of the 1970s, Housing Authority of New Orleans (HANO) clients in New Orleans have been more than 90% Black.⁴² Though some are more careful with their language now, these stereotypes of public housing residents are regularly applied to residents of any income-restricted property. As an example, in 2015 a property manager at the Hidden Lakes apartments in New Orleans East referred to the tenants of his affordable development as “inmates.”⁴³ He later tried to explain his characterization of the residents as criminals as one shared by the nearby homeowners who “don’t want affordable housing in New Orleans East.”⁴⁴

These stereotypes have real life consequences for many of the New Orleans residents who work long hours for low pay in New Orleans’ tourism, hospitality, and culture-based economy. When HANO adopted new payment standards to ensure residents with Housing Choice Vouchers (Section 8) could access neighborhoods closer to jobs and with more amenities, they found other barriers. In many cases, landlords in these higher-opportunity neighborhoods outright refused to accept vouchers, even though other landlords reported positive experiences with HCVP renters. As one Housing Choice Voucher Program (HCVP) landlord explained, “I think a lot of people feel that Section 8 means tenants aren’t going to be responsible and take care of the properties, but all of my clients that have done Section 8 have had the exact opposite (experience). It’s just a snowball effect of misinformation.”⁴⁵ Some HCVP residents also chose not to take advantage of the opportunity to move because as one voucher holder put it: “she’s heard too many horror stories from Section 8 tenants who moved to certain areas, only to be reported to neighborhood associations or otherwise singled out because of their finances or race. ‘I wouldn’t want to subject my kids to those types of things, because sometimes it can lead to an everlasting scar,’ she said.”⁴⁶

In a city with a long-term affordable housing crisis, these stereotypes and the NIMBY opposition that buoys them are also responsible for hundreds of missing affordable housing units. Using news articles and City Planning Commission and City Council archives, LaFHAC built a table of delayed, downsized, and defeated affordable housing developments since Hurricane Katrina. In each case, neighborhood associations had a hand in the opposition. NIMBY opponents of affordable housing have killed 422 apartments for working-class New Orleanians and delayed another 184 that might already be under construction or completed were it not for sustained opposition. All total, 606 affordable homes are missing in New Orleans because of this opposition.

⁴² Picture of Subsidized Households. HUD. 1993, 1998, 2000, 2009, 2020. Available: www.huduser.gov/portal/datasets/assthsg.html#null.

⁴³ Mark Ballard. “New Orleans East apartment manager calls tenants ‘inmates,’ as bid for state housing aid fails.” *The Advocate*. August 19, 2015. Available: www.theadvocate.com/baton_rouge/news/politics/article_f84a5f86-f20a-5743-a03a-18cf4d45559d.html.

⁴⁴ Ballard. “New Orleans East apartment manager.”

⁴⁵ Jessica Williams. “HANO’s program to help Section 8 residents live in higher-income areas runs into challenges.” *NOLA.com*. September 9, 2018. Available: www.nola.com/news/article_9ea500c8-63ec-5e54-8a40-ec82d2665502.html.

⁴⁶ Jessica Williams. “Reforms to HANO’s Section 8 program still running into challenges, but officials remain hopeful.” *NOLA.com*. February 5, 2019. Available: www.nola.com/news/article_d2d48dd8-488a-5385-90c3-d462d8da1363.html.

Year	Development	Neighborhood	Downsized/killed affordable units	Delayed affordable units
2008	Volunteers of America "Riverside Highrise" ⁴⁷	Lower Garden District	80	
2009	Aloysius Apartments ⁴⁸	Tremé/7 th Ward/French Quarter/Marigny	34	
2009	The Muses ⁴⁹	Central City	216	
2009	Old Morrison Homes ⁵⁰	Little Woods	36	
2012	Bywater Art Lofts ⁵¹	Bywater	13+	
2018	River Street Ventures ⁵²	McDonogh	35	
2018	Mazant-Royal ⁵³	Bywater	8	82
2019	Uptown Scatter Sites ⁵⁴	Lower Garden District, East Riverside, Leonidas		80
2019	2256 Baronne St. ⁵⁵	Central City		22
		Total	422	184

⁴⁷ Egger. "Riverside high-rise proposal challenged."

⁴⁸ Egger. "City Council approves mixed-income apartments."

⁴⁹ Alex Woodward. "How 'redlining' shaped New Orleans neighborhoods — is it too late to be fixed?" *Gambit*. January 21, 2019. Available: www.nola.com/gambit/news/article_215014ce-0c15-5917-b773-8d1d2fdaa655.html; "Deep Dive: The Muses Apartments Bond." *Heron.org*. January 3, 2018. Available: www.heron.org/deep-dive-the-muses-apartments-bond-2/; Interview with Kathy Laborde, January 19, 2019.

⁵⁰ Bruce Egger. "City Planning Commission approves controversial plan for 'work force' housing on Morrison Road." *NOLA.com*. May 27, 2009. Available: www.nola.com/news/article_a8a306f6-dfaf-5a93-86ec-ca53de909e8e.html.

⁵¹ Doug MacCash. "The Bywater Art Lofts is a perfect fit for creative types." *NOLA.com*. September 5, 2009. Available: www.nola.com/entertainment_life/arts/article_4f00766f-1edd-56e1-8625-b03ae13b25b3.html.

⁵² Richard Thompson. "New Orleans city planners delay vote on proposed 345-unit mixed-use development." *NOLA.com*. January 9, 2018. Available: www.nola.com/article_e59f2677-6059-552b-a12f-e6be34f61140.html.

⁵³ Williams. "After compromise, New Orleans City Council approves Bywater."

⁵⁴ Jessica Williams. "City Planning Commission OK's plan for affordable housing in Leonidas, other areas." *NOLA.com*. September 8, 2020. Available: www.nola.com/news/politics/article_6beaa238-f209-11ea-91d6-ffc870fd6f3.html.

⁵⁵ "NIMBY Neighbors Fight Senior Housing in Central City." Louisiana Fair Housing Action Center. November 13, 2020. Available: <https://lafairhousing.org/blog/nimby-neighbors-fight-senior-housing-in-central-city>.

VI. NIMBYism and the Fair Housing Act

According to scholars Jonathan Rothwell and Doug Massey, exclusionary land-use policies are the single biggest predictor of residential segregation in a community.⁵⁶ While lack of a zoning scheme doesn't, on its own, lead to a racially integrated community, zoning rules designed to limit the kind of housing that can be built in communities go a long way toward ensuring that people of color, renters, and low-income people will have limited access to those communities. In majority-white communities within majority-Black cities, and in white communities that are whiter than the cities where they're located, it's likely that the majority-white areas have land-use policies that don't allow for the construction of multi-family or affordable housing, or makes it very difficult and not cost-effective to build this type of housing.

In New Orleans, and across the country, the same communities that were targeted for federal investment, and where white home seekers were readily provided with low-cost, federally-backed mortgages, are often the communities that now have the most restrictive and exclusionary zoning schemes in place, which go a long way toward keeping those communities whiter and wealthier than they might be otherwise. Because of this, courts have—over the course of decades—recognized the danger that exclusionary land-use policies coupled with NIMBY sentiment pose to fair housing choice and the goals of the Fair Housing Act.

The goals of the Fair Housing Act go beyond prohibiting individual acts of discrimination. Signed into law in 1968, the Fair Housing Act not only makes acts of discrimination in housing-related transactions illegal, but also requires that state and local governments receiving federal housing dollars work to create open and integrated communities. And, as a federal court in Illinois noted, cases brought against municipalities under the Fair Housing Act “recognize that housing decisions can discriminate in two ways: by visiting a ‘greater adverse impact on one racial group than another,’ or by perpetuating segregation.”⁵⁷

Just two years after the Fair Housing Act's passage, the U.S. Second Circuit Court of Appeals issued a decision in *Kennedy Park Homes Association v. Lackawanna*.⁵⁸ After the Kennedy Park Homes Association sought to build an affordable housing development in Lackawanna, New York's Third Ward, city officials changed the zoning restrictions for the area immediately surrounding the proposed development site to allow recreational use only, and also prohibited the building of new multi-family housing units. In affirming the trial court's decision that unlawful discrimination occurred, the Court detailed the history and harmful effects of the small city's residential segregation, including that nearly 99% of the city's black residents lived in the First Ward, a neighborhood with high rates of tuberculosis, infant mortality and air pollution.⁵⁹ The Court also took care to note that African-American residents were physically separated

⁵⁶ Rothwell Jonathan, Massey Douglas S. “The Effect of Density Zoning on Racial Segregation in U.S. Urban Areas.” *Urban Affairs Review*. 2009;44(6):779-806. doi:10.1177/1078087409334163.

⁵⁷ *Hispanics United v. Village of Addison*, 988 F. Supp. 1130, 1154 (citing *Arlington Heights II*, 558 F.2d at 1290; *Huntington Branch NAACP v. Town of Huntington*, 844 F.2d 926, 937).

⁵⁸ *Kennedy Park Homes Association v. Lackawanna*.⁵⁸ 436 F.2d 108 (2nd Cir.1970).

⁵⁹ *Id.* at 109-110.

from the rest of the city by railroad tracks with only a single bridge serving as the gateway to communities beyond the First Ward.⁶⁰

In keeping with the long American tradition of attempting to keep people of color out of predominately white communities, organized opposition to the proposed development kicked up once news of the plan hit the local press. A group calling itself Taxpayers Interested in Civil Affairs (TICA) voiced concern “over both the sewage problem and the schools as well as the damage that might result to property values if low income housing was constructed in the Third Ward.”⁶¹ Additionally, TICA members raised “fears of increased unrest and misunderstanding” if “‘a grand scale integration’ rather than ‘the gradual way’ resulted from the building of the proposed development.”⁶²

In August 1968, just a mere four months after the passage of the Fair Housing Act, Lackawanna’s Zoning Board of Appeals and Planning and Development Board recommended to the City Council a moratorium on all new “subdivisions”, and also that parts of the Second and Third Wards (including the proposed site of the affordable housing development) be re-zoned for recreational use only. The rezoning recommendations came just months after plaintiffs had begun making arrangements to purchase land for the Kennedy Park Subdivision, an affordable housing development.⁶³ The City Council voted in favor of the recommendations.⁶⁴ In finding that the City’s moratorium and re-zoning violated the Fair Housing Act, the U.S. Second Circuit Court of Appeals stated that the facts “lead inescapably to the conclusion that racial motivation resulting in invidious discrimination guided the actions of the City.”⁶⁵ The Court further noted that “the pattern is an old one and exists in many of our communities but appears to be somewhat more subtle in Lackawanna. However, when the chronology of events is considered, the discrimination is clear.”⁶⁶

Though future courts would use the FHA to invalidate similar restrictions, the Second Circuit – likely because the FHA was still so new – instead chose to highlight that other existing civil rights laws provide similar protections against discriminatory municipal zoning policies and moratoriums. The Second Circuit reasoned that civil rights laws and the U.S. Constitution protected the rights of Black Lackawannans to be free from racial discrimination when local government officials attempted to apply exclusionary land-use policies at the behest of largely-white community residents. When local governments would try similar moves in the future, courts were equipped with the Fair Housing Act, and didn’t hesitate to apply it to local zoning and land-use decisions.⁶⁷

⁶⁰ *Id.* at 110.

⁶¹ *Id.* at 111.

⁶² *Id.* at 111.

⁶³ *Id.* at 110-111.

⁶⁴ *Id.* at 111.

⁶⁵ *Id.* at 109.

⁶⁶ *Id.* at 109-110.

⁶⁷ See *Resident Advisory Board v. Rizzo*, 564 F.2d 126 (3d Cir.1977); *Atkins v. Robinson*, 545 F.Supp. 852, 871–72 (E.D.Va.1982); *Huntington Branch, N.A.A.C.P. v. Town of Huntington*, 844 F.2d 926, 937–38 (2d Cir. 1988); *Stewart B. McKinney Foundation, Inc. v. Town Plan and Zoning Com’n of Town of Fairfield*, 790 F.Supp. 1197, 1212 (D.Conn. 1992); *Greater New Orleans Fair Housing Action Center v. St. Bernard Parish*, 641 F.Supp.2d 563, 571 (E.D.La. 2009).

In 1982, a federal appeals court agreed with a trial court that the mayor and commissioners of Clarkton, North Carolina violated the U.S. Constitution and the Fair Housing Act when they gave in to racially-motivated NIMBY sentiment and pulled out of a plan to build public housing in the small town.⁶⁸ At the time that the U.S. Fourth Circuit Court of Appeals considered this matter, Clarkton was nearly 90% white. Additionally, 69.2% of the Black families in the county where Clarkton is located were “presumptively eligible for low income housing,” while only 26% of the white population in the county were low-income enough to qualify for subsidized housing.⁶⁹ Given the demographics of Clarkton and the surrounding county, in addition to the clear disparities in poverty levels, the white majority of Clarkton would have been well aware that the people most likely to live in the proposed affordable units would be Black.

Using language and tactics from what is still the NIMBY playbook across the United States today, residents of Clarkton began to make their opposition clear. This happened in two ways. Some opponents of the proposed housing development didn't hesitate to share their race-based opposition. One town commissioner reported that a resident told the commissioner that the resident didn't want “‘coons either next door, or in the town.’”⁷⁰ Yet, other opponents adopted the tactic that majority-white communities in New Orleans and beyond often reach for when faced with the possibility of low-income residents (often people of color) becoming their neighbors: raising “concerns” about why the community couldn't possibly accommodate the addition of those new residents. First, Clarkton residents tried arguing that the new development would place an additional burden on the local public schools.⁷¹ However, this argument failed to take into account that “most of the prospective tenants already lived in the schools' attendance zones.”⁷² Next, the opponents argued that the police and rescue systems could not sustain additional town residents. This contention was rebutted by the Clarkton police chief's statements that the additional residents would not necessitate an upgrade of these city services. Lastly, the opponent's contention that the development would overburden sanitation services was refuted.⁷³

Just two weeks after this public hearing, the town commissioners ordered Clarkton's housing authority to proceed with construction.⁷⁴ However, a group calling itself the Concerned Federal Income Taxpayers⁷⁵ demanded a public poll of the town's majority-

⁶⁸ *Smith v. Clarkton*, 682 F.2d 1055, 1060 (4th Cir. 1982).

⁶⁹ *Id.* at 1061.

⁷⁰ *Id.* at 1062.

⁷¹ *Id.* at 1062.

⁷² *Id.* at 1062.

⁷³ *Id.* at 1062.

⁷⁴ *Id.* at 1062.

⁷⁵ Interestingly, the names of the NIMBY groups from both the *Lackawanna* and *Clarkton* cases reference the members' status as “taxpayers,” and the *Clarkton* NIMBY group referenced their status as “federal taxpayers.” It's no secret that some Americans mistakenly assume that low-income people (some of whose incomes aren't high enough for them to be assessed federal income taxes) are not “contributing” to the social contract in this country: a 2019 Pew Research Center [survey](#) found that 16% of Americans were bothered “‘a lot’” by the “feeling that some poor people don't pay their fair share” in the federal tax system. In fact, low-income people pay a disproportionate share of sales taxes and also contribute through payroll and other taxes.

white populace on the issue of the proposed development. The results showed that 48 more registered voters in Clarkton opposed the development than supported it, and the town commissioners withdrew from the local consortium planning to construct the development.⁷⁶

When the Fourth Circuit considered the matter, the Court applied an analytical framework based on existing case law to conclude that the Black Clarkton resident who brought the initial lawsuit had “established a violation of the Fair Housing Act” by proving that the city officials’ actions “had a discriminatory effect on the black citizens of Bladen County.”⁷⁷ In reaching this conclusion, the Fourth Circuit reasoned that the relevant statistics left “no doubt that the black population of Bladen County was adversely affected by the termination of the housing project,” given that African-American Bladen County residents were “most in need of new construction to replace substandard housing” and that Black Bladen County residents had the “highest percentage of presumptively eligible applicants [for the proposed development].”⁷⁸ The Court also noted that the trial exposed that the city officials’ actions “resulted directly from the community’s deeply-felt, intentional, invidious racial animus, and the defendants’ alleged interests in pursuing the tainted action were almost wholly pretextual.”⁷⁹

While the Fourth Circuit reasoned that ordering Clarkton to construct the housing units out of their own city budget was a step too far, the Court required the city officials “to take each and every step ... necessary to facilitate the development of low-rent housing in Clarkton.”⁸⁰

Although cases like *Clarkton* and many others have made it clear for decades that “concerns” about schools, streets, and rescue services aren’t enough to defeat Fair Housing Act liability, the City of New Orleans found itself a defendant in a fair housing lawsuit filed in 2012 by President Barack Obama’s Justice Department. In addition to people of color, people with disabilities are often disproportionately impacted by exclusionary land-use decisions based on NIMBY sentiments. According to the federal government, the City of New Orleans—at the behest of NIMBY residents—discriminated against persons with disabilities in refusing to grant zoning variances and permits necessary to construct affordable housing units for formerly unhoused individuals, and in “reclassifying the [proposed development site] so that it no longer was a permitted use in a district that allowed for multifamily housing”.⁸¹ During the four years preceding the lawsuit, residents in the neighborhood led a campaign to block the proposed development, including circulating flyers declaring that “the homeless, ex-offenders, people with mental illness, HIV/AIDS, people with a history of drug usage and other

⁷⁶ *Smith v. Clarkton*, 682 F.2d 1055, 1060 (4th Cir. 1982).

⁷⁷ *Id.* at 1066.

⁷⁸ *Id.* at 1065.

⁷⁹ *Id.* at 1065.

⁸⁰ *Id.* at 1069-1070.

⁸¹ Settlement Agreement, *United States v. The City of New Orleans, et al.*, No. 2:12-cv-02011-MLCF-DEK (E.D.L.A. 2012).

similarly situated'" would be moving into the community.⁸² The NIMBY neighbors also asserted that its status as an "Historic Residential Neighborhood" meant that "NO facility of this nature" should be allowed in the community.⁸³ After a relatively short period, the City agreed to allow the proposed development to "proceed through the City's normal approval, inspection and permitting processes" and not to "interfere with or otherwise delay the processing or issuing of any necessary permits."⁸⁴ The development proceeded, and it has successfully operated since 2015.

VII. Recommendations

As this report documents, NIMBY opposition hindering affordable housing development and contributing to segregation are not new in New Orleans. The "constant presence" of community and "neighborhood association opposition" was cited as a significant contributing factor to segregation in the City's and HANO's 2016 Assessment of Fair Housing plan, submitted to the U.S. Department of Housing and Urban Development (HUD).⁸⁵ Below, we've taken a number of commitments from that plan and added new policy recommendations for the New Orleans Mayor and City Council to specifically address the long-standing pattern of neighborhood associations participating in NIMBY opposition to affordable housing developments.

1) Defend Affordable Housing Against NIMBY Opposition

There is broad and deep support for ensuring all our neighborhoods stay affordable so that New Orleanians aren't pushed out, but small, vocal groups of neighbors often oppose these developments. It is New Orleans City Councilmembers who allow that opposition to derail new affordable housing developments by slowing down zoning change and conditional use requests, voting against them, or requiring poison pill provisos. They should instead defend affordable housing developments against NIMBY opposition and weigh the recommendations from housing plans like the Assessment of Fair Housing (AFH) and HousingNOLA more heavily than the often disproportionately white, wealthy, and majority-homeowner neighborhood associations who oppose the developments and are not representative of the City's demographics. Unlike our land-use approval processes, which are difficult to navigate for the average resident, the AFH and HousingNOLA plans relied on representative and comprehensive outreach efforts to vet their recommendations.

2) Incentivize Equitable Representation on Neighborhood Association Boards

The Mayor's Office of Neighborhood Engagement should require neighborhood associations that wish to be registered with the City and displayed on the City's "Neighborhood and Community Organizations" webpage to report the names and demographics of their board members each year. The Office of Neighborhood

⁸² Katy Reckdahl. "Feds Join Fight to Turn Nursing Home into Apartments for Disabled Homeless." *The Times-Picayune*, August 13, 2012. Available: www.nola.com/news/crime_police/article_2fa06ea6-e853-59b7-89bd-14b21900af1c.html.

⁸³ Reckdahl. "Feds Join Fight to Turn Nursing Home into Apartments for Disabled Homeless."

⁸⁴ Reckdahl. "Feds Join Fight to Turn Nursing Home into Apartments for Disabled Homeless."

⁸⁵ *City of New Orleans 2016 Assessment of Fair Housing*. Office of Community Development, City of New Orleans. October, 2016. Available: <http://nola.gov/community-development/documents/2016-updated-afh-plan-090516/afh-plan-090516-final/>.

Engagement should specifically track race, gender, and homeowner/renter status and publish summary statistics on the page for each neighborhood association.

Neighborhood associations who report their demographics to the Office of Neighborhood Engagement would continue to receive Neighborhood Participation Program (NPP) notices for their service area. Those who do not, would no longer be registered with the City and would not receive the notices.

If the Office of Neighborhood Engagement fails to make this change, City Council should pass an ordinance to amend the NPP to clarify that neighborhood associations who fail to report their demographics to the Office of Neighborhood Engagement will no longer be registered with the City and will not receive NPP notices for their service area.

3) Develop an Affordable Housing Advisory Committee

Especially in gentrifying and high-opportunity neighborhoods, most community engagement processes do not include anyone who might represent the future residents of a proposed affordable housing development. Opponents have sometimes used this absence to their advantage by suggesting that the future residents would “suffer most” from density or design issues they object to.⁸⁶

To remedy this, the Office of Neighborhood Engagement should develop an Affordable Housing Advisory Committee (AHAC) comprised of residents who live in subsidized housing or who are on a waitlist for subsidized housing. Participating residents should receive training on fair housing laws and be invited to all NPP meetings for applicants seeking Affordable Housing Planned Developments, Mandatory Inclusionary Zoning developments, or Voluntary Inclusionary Zoning developments. Members of the Affordable Housing Advisory Committee should be compensated for their time in trainings or NPP meetings. Staff at the Office of Neighborhood Engagement should share documents prior to these NPPs, coordinate AHAC members' attendance, and join AHAC members at any NPP meetings they attend to support their participation.

4) Build an Equitable Community Engagement Infrastructure

Cities nationwide, including Atlanta, Birmingham, Durham, Boston, Seattle, Portland and New York, have more formalized systems of resident engagement that are outlined by ordinance, supported by City funding, and specifically designed for equity. These systems' structures vary, but they are united under common principles:

- *Inclusive*—they are deliberately designed to seek and incorporate feedback from marginalized groups; and to level the playing field across race, socioeconomic status, and geography through standardized bylaws, requirements for neighborhood association participation, and the dedication of City staff to administer and support.
- *Proactive & Collaborative*—residents and City leaders have an opportunity to discuss issues before decisions have been made; and engage in a two-way dialogue with City officials that extends beyond a single project.

⁸⁶ Starr. “Massive Bywater public housing.”

- *Transparent*—expectations from the process are clearly defined and enforceable; and the City provides a public record of the process, outcomes, and range of views and ideas expressed.

City officials have expressed robust support for this more proactive and equitable approach to engaging residents and for using City resources to ensure the most marginalized residents are equitably represented. The Master Plan for the 21st Century (Chapter 14) and the City Charter both include this priority, but officials have failed to put an implementation plan into place.

The City of New Orleans should formalize and significantly expand its community engagement infrastructure to ensure equitable access to land-use decisions, and ultimately more equitable outcomes. The process should be designed with stakeholders that represent the diversity of the city's population, defined by ordinance, and adequately and reliably funded. It should also combine geographic engagement with cultural and community-based outreach.

5) Further Incentivize Affordable Housing in the Comprehensive Zoning Ordinance

Starting with an unconstitutional and racist zoning law in 1927, New Orleans zoning code has historically encouraged segregation.⁸⁷ Throughout the years, and especially after Hurricane Katrina, elected officials supported efforts to reduce density and height restrictions in large swaths of the city, leaving the city more segregated now than we were before the storm.⁸⁸ Reversing those policies will not, on their own, foster integration; it doesn't matter how densely you build in a high-opportunity neighborhood like the Lower Garden District, it won't bring market rate rents down to the \$600 per month many hospitality workers can afford. However, if the Mayor and City Council combine increased density and flexibility in the CZO with specific requirements for affordability, that could begin to erode our legacy of segregated living patterns.

The passage of the Smart Housing Mix in 2020 began this process by incorporating a new system that requires affordability in the highest cost neighborhoods and incentivizes everywhere else. The Smart Housing Mix incentives are incomplete though. The policy does not include for-sale properties, fails to scale the available incentives to the amount of affordable units being provided, and it misses smaller affordable developments entirely. The Mayor and Councilmembers should support additional amendments to the CZO to:

- Include for-sale developments of 10 or more units in the Mandatory Inclusionary Zoning (MIZ), Voluntary Inclusionary Zoning (VIZ), and Affordable Housing Planned Development (AHPD) processes and increase the income limit to 100% of the area median income (AMI). Households who fall under the current 60% AMI limit often struggle to qualify for a mortgage.
- Include deeper zoning and tax incentive bonuses for developments that provide more than the 5% or 10% affordable units required by the MIZ, VIZ, and AHPD, if those units are planned for gentrifying or high-opportunity neighborhoods. CPC staff should use data from the Market Value Analysis produced every two to

⁸⁷Seicshnaydre, Collins, Hill, and Ciardullo. "Rigging the Real Estate Market."

⁸⁸ *City of New Orleans 2016 Assessment of Fair Housing*.

three years to identify gentrifying and high-opportunity neighborhoods where this should apply.

- Allow accessory dwelling units in all single- and two-family zoning districts and create a program that offers low-interest construction loans and pre-approved plans to homeowners in gentrifying or high-opportunity areas who agree to rent the new unit to a Housing Choice Voucher holder.
- In areas where the Future Land Use Map (FLUM) amendments to the CZO allow, pair increased density limits for two- to nine-unit developments with either an impact fee to support affordable housing or Housing Choice Voucher acceptance.

6) Invest in Developing Affordable Housing on Public Land in High Opportunity Areas

Shortly after taking office in 2018, the Cantrell administration did the right thing and finally put a City-owned vacant lot in an ideal location for affordable housing out to bid for that purpose, despite objections from NIMBY neighbors and the district councilmember.⁸⁹ The half of a square city block sits just outside the French Quarter and would allow residents to access thousands of hospitality jobs without a car.

Unfortunately, the request for proposals made development difficult and disincentivized developers from applying for City affordable housing funds. Instead, the request for proposals suggested preference would be given to developers who used less public subsidy, and it only required 24 affordable units on the site, despite the possibility of up to 63 total units. Prioritizing market rate units in these developments is counterintuitive when the success of the development is determined by the amenities and surrounding neighborhood, not how many affluent residents live on the property. Two and a half years after the request for proposals was issued, the lot is still empty.

The Mayor should commit to more deeply investing in affordable developments on publicly-owned land, including land owned by HANO or the New Orleans Redevelopment Authority (NORA). Land in high-opportunity areas should specifically be paired with funding to develop as many affordable units as the zoning will allow.

⁸⁹ Beau Evans. "Public park or housing? Tremé neighbors, city differ over plans." NOLA.com. July 22, 2019. Available: www.nola.com/news/politics/article_9dfb9220-634e-541f-b34a-2f0b5d311aa2.html.