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RACE, CLASS, AND SUBURBIA: THE MODERN BLACK SUBURB AS A 'RACE-MAKING SITUATION'

Mary Jo Wiggins*

In her Article, Professor Wiggins discusses the complex social phenomenon of “Black suburbanization,” focusing on the commercial “disinvestment” in and around predominately Black suburbs. She traces the historical relationship between Black Americans and the suburbs, and describes in detail the commercial disinvestment in two contemporary Black suburbs, Prince George’s County, Maryland, and south DeKalb, Georgia. In her Article, she offers possible explanations for disinvestment, including the application of protective zoning; inefficient zoning laws and practices; prior investment decisions; demographic explanations; and independent effects of race. Wiggins analyzes some of the resulting negative social and economic consequences, including a sense of relative deprivation among Black suburbanites, economic impairment, and the functioning of these communities as “race-making situations,” and concludes by proposing a multi-targeted approach to addressing the challenges posed by commercial disinvestment in Black suburban communities.

I. INTRODUCTION

Black suburbanization is an important but little understood social phenomenon—one that raises fundamental issues of race and class. The concept of a “suburb” seems simple enough. Suburban neighborhoods generally share common characteristics such as a peripheral location to urban areas, low density, architectural similarity, economic and social homogeneity, and easy accessibility.¹

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Urban neighborhoods, by contrast, usually share a set of opposing characteristics. Legislative zoning and other forms of land-use regulation play a vital role in preserving the unique characteristics of suburban neighborhoods. The suburban-urban distinction, however, is not merely technical. In our public discourse on everything from politics to sports, “suburban” and “urban” often function as racial shorthand—suburban for “White” and urban for “Black.” This racial stereotyping of the urban-suburban distinction, however, fails to take into account the history of Black movement into the suburbs. This history reveals a progression from seminal Black enclaves called “ring suburbs” to substantial Black movement into formerly all-White peripheral suburbs. More recently, a third wave of Black suburbanization has emerged as middle- and upper-middle-class Blacks affirmatively (and often without apology) select predominately Black suburban communities in which to live.

Author's note: The author has in this Article used the terms “African-American,” “Black American,” and “Black” interchangeably. Additionally, the author treats all racial designation as proper nouns.


3. See Robert Kratovil, Zoning: A New Look, 11 CREIGHTON L. REV. 433, 433 (1977) (noting how zoning law has become a political tool used by suburban dwellers to “maintain the status quo in their suburbs”).

4. See Henry Louis Taylor, The Hidden Face of Racism, 47 AM. Q. 395, 402-03 (Sept. 1995) (noting that as Whites left the central city, “city” became to symbolize black, and “suburb” came to symbolize white); Mimi Avins, Take a Spin Inside Tommy Hilfiger's Fashion Cuisinart, L.A. TIMES, Aug. 25, 1996, at 19, 42 (writing that in the Hilfiger lexicon, “‘urban’ is a respectful euphemism for black or Puerto Rican, ‘suburban’ is a code word for white”); Mark Fisher, Colors of the Radio Spectrum, WASH. POST, Dec. 3, 1996, at E01 (observing that four of the top ten radio stations in Washington, D.C. are “what the industry calls ‘urban,’ a euphemism that reveals radio’s stereotype of the black audience”); Verne Gay, Wanted: The Next Arsenio, NEWSDAY, Mar. 23, 1997, at C24 (noting that “urban” is Hollywood’s euphemism for “black”); Mike Harden, Memory Lane, COLUMBUS DISPATCH, Jan. 18, 1998, at 1D (suggesting that some have come to think of “urban renewal” as a euphemism for moving black people); Bob Hunter, Great Weekend of Basketball Clouded by Issues of Race, COLUMBUS DISPATCH, Mar. 31, 1998 at 3C (noting that basketball is referred to by some as an “urban”, meaning “Black” game); Tom Morganthau, The Price of Neglect, NEWSWEEK, May 11, 1992, at 54 (“Let’s assume the jurors [in the Rodney King case] were typical suburbanites motivated by a well-meaning . . . desire to back the cops . . . ”); Ted Rall, Office Workers Must Use Proper English, PLAIN DEALER, Feb. 1, 1997, at 11B (quoting Microsoft Chairman Bill Gates as saying, “White male executives from the suburbs have developed a completely separate language system from other Americans.”); Adolph Reed, Equality: Why We Can’t Wait, THE NATION, Dec. 9, 1991 at 733 (criticizing prominent authors Thomas Edsell and Mary Edsell for invoking “suburban” as a euphemism for white); James Tyson, Ad Agencies Walk Fine Line in Tapping Inner City Trends, CHRISTIAN SCI. MONITOR, Dec. 27, 1996 at 8 (asking whether large corporations can appeal to both Blacks and suburbia). But see Anne-Marie O’Connor, Learning to Look Past Race, L.A. TIMES, Aug. 25, 1999, at A1 (discussing multicultural suburb in Southern California).

5. See infra Part IIA-B.

6. See infra Part IIC.
Different, but equally important, misunderstandings exist among many commentators. Some commentators mistakenly assume that the experiences of Black middle-class suburbanites mirror that of similarly situated Whites. More broadly, commentators often assume that Black suburbanization destabilizes the "urban-as-Black" and "suburban-as-White" dichotomy. In this view, Black suburbanization provides powerful evidence that Blacks are no longer isolated in urban communities and that Whites no longer have sole claim to the advantages of suburban living.

This Article argues that Black suburbanization presents a more complex social phenomenon and, as such, adds another layer of complexity to America’s bewildering racial puzzle. It focuses on the commercial investment patterns in and around predominately Black suburbs as well as the phenomenon of commercial "disinvestment" in these suburbs. For purposes of this Article, "disinvestment" means an over-supply of "low-rent" or "down-market" uses and an under-supply of "high-rent" or "upscale-market" uses.

For example, in May 1995, the Wall Street Journal reported that a real estate developer received permission to build a truck stop, convenience store, and motel near a Black suburb in Atlanta, Georgia. That suburb, where home prices ranged from $500,000 to $1,000,000, is one of the most affluent Black neighborhoods in the country. Residents were surprised and angered that the

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7. See Stephan Thernstrom & Abigail Thernstrom, America in Black and White: One Nation, Indivisible 212-13 (1997) [hereinafter America in Black and White] (citing African-American Housing Authority chief as saying "suburbanization isn’t about race now, it’s about class"); Reader’s Digest Highlights Good News on Race, BUSINESS WIRE, Feb. 23, 1998, at 146 (citing Black migration to the suburbs as evidence that African-Americans continue to climb to white collar middle class). For the views of commentators that run counter to these, see infra Part II.A.

8. See America in Black and White, supra note 7, at 212, 213; Study on Racial Divide, (National Public Radio Broadcast, Mar. 2, 1998) (statement of Abigail Thernstrom) (“And that third great migration was blacks out into the suburbs, such that today a third of all blacks live in suburbia. So, Kerner Commission, lily white suburbs, ridiculous.”). A recent analysis of middle-class Black suburbanization does not suffer from either of these limitations. See Sheryll D. Cashin, Middle-Class Black Suburbs and the State of Integration: A Post-Integrationist Vision for Metropolitan America, 86 CORNELL L. REV. 729, 755-67, 771-74 (2001) (arguing that because middle-class Black suburbs fall short of the suburban ideal, even affluent Blacks might lose more than they gain by residing in all-Black suburbs, and proposing a rededication to enforcement of antidiscrimination laws as well as enhanced efforts towards regionalism in metropolitan areas).


10. See Vicki Ramsey Conwell, Backing south DeKalb: Will Nation’s Second Most Affluent Black Area Support Its Own?, ATLANTA J. & CONST., Dec. 26, 1997, at 1E (citing an Atlanta Regional Commission study noting that areas in south and southeast DeKalb have the
developer was given a permit and expressed frustration at not being able to attract upscale commercial development more consistent with the high income levels in their neighborhood. The residents fought the project and got the company’s permits suspended, but most observers agreed that the law was on the developer’s side.

Middle-class Blacks in other communities have also complained about the relative lack of private services available to them. Not only do Black suburbs have a more difficult time attracting vibrant and diverse commercial services, the evidence also suggests that when desirable development is proposed or constructed, these communities pay more for that development—in terms of public subsidies and exemptions from protective environmental regulations—than might be economically justified.

Commercial disinvestment in Black suburbs has important but largely unexamined consequences. Because of the difficulty in attracting vibrant and diverse commercial uses for collateral property, Black suburbs may have a difficult time acquiring and then retaining the vitality and status of authentic suburbs. Commercial disinvestment may also cause Black suburbs to function as

highest median income in DeKalb county and are home to the second-most affluent Black community in the nation); Ben Smith, South DeKalb Demanding More From Leaders, ATLANTA J. & CONST., Feb. 25, 1996, at 2C (also citing Atlanta Regional Commission study).


13. See JOE FEAGIN, LIVING WITH RACISM, 265 (1996); Kate Marquess, Redline May Be Going Online, ABA J., Aug. 2000, at 80. (describing allegedly discriminatory delivery practices in Black neighborhoods by one internet retailer); Dahleen Glanton, Linger Ling Lines of Discrimination, CHI. TRIB., Mar. 1, 1998, at C1 (noting that a solidly black-middle class neighborhood in Chicago has difficulty accessing private services such as pizza delivery, taxi service, and on-line grocery shopping); Mitchell Landsberg, An Island of Stability in a City of Impermanence, L.A. TIMES, Feb. 24, 2001, at B1 (noting that an affluent Black neighborhood in Los Angeles where home prices range from $300,000 to $800,000 lacks quality restaurants and shopping and has not yet been “discovered” by Starbucks); Sue McCallister, L.A.’s Hilltop Oasis, L.A. TIMES, Dec. 27, 1998, at K1 (noting the stagnant commercial projects and relative lack of high quality commercial development in an otherwise appealing and affluent area of Los Angeles); Patrick T. Reardon, Solid Citizens: Through Hard Work and Vigilance, Chatham Has Remained Strong, CHI. TRIB., June 7, 1998, at C12 (observing residents’ constant efforts to keep out additional liquor stores and attract a bookstore or coffee bar in the neighborhood); Douglas Shuit, 2 Macy’s in Crenshaw, Westwood are Closed, L.A. TIMES, Jan. 10, 1999, at B1; Rhonda Stewart, Living the Dream, EMERGE, Sept. 1999, at 54 (noting that affluent Black neighborhoods contain more liquor stores than jewelry stores and more used-merchandise stores than department stores).

14. See infra Part V.B.
This Article suggests that instead of destabilizing racial stereotypes, these Black suburbs may actually reinforce them. Whites and other non-Blacks will have a reference point for how their neighborhoods are different from and superior to Black neighborhoods—even those that are solidly middle- to upper-middle-class. The emerging research on commercial disinvestment thus challenges prevailing theories as to the social, political, and economic meaning of Black suburbanization.

This Article first traces the historical relationship between African-Americans and the suburbs. The first stage of Black suburbanization consisted of Blacks living outside central cities, but still within urban areas. The suburbs were spurred on mainly by job creation and population growth in major urban areas such as Chicago and Detroit. These neighborhoods possessed a few of the hallmarks of traditional suburbia, but they were also markedly more isolated, less affluent, and less exclusive than White suburban communities. The second major stage of Black suburbanization occurred in the 1970's in the aftermath of the Civil Rights Movement as Blacks began to move into formerly all-White suburbs. Many of the suburbs that gained a significant number of Black residents since 1970 are now predominately Black. Others are racially-mixed and struggle mightily to maintain racial balance. Finally, the most significant shift in Black suburbanization since 1970 is what I call the "third wave." In this phase, affluent Blacks have formed solidly middle-class, majority-Black communities.

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15. This term is borrowed from the work of sociologists David James and Edgar Thompson. See David James, The Racial Ghetto as a Race-Making Situation: The Effects of Residential Segregation on Racial Inequalities and Racial Identity, LAW & SOC. INQUIRY 407, 413 n.19 (1995); Edgar T. Thompson, The Plantation as a Race-Making Situation, in PLANTATION SOCIETIES, RACE RELATIONS AND THE SOUTH 115-17 (1975). Professor Thompson first developed and applied the concept. He conceptualized the slave plantation of the early nineteenth century as a "race-making situation." He explained that the plantation developed in order to provide a steady supply of staple crops for market. Competition dictated that labor costs be kept low. This prompted owners to recruit labor from around the world and then to place that labor under the control of white planters or their agents. In America, restrictions on the freedom of Blacks to move kept the labor supply stable. Additionally, the myth of the racial superiority of Whites and the racial inferiority of Blacks was developed as a supplemental way to control Black citizens and to influence Black identity formation.

Professor James extended this insight in his analysis of racial segregation in the late twentieth century. Specifically, he argued that Black ghettos, much like the Southern plantation, shape racial identities and racial attitudes (reinforcing the myth of White supremacy and Black inferiority) and operate to confine Blacks who seek upward mobility and assimilation. He suggested therefore that the Black ghetto is a race-making situation. This Article uses the term to refer to the way in which the modern Black suburbs described in this Article may subtly reinforce rather than reduce racial stigma and perpetuate rather than eliminate conditions of racial inequality. See infra Part V.
that bear many of the traditional hallmarks of suburbia. Lingering discrimination in housing markets combined with a rethinking of the value of integration has led many Black families to form suburban enclaves that are quite distinct from Black suburbs in earlier eras.

The Article then describes in more detail the nature of commercial disinvestment in two contemporary Black suburbs: Prince George’s County, Maryland, and south DeKalb, Georgia. These communities tend to contain sub-optimal levels of “low-rent” commercial uses and sub-optimal levels of “high-rent” commercial uses. These patterns of commercial use and investment seem surprising and unexpected in light of the high-income levels, neighborhood stability, and aesthetically attractive nature of these communities. Residents express displeasure, frustration, and bewilderment regarding the situation and have proposed a variety of solutions, none of which to date has substantially transformed the investment climate.

The Article then offers several explanations for commercial disinvestment in contemporary Black suburbs. These include: problems in the application of protective zoning; inefficient zoning laws and practices; the weight of prior investment decisions; demographic explanations; and what I call the “concurrent” and “independent” effects of race. Next, the Article discusses the negative social and economic effects of commercial disinvestments, including a sense of relative deprivation among Black suburbanites, economic impairment, and the functioning of these communities as “race-making situations.”

The broader themes of this section connect to two central currents in the legal and social science scholarship on race and class: first, the failure of ostensibly neutral laws (in this case, legislative zoning and other land-use doctrines) to function the same way for similarly situated Blacks as Whites. The second theory is the complex and nuanced interaction of race and class in the lives of middle-class Blacks.

16. It is important to note that I do not assume that Prince George’s County and south DeKalb are alike in all, or even in most respects simply because each is a majority-Black community. That essentialistic assumption would be flawed. Indeed, each community has its own unique sociological and historical features. Even so, the communities share sufficient demographic data (i.e., income levels, racial composition, migration patterns, etc.) to make them valid comparison subjects for purposes of this study. See infra Parts II.C, III.A–B, and IV.A & D.
18. See Ellis Cose, The Rage of a Privileged Class (1993); Feagin, supra note 13; (1996); Sam Fullwood, Waking from the Dream: My Life in the Black Middle Class
On a broad level, the conclusion suggests that commercial disinvestment presents a discomfiting challenge for affluent Blacks who seek refuge in suburbia. Selecting a predominately White suburb brings with it certain economic advantages, but also a degree of racial and cultural isolation. On the other hand, affluent Blacks who choose to live in contemporary Black suburbs described in this Article, while enjoying fewer barriers to entry and less racial isolation, must also contend with the downside economic risks associated with commercial disinvestment.

Furthermore, the conclusion discusses the normative implications of the analysis. The conclusion urges a multi-targeted approach to the problem, which includes greater attention to the nexus between land-use doctrines and optimal levels of commercial investment, renewed efforts to close the wealth-gap between Blacks and Whites, and greater scrutiny of the relationship between racial information and commercial investment decisions. Specifically, the Article urges more stringent enforcement of existing anti-discrimination and fair housing laws, regulatory and legislative efforts to eliminate predatory lending practices, and governmental attention to reducing the irrational influence of racial information in the valuation of the tangible and intangible assets of Black suburbs.

II. BLACKS AND SUBURBANIZATION: HISTORICAL PATTERNS

A. Ring Suburbs, 1950–1970

The seminal social science scholarship on Black suburbanization was conducted most notably by sociologists Reynolds Farley and Harold Rose. Their research revealed that the first Black suburbs were comprised of Blacks living outside central cities, but within large urban systems. Farley identified two suburban areas that fit within this general category. The first area developed at or near employment centers. Proximity to jobs seemed to be a key factor in


the growth of these areas. These suburbs included areas such as Yonkers, New York and East Cleveland, Ohio.\textsuperscript{20} The second type was located in outer rings of large cities. Areas such as Robbins, Illinois and East Chicago Heights, Illinois were typical.\textsuperscript{21} In many cases, public housing and jobs drew residents. Farley identified a third type of suburb that included new, single-family housing built exclusively for Blacks in areas such as Richmond Heights, Florida, Hollydale, Ohio, and Inkster, Michigan.\textsuperscript{22}

Two general trends spurred the creation of many of these neighborhoods. One was job creation outside the central city. Rose noted that Black suburbanization emanated from what he called "industrial or dormitory suburbs."\textsuperscript{23} Another important factor was the enormous population growth of Blacks in large cities such as Detroit, Chicago, and Cleveland.\textsuperscript{24} Rose noted that by 1970, the nation's metropolitan rings were the place of residence of 3.5 million Blacks, an increase of almost one million during the decade.\textsuperscript{25} Sociologist John Stahura noted that this trend indicated that Black suburban expansion tended to follow political boundaries.\textsuperscript{26} Thus, most Black suburbs resulted from a "spillover" phenomenon, in which burgeoning Black populations expanded to adjacent areas. Once these neighborhoods became majority-Black, a dual and segregated housing market further shaped their collective character.\textsuperscript{27} Through the practices of "steering" and "redlining," Whites signaled to purchasers and investors that these areas were desirable for Blacks, but unsuitable for Whites.\textsuperscript{28}

Exclusionary zoning restricted the housing choices of Blacks to areas adjacent to central cities and thus multiplied the spillover effect. For example, Stahura noted that predominately White sub-

\textsuperscript{20} Farley, The Changing Distribution, supra note 19, at 525.
\textsuperscript{21} Id.
\textsuperscript{22} Id.
\textsuperscript{23} Rose, Black Suburbanization, supra note 19, at 4.
\textsuperscript{24} Id. at 2-3.
\textsuperscript{25} Id. at 2.
\textsuperscript{26} John Stahura, Determinants of Change in the Distribution of Blacks across Suburbs, 24 Soc. Q. 421, 422 (1983) [hereinafter Stahura, Determinants of Change].
\textsuperscript{27} William Frey, Central City White Flight: Racial and Non-Racial Causes, 44 Am. Soc. Rev. 425, 426 (1979) [hereinafter Frey, Central City White Flight]; Stahura, Determinants of Change, supra note 26, at 422.
urban municipalities often rezoned areas within their jurisdiction to make these areas unaffordable or unattractive to Black residents.\textsuperscript{29} Exclusionary zoning had the effect of pricing some properties out of the market for Blacks and isolating Black neighborhoods by encircling them with nuisance uses.\textsuperscript{30}

Scholars studying these suburbs noticed contradictions. On the one hand, these areas were peripheral to central cities. Peripheral location has long been a hallmark of suburban living. Additionally, the existence of these neighborhoods indicated that Blacks were making economic progress.\textsuperscript{31} However, with some exceptions,\textsuperscript{32} these neighborhoods were closer to the central city than White suburbs and they contained older homes, denser development, smaller lots, and fewer convenient services.\textsuperscript{33} Using a variety of social science methods, these early scholars revealed a significant gap between the White suburban ideal and the Black suburban reality.\textsuperscript{34}

In addition to providing a positive analysis of Black suburbanization, these scholars probed its normative implications. For example, Rose questioned whether Black suburbanization meant access to an improved quality of life for Blacks or maintenance of the status quo.\textsuperscript{35} Farley suggested that despite economic gains and some decentralization of Blacks, the residential segregation patterns of Blacks and Whites would likely remain stable.\textsuperscript{36} Stahura queried whether Blacks' housing choices would remain limited to existing Black enclaves or expand to White suburbs.\textsuperscript{37}

With the twin benefits of time and additional data, later social scientists assessed the remnants of this first major wave of Black suburbanization. Sociologist Gary Orfeld observed that Black suburbanization translated into greater choice and mobility in housing for Blacks, which carried certain psychological and social

\begin{itemize}
\item \textsuperscript{29} Id.
\item \textsuperscript{30} See Samuel Kaplan, "Them"—Blacks in Suburbia, 3 N.Y. Aff. 25–30 (1976) (noting that white planning boards and governing bodies "have permitted shopping centers, commercial strips, 'non-conforming' gas stations and industrial parks to create noxious no-man zones between white and black neighborhoods, with the black, of course, getting the worst of the pollution and traffic") [hereinafter Kaplan, Blacks in Suburbia].
\item \textsuperscript{31} ROSE, BLACK SUBURBANIZATION, supra note 19, at 262; Farley, The Changing Distribution, supra note 19, at 527.
\item \textsuperscript{32} ROSE, BLACK SUBURBANIZATION, supra note 19, at 16.
\item \textsuperscript{33} Farley, The Changing Distribution, supra note 19, at 525.
\item \textsuperscript{34} ROSE, BLACK SUBURBANIZATION, supra note 19, at 261–63.
\item \textsuperscript{35} Id. at 261–62.
\item \textsuperscript{36} Farley, The Changing Distribution, supra note 19, at 527.
\item \textsuperscript{37} Stahura, Determinants of Change, supra note 26, at 432.
\end{itemize}
benefits.\textsuperscript{38} As Orfeld noted, "[f]or a black family living in the elite suburbs of Washington, D.C. or Detroit or Los Angeles, living as accepted members of one of the nation's most affluent communities, housing segregation and the ghetto system might seem little more than a remnant of an unfortunate past, like the World War II relocation camps for the nation's amazingly successful Japanese-American community."\textsuperscript{39} Additionally, the expansion of choices also had economic benefits because it provided more options for Blacks in education and employment.\textsuperscript{40}

On the more ominous side, Orfeld and others observed fundamental differences between Black and White suburbs. For example, Black suburbanization was still relatively isolated, occurring as it did in areas contiguous to central cities. Sociologists Douglass Massey and Nancy Denton, relying on data gathered before and during the 1970s, concluded that Black suburbanization was largely attributable to the spillover effect mentioned earlier in this Article.\textsuperscript{41} They cited communities of Chillum, Suitland, and Hillcrest Heights in Prince George's County, Maryland as specific examples.\textsuperscript{42} All of these communities grew as Blacks moved out of central Washington, D.C. In fact, Orfeld noted that almost nine percent of the total national growth of Black suburban residents took place in Prince George's County.\textsuperscript{43}

Black suburbs were also less affluent and exclusive. As Massey and Denton noted, Black suburbs "tend to be older areas of relatively low socioeconomic status and high population density."\textsuperscript{44} Orfeld wrote that the communities were "not new and were not on the periphery of growth, but they were often older communities with a declining housing stock, shrinking school systems, and weakening fiscal situations."\textsuperscript{45} Even more importantly, Orfeld observed that very few Blacks in this first current of suburbanization actually became property owners—instead many continued to rent.\textsuperscript{46} This trend has two negative effects. First, Black suburbanites

\textsuperscript{38} Gary Orfeld, \textit{Minorities and Suburbanization}, in \textit{Critical Perspectives on Housing}, 221, 223, (Bratt et al. eds., 1986) [hereinafter Orfeld, \textit{Minorities and Suburbanization}].
\textsuperscript{39} \textit{Id.} at 222
\textsuperscript{41} \textit{See supra notes} 26–28.
\textsuperscript{43} Orfeld, \textit{Minorities and Suburbanization}, \textit{supra} note 38, at 224.
\textsuperscript{44} AMERICAN APARTHEID, \textit{supra} note 42, at 69.
\textsuperscript{45} Orfeld, \textit{Minorities and Suburbanization}, \textit{supra} note 38, at 224.
\textsuperscript{46} \textit{Id.} at 225.
gained less financially than White suburbanites did. Second, planners were more likely to place low-income, public housing in these communities. Scholars like Orfeld and Massey posited that, at least in some cases, structural and economic forces had transformed these communities into imitations of the inner-city ghettos their residents hoped to flee.

B. Formerly All-White Suburbs, 1970–Present

The next wave of Black movement into the suburbs occurred when significant numbers of Blacks began to penetrate formerly all-White suburbs. All-White suburbs grew rapidly after World War II, when a combination of sociological and market forces seduced White Americans to the suburban ideal. In his important book, Crabgrass Frontier: The Suburbanization of the United States, Columbia University historian Kenneth T. Jackson argues that racial prejudice and the relatively cheap cost of land caused Whites to migrate to the suburbs between 1945 and 1973. Whites feared that Black migration from the South would lead to interracial sex and interracial violence. Economic factors made large-scale White movement viable. Indeed, prior to, and even after, the passage and enforcement of fair housing laws, there was a concerted and deliberate effort on the part of White residents and realtors to keep Blacks out of all-White suburbs. For example, sociologist

47. See American Apartheid, supra note 42, at 70; Orfeld, Minorities and Suburbanization, supra note 38, at 225; see also Kaplan, Blacks in Suburbia, supra note 30, at 27 ("Many of the towns have become what planners now label 'slurbs'—the slums of suburbia.").
48. See Crabgrass Frontier, supra note 1, at 238–45.
49. See id. at 238–45; see also Frey, Central City White Flight, supra note 27, at 426.
50. See Crabgrass Frontier, supra note 1, at 289–90.
51. See id. at 290–96 (citing high per capita wealth, inexpensive land, inexpensive transport, the balloon frame house, government subsidies, and the capitalist system as the most important economic factors leading to the suburbanization of America); see also Vicki Been, Surveying Law and Borders: Comment on Professor Jerry Frug's The Geography of Community, 48 STAN. L. REV. 1109 (1196) (discussing the role of economic factors in shaping the suburbs, including increased living space, tax savings, and cheaper child-care options).
52. The developer of Levittown, New York, the pioneering and paradigmatic American suburb, decided from the start to admit only Whites. A Whites-only policy was included in clause 25 of the standard lease for the houses there. See Bruce Lambert, At 50, Levittown Contends With Its Legacy Of Bias, N.Y. TIMES, Dec. 29, 1997, at B10. In some cases white suburbanization actually resulted in the displacement of existing Black residents who had already been living in semi-rural areas desired by whites! See Larry Long & Diana DeAre, The Suburbanization of Blacks, AM. DEMOGRAPHICS, Sept. 1981, at 20 (suggesting that perhaps
Samuel Kaplan's research revealed these practices at an upstate New York realty company during the early to mid-'60s:

According to Mrs. Rosalie Jordan, the former owner of one of Port's most successful agencies, Town and Country Realty, local brokers had an "understanding" that if a black person appeared at an agency the broker on duty would somehow convey the fact over the phone to the owner of the house on the market so they could make up an excuse why they could not show it. Brokers also were supposed to notify other agencies that a black was looking for a house in Port so that they could take appropriate evasive steps. In one instance, a broker in one agency, upon seeing a black couple approach the office, avoided all subterfuge and simply locked herself in the bathroom.54

Lending institutions also discriminated against potential Black customers by using unfair lending criteria and accepting restrictive racial covenants.55 The result was Black exclusion from the great, post-World War II march to suburbia.56

Given that racial prejudice played an important role in the creation and maintenance of these suburbs, it is not surprising that Blacks moved in only after federal, state, and local governments passed and enforced anti-discrimination laws.57 For instance, the 1960s era Civil Rights Act and Voting Rights Act led to the economic and educational gains necessary to put Blacks in a financial position to even consider purchasing homes in suburban commu-
According to U.S. Census figures, the Black middle class more than doubled between 1965 and 1974. Another U.S. Census study estimated that from 1967 to 1991, the proportion of black households earning $50,000 or more rose from 5.2 to 12.1 percent. Affirmative action and other inclusive policies and practices led to the acceleration of Blacks into fields of law, medicine, academia, and government—professions leading to middle-class status. Additionally, the enactment of fair housing laws dismantled the most blatant forms of housing discrimination. The Federal Fair Housing Act of 1968 made it illegal to discriminate in the sale or rental of housing. The Civil Rights Act of 1866 and the Supreme Court's subsequent broad interpretation of its reach barred all racial discrimination, public and private, in the sale or rental of property. These laws carried with them the promise of open housing. Prospects for future mobility for Blacks seemed favorable.

Despite the hope created by these new legal measures, many Blacks remained reluctant to believe that they could move into all-White suburbs without incident. Initial reports confirmed their suspicions. Many Black families who first ventured into all-White suburbs were met with open hostility and, in many cases, violence. Sometimes Whites employed more subtle techniques to
exclude Blacks from certain suburbs and to cleverly confine them to others. "Racial steering," the practice of real estate agents directing Blacks to "[B]lack communities" and Whites to "all-[W]hite communities," was widespread. 66 Whites and Blacks of similar economic means were shown homes in different neighborhoods. 67 In other cases, White residents of an all-White neighborhood were encouraged to forego putting up "For Sale" signs so that it would not be readily apparent to Blacks that homes in that neighborhood were for sale. 68 Another similar example of race-based exclusion occurred when owners were asked to take their respective homes completely off the market in order to shield them from Black demand. 69

Once one Black family made it to a particular suburb, real estate agents would then refer to that neighborhood as "busted." 70 A term known as "blockbusting" 71 referred to a wide variety of activities directed at influencing subsequent racial turnover. In many cases, agents engaged in "panic peddling." 72 This practice involved, among other things, aggressive and unsolicited offers by real estate agents to list homes in areas that might be or were undergoing racial change. These communications were sometimes in the form of newsletters with messages such as: "KNOW YOUR NEIGHBORS" or "WE THINK YOU MAY WANT A FRIEND FOR A NEIGHBOR." 73 In addition to solicitations, some agents would deliberately create unpleasant conditions in a suburb and then cite those situations as reasons why Whites ought to flee. 74 The economic incentive for panic peddling was the speculation that an agent could get a White to sell at a low price (discounted due to Black entry) and then turn around and sell the same property to a Black person at a higher price. 75 Once an area reached a racial "tipping point," the exodus of Whites out of the suburb acceler-
Demographic research studies have shown that Whites will tend to leave a neighborhood once the Black population exceeds a single-digit percentage.\textsuperscript{77} The historical legacy of these events is varied. Many of the suburbs that gained a significant number of Black residents since 1970 are now predominately Black. Typical examples include Bellwood, Illinois and Prince George's County, Maryland. Bellwood, a suburb outside of Chicago, contained a fifty-eight percent Black population in 1980.\textsuperscript{78} In 1990, the Black population had grown to ninety percent and in 1998 it was still overwhelmingly Black.\textsuperscript{79} Prince Georges County, Maryland, a suburb of Washington, D.C., contained a Black population of 50.7\% in 1992\textsuperscript{80} and experts predicted that it would move up to sixty-one percent by the end of the decade.\textsuperscript{81} That prediction proved largely accurate, as the latest Census figures confirm that the Black majority now stands at sixty-three percent.\textsuperscript{82}

Bellwood and Prince George's County reflect the heterogeneity of many of the predominately-Black suburbs. Bellwood is struggling with rising crime rates and a declining tax base.\textsuperscript{83} The community lost roughly forty percent of its tax base between 1972 and 1990.\textsuperscript{84} Prince George's County, on the other hand, has grown

\begin{itemize}
\item[76.] Zuch, 1045 F. Supp., at 1033.
\item[78.] Andrew Fegelman, City Segregation Moves to Suburbs: Blacks Frozen out of Some Areas, Chi. Trib., Feb. 27, 1991, at Cl.
\item[79.] Id. The most recent Census figures show that Bellwood's population is 81.73\% Black. Census 2000, at http://www.suntimes.com/census/cities/bellwood.html (last visited March 13, 2002).
\item[82.] The most recent Census figures show that Prince George's County has a Black population of 62.7\%. Prince George's County Quick Facts from the U.S. Census Bureau, at http://quickfacts.census.gov/qfd/states/24/24033.html (last visited March 13, 2002); see also Frances X. Clines, Blacks Rise as Power in Washington Suburb, N.Y. Times, July 1, 2001, at A14.
\item[84.] Id.
\end{itemize}
richer as it has grown more Black. The suburb contains large numbers of elegantly-named subdivisions with single-family homes for middle and upper-middle-income families. Composed of doctors, lawyers, and high-level federal bureaucrats, Prince George’s County has been referred to as, “the closest thing to utopia that Black middle-class families could find in America.” In 1997, the median family income was $63,745.

In contrast to Bellwood and Prince George’s County, some of the formerly all-White suburbs that gained a significant number of Blacks since 1970 are now racially mixed. Interestingly, these suburbs are either losing more White residents than they are gaining or are undergoing extraordinary measures to halt White flight. Oak Park, Illinois, once an all-White neighborhood, now contains approximately eighteen to twenty percent Blacks. Shaker Heights, Ohio contains a thirty percent Black population. The White population of Matteson, Illinois was eighty-four percent in 1980, fifty percent in 1990 and is expected to fall to thirty-two percent in 2002.

What White Oak Park, Shaker Heights, and Matteson have in common is that they all have adopted interventionist strategies to stimulate White demand for homes in their respective communities. Matteson, for example, has implemented “affirmative marketing.” Advertisements target Whites and White agents are encouraged to show homes on the market to Whites.

White Oak Park has held seminars for residents and agents in which they are taken on tours around the neighborhood and the schools to let Whites see for themselves that quality has remained high. Oak Park’s trustees issued a 1973 policy that states: “We must not succumb to Big-City style residential patterns. A free and open community—equal and diverse—can only be achieved through

85. Michael Fletcher, Over 30 Years, the Washington region’s Black Population Has Been Redefined By Its Education And Affluence, WASH. POST, Feb. 1, 1998, at W11.
86. Dent, supra note 80, at 20. For a more comprehensive picture of Prince George’ County, see HOWARD KOHN, WE HAD A DREAM: A TALE OF THE STRUGGLES OF INTEGRATION IN AMERICA (1998).
87. Clines, supra note 82, at A14.
89. Firstman, supra note 88, at 7.
92. Shipler, supra note 88, at 514.
dispersal, a mixture of racial and ethnic groups throughout the Village."95 In Shaker Heights, brokers receive a bonus if they sell a house to a member of an underepresented group.94 Residents who move into an area where their race is in the overwhelming minority can apply for low-interest loans.96

These communities have had varying levels of success in maintaining a racial balance. Oak Park appears to have been largely successful in its efforts to halt White flight. A large majority of residents are White and that trend is expected to hold in the 2000 Census.96 In Shaker Heights, sales to Whites increased from forty-nine percent to sixty-nine percent between 1984 and 1988.97 However, a large majority of today's residents are Black.98 Racial demographics in Matteson, on the other hand, continue to change. A recent television documentary about the town reported that after a year of Matteson's affirmative marketing campaign, only a few Whites had moved in and a few dozen more had left.99 The trend seems to be continuing, despite the lack of evidence suggesting that the quality of life has declined in Matteson.100

While many middle-class Blacks call the suburbs "home," many now live either in mostly-Black suburbs or in racially-mixed suburbs where market intervention seems necessary to maintain a delicate racial balance. The prediction that the fair housing laws would create authentically integrated suburban living for most middle-class Blacks has simply not materialized.101 This trend has been exacerbated by what I call the "third wave" of Black suburbanization.

93. Id. at 515.
94. Shaker Heights also banned the use of "for sale" signs outside houses and instituted a public-private partnership to provide financial incentives, including home loans to promote integration. Firstman, supra note 88, at 7.
95. Angela Townsend, Cities Help Sell Homes, Racial Mix Funds Lend Integration Support, CLEVELAND PLAIN DEALER, June 11, 2000 at 1B (quoting a local official as saying, "This subject is far too important to be left to market forces."); Guidelines Determine How Funds Are Used, CLEVELAND PLAIN DEALER, June 11, 2000, at 4B.
97. Firstman, supra note 88, at 8.
98. Patrick O'Donnell, Ludlow's New Mix, CLEVELAND PLAIN DEALER, July 20, 2000, at 1L.
100. Id.
C. The Third Wave: Modern Black Suburbs, 1985–Present

Contemporary Black suburban neighborhoods are different from their predecessors in important ways. First, they are relatively new. Most of the development occurred in the late eighties and throughout the nineties.\footnote{102} Second, they are more upscale. Lots are larger and home prices are usually higher than the market average.\footnote{103} Third, unlike Oak Park and Shaker Heights, these areas have been predominately Black from their inception.\footnote{104} More fundamentally, they display some of the traditional hallmarks of suburbia, including a peripheral location, low density, and architectural similarity.\footnote{105}

Marycrest, Illinois, Mitchellville, Maryland, and south DeKalb, Georgia are among the residential areas that constitute this "third wave" of Black suburbanization. Marycrest is located in the Southwest Country Club Hills area of Chicago. Recent Census figures indicate an average household income of $48,058.\footnote{106} In 1992, home prices started at $170,000 and ran as high as $250,000,\footnote{107} earning it praise as "the first really upscale Black suburban community in the Chicagoland area."\footnote{108}

Mitchellville, Maryland, a suburb outside of Washington, D.C., is among the nation's top ten most affluent Black communities, according to the most recent Census.\footnote{109} The median family income was $70,092 in 1990. Currently, almost half of the residents have bachelors or advanced degrees.\footnote{110} Mitchellville is "a neighborhood of sumptuous houses studded with huge picture windows, two- and
three-car garages filled with BMWs and . . . lushly manicured emerald green lawns ringed with colorful flower beds.” Mitchellville is almost two-thirds Black, according to the most recent census figures. Eighty-six percent of residents own their own homes.

South DeKalb consists of the southern portion of DeKalb County, Georgia, at it contains one of the most affluent Black communities in the United States. Home prices begin at $90,000 and soar to over one million dollars. The subdivisions have names that evoke affluent lifestyles and bucolic images, such as “Harmony Lakes” and “Bell Air Estates.” Most of the two-income families are headed by college-educated parents who are professionals in business, politics, and government. In one area of south DeKalb, seventy-eight percent of the residents hold white-collar jobs. The average for the typical neighborhood in Atlanta is sixty-one percent. The median household wealth in one census tract of south DeKalb is $99,815. The median household wealth for a typical Atlanta neighborhood is $66,211.

A variety of economic and social forces drove the growth of this “third wave.” No doubt, the remarkable recent growth in the Black middle-class plays an important role. This growth helped stimulate demand. Many middle- and upper-middle class families desire to live in neighborhoods that reflect their income levels and class identity. The growth of the Black middle-class also nurtures crucial informational networks. Demographers also attribute this most recent rise in Black suburbanization to substantial levels of Black migration to the South.

The recent sustained expansion in the U.S. economy has played a role. A booming stock market and low interest rates produced

111. Id.
112. Id.
113. Id.
115. Id.
116. Id.
117. Id.
118. Id.
119. Id.
120. Id.
121. Id.
122. Stewart, supra note 13, at 50 (noting that in a little more than thirty years, the percentage of Blacks making between $25,000 and $50,000 has risen from twenty-five percent to forty-six percent). Yet, not all Blacks covet a move to the suburbs. See Black Flight A Myth, USA TODAY, Oct. 23, 1997, at A1.
123. See Courtney Ronan, Blacks Moving South in Record Numbers, REALTY TIMES, March 9, 1998, at 1.
the necessary capital. An active home construction market boosted housing inventories.\textsuperscript{124} Expansion in the residential credit market and government efforts to increase the number of minority homeowners have made home loans more readily available.\textsuperscript{125} The favorable economic conditions in the South have been particularly important.\textsuperscript{126}

The growth of these new Black neighborhoods is due not only to favorable economic conditions, but also to lingering subtle discrimination in housing markets and to racial attitudes generally. Subtle forms of steering continue. In the Chicago area, some suburban officials claim that real estate agents still tend to guide White home buyers to White areas and Blacks to Black neighborhoods.\textsuperscript{127} White officials in some White suburbs have indicated to agents that they do not want Blacks moving in.\textsuperscript{128} Additionally, once large numbers of Blacks started buying homes in these areas, White demand for them decreased.\textsuperscript{129}

Perhaps the most important impetus for the growth of contemporary Black suburbs lies in a rethinking of the value of racial integration. Some middle-class Blacks are making an affirmative decision to live in areas where they believe they and their children will be more comfortable. Black social and professional networks are more accessible. Residents contend that in these neighborhoods they are much less fearful of encounters with police and less likely to have unpleasant interactions with White neighbors.\textsuperscript{130} As one Black professional put it, "I don’t want to come home and always have my guard up."\textsuperscript{131} A resident of Marycrest reflected, "[t]he biggest plus is what I can give my kids. Sure they can see [black professionals and other successful role models] on the Cosby show. But this way they can feel it and know that it’s real and attainable."\textsuperscript{132} Residents also express more comfort in their homes and neighborhoods from an investment standpoint. They believe the

\begin{itemize}
\item \textsuperscript{124} \textit{Id.}
\item \textsuperscript{126} Ronan, \textit{ supra note 123}, at 1.
\item \textsuperscript{127} \textit{NPR Morning Edition: Chicago Segregation Increasing} (NPR radio broadcast, Apr. 20, 1998).
\item \textsuperscript{128} \textit{Id.}
\item \textsuperscript{129} Dent, \textit{ supra note 80}.
\item \textsuperscript{130} \textit{Id.}
\item \textsuperscript{131} \textit{Id.} at 20.
\item \textsuperscript{132} Poe, \textit{ supra note 104}, at C1.
\end{itemize}
neighborhoods will not be prone to the phenomenon of "White flight" and attendant instability.\textsuperscript{133}

Some observers cheer the existence of these neighborhoods as examples of how American society has improved and matured.\textsuperscript{134} These areas give middle- and upper-middle-class Blacks more housing choices. They also offer greater residential exclusivity and affluence than ever before. More broadly, these neighborhoods seem to represent for some an example of the way the American Dream can exist for middle-class Blacks as it exists for other racial and ethnic groups. Social and economic advancement translates to residential security, comfort, and peace of mind.

Others believe that the trend is more problematic than promising. Integrationists worry that the emergence of these neighborhoods indicates that America has forsaken a shared experience regarding one of our most important decisions: where we live and raise our families.\textsuperscript{135} Black community activists voice concerns over the dispersion of political and economic power that might accompany mass movement from urban areas to the suburbs.\textsuperscript{136}

Regardless of one’s views on the normative implications of this newest wave of Black middle-class suburbanization,\textsuperscript{137} the problem of commercial disinvestment in predominately Black suburbs is noticeable and troubling. It is to this problem that the Article now turns.

\begin{itemize}
\item \textsuperscript{133} Id.
\item \textsuperscript{134} Poe, supra note 104, at C1 (quoting a sociologist who links the phenomenon to pride in Black heritage and culture); Dent, supra note 80, at 21 (quoting an observer as suggesting that the new suburbs reflect the ability of Blacks to "control [their] own destiny.").
\item \textsuperscript{135} Tamar Jacoby, The Next Reconstruction, New Republic, June 22, 1998, at 20. (lamenting that in Atlanta, although both Blacks and Whites live on tree-lined streets and attend private schools, the streets and schools are “color-coded—now voluntarily so”).
\item \textsuperscript{136} Poe, supra note 104, at C1 (quoting a political party activist who contends that Blacks lose power when they move to suburbs, even to those suburbs that have a large number of Blacks).
\item \textsuperscript{137} See Cashin, supra note 8, at 734–38 (surveying various normative theories offered to justify these communities, including Black separatism, Black classism, and localist theories).
\end{itemize}
III. THE PROBLEM OF COMMERCIAL DISINVESTMENT IN MODERN BLACK SUBURBS

A. Sub-Optimal Levels of “Low-Rent” Commercial Uses

A substantial body of evidence suggests that contemporary Black suburbs contain excessive levels of “low-rent,” or “down-market,” commercial development. Residents frequently voice concern over the relatively large number of fast-food restaurants, low-budget retail outlets, auto repair shops, and strip malls located near their homes. These businesses are not entirely unwanted. Obviously, they satisfy an extant demand for goods and services. It is the perceived over-saturation of low-rent retail businesses, coupled with an apparent under-supply of “high-rent” or “upscale-market” retail businesses that give rise to complaints among these suburbanites.

“Much like poor inner-city areas, Prince George’s County has more liquor stores than jewelry stores, more used merchandise stores than department stores.” Residents express continuing disappointment over the presence of so many down-market businesses in the county. A review of news reports from the Washington Post and other newspapers reveals the long-standing nature of the frustration.

138. See infra notes 140-55 and accompanying text.

139. See infra notes 141-55 and accompanying text.

140. Stewart, supra note 13, at 50.

141. Chris Baker, Prince George’s County, Md., Hopes Arts Plan Revitalizes Area, Wash. Post, May 25, 2001, at B5 (“The towns [in upper Prince George’s County] are home primarily to used-car lots, vacant storefronts, and small businesses . . . .”); Dent, supra note 80, at 18; David Montgomery, Some in Lake Arbor Mobilize to Take Out Unwanted Carryout, Wash. Post, Aug. 29, 1993, at B1 (“The Largo Center was good enough for an auto parts store, residents observe wryly, but not a bookstore.”); Rudolph A. Pyatt, Jr., It’s Retail Quality, not Quantity that Sells in Prince George’s, Wash. Post, June 8, 1998, at M1; Rudolph A. Pyatt, Prince George’s Missing Centre of Gravity, Wash. Post, Apr. 20, 2000, at E3 (noting several retail centers close to a proposed new center, but also noting that those centers contain limited merchandise choices); Rudolph A. Pyatt, Proposed Mall Might Entice Fancy Stores to Stop Discounting Prince George’s County, Wash. Post, Jan. 22, 1998, at E3; Michelle Singletary, Hoping to Lure Restaurants to Hungry Areas, Wash. Post, Mar. 10, 1999, at M5 (noting “too many areas of [Prince George’s] county that are starving for restaurants that don’t have yellow arches with double burger combo meals or a taco-craved Chihuahua as their pitchman”); Jackie Spinner, Both Sides Say Debate on Harbor not Racial, Wash. Post, Apr. 26, 1998 at B1 (“What they [Black residents] see going up in their neighborhoods is a glut of strip malls, fast-food restaurants and low-budget retail outlets.”); Jackie Spinner, Resort Plan Finds Strong Support Close to Home, Wash. Post, Feb. 23, 1998, at D3 (noting that “high-end retail and restaurants . . . have eluded” Prince George’s County); Readers Offer Advice on Issues, Wash. Post, Dec. 31, 1998, at M1 (containing reader editorials citing the large number of strip-malls); Jackie Spinner, Selling Top Shops on Moving to County, Wash. Post, July 30, 1998, at F4; Stephanie Stoughton, The Decline and Fall of a Mall, Wash. Post, Aug. 4, 1999, at M14 (noting that anchor tenant in the Landover Mall, J.C. Penny, recently became an outlet store,
Much the same is true in south DeKalb. At one point, the proliferation of "low-rent" commercial outlets had become so acute that residents referred to the retail and business environment as a "flea-market economy." An article in the Atlanta Journal and Constitution noted that south DeKalb has "an abundance "fast-food restaurants, pawn shops, and auto-parts stores." The perception that south DeKalb was becoming an attractive site for down-market land uses crystalized in 1995 when the Quik-Trip Corporation obtained a permit to build a truck-stop in the middle of an affluent Black area of south DeKalb. The decision ignited a protest, with some observers noting that the area contained an overabundance of check-cashing businesses, pawn shops, and low-budget hotels. The protests resulted in the withdrawal of the permit. A regular gas station was built on the site.

The overabundance of low-rent commercial establishments raises several immediate concerns for residents. First, they complain about aesthetics, believing that oversupply detracts from the carrying discounted items); Stephanie Stoughton, Williams Shops D. C. to Retailers, WASH. POST, May 27, 1999, at E1 (noting that politicians and county residents complain about the lack of quality retail development); Avis Thomas-Lester, Fleeing Residents Cite County's Shortcomings, WASH. POST, June 21, 2001, at T8 (noting that residents complain about the lack of fine dining and quality retail). See generally Leon N. Wynter, Black Suburb Rallies to Halt Truck Stop, WALL ST. J. Nov. 9, 1995, at B1 (referring to the tendency to place only low-rent developments in black neighborhoods). The extensive collection of news reports and other accounts cited in notes 127-70 and elsewhere in this Article most assuredly do not constitute a formal quantitative study. However, these reports and accounts provide facts which strongly suggest that commercial investment in Prince George's County and south DeKalb is not optimal.

142. Ben Smith, DeKalb Diversifying into a Racial Rainbow, ATLANTA J. & CONST., Mar 16, 2000, at 1A (noting residents' dissatisfaction with quality of commercial development); DeKalb Black and White in Their Own Words, ATLANTA J. & CONST., Apr. 4, 1993, at D6 (referring to the construction of a low-budget motel on Candler Road in south DeKalb County).


144. Hollis Towns, City Without Limits: The Boom in South DeKalb, ATLANTA J. & CONST. July 14, 1997, at 7E.


147. Ben Smith, Trucking Facility Coming to DeKalb, ATLANTA J. & CONST., Mar. 27, 1999, at 2G (noting that public opposition forced QuickTrip to build a standard gas station on the site instead of proposed truck stop and motel).
appearance of their neighborhoods.\textsuperscript{148} Second, residents fear that uncontrolled development leads to high levels of traffic congestion.\textsuperscript{149} Third, there is concern that the proliferation of these businesses makes it more difficult to attract "high rent" commercial businesses.\textsuperscript{150}

B. Sub-Optimal Levels of "High-Rent" Commercial Uses

The rate of "high-rent," or "upscale-market" commercial development in many contemporary Black suburbs ranges from sluggish to non-existent. Residents bemoan, with a mixture of bewilderment, frustration, and embarrassment, the relative lack of high quality restaurants, retail stores, and other commercial entertainment outlets.\textsuperscript{151} One observer of Mitchellville, Maryland notes, "[t]he Starbuck's coffee shops, Barnes & Noble bookstores, and even bagel shops that are ubiquitous in most trendy neighborhoods are nowhere to be found."\textsuperscript{152} One resident of Prince George's County asserts, "[w]e should not have to drive to Virginia
for a computer store, a bookstore, specialty shops. We should have them here." Another resident of the County wrote in an editorial to the Washington Post: "[w]e have malls, yes, but no Nordstrom, Macy's, Bloomingdale's. I go to Montgomery to shop, to Annapolis, to Columbia. Why? They have the stores I want." Residents of south DeKalb voice similar complaints.

The relative lack of high-rent development in the suburbs of Prince George's County and south DeKalb is intriguing when juxtaposed against the rising housing market and income levels in these communities. Prince George's County is widely recognized as the most affluent African-American community in the country. Seven of the nation's ten most affluent Black communities are in the County. Prince George's median income exceeds the national median by more than twenty-five percent. The county has an effective buying income of thirteen billion dollars according to some estimates. Peripheral areas of Prince George's County have

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155. Alfred Charles, Payback Due, Say Jones' Backers, ATLANTA J. & CONST., Aug. 13, 2000, at 5F ("Residents who live in south DeKalb have grumbled for years that, despite a growing base of affluent homeowners—one of the largest concentrations of middle-income blacks in that nation—they have been denied the restaurants, entertainment facilities and major retailers that are common in white neighborhoods with similar income levels."); Nathaniel W. Cook, Protest: High Density Plans Resisted, ATLANTA J. & CONST., April 8, 1999, at 1A (residents noting that the area needs to shift emphasis away from residential and toward commercial development); Julie B. Hairston, CEO Spotlight: C. David Moody Is Trying to Build South Dekalb, ATLANTA BUS. CHRON., Sept. 26, 1997, at 10A (a Black developer and resident noting that the county needs restaurants, major franchises, and a major hotel); Ernest Holsendolph, Uplifting South DeKalb Web Site Up Soon, ATLANTA J. & CONST., Sept. 5, 1999, at 2Q (noting that South DeKalb has lost many prominent retail businesses over the last ten years); Ben Smith III, DeKalb Diversifying into a Racial Rainbow, ATLANTA J. & CONST., Mar. 16, 2000, at A1 (noting that a majority of residents in South DeKalb rated the selection of department stores as fair to poor and nearly two-thirds found decent restaurants scarce); Ben Smith III, DeKalb Mall Faces Crises With J.C. Penny Departure, ATLANTA J. & CONST., May 6, 1999, at 1JA (noting the widely-held belief that shopping centers frequented by African-Americans have trouble attracting major stores); Dena Smith, South Residents Seek Upscale Eateries, ATLANTA J. & CONST., Feb. 23, 1995, at 1A; Hollis R. Towns, The New Black Power, ATLANTA J. & CONST., July 14, 1997, at 1E ("[S]ome middle-class blacks feel corporate America still hasn't recognized their buying power. The Phillipses bemoan the lack of shopping and other retail outlets in their Decatur neighborhood, echoing a common complaint for South DeKalb residents.").
157. Stewart, supra note 13, at 50.
158. In 1998, the average household income was $61,900. See Stephanie Stoughton, The Decline and Fall of a Mall, WASH. POST, Aug. 4, 1999, at M14 (citing data from Carinas, a demographic research firm); Jackie Spinner, Selling Top Shops on Moving to County, WASH. POST, July 30, 1998, at M1.
159. Spinner, supra note 158, at M1.
more residents and higher household incomes than three predominately white communities to the north and south.\textsuperscript{160} Mitchellville, Maryland, home to many Black millionaires, has a median family income of $70,902, double the overall national median.\textsuperscript{161} There are indeed indications that the demographics of Prince George's County compare favorably with those in other local communities where retail development is plentiful.\textsuperscript{162}

South DeKalb is often cited as the second most affluent African-American community in the United States.\textsuperscript{163} In certain sections of south DeKalb, income and education levels significantly exceed the metropolitan average. Seven census tracts in south DeKalb have higher education and income levels than the typical metropolitan area tract.\textsuperscript{164} The median household wealth in one predominately Black census tract is $99,815, while the wealth for a typical metropolitan tract is $60,211.\textsuperscript{165} Six other census tracts in south DeKalb have household wealth above the regional average.\textsuperscript{166} In another census tract, seventy-eight percent of residents hold white collar jobs. The average for the typical metropolitan tract in Atlanta is sixty-one percent.\textsuperscript{167}

Residents of both communities express a variety of particular concerns related to this problem. First, they are concerned that

\begin{table}[h]
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\begin{tabular}{|c|c|c|c|}
\hline
& \textbf{CENSUS TRACT 234.09} & \textbf{TYPICAL METROPOLITAN TRACT FIGURE} \\
\hline
\textbf{Population 1996} & 12,625 & 6,134 \\
\textbf{Percent Black} & 90.90\% & 14.30\% \\
\textbf{Median Household Wealth} & $99,815 & $60,211 \\
\textbf{Median Household Income} & $53,812 & $39,419 \\
\textbf{Percent White Collar} & 70.05\% & 61.10\% \\
\textbf{Percent Household Income Greater than $100,000} & 7.20\% & 4.70\% \\
\textbf{Percent 4-year college} & 29.70\% & 18.60\% \\
\hline
\end{tabular}
\caption{Census Tract 234.09 vs Typical Metropolitan Tract Figure}
\end{table}

\textit{Id.} (citing U.S. Census figures).
the lack of private services will result in a long-term decline in property values and neighborhood desirability. Second, they express concerns about inconvenience. Third, they believe the void in high-rent businesses allows for the continued proliferation of low-rent businesses.

Even when upscale commercial projects are conceived, the pace of development remains very slow. A 100-plus store mall was recently built in South DeKalb, but the project had been under discussion and development since 1981. In Prince George's County, a proposal to build a large mall and tourist resort along the Potomac River is proceeding quite slowly. In 1997, the developer estimated that the project would take twelve to fourteen years to complete. Interestingly, the project is controversial. Residents who have spoken in favor of the project are overwhelmingly Black, and residents who have opposed it are overwhelmingly White. Many advocates of the project cite the glut of low-rent development in the County and argue that the mega-mall and resort are long overdue. Some, on the other hand, express concerns about the project's environmental impact.

The problem of sub-optimal levels of commercial development in these newest suburbs resembles similar difficulties in affluent, Black non-suburban neighborhoods. For example, the affluent community of View Park in the Baldwin Hills section of Los Angeles consists predominately of Black professionals. Home prices range from $250,000 to over $1,000,000. Home size ranges from 2200 to 15,000 square feet. Despite these indicators of household wealth, residents point to the relative lack of existing upscale commercial development and the comparatively slow pace

168. Smith, supra note 147, at 2G.
169. Towns, supra note 144, at 7E.
171. Towns, supra note 144, at 7E.
176. Id.
177. Id.
179. Id.
of future development as disadvantages associated with choosing to live in View Park.\footnote{180}

Frustrated with current conditions, some residents and developers have made efforts to ameliorate the situation. For example, an African-American owned bank in south DeKalb purchased the land on which the proposed truck stop was going to be built and then proposed the development of a major hotel and restaurant.\footnote{181} Also in south DeKalb, a consortium of African-American churches formed a credit union for the purpose of financing new, high-quality development.\footnote{182} Neither initiative has yet financed any projects. Some Black residents believe that market forces will eventually compel developers to build more desirable retail establishments.\footnote{183} Others, however, are skeptical.\footnote{184} Some residents of south DeKalb have proposed political secession as a possible remedy.\footnote{185} Whatever the possible remedies, their effectiveness cannot be measured until the causes of commercial disinvestments are isolated and examined. The next part of the Article considers several possible explanations.

IV. POSSIBLE EXPLANATIONS FOR COMMERCIAL DISINVESTMENT

A. Problems in the Application of Protective Zoning

The concept of protective zoning has its judicial origins in the leading case of \textit{Village of Euclid v. Ambler Realty Co.}\footnote{186} In that case, the United States Supreme Court held zoning as a valid exercise of police power to separate incompatible uses and to protect residential uses from noise, odors, traffic and other health and safety perils.\footnote{187} Prior to \textit{Euclid}, the common law tort of nuisance was the

\begin{itemize}
\item 181. Smith, \textit{South DeKalb, supra note 146}, at 2A.
\item 182. Towns, \textit{supra note 144}, at 7E.
\item 183. \textit{Id.}
\item 184. Michelle Singletary, \textit{Higher-End Stores Should Not Be So High on Our List}, \textit{WASH. POST}, Oct. 20, 1999, at M5 ("But if we build the centers and the upscalers don't come—forget them. We've got bigger problems to tackle .... Frankly, I'm tired of begging .... If Nordstrom ... can't see fit to set up shop here, then I don't want them anyway.").
\item 186. 272 U.S. 365 (1926).
\item 187. \textit{Id.} at 387.
\end{itemize}
legal device used to resolve land-use conflicts, particularly those arising from the surge in growth and industrialization that occurred around the turn of the century. The Court in *Euclid* evaluated the constitutionality of an ordinance that established six classes of use districts and regulated building heights and land areas. The Village submitted lengthy reports that aimed to establish the empirical justification for protective zoning. The Court found the Village's justifications for the ordinance "sufficiently cogent" to withstand constitutional scrutiny. *Euclid* and its progeny have been extensively utilized to protect the character and quality of single-family residential neighborhoods.

With its emphasis on prospective preservation of property values and neighborhood character, protective zoning has played a vital role in the growth and maintenance of suburban neighborhoods over the last century in the United States. For example, suburban communities have utilized the concept to, for example, "zone-out" multi-family dwellings, industrial plants, and other perceived nuisances. Predominately White suburban municipalities have often re-zoned areas within their jurisdiction to make these areas unaffordable or unattractive to Blacks. Indeed, the modern suburb simply would not exist were it not for protective zoning.

Although protective zoning is a well-entrenched legal concept, it has never been applied aggressively or consistently in Black communities. In fact, zoning practices in many Black communities directly contradict it. For example, Professor Yale Rabin argues that expulsive zoning has contributed to the decline of Black neighborhoods and the maintenance of racial segregation. Expulsive zoning refers to the practice of zoning "some low-income residential areas occupied mainly, but not exclusively, by [B]lacks for industrial or commercial use." Professor Rabin further contends, "to the extent that these practices were effective—that is, to the extent that residential uses were replaced by industrial or commercial uses, residents were displaced. Therefore, the term

188. *Id.* at 380–81.
189. *Id.* at 394.
190. *Id.* at 395.
193. *See supra text accompanying notes 29–30.*
194. *Id.*
195. *Crabgrass Frontier*, supra note 1, at 301.
expulsive zoning." Other scholars have noted similar trends in Black communities nationwide.

Although neither south DeKalb nor Prince George’s County have experienced expulsive zoning, each suburb has encountered significant problems in the application of protective zoning. For example, south DeKalb has experienced substantial gains in single-family, residential land uses since 1980. However, until recently, the area was still zoned for industrial land uses. Protective zoning is intended to buffer residential areas from industrial nuisances. But in south DeKalb, portions of the residential area were still zoned industrial for many years after the residential influx. Thus, proposals for industrial uses were consistent with the apparent zoning scheme. This enabled at least one developer to argue that it was simply following the plans “on the books” when it proposed building a truck stop near an affluent Black suburb.

Prince George’s County has also had difficulty incorporating aspects of protective zoning. At their inception, many predominately-White suburbs zoned-out multi-family dwellings. However, Prince George’s County did not follow suit. In fact, early zoning decisions and building incentives in the County resulted in the proliferation of down-market apartments and townhouses.

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197. Id.
199. See supra text accompanying notes 114–21.
201. Fredrick D. Robinson, There Goes The Neighborhood: “Travel Center Will Attract Crime and Drugs, ATLANTA J. & CONST., Sept. 22, 1995, at A14 (quoting a QuickTrip spokesman as saying, “We made a multi-million dollar purchase of land based on the fact that we had received permits, [and so] I would say that the due process of law would prevail.”). A Black county planning director in DeKalb County was quoted as saying, “[t]he landfills and truck stops have materialized in the southern end of the county because some of that (industrial) infrastructure and zoning had evolved over the years there—even before African-American populations moved out there.” See Smith, supra note 142, at 3.
202. CRABGRASS FRONTIER, supra note 1, at 242–43.
203. Holmes & DeWitt, supra note 151, at A9 (noting that a local politician claimed that developers were building too many high-density, low-income housing properties and that he threatened to deny infrastructure access to developers unless they built larger and more expensive homes); Stoughton, supra note 141, at M14 (observing that a regional politician
These developments appear to have had a negative impact on the overall demographic picture of Prince George's County, particularly when it comes to wealth, income and education.\textsuperscript{204} One prominent politician in the county publicly linked commercial disinvestment to an over-saturation of low-end residential development.\textsuperscript{205}

\subsection*{B. Antiquated Zoning Laws}

Prince George's County has been criticized for having zoning laws that are overly rigid.\textsuperscript{206} For example, an auto dealership recently sought to expand its business to an adjacent parcel that it acquired as a part of its original land purchase. Although the new parcel had a different zoning classification, it was directly adjacent to the primary business location.\textsuperscript{207} The application to re-zone the property was denied which meant that the lot would remain empty.\textsuperscript{208} The County did not provide an adequate explanation for the denial, indicating only that the application presented insufficient supporting evidence.\textsuperscript{209} Some observers criticized the County's action, not only because of its immediate impact on the car dealer, but for what they argue will be the likely impact of these actions upon other businesses that might seek to develop in Prince George's County.\textsuperscript{210} It has been suggested that County officials review the master plan with an eye toward changed conditions in the County (more residents, more affluence, etc.).\textsuperscript{211} Others have

\textsuperscript{204} Dent, \textit{supra} note 80, at 25 (noting that some Prince Georgians live, not in "nice houses," but in "run-down" apartments).

\textsuperscript{205} Stoughton, \textit{supra} note 141, at M14 (quoting U.S. Representative Albert R. Wynn as saying, "If you allow people to build the cheapest possible town houses and apartments and then you wonder why you don't have a Nordstrom, it doesn't make sense"); DeKalb Black and White In Their Own Words, \textit{ATLANTA J. & CONST.}, April 4, 1993, at D6 ("[W]hen we put that housing project right there in the middle of what had always been a very affluent neighborhood in south DeKalb, that's why people left and moved north.").


\textsuperscript{208} Id.

\textsuperscript{209} Id.

\textsuperscript{210} Id.

\textsuperscript{211} Id.
criticized portions of the zoning laws that make meaningful citizen participation in zoning decisions nearly impossible.  

C. Historical Explanations

Another possible explanation for commercial disinvestment in south DeKalb lies in historical patterns of residential settlement. For example, higher quality residential and development originally settled in the Northern part of the Atlanta metropolitan area. And to this day, wealth tends to concentrate in the Northern part of the metropolitan area. Developers are more likely to view the North side as a less risky place in which to build or expand. Businesses are more likely to be comfortable marketing their goods and services to well-entrenched, predominately White, affluent communities in the North. Success begets success. On the other hand, south DeKalb does not have such a well-established history of affluence or of corporate business activity. Although south DeKalb is among the last developable frontiers in the county, the weight of prior investment decisions tends to favor the North side. Although historical patterns present strong evidence of bias toward the more affluent North side, alternative empirical data indicate that disparities in the area's wealth differential also play a significant role.

D. Demographic Explanations

1. Intracommunity Income Disparity—Prince George's County is often described as an "affluent" community. Empirical data seemingly supports this description. For example, Prince George's countywide average income is approximately $62,000. This compares favorably with surrounding communities and is indeed

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214. Id.
216. See supra text accompanying notes 85–87.
higher than state and national averages.\textsuperscript{218} The relatively high countywide average income results, in part, from the undoubtedly high median incomes in Mitchellville and two other suburbs, Lake Arbor and Woodmore.\textsuperscript{219} A comparison of the countywide average income with the countywide median income, however, presents a more complex picture of Prince George's overall economic standing, at least as measured by income. While the countywide average income is approximately $62,000, the countywide median income is approximately $46,000.\textsuperscript{220} This difference suggests a significant income disparity within the county.

To understand this differential, it is important to remember the distinction in statistics between the terms "average" and "median." In statistical methodology, the average of a set of values represents the arithmetic mean, or middle point, of those values. The median, on the other hand, is the value below and above which there are an equal number of values. The countywide average income is determined by calculating the total household income in the county and then dividing that figure by the number of households. High-income earners in the comfortable enclaves of Mitchellville, Lake Arbor, and Woodmore therefore, can boost the county's average income to relatively impressive levels. However, the median income also tells us that at least fifty percent of the county's residents make less than $46,000 per year. This fact suggests that a large number of county residents are, in fact, not as affluent as might be assumed if one looks only at the average income figure or the median income figures for certain select communities.\textsuperscript{221} In

\textsuperscript{218} Id. Prince George's County's average income is much lower than that of Fairfax County ($96,000) and Montgomery County ($91,000), two suburban areas that have the kind of retail development that many residents of Prince George's County want. Id.

\textsuperscript{219} Montgomery, supra note 141, at B1.

\textsuperscript{220} Information from 1998 Prince George's County Park and Planning Commission data places the median income at $51,100. However, comparable 1998 Census data puts the median income at closer to $46,000. Donna De Marco, \textit{Prince George's Fights for Retail}, \textit{Wash. Times}, May 22, 2000, at D12 (noting that 1998 median household income in the County was $51,000 according to a County commission report, but thirteen percent lower than $51,000 according to 1998 census data); see also Donna De Marco, \textit{Curry Backs Retail, Entertainment Plan}, \textit{Wash. Times}, April 18, 2000, at B9 (indicating median household income of $45,281.).

\textsuperscript{221} Of course, one would have to determine the exact distribution of values below $46,000. However, there is good reason to suspect that the distribution of values is probably fairly well scattered along a spectrum from near $46,000 to values that are much lower. This is because the median income among Black families nationwide was $25,970 in 1995. See \textit{The Black Middle Class: Is its cup half-full or half-empty?}\textit{ Conc. Q. Researcher}, Jan. 23, 1998, at 63. According to U.S. Census Bureau Figures, median income among Black families was $26,522, $28,602, and $26,404 in 1996, 1997, and 1998, respectively. U.S. Bureau of the
fact, Prince George’s County has several communities that contain mostly poor and working class residents.

This apparent income disparity reflects substantial differences in educational and professional achievement, as well as material comfort among residents of Prince George’s County. Almost half of the residents of Mitchelville, for example, have college or graduate degrees. The residents of Woodmore tend to be doctors, lawyers, and CEOs. These residents of Prince George’s County drive expensive cars and live in very spacious homes with well-manicured lawns. Many send their children to private schools, invest in the stock market, and take nice vacations. By these measures, it appears as if the residents have sufficient disposable income to justify more high-end commercial development in or near their neighborhoods.

However, the income-based affluence of these residents obscures the income-based poverty that is also present in Prince George’s County. Almost forty percent of children in Prince George’s County public schools are eligible for subsidized school meals because their families’ income is within the federal poverty guidelines. The number of subsidized rental housing units in Prince George’s County is significantly higher than in surrounding, predominately-White counties. Some residents of Prince George’s County publicly voice concern about the pockets of poverty in the county and their impact on the appearance of the county as well as on the quality of education in the public schools.

In south DeKalb, household income figures reveal a similar deviation between the average income and the median income. The average income of one residential core considered prime for commercial development is approximately $52,000 and the average income of DeKalb County as a whole is $66,824. There are two census tracts in south DeKalb that can be classified as “upper-


222. Stewart, *supra* note 13, at 50.

223. Daniela Deane, *They’re Big, Beautiful and a Well-Kept Secret; Woodmore Has Everything a Buyer Could Want in a Luxury Community. So Why Has the Real Estate Boom Passed It By?*, WASH. POST, April 15, 2000, at G01.


225. *Id.*


The median household income in those areas is high. However, the overall median household income for all of DeKalb County is significantly lower, at $40,000.

There are also signs that south DeKalb has a greater percentage of low-income residents than other suburban Atlanta counties. For example, south DeKalb has four Census tracts that are considered "poor." No such tracts exist in wealthy, predominately White north DeKalb. According to another report, DeKalb County as a whole accounts for one-quarter of metropolitan Atlanta's poor people and most live in south DeKalb. More affluent Black residents have voiced concern about the "cheap housing" and the anemic business climate in south DeKalb.

Of course, both Prince George's County and south DeKalb have a solid middle-class presence. Both communities contain stable numbers of long-term residents who have stable jobs and who own their own homes. As discussed above, the median income level in both communities significantly exceeds the nationwide median income. However, as this analysis strongly suggests, these communities lack the depth and breadth of income-based economic power that is found in White suburbs considered "affluent." Moreover, the proximity of these suburbs to the poor and working class inevitably depresses overall income indicators, perhaps making it difficult for these communities to attract certain high-end retailers who might already be reluctant to locate their stores in predominately Black neighborhoods.

229. It is approximately $53,000; see supra text accompanying notes 161–65.
232. Id.
233. Id.
235. Id. (quoting researcher who explains that the economic strength of Prince George's County and south DeKalb derives from the "broad-based middle-class residents who work hard, pay their taxes, own their homes and have a basic level of financial success").
236. For example, in 1990, there were twenty-six White communities that had a median family income of over $150,000. There were no Black ones. Stewart, supra note 13, at 50.
237. See infra Part IV.E.3. My colleague Henry Chambers, a one-time resident of Prince George's County, has offered personal insights to bolster the empirical claim that Prince George's County cannot be viewed as a demographic monolith. He speculates that the reason for this income diversity is that much of the land on which the newer suburbs now sit was unincorporated and thus undervalued when it was developed. Consequently, many of
When viewed in a historical context, the intracommunity income disparity in Prince George's County and south DeKalb should not be surprising. Scholars who have studied Black suburbs have long noted the tendency for them to be located near the Black poor and working class. In this respect, these contemporary Black suburbs do not represent a complete break with past patterns of Black suburbanization. Indeed, there are some who argue that the proximity of affluent Blacks to the Black poor and working class has social and political benefits for both groups. However, it is also difficult not to suspect that this same phenomenon suppresses overall income indicators in these communities and makes these areas appear riskier for upscale retail development.

2. Intercommunity Wealth Disparity—Black households, in general, have less wealth than White households. Wealth, unlike income, represents the long-term accumulation of financial assets such as real estate and stock. Although the exact differential has varied over time, a 1993 Census report indicated that the median net worth of White households was $45,740, while the figure for Black households was $4,418. A 1995 study by noted wealth economist Edward Wolff revealed a median net worth of $61,000 for White households and $7,400 for Black ones. A 1998 Federal Reserve report determined that the net worth comparison was (adjusted for inflation) $95,610 and $15,000, respectively.

Blacks also lag behind Whites in terms of other wealth indicators, including stock and inherited assets. As for stocks, only 10.4% of Blacks owned stocks in 1997. That same year, 66.7% of Blacks with incomes above $75,000 owned stocks compared with more than 80% of Whites with the same income. Whites inherited ten...
times more assets than Blacks from 1990 to 1997. The lack of inherited wealth, in particular, hampers acquisitive and investor activity in future generations.

Although Black home ownership has risen over the past two decades, it still trails behind White home ownership. The Black overall rate of home ownership is twenty-five percent lower than it is for Whites. Several academic studies have concluded that Blacks own a disproportionately low share of housing wealth. At least one study attributes this disparity to the fact that Blacks are less likely to own a home and also to the tendency of Black homes to have lower market valuations compared with White homes.

Black business activity represents an important path to asset accumulation, but the nature and extent of Black business activity differs markedly from White business activity. A Black business magazine recently estimated that the combined revenues of the 100 largest Black-owned businesses would total $14.1 billion. However, if those revenues were assigned to a hypothetical Black business, that business would be only eighty-third on the Fortune 500 list. Prince George’s County itself has had a relatively high concentration of Black-owned businesses for the last two decades, according to Census figures. However, most of those firms were very small, owner-operated firms without a payroll.

This startling wealth gap is a long-standing by-product of slavery, poverty, and racist laws that kept Blacks from owning and accumulating property. It will take a very long time to close, if it ever does. In the meantime, the wealth differential could have the effect, albeit an indirect one, of putting contemporary Black suburbs such as Prince George’s County and south DeKalb at a competitive disadvantage when it comes to attracting high-rent commercial

246. Id.
247. Stewart, supra note 13, at 50.
249. Id.
251. Peter Behr & David Montgomery, Prince George’s Says: Support Your Local Business; Black Owned Shops Are Fighting an Uphill Battle, County Residents Complain, WASH. POST, Oct. 22, 1995, at A21; Goo, supra note 151, at T5.
252. Behr & Montgomery, supra note 251, at A21 (noting that only 852 Black-owned firms in the County had payrolls. The rest were self-employed or owner-operated.).
development. Obviously, race plays a rather undisputed role in shaping this wealth gap. However, its exact role in the phenomenon of commercial disinvestments is subtle and complex.

E. The Complex Role of Race

Some firms, when challenged to offer an explanation for their investment decisions, claim that race has nothing to do with their investment decisions. Some residents and local government officials, on the other hand, suspect that race is likely the sole explanation. The evidence does not fully support either claim. Race does indeed play an important role, but its influence is likely more complex than previously acknowledged or understood. This Article advances two claims about the role of race. The first claim is that race functions concurrently with two other explanations previously discussed in this Section. In particular, racial dynamics helped to create the necessary conditions for problems in the application of protective zoning in Prince George's County and south DeKalb. Additionally, race shaped the heterogeneous economic and demographic profile of these communities. Under this view, race exists as a parallel influence, along with economic and sociological forces. The second claim is that race could also be operating independently of those explanations. The precise point is that racial information might be influencing potential investors to routinely undervalue the rewards and overvalue the risks of investing in these communities. Thus, commercial disinvestments might be present even in the absence of the explanations previously offered. In other words, the influence of race could be

254. Donna De Marco, *Curry Backs Retail, Entertainment Plan*, Wash. Times, April 18, 2000, at B9 (citing real estate executive as saying, "It's all about market penetration. There's nothing wrong with Prince George's with respect to attracting retail. There are just better markets that offer broader regional draw."); Stoughton, *supra* note 141, at M14 (citing Nordstrom's spokeswoman as saying, "We want to be where the business is to be had, and it has nothing to do with race.").

255. Vikki R. Conwell, *Backing South DeKalb, Will Nation's Second Most Affluent Black Area Support Its Own?*, Atlanta J. & Const., Dec. 26, 1997, at 1E (citing state senator and local resident as saying, "Let's just call a spade a spade. When I looked at all the excuses and explanations for what is happening or what has not happened as planned, I have to draw that conclusion."); Stoughton, *supra* note 141, at M14 (citing local politician as saying, "My own belief is that it (commercial disinvestment) has to do with the fact that the majority of residents in Prince George's County are African American."); Towns, *supra*, note 144, at 7E (citing Black owner of a local bank as suggesting that it is hard for residents not to blame racism for the lack of services and saying, "The income levels are there, the critical mass of housing is there, infrastructure is there, so where are the stores?").
largely autonomous, having very little to do with local economics and sociology.

1. Race and Problems in the Application of Protective Zoning—This Article previously suggested that commercial disinvestment in contemporary Black suburbs can be traced, in part, to problems in the application of protective zoning. Racial dynamics appear to have been a catalyst for some of these difficulties. For example, this Article has already demonstrated that Black suburbs in south DeKalb were established in or near land that was zoned industrial at the time the suburbs were established and for a significant time thereafter. Of course, this land-use pattern could have been merely accidental. However, a more likely explanation can be traced to the effect of race and racial discrimination on housing wealth (i.e., the amount of money Blacks have available to spend on housing). That is, racism and racial discrimination suppress Black housing wealth. Indeed, one reason that Blacks were able to buy new, single-family homes in these areas was that the land was cheaper than in other areas of metropolitan Atlanta. The land was more affordable at the time of purchase precisely because it was still zoned for industrial uses. Because the land was zoned for industrial use at the time the suburbs were established and for several years after that, it was difficult for these suburbs to reap the immediate benefits of protective zoning.

Prince George’s County’s problems with protective zoning stem partially from its decision to build a relatively large inventory of low-income housing. Yet, this decision cannot be isolated from economic, social, and political forces that are themselves affected by racial dynamics. Indeed, research data shows that Black middle-class communities tend to absorb more of the social and economic burden of constructing and maintaining affordable housing than do White communities. This is certainly true of Prince George’s County. The large-scale migration of low-income Blacks from Washington, D.C. to Prince George’s County has been well documented. This migration stimulated demand for the low-income housing in the County and has been attributed to several factors,

256. See infra Part IV.A.
257. See supra notes 200–01 and accompanying text; see also David Beasley, Building on the Rise in Parts of County, Feb. 1, 1996, at 6A.
258. See supra notes 203–05 and accompanying text.
259. See supra notes 44–48 and accompanying text.
260. E.g., Michael Eastman, Low Income Blacks Pushed Into P.G., WASH. POST, October 11, 1979, at DCl.
including escalating housing costs in the District and a concomitant shortage of affordable housing.\textsuperscript{261} Additionally, the geographic proximity of Prince George’s to the District made it more convenient for low-income Blacks to move there than to other Maryland or Virginia counties.\textsuperscript{262}

The supply side of the low-income housing equation can be traced to the decision on the part of the County to encourage, or at least not to discourage, the construction of a large inventory of low-income housing. The origins of this decision are unclear and remain controversial. Some observers trace it to the desire of public officials to make housing more easily affordable to returning GIs after World War II.\textsuperscript{263} Others contend that the decision was motivated primarily by rampant profiteering.\textsuperscript{264} Whatever the reason, it seems clear that as affordable housing became more plentiful and as low-income Blacks began to migrate into the County, protective zoning principles became more difficult to apply on a consistent basis.

2. Race and the Economic and Demographic Profile—Race has also played an important role in shaping the economic profile of Prince George’s County and south DeKalb. As has been made clear, both areas contain, or are adjacent to, significant numbers of working class and poor Black residents and the presence of these residents may have the effect of depressing the overall economic indicators of these areas.\textsuperscript{265} Yet, it was zoning decisions and migration patterns (also affected by the dynamic of race) that led to the influx of low-income residents in the first instance.

The impact of race on demographics is manifest in the racially-segregated character of these areas. As previously mentioned, at least some contemporary Black suburbs have been largely Black from their inception. Some Blacks actively sought out a majority Black community in which to settle. Others were simply interested in an affordable, yet suburban lifestyle. At the start, there was some hope that these areas would attract middle- and upper-middle-class Whites. Yet, White migration to these suburbs has been virtually

\begin{itemize}
\item \textsuperscript{261} Id.
\item \textsuperscript{262} Id.
\item \textsuperscript{263} Demographic Changes in Prince George’s County, Maryland, and its effects on the population, TALK OF THE NATION (National Public Radio broadcast, Feb. 24, 2000) (statement by Steve DeGiudice, a land use and growth management official).
\item \textsuperscript{264} Id. (quoting local congressman as saying, “I think what they wanted to do was build housing and make money. As it happened, they were making money off African-Americans buying these houses.”).
\item \textsuperscript{265} See supra text accompanying notes 216-40.
\end{itemize}
non-existent and the percentage of Blacks moving in continues to rise.

More broadly, race undeniably plays a role in retarding Black wealth accumulation. Discrimination, barriers to entry, unequal access to education, and other forms of institutional racism impair the ability of Blacks to generate levels of intergenerational wealth that come close to that of Whites. Housing wealth is a key indicator of financial affluence. Yet, there are no Black neighborhoods in the Census data’s list of the top-ten wealthiest communities in America. Corporate business ownership is another important indicator of overall wealth within a community. Yet, there are no Black-owned companies in the list of the “Fortune 500.”

3. Racial Information and the Risk/Reward Calculus—When making an investment decision, a firm or individual must appraise the risks and rewards of that potential investment. Part of that assessment involves calculating the value of the expected return, based upon extant factors. Influential economics literature suggests that this risk/reward assessment will often be rational. Yet, there is reliable empirical evidence that, in certain contexts, racial information leads investors to routinely and systematically undervalue the assets of Blacks. Thus, it is entirely possible that investors in this context might undervalue the potential reward and overvalue the potential risk of investing in contemporary Black suburbs in ways that are not rational.

The effect of racial information on the valuation of Black-owned assets is well documented in the consumer real estate market. For example, Black home sellers are sometimes advised to remove anything from their house that might signal their race to potential buyers or risk a lower appraisal. Joseph Boyce, a Black journalist for the Wall Street Journal recounts a situation in which he was


269. See generally OLIVER & SHAPIRO, supra note 56.

trying to sell his house and was surprised when the house received a lower than expected appraisal. He decided to replace all the pictures in his house with those of his White secretary and the appraisal went up by fifteen percent. Other Black homeowners have expressed frustration at the perception that Black, affluent neighborhoods seem less attractive than White ones. It is also empirically well-established that houses located in Black communities do not appreciate in value as much as those in similarly situated White communities.

Discrimination in other lending markets has also been traced to the influence of racial information. For example, empirical studies have shown that Black-owned, small businesses are routinely denied loans on the basis of inaccurate or unfair asset appraisals. Other studies document the once pervasive practice of "red-lining" in the insurance industry. This practice involves pricing home and car insurance more prohibitively in majority-Black areas, even when objective indicators present risk levels equal to or below that of similarly situated White areas.

There is to date no empirical evidence that a similar dynamic is at work in the decisions regarding whether to invest in Prince George's County or in south Dekalb. Moreover, a direct analogy to asset valuations in the consumer real estate and small business lending markets is not apt, given the larger number of variables involved in the commercial investment decision. However, given what we know about the operation of racial discrimination in other

273. Nancy A. Denton, Speech at the AALS Workshop on Property, Wealth, and Inequality (Jan. 4, 2001) (suggesting that racial composition of neighborhood matters when it comes to appreciation) (on file with the author); Dalton Conley, 40 Acres and a Mule, NAT'L F. 21 (Apr. 1, 2000), at 5 (noting that homes in Black neighborhoods do not accrue value at the same rate as those in predominately White areas).
276. Empirical evidence of irrational undervaluing by White commercial actors does exist in other contexts. In particular, a recent Federal Communications Commission Report proved that even when a Black-owned radio station was number one in ratings, many major advertisers would still refuse to place ads with such a station. FEDERAL COMMUNICATIONS COMMISSION, WHEN BEING NO. 1 IS NOT ENOUGH (1999) (finding that top-rated minority-formatted and/or minority-owned stations fail to earn advertising revenues that are commensurate with their large audiences and noting the existence of policies such as "no-urban" dictates).
financial markets, it is entirely possible that racial information could lead commercial investors to commit valuation errors when appraising the assets of a modern Black suburb.

Valuation errors could occur at several points in the assessment process. First, errors could take place when the investor considers a Black suburb as a possible site for a commercial investment. This consideration process necessarily involves an actual physical inspection of the community. The results of an actual physical inspection of a Black suburb could be affected by the investor’s negative racial perceptions and stereotypes. The negative perceptions could, in turn, influence the investor’s evaluation of the community’s overall investment desirability. For example, an investor might begin his or her inspection with the background assumption that all Black communities have significant problems with crime or drugs. This perception could negatively influence that person’s physical appraisal of the Black suburb, even if the community had no significant problems with crime or drugs.

Second, valuation errors could occur when particular assets of the community are being appraised. Consider income figures as an example. As has been noted, significant areas of Prince George’s County and south DeKalb contain affluent neighborhoods with high average incomes. But despite this objective reality, racial

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277. See generally Margalynne Armstrong, Race and Property Values in Entrenched Segregation, 52 U. MIAMI L. REV. 1051, 1053-1059 (1998) (noting that negative societal attitudes about Black-ownership could depress a property’s market value); Phyllis Craig-Taylor, To Be Free: Liberty, Citizenship, Property, and Race, 4 HARV. BLACKLETTER L.J. 45, 60-63 (1998) (demonstrating that valuations of property by the real estate industry have long incorporated doctrines of African-American racial inferiority). Another example of this kind of thinking can be found in, of all places, the history of the baseball antitrust exemption. When a new league called the Federal League established itself in 1914 and 1915 as a competitive league to the major league, the major league negotiated, and, in some cases, paid off owners of the Federal League to join the major league. The owners of the team from Baltimore were offered only $50,000, a sum much lower than what the other owners were offered. Charles Ebbets, owner of the Brooklyn Dodgers explained that Baltimore was not a good baseball city because “you have too many colored population to start with.” HAROLD SEYMOUR, BASEBALL: THE GOLDEN AGE 243 (1971).

278. This phenomenon—called “representative” thinking or “categorization”—has been one focus of the burgeoning field of “behavioral economics.” See Following the Money, but Also the Mind, N.Y. TIMES, Feb. 11, 2001, at 3 (discussing the theory that “people take shortcuts in thinking, in effect bypassing rational analysis” and providing as an example the tendency of people who “see a black woman walking with young children” to assume that “she is a single mother who is or has been on welfare”). See generally CASS SUNSTEIN, BEHAVIORAL LAW AND ECONOMICS (2000). Another example in the residential context comes from the suburb of Matteson, Illinois. In personal interviews, White residents reflexively assume that property values will go down and school performance will suffer as more Blacks move in, even when confronted with empirical evidence to the contrary. See Why Can’t We Live Together?, supra note 91.
information might lead an investor to discount those income figures simply because those statistics are not consistent with his or her well-formed perceptions of the depressed wealth levels of Black communities generally. The overall historical stability of the relevant community, no doubt of obvious importance to the potential investor, could be underestimated. A major capital investment in a commercial retail project requires the belief on the investor’s part that the community is not transient or likely to dissolve any time soon. An investor therefore, might have difficulty accepting the idea that a Black community could have the kind of long-term political and social capital necessary to support a major economic investment. Potential investors could, for example, underestimate the economic and political sophistication of local government officials and residents.

It is important to address how the problem of commercial disinvestment might still exist even in the absence of the racial information dynamic. Indeed, this Article has offered several likely explanations for this phenomenon that seemingly have little direct connection to the influence of racial information. Nonetheless, further research is necessary to determine the precise influence, if any, of racial information on this investment market. Is it indeed the case that investors systematically make valuation errors in this context and thus fail to make investments that would otherwise be economically rational? If so, how often do those errors take place and under what circumstances? Is there a way to reduce the problematic influences of racial information without creating undesirable secondary effects? Attention to the impact of racial information on lending has heretofore focused almost exclusively on the problems of poor inner-cities and their residents.

279. One mall operator was quoted as saying, “Prince George’s County has a stigma attached to it for what reason I’m not really clear on and it’s difficult to get national retailers here. . . . It makes no sense.” De Marco, supra note 220, at D12. A lawyer involved in retail development in Prince George’s County says the race issue is “always unspoken . . . There’s always an undercurrent about Prince George’s County that is based on a misconception about the county’s race and income.” Stoughton, supra note 158, at M14.

280. For example, one chain restaurant owner in describing Prince George’s County was quoted as saying, “We don’t have any experience with this demographic.” See Goo, supra note 151, at T5. One can fairly infer from this statement a considerable degree of uncertainty and therefore enhanced risk, probably borne by a lack of familiarity with the economic prospects of middle-class Black communities. It is fair to ask whether changing the race of the inhabitants of Prince George’s County would decrease the perceived uncertainty and diminish the perceived risk.

281. See Keith N. Hylton, Banks and Inner Cities: Market and Regulatory Obstacles to Development Lending, 17 YALE J. REG. 197 (2000); Jonathan R. Macey & Geoffrey P. Miller, The Community Reinvestment Act: An Economic Analysis, 79 VA. L. REV. 291 (1993); Peter P. Swire,
ever, the preceding analysis suggests that the economic viability of contemporary Black suburbs might also be negatively affected by racial information. As the next section of this Article demonstrates, certain negative effects associated with the problem of commercial disinvestment may pose a significant threat to the long-term viability of these communities.

V. NEGATIVE EFFECTS OF COMMERCIAL DISINVESTMENT

A. Relative Deprivation

"Beat and cuff your slave, keep him hungry and spiritless, and he will follow the chain of his master like a dog; but feed and clothe him well, work him moderately, surround him with physical comfort, and dreams of freedom intrude."282

The Black suburbanites of Prince George's County and south DeKalb express considerable resentment and disappointment over the lack of vibrant and diverse commercial investment in their communities.283 Some degree of unhappiness over this situation might seem logical and, to a certain degree, expected. After all, many of us probably harbor complaints of various sorts about the actual or perceived shortcomings of our own neighborhoods. However, the intensity of the disappointment among these Black suburbanites might seem surprising and even somewhat paradoxical. Why are these Black suburbanites—who live in comfortable surroundings and who are more affluent than their parents or grandparents might have dreamed possible—so discontent?

1. The Theory of Relative Deprivation—The concept of relative deprivation might explain the seemingly inconsistent social-psychological outlook of these Black suburbanites. The term relative deprivation was first developed by a group of social psychologists who conducted a seminal study of American soldiers.284 They found that Air Corps members were substantially less

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283. See supra text accompanying notes 138–55.
satisfied than the military police officers with their chances for promotion.\textsuperscript{285} This proved true despite the fact that promotions were twice as frequent in the Air Corps than in the military police.\textsuperscript{286} These researchers theorized that un-promoted airmen experienced more feelings of deprivation than military police because they compared themselves to members of the Air Corp who had been promoted.\textsuperscript{287} By contrast, the military police witnessed fewer promotions among their group, and thus felt less deprived because many others shared their relatively deprived state.\textsuperscript{288}

The study revealed the basic insight that "feelings of satisfaction or dissatisfaction with one's outcomes depend more on subjective standards, such as the level of outcomes obtained by salient comparison persons, than on objective prosperity."\textsuperscript{289} Or as sociologist Faye Crosby later stated more succinctly, "[d]eprivation is relative, not absolute."\textsuperscript{290} Relative deprivation theory has been used to explain the importance of comparison with others as a source of information that an individual or group might use to judge its own progress (or lack thereof).\textsuperscript{291}

Relative deprivation theory, like any important academic theory, presents complications and controversies.\textsuperscript{292} The contours of those

\textsuperscript{285. Id. at 308–09.}
\textsuperscript{286. Id.}
\textsuperscript{287. Id. Interestingly, Stouffer and his colleagues also found that many Black soldiers preferred being stationed in the South rather than the North. This preference existed despite racist Southern police and segregated public transportation. They explained this inconsistency by positing that Black Southern soldiers used Southern Black civilians as their reference group and that they must have felt privileged relative to that group. On the other hand, Northern Black soldiers used Northern Black civilians as their reference group and thus felt a relative lack of privilege and contentment. Id. at 562–64.}
\textsuperscript{288. Id. at 250–58.}
\textsuperscript{289. James M. Olson \& J. Douglas Hazlewood, Relative Deprivation and Social Comparison: An Integrative Perspective, in RELATIVE DEPRIVATION AND SOCIAL COMPARISON: THE ONTARIO SYMPOSIUM 1, 2 (James Olson et al. eds., 1986) [hereinafter Olson, Relative Deprivation]; see also Tom Tyler et al., Social Justice in a Diverse Society 14–42 (1997).}
\textsuperscript{290. Faye Crosby, A Model of Egoistical Relative Deprivation, PSYCHOLOGICAL REV. 85 (1976) [hereinafter Crosby, A Model].}
\textsuperscript{292. Olson, Relative Deprivation, supra note 289 (discussing various theoretical perspectives and research challenges); Faye Crosby et al., Relative Deprivation and Explanation: Models and Concepts, in RELATIVE DEPRIVATION AND SOCIAL COMPARISON: THE ONTARIO SYMPOSIUM 17 (James Olson et al. eds., 1986) (noting the "checkered career" of relative deprivation in
debates will not be explored or analyzed in any detail here. This Article asserts that the concept of relative deprivation can be used to explain the apparent inconsistency between the objectively comfortable circumstances of these suburbanites and their subjective feelings of dissatisfaction.

Although the exact formulation varies, it is generally understood that there are several essential components to relative deprivation: 1) the perception that one's own outcomes fall below a subjective standard based on the outcomes of another individual or group (i.e., someone else has something one wants); 2) the feeling that one should have the desired object (i.e., a sense of entitlement); 3) the perception that obtaining the desired object is feasible; and 4) the perception that one bears no personal responsibility for not having the desired object (i.e., a sense of high self-esteem).293

2. Application—The above-described conditions are present in Prince George's County and south DeKalb when it comes to the issue of commercial investment. First, these Black suburbanites perceive that their outcomes (i.e., attractive ancillary services) are inferior when compared to similarly situated Whites. White suburbanites in similar communities have attractive places in which to shop, eat, and entertain, while these communities must take aggressive measures just to attract sit-down restaurants and mainstream retail stores. For these Black residents, the apt comparison is not to other Blacks because most Blacks—urban or suburban—do not live in areas as affluent as Prince George's County and south DeKalb. Instead, they probably compare themselves to White suburbanites, whom they sense have an unfair and inequitable competitive advantage.

Second, Black suburbanites may feel they deserve these ancillary services. The following statement of a Prince George's County official is typical: "[w]e're naturally trying to attract more upscale retail . . . Money travels across the bridge and there's no need for that. We want our own upscale retail. We're entitled to it."294 Most of these residents are middle-class and upper-middle-class professionals who take pride in their communities, work hard, and own

293. See Olson, Relative Deprivation, supra note 289, at 2–3; Crosby, A Model, supra note 290, at 83–85; Harrison, supra note 291, at 11.
294. DeMarco, supra note 206, at D12.
their own homes. They naturally feel entitled to enjoy the traditional perks that usually come with suburban life in America.

Finally, residents believe that vibrant and diverse commercial investment is feasible and that the absence of such development cannot be traced to any acts or omissions on their part. The residents simply do not give credence to the view that such development is beyond the realm of possibility. They tend to attribute the absence of such development either to unfair racial dynamics or to some mysterious confluence of events that defies conventional explanation.

Thus, one could characterize the intensity of this annoyance as irrational or overblown. But this conclusion seems inaccurate. It is more likely that it is the residents' expectations that explains their perceptions. By locating in the suburbs, these affluent Blacks expected quiet, safe, attractive neighborhoods with the hallmarks of genuine suburbia, including accessible and attractive places to shop and eat. They expect to have something that they feel they should have, especially when they compare themselves to middle- and upper-middle-class White suburbanites. In other words, they evaluate the quality of their residential experience by comparing it with middle- and upper-middle-class Whites. The considerable gap between expectations and reality becomes a bitter pill to swallow.

The resultant behaviors are consistent with earlier models of relative deprivation. One response has been to work very hard to try to lure a vibrant mix of businesses to that area. One Prince

295. Id.
296. Doug Cumming, Bright Fright: Middle-class Blacks Heading for the Suburbs and Private Schools, ATLANTA J. & CONST., Apr. 20, 1997, at 1R ("Perception and reality combine to make the black suburb, in countless little ways, less than its white counterpart . . .").
297. The sense of relative deprivation I describe here seems consistent with sociological research on Black Americans and the link between upward mobility and social satisfaction. Previous research from the 1960s and '70s suggested that as Black Americans move up the economic and social scales, they become less satisfied, more militant, more alienated from the political system, and more likely to take part in protest or riot activity. See Nathan Caplan, The New Ghetto Man: A Review of Recent Empirical Studies, 26 J. SOC. ISSUES 59-73 (1970); John M. Orbell, Protest Participation Among Southern College Negro College Students, 61 AM. POL. SCI. REV. 446-56 (1967). More recent studies indicate that middle-class Blacks are indeed not protected from the sting of racism. See FEAGIN, supra note 13, at 329 (1996); Clarence Page, Why Do Blacks Who Have Made It Feel Shortchanged, L.A. TIMES, April 25, 1996, at B9 (citing studies that show that middle-class Blacks may resent racism more bitterly than poor Blacks because they face it more often in daily life as they interact with Whites and because poor Blacks have more immediate survival concerns).
298. Crosby, A Model, supra note 290, at 89 (noting reactions to relative deprivation, including self-improvement and constructive change of society).
George's County official calls this "pleading and bleeding." Prince George's County, in particular, has made commercial development a priority and has employed various marketing strategies. Some local community groups and individuals in south DeKalb have pooled their capital for the purpose of land acquisition and financing. More recently, some major commercial retail projects have been initiated. Indeed, the overall level of satisfaction with life in these suburbs seems favorable.

Notwithstanding the general satisfaction of many Black suburbanites, the sense of relative deprivation has also led to considerable resentment. Writer Elias Cose, in his book *The Rage of a Privileged Class*, writes about what he calls "the soul-destroying

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301. See supra note 182.

302. Donna DeMarco, *Curry Backs Retail, Entertainment Plan*, WASH. TIMES, April 18, 2000, at B9 (noting plans for a new retail and entertainment complex); Goo, supra note 151, at T5 (noting development of the Bowie Town Center in Prince George's County); Yuki Noguchi, *Hot Spot for Building a Business*, WASH. POST, Aug. 3, 2000 at B7 (noting an increase in lower grade commercial and industrial leasing and purchasing); Yuki Noguchi, *Old Navy to Open at Plaza*, WASH. POST, Mar. 15, 2000, at M5; Ben Smith III, *Stonecrest Starts 1-year Building Countdown*, ATLANTA J. & CONST., Nov. 2, 2000, at 9JR (describing breaking of ground for new mall in south DeKalb); Jackie Spinner, *Prince George's County Begins to Draw a Crowd*, WASH. POST, July 17, 2000, at F27 (noting an increase in office space in the commercial real estate market). It is important to point out that the mere existence of these more recent projects does not undermine two central contentions of this Article, namely that commercial disinvestment threatens the suburban authenticity of these communities and that this disinvestment can likely be traced, at least in part, to the influence of race and racial information. First, as the next section of the Article asserts, it is entirely possible these projects have been developed in conjunction with the extraction of potentially inefficient premiums from the respective county governments. The extraction of these premiums might generate negative externalities for these neighborhoods which outweigh the benefits of the development. See infra Part V.B. Second, both the Stonecrest Mall in south DeKalb and the Bowie Town Center in Prince George's County are located, inside (in the case of the Bowie Town Center) or adjacent to (in the case of the Stonecrest Mall) predominately White communities. Bowie is a majority-White city within Prince George's County. Interestingly, the five-mile radius that surrounds the Bowie Town Center has a racial makeup of sixty-eight percent White and twenty-seven percent Black. Goo, supra note 151, at T05. The Stonecrest Mall is being constructed adjacent to Rockdale County, a majority-White community. Henry Farber, *A New Edge City*, ATLANTA J. & CONST., July 23, 2001, at 1A. One therefore might fairly conclude from the geographic positioning of these new developments that investors are reluctant to invest in or near Black suburbs unless a significant number of Whites are also part of the potential customer base. Hence, far from contradicting the above arguments, these recent developments might only reinforce them.

303. Ben Smith, *Residents Hold Optimistic View of the Future*, ATLANTA J. & CONST., March 23, 2000, at 1JA (noting that inhabitants of south DeKalb were just as likely as north or central residents to promote the county to friends).
slights at the heart of black middle class discontent." These incidents—a White woman clutches her purse when a well-dressed Black man enters an elevator, or a Saks Fifth Avenue store clerk follows a Black customer (who just happened at the time of the incident to be the president of an elite women's college) a little too closely around the store—engender weary frustration among Black professionals. Such slights exist on a micro-level. White and Black interaction results in a complex set of social and psychological responses among both groups.

The preceding research and analysis suggest a similar dynamic regarding the issue of retail investment. The persistent sense that Black suburbs are being unfairly denied perks routinely available in White suburbs subtly undermines community pride and satisfaction. For example, a news story in the Atlanta Journal and Constitution perceptively labeled DeKalb County the "county of compromise." In that article, residents of south DeKalb appreciated their neighborhood's proximity to metropolitan Atlanta, but expressed dissatisfaction with the lack of decent sidewalks, bike paths, and quality shopping and dining. Some residents of south DeKalb fear that the proposed commercial development will not reach the area in time to stabilize it and that this will lead to Black middle-class flight. Some disillusioned residents of Prince George's County have already begun to contemplate leaving the County.

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304. Cose, supra note 18, at 5.
305. Id.
308. Virginia Anderson, Call It A County of Compromise, Atlanta J. & Const., March 16, 2000, at JJA (noting the conflicting feelings residents have about south Dekalb); see also Smith, supra note 142, at A1 (quoting one resident as saying, "I think generally when you conduct such polls you'll find that African-Americans are generally more optimistic. Sometimes they're so far down, they think, 'Can it get any worse?' Getting worse might mean losing the chicken franchise you already have.").
310. Id.
311. Thomas-Lester, supra note 141, at T8 (noting prevalent anecdotal evidence that disillusioned residents of Prince George's County may threaten the "myth" of Prince George's County as suburban haven and quoting resident as saying, "It's something my husband and I gripe about every day—the school system, the services. . . Forget shopping. Customer service here is really ridiculous. We're seriously debating whether we'll stay. We thought about Virginia. . . . Columbia is a consideration. I'm pretty definite that I don't want my baby going to public school here and I definitely know I don't want to shop here. We're not sure we'll leave, but we think about it a lot.").
B. Economic Impairment

The lack of vibrant and diverse commercial investment has significant economic consequences. Some of the more obvious immediate negative effects include the loss of property and sales tax revenues and fewer retail and management employment opportunities for local residents. Moreover, surveys indicate a resultant flow of capital (i.e., spending and investment dollars) out of these communities to other areas. Residents also express concerns about neighborhood property values and overall desirability.

A less obvious, although no less important potential consequence of the investment lag becomes apparent when desirable commercial development is proposed or constructed. These communities might be paying more for that development than is economically justified. Both Prince George's County and south DeKalb have offered significant public subsidies to developers in order to get these projects built. The public subsidies include tax breaks, special financing deals, and environmental review exemptions. For example, a recent package of tax incentives offered to mall developers to build a large mall in south DeKalb invited scrutiny. Local officials offered the developers low-interest bonds and a property tax abatement.

313. See supra text accompanying note 151; see also Rudolf A. Pyatt, Its Retail Quality, Not Quantity, That Sells in Prince George's County, WASH. POST, June 8, 1998, at F4 (citing surveys that show that forty percent of Prince George's County residents shop in neighboring counties).
314. Smith, supra note 147, at 2G. To be sure, there are certain economic and non-economic benefits associated with the relatively slow pace of high-end commercial development and some residents concede this point. In particular, residents admit that to this point, they have not had to absorb some of the costs of over-development (i.e., traffic, pollution, congestion, etc.). See Smith, supra note 142, at 1A (quoting local resident as saying, "While you’ve got to get in a car or book a flight (just) to go to a movie, we don’t have some of the headaches that come with overdevelopment."). Indeed, the rapid pace of upscale development in the majority White Atlanta suburbs to the north has resulted in maddening traffic and sewage spills in residential neighborhoods. See Peter G. Gosselin, The 90s: Private Boom Stingy on Public Goods, L.A. TIMES, Aug. 5, 2001, at A1. Even so, residents of Prince George's County and south DeKalb seem to desire a healthier balance between commercial and non-commercial land-use and between up-market and down-market commercial uses. Moreover, they believe (with some justification) that the present imbalance works to the long-term detriment of their respective communities.
315. See infra notes 316-22. It is unclear whether the money predicted will be returned to the county is in the form of taxes or other fees (i.e., parking revenues, for example).
316. Will Anderson, Legality of Mall's Tax Deal Stumps DeKalb Officials, ATLANTA J. & CONST., Oct. 4, 2000, at 5C (noting that developers will save $10 million in property taxes
Observers noted that large industries often get special financing arrangements as an incentive, but that such deals are unusual for the building of shopping malls. Moreover, the economic details of the arrangements raise troubling questions regarding the economic efficiency of the incentives. In particular, the property tax abatement is estimated to be worth approximately ten million dollars over twenty years. Local officials negotiated a similar deal with the Magic Johnson Movie Theaters Corporation, in which the south DeKalb agreed to pay the developer $3 million over ten years—the equivalent of that mall’s property tax for a decade.

Prince George’s County officials have also found themselves defending exceptional incentives undertaken to attract commercial investment. The National Harbor Project, a $560 million hotel and conference center project, has been, at the County’s request, exempted from detailed federal environmental review procedures. The County also exempted the project from standard land-use planning procedures that require the developer to submit detailed plans for approval. Moreover, the County has agreed to pay for road construction and parking facilities through tax increment financing. Under this plan, the financial assistance provided to the developer will be raised through the sale of tax exempt bonds. Thus, in theory, taxpayers will not have to directly subsidize the project.

In both communities, some local officials defend the arrangements on two grounds. First, they argue that the long-term benefits will outweigh costs. They point to the potential sales tax revenues, jobs, and other potential benefits, including serving as a catalyst for future development. Even more importantly, they argue that without these deals these projects would not be completed. They note that, as this Article has documented, these areas are under-

317. Anderson, Stonecrest Incentives, supra note 316, at 8C.
318. Elected Officials in DeKalb Need Say On Mall's Tax Break, ATLANTA J. & CONST., Sept. 1, 2000, at 18A.
319. Bill Torpy, Momentum Sides With the Mall at Stonecrest, ATLANTA J. & CONST., Jan. 4, 1999, at 1E.
321. Joel McCord, Builder of Opryland Brings its Act to P.G., BALT. SUN, January 12, 2000, at 1C.
323. Id.; Mall Is Worthy Expense, ATLANTA J. & CONST., April 20, 1999 at 12A.
324. Id.
served in terms of commercial investment and that residents are clamoring for results. Even so, other politicians and some local residents express concern that the incentives are unfairly weighted toward developers and that the long-term consequences might outweigh the gains. In south DeKalb, the deals were not given to the voters for their approval. Instead, unelected officials negotiated and approved the arrangement.

The potential benefits of these arrangements might include increased commercial investment, greater tax revenues, more employment opportunities, and civic pride. Proponents of the project in south DeKalb, for example, point to the projected $6 million that the project is expected to generate annually in property taxes for schools. Moreover, the DeKalb Chamber of Commerce estimates the mall will provide 4000 jobs. The Harbor Project in Prince George's County is expected to produce annual revenues of about $55 million and return to the County, in its first year alone, about $15 million. The Project is also expected to produce 2000 jobs. As for civic pride, the groundbreaking of the Stonecrest Mall in south DeKalb came complete with a fireworks show and theme music.

However, the risks of the financial incentives are considerable. First, it is unclear whether the tax abatement in south DeKalb will have a negative impact on the financial resources of the area. Property tax breaks for developers could result in other taxpayers, both individuals and businesses, having to pay higher taxes for infrastructure and police and fire protection. Those higher taxes could, paradoxically, have the affect of decreasing other economic activity and thus, discouraging other businesses from investing in these communities. This effect would be ironic. Second, local officials in both communities may be underestimating or neglecting the possibility that the retail sales generated at these facilities may simply be shifted from other businesses in the respective communities, so that the additional sales tax revenue does not produce a net gain. Finally, it is possible that the retail projects for which the incentives were offered will only have a small total economic effect.

325. Id.
326. Supra note 316.
327. Anderson, supra note 316, at 5C.
328. Id.
329. Pyatt, It's Retail Quality, not Quantity that Sells in Prince George's, supra note 141, at E3.
330. McCord, supra note 299, at 1C.
and will not generate the increased spending and economic development expected.

The exemptions for the National Harbor Project—both from federal environmental review and from standard land-use planning procedures—could also have significant unintended consequences. The Project is being constructed along the Potomac River, near Reagan National Airport. The environmental impact of the project on the river would seem a natural topic for study, particularly since the project is touted as a tourist destination. Moreover, the scale of the project invites analysis of existing traffic congestion in and around the airport and the impact of the Project on that problem. At least one County Council member expressed reservations about the wisdom of the exemptions and the County's lack of control over the project. The exemptions could, once again, leave Prince George's County residents beyond the reach of the mantle of protective zoning.

Only time will tell if the positive externalities generated by these projects will outweigh the public subsidies. The incentives might pay for themselves over time and thus be considered efficient investments. The National Harbor Project might not have any significant adverse effects on the environment. Moreover, the detailed plans (which the developers were not required to submit) might be largely consistent with other local land uses. On the other hand, the incentives and exemptions might constitute inefficient choices, born of poor information, rent-seeking behavior on the part of developers, or special interest pressure. Whatever the explanations, the mere existence of these schemes is troubling. It is one thing for a community to offer incentives to manufacturing and/or industrial production facilities. It seems a different matter for largely middle- and upper-middle-class communities to internalize a significant amount of the development costs in order to attract retail investment. Although not on the same scale, the much-criticized municipal subsidization of professional sports franchises could provide a useful analogy. The arrangements

332. Finucan, supra note 320, at 28.
333. It should be noted that other Black suburban communities have used generous property tax incentives and other extraordinary efforts in an effort to retain retail investment. Stanley Ziemba, Town Tries To Halt Exit By Penny: Matteson's Plea Comes With Financial Perks, CHI. TRIB., Apr. 16, 2000, at 1.
seem both a measure of the seeming desperation felt by local officials and an indication of the extent to which the developers (perhaps irrationally) view these communities as fairly risky places in which to make capital investments.

C. The Modern Black Suburb as a “Race-Making” Situation

The preceding analysis presents a decidedly mixed picture of the nature and extent of commercial investment patterns in contemporary Black suburbs. There are sources of optimism. Several long proposed retail investment projects are under construction in Prince George’s County and south DeKalb as of this writing. These projects have given residents and local officials hope for the future and reason to believe that other investment will follow. They have generated therefore, some psychological benefit. These projects might also serve as a foundation for future investment.

However, there are also reasons for a more pessimistic outlook. Despite the new investment, concerns remain about the depth and vibrancy of the new investments, as well as the pace of future projects. Will this new investment be enough? If not, will this new investment stimulate additional, high quality investment? Will this new investment meet the needs of the residents? Will the developers and managers put adequate resources into property upkeep and maintenance, so that the stores are inviting places to shop? Will the retail stores carry quality merchandise? Earlier patterns of commercial investment in majority-Black communities do not provide a great deal of comfort.

An additional source of pessimism lies in the suspicion that these new projects bring with them questionable economic and social implications. Will this investment actually pay for itself? Or will the public and other private businesses pay an inefficient premium for it? Will future investors also demand similar subsidies as a condition of agreeing to invest? What implications will this kind of rent-seeking behavior have for future development? Will Prince George’s decision to exempt the National Harbor Project from the land-use planning process result in future land-use conflicts that

336. See supra Part IV.E.
337. See supra note 302.
338. See supra note 13.
might have been more efficiently resolved at the pre-construction stage?

The stakes are exceedingly high. If vibrant commercial development cannot be established and sustained, these neighborhoods will have a difficult time attracting and keeping a critical mass of middle- and upper-middle-class residents, which might threaten school funding and long-term community attractiveness and stability. Unfortunately, there are already indications that some residents of Prince George's County are becoming disillusioned with life in the County.\textsuperscript{339} Residents of south DeKalb have expressed a concern about "middle-class flight" as well.\textsuperscript{340}

This Article contains research that questions the assumption that contemporary Black suburbanites get the "best of both worlds"—a genuine suburban life-style, largely free of racial resentment. My analysis suggests that these Black suburbanites might face threats on both counts. First, Black suburbs face a significant commercial investment lag and the resultant difficulties identified in this article. Second, Black suburbanites experience a more subtle form of racial resentment and isolation as they continually confront this competitive disadvantage.

It is beyond argument that the affluent Black residents of Prince George's County and south DeKalb are relatively better off than the earliest generation of Black suburbanites.\textsuperscript{341} They tend to have more political power, economic resources, and business sophistication. Their neighborhoods are newer and their houses are bigger. Class privilege thus leaves these Blacks in a better position relative to those of most other Blacks. However, the concurrent and independent effects of race, along with the other factors identified in this analysis, apparently leave them worse off than White suburbanites with similar levels of income.

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\item[339.] See supra note 311; see also Prince George's County Profile, \textit{All Things Considered}, (National Public Radio broadcast, Feb. 23, 2000) (quoting journalist Leon Wynter as saying, "Before Prince George's no county in America ever went black while raising its income and education level, but nobody knows if they can sustain it, either. The growth in property values here is already slowing compared to neighboring suburbs. They're weighed down by fears of a black school system. The only way to pay for better schools is to fight for ever-classier development, even if it creates the appearance of a black gentry pulling the ladder behind it.").

\item[340.] See supra note 142; see also Francis X. Cline, \textit{Blacks Rise as Power in Washington Suburb}, \textit{N.Y. Times}, July 1, 2001, at A14 (quoting Prince George's County Chief Executive Wayne Curry as saying, "Most places that got to be majority black in the central cities got that way because of disinvestment. White folks with money and means said, I'm getting out of here.' Well, we've attracted people of means. But now we have to have policies that don't reconcentrate the very poverty that you're trying to overcome in the city.").

\item[341.] See supra Part II.A.
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\end{footnotesize}
The preceding analysis suggests, therefore, that while these contemporary Black suburbs are an improvement over the earlier suburbs, the suburban ideals of community control, income exclusivity and class homogeneity are elusive for middle- and upper-middle-class Blacks. To this extent, contemporary Black suburbs function as "race-making situations." Instead of completely erasing racial stereotypes, they might actually subtly reinforce racial stigma.

They serve to remind Whites that Black suburbs are different from and less desirable than White suburbs. They send a signal to Whites that Black suburbs, even when comprised of Blacks who are solidly middle-to-upper-middle class, are not authentic suburbs. Whites in search of the traditional suburban ideal will thus likely avoid settling in these areas. This intensifies racially segregated living patterns for Blacks and Whites. For Blacks, the gap between the suburban ideal and the every-day reality undermines the quality of their residential experience and fuels significant weariness and uncertainty. Although the Black residents of these neighborhoods do not believe themselves or their neighborhoods to be inferior, the mere presence of the disparity is a constant reminder of the ways in which, for all their professional achievements, race still plays a significant role in hindering their full attainment of the American dream.

This research thus challenges the view that the experiences of Black middle-class suburbanites mirrors that of Whites and that Black suburbanization has largely destroyed the "urban-as-Black" and "suburban-as-White" dichotomy.

VI. IMPLICATIONS AND CONCLUSION

"When color and ethnicity cease to be unbearable burdens, when opportunity for jobs, education and housing becomes genuinely equal ... the Negroes ... will at least have a firm base upon which to construct a sound communal life ... The alternative in a democratic society is almost unthinkable."  

342. See supra note 15.

This Article highlighted an underappreciated but significant difficulty facing contemporary Black suburbs: the problem of commercial disinvestment. It has provided an analytical and positive account of the phenomenon. Moreover, this Article provided evidence to suggest that, despite recent developments, the problem presents significant challenges to the long-term viability of these communities. But, the preceding inquiry calls for a prescriptive discussion as well. What should policymakers do about this puzzle? At a minimum, this discussion will reveal a set of interesting questions that have not received sufficient attention in academic and popular discourse.

One of the major suggestions of this Article is that the problem of commercial disinvestment is more complex than has been previously understood. The implications of this insight for a prescriptive agenda should be apparent. Policy makers must employ a multi-faceted approach to solving the problem:

1) greater sensitivity to the nexus between land-use doctrines and optimal levels of commercial investment. This Article examined the operation of zoning laws and other land-use regulations and

344. Of course, not all would agree with my normative claim that we should do something about this. Objections to that idea might come from two camps: efficient-market theorists and racial integrationists. Efficient-market theorists would argue that the investment lag in these communities is simply a result of efficient market forces. That is, the absence of investments simply means that rational investors have decided that these communities are not optimal places to invest. Moreover, government intervention designed to change the incentive structure is, at best unnecessary and, at worst, counterproductive. Racial integrationists would also argue for a much less active role, but for a different reason. They would argue that what we as a society ought to be doing is supporting the creation and maintenance of racially integrated communities, not racially segregated ones. To their minds, the viability of these communities should be of little consequence. In fact, their continued existence impairs the goal of racial integration and thus racial pluralism. I disagree with both free-market theorists and racial integrationists. My problem with the efficient-market theory is that I believe it is inapposite in this context. In other words, I am not convinced that the market for capital investment in these communities is operating efficiently. In fact, what is likely happening is that race and other factors enumerated in this Article are creating significant market distortions. There is a lot of evidence, some of which is cited elsewhere in this Article, that race and racial information can distort the kind of rational analysis that supports the operation of efficient markets. Some type of intervention thus seems necessary, although reasonable persons can disagree over the scope and the precise content of the regulation. As for the racial integrationists, my objection to their claim is not a normative objection. In fact, my policy preference on most issues tends towards racial integration rather than racial separation. My objection to the racial integrationists claim is simply a practical one. The reality is that these communities are now well entrenched and are very likely here to stay as presently constituted (i.e., predominately-Black). The only significant question thus becomes not whether these communities should exist as predominately-Black communities, but whether they will exist as economically vibrant and socially sustainable communities.

345. See supra Part IV.
practices in Black suburbs. Indeed, this investigation suggests that modern Black suburbs have not reaped the benefits of protective zoning to the degree of White suburbs. To be sure, modern Black suburbs should modernize and streamline zoning laws to meet contemporary conditions. On the other hand, local officials must be careful to not sacrifice the economic and social benefits of comprehensive land-use planning on the altar of commercial investment. In other words, policy makers should ensure that zoning laws and land-use practices both create the proper incentives for retail investment and preserve the semi-rural character of traditional suburban life.

2) renewed efforts to close the continuing wealth-gap between Blacks and Whites. The inter-community wealth disparity (i.e., the fact that Whites are, in the aggregate, wealthier than Blacks) puts these communities at a competitive disadvantage regarding commercial investment. Policy makers must rededicate themselves to the stringent enforcement of fair-housing and anti-discrimination laws, so that Blacks will have equal access to wealth-building vehicles such as home ownership and stable employment. Additionally, predatory lending practices in minority communities deserve attention since they have a negative effect on wealth accumulation. Although politically controversial in certain circles, reparations might also play a pivotal role in systematically reducing the wealth gap.346

3) academic attention to the role that racial information might play in the valuation of the tangible and intangible assets of Black suburbs. This Article has uncovered the possibility that the economic viability of these communities might be negatively affected by the irrational influence of racial information. More research is needed to refute or confirm this possibility. If confirmed, efficiency and fairness dictate that policy makers devise solutions. Previous

regulatory attempts to discourage the irrational use of racial information in lending decisions, particularly in the home mortgage market, might provide a foundation for constructive solutions in this context.

If the prescriptive side of this problem is a challenging one for policymakers, the lifestyle challenge facing affluent Blacks is equally discomfiting. What should middle- and upper-middle-class Blacks who seek to live in suburbs do in the meantime? One alternative is to choose predominately White suburbs. Although de facto discrimination remains,\textsuperscript{347} the opportunities for affluent Blacks to move to affluent White suburbs have increased considerably over the past two decades.\textsuperscript{348} Once there, these Blacks will find more attractive ancillary services and more consistent appreciation in property values.\textsuperscript{349} Unfortunately, residing in these communities also carries disadvantages, including the unnerving possibility of unpleasant or awkward encounters with White neighbors, the lack of a critical mass of Black professional role models for one's children, and a certain degree of cultural isolation.\textsuperscript{350}

On the other hand, life in contemporary Black suburbs also carries with it its share of advantages and disadvantages. On the plus side, one does not have to worry about barriers to entry. Additionally, once there, one does not have to worry about unpleasant encounters with Whites or pervasive cultural isolation. Indeed, the psychic and cultural appeal of these communities seems their biggest draw.\textsuperscript{351} However, as this Article demonstrates, one must also confront less than optimal retail investment, less appreciation in property values, and a certain weariness that comes from living in an uncertain social laboratory rather than a traditional suburban haven. In short, affluent Blacks face a rather unsavory dilemma, a perplexing and still too restrictive set of choices which their White suburban counterparts do not face. Hence, it remains unclear whether modern Black suburbs can serve as a testament to the much-touted ability of affluent Blacks to form racially homogeneous \textit{and} genuinely suburban communities.

\textsuperscript{347} NPR Morning Edition, supra note 127 (referring to the continuing tendency of real estate agents in Chicago to "steer" Black and White homebuyers to separate neighborhoods).
\textsuperscript{348} See supra Part II.B.
\textsuperscript{349} American Apartheid, supra note 42, at 85.
\textsuperscript{350} See Blacks Are Migrating to Outskirts of Oakland, Calif., Area, CONTRA COSTA TIMES, June 6, 2001, at C3 (noting that a Black resident found the atmosphere "chilly" in her predominately White neighborhood when she moved in and describing a recent cross-burning on a Black couple's lawn.).
\textsuperscript{351} See supra text accompanying notes 134-37.