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THE FAIR HOUSING LAW

by Dr. HAROLD GOLDBLATT and FLORENCE CROMIEN



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**THE EFFECTIVE SOCIAL REACH OF THE FAIR HOUSING
PRACTICES LAW OF THE CITY OF NEW YORK**



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THE EFFECTIVE SOCIAL REACH OF THE FAIR HOUSING PRACTICES LAW OF THE CITY OF NEW YORK *

HAROLD GOLDBLATT and FLORENCE CROMIEN

A general problem in the sociology of law is the capacity of law to engender social change. A case in point is the impact of the Fair Housing Practices Law of the City of New York, which, on April 1, 1958, made illegal the custom of discriminatory segregation of Negroes and whites in different buildings and different areas of the city.

The proposal to ban discrimination in residential housing had been a controversial issue in the 1957 mayoralty campaign. When, therefore, Mayor Robert F. Wagner won re-election by an overwhelming majority, he interpreted his victory as a mandate for the enactment of such legislation and placed it high on the agenda of the new administration. Before the year was out the Fair Housing Practices Law had been passed by the City Council and approved by the Board of Estimate and the Mayor. It became effective three months later.

The purpose of the new legislation was stated explicitly: "It is hereby declared to be the policy of the city to assure equal opportunity to all residents to live in decent, sanitary and healthful living quarters, regardless of race, color, religion, national origin or ancestry, in order that the peace, health,

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The data were compiled from the files of the City Commission on Human Rights of New York (formerly named the Commission on Intergroup Relations). They include all sworn cases of discrimination in housing brought by Negro complainants in the first three years of the operation of the Law (April 1, 1958—March 31, 1961). These data are not affected by amendments passed later in 1961 which extended the coverage of the Law and modified certain administrative procedures of the Commission. Later in 1961 also the New York State Legislature enacted a state-wide law banning discrimination in housing and entrusted its administration to the previously constituted State Commission Against Discrimination (later renamed the State Commission for Human Rights).

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safety and general welfare of all the inhabitants of the city may be protected and insured."¹

Administration of the Law was entrusted to the Commission on Human Rights, a city agency created in 1955 "through which the city of New York officially may encourage and bring about mutual understanding and respect among all groups in the city, eliminate prejudice, intolerance, bigotry, discrimination and disorder occasioned thereby and give effect to the guarantee of equal rights for all assured by the constitution and the laws of this state and of the United States of America."² For enforcement the Commission relies on the conciliation process, buttressed by the power of subpoena. If efforts at conciliation fail, a case may be referred to another city agency, the Fair Housing Practices Panel. And if all prior measures fail, the Corporation Counsel may take the case to court.

During the first three years of the Fair Housing Practices Law, which is the period of this study, the provisions of the Law applied to roughly 70 per cent of all residential housing in New York City; that is, to all private multiple dwellings in New York City containing three or more apartments and to new one- and two-family houses built in developments containing ten or more houses. Because this Law was the first in the United States to cover housing financed wholly from private funds, it represents a milestone in the history of anti-bias legislation.

Mindful of the ethnic composition of New York, many friends and foes of the new legislation anticipated massive population shifts as the city's minorities seized the opportunity to move out of overcrowded segregated neighborhoods into neighborhoods from which custom formerly had excluded them. It was the expressed fear of some opponents that in attempting to promote integration the Fair Housing Practices Law would incite racial strife and mass disobedience and thus ultimately promote disrespect for all law, just as it was a major hope of some supporters that the Law would significantly undermine the custom of segregation in housing. The reality has been far less spectacular.

WHO BENEFITS?

At the time of this study the Fair Housing Practices Law had been in effect three years. In this time it brought the city neither to catastrophe nor to utopia. What, then, has been its social effect? The writers attempt in this study a partial answer to this broad question by answering another, more

¹ Local Law No. 80 for the year 1957, Administrative Code of the City of New York, Title X, Section X41-1.0.

² Local Law No. 55 for the year 1955, Administrative Code of the City of New York, Title B, Section B1-1.0.

TABLE 1

Disposition of Negro Complaints by Education of Complainant

Disposition of the complaint	Less Than High School	High School Grad.	Some College	College Grad.
Adjustment satisfactory to complainant	40%	47%	56%	59%
Insufficient evidence of discrimination	30	28	27	18
Closed for administrative reasons	30	27	17	23
Total cases (100%)	(44)	(123)	(95)	(141)

specific question: **A cui bono?** First, who, of all those whom the Law was intended to help, actually availed themselves of its provisions? And, second, of those who did avail themselves of the help the Law affords, who obtained what type of benefits?

The language of the Fair Housing Practices Law is universalistic. It offers protection to all residents of the city without regard to the race, color, religion, national origin, or ancestry of the applicant. But the effective social reach of the Law proved to be much narrower than the language. Of all those to whom the Law offers protection, only the Negro came forward in the first three years in sizable numbers to avail himself of its provisions. Eighty-one per cent of all cases were filed by Negroes, and those complainants who filed more than one complaint were almost always Negroes. Puerto Ricans constituted the second largest group of complainants, filing 8 per cent of the total. Complaints by Jews accounted for 3 per cent. The remaining 8 per cent of complaints were brought by members of various ethnic groups and included persons who filed complaints on behalf of others, usually spouse or friend.³

What is more, not all classes of Negroes availed themselves to an equal extent of the protection of the Law. One class came forward in numbers greatly disproportionate to its total numerical strength in the Negro community. This was the young middle class. Thirty-seven per cent of the Negro complainants were college graduates, another 22 per cent had had some college education, and an additional 32 per cent were high school graduates. As to occupation,

³Of the total number of sworn cases (685) brought during these three years, 85 per cent were complaints of anti-Negro discrimination, some of them filed by whites. Nine per cent of the complaints were based on the ground of discrimination because of Puerto Rican ancestry, 3 per cent because of religion (usually Jewish), and the remaining 3 per cent because of foreign nativity.

TABLE 2

Disposition of Negro Complaints by Occupation of Complainant

Disposition of the complainant	Manual Worker	White-Collar	Professional	Non-employed
Adjustment satisfactory to complainant	43%	56%	57%	(9)
Insufficient evidence of discrimination	31	24	19	(3)
Closed for administrative reasons	26	20	24	(2)
Total cases (100%)	(126)	(126)	(163)	(14)

39 per cent were employed at the professional or managerial levels and 27 per cent in other white-collar occupations. Thirty-three per cent reported incomes of \$100 or more a week.

The disproportion of representation of minority groups among the complainants was found to be a stable phenomenon that cannot be explained on the ground that all potential beneficiaries were not yet aware of the Law. Rather, the disproportion was a continuing characteristic throughout the period studied. In the first year 84 per cent of the complaints were filed by Negroes as compared with 79 per cent in the second year and 80 per cent in the third year. Puerto Ricans maintained a similar stability: 8, 9, and 8 per cent. What shifts occurred were among the groups that filed the small remainder of complaints. The percentage brought by Jews, for example, declined from 5 per cent in the first year to 2 per cent and then to 1 per cent in the second and third years, while complaints by other groups increased from 3 per cent in the first year to 10 per cent in the second year and 11 per cent in the third year. Within this three-year period the preponderance of younger middle-class Negroes over all others was maintained.

In yet another respect the Law proved to be particularistic rather than universalistic in its social impact. Of the Negro complainants who actually benefited from the conciliation efforts of the Commission again it was the middle-class Negro, rather than the lower-class Negro, who benefited most. Correlation of types of disposition of complaints with the socio-economic characteristics of complainants revealed that discriminators proved appreciably more willing to reverse their initial refusal to rent to members of the Negro middle class than to members of the Negro lower class. The picture came through with the greatest clarity when educational attainment and occupation were correlated with disposition of the case. (See Tables 1 and 2.) On the other hand, a correlation of income and disposition of case, initially weak, was further attenuated as time added new cases. Taken as a whole, the correlations appear to show that the middle-class Negro complainant more often than the lower-class Negro

complainant eventually succeeded in being offered either the apartment he initially wanted or another, comparable apartment. Although this differential was more often true during the first two years than during the third year, it still held true for the full three-year period.

It is interesting to speculate why this single group of complainants appears to have fared better than all others. One possible explanation suggests that the middle-class Negro is more expert than the lower-class Negro in assessing a social situation and that therefore his allegation of discrimination is more likely to stand up under investigation. Another possibility is that the better educated middle-class Negro may look more frequently for an apartment in buildings controlled by large landlords whereas the less well educated Negro of the working class may turn more frequently to apartments controlled by small landlords. Complaint investigators have reported that the records kept by small landlords are inferior, as a rule, to those kept by large landlords. Hence a case of discrimination against a small landlord is harder to prove.

Impact on Residential Segregation

So much for the class of complainants who have benefited from the Fair Housing Practices Law. What has been the impact of this Law on residential segregation? Donald Cowgill has pointed out⁴ that segregation in New York City has been decreasing for some time. Any recent decrease, therefore, is in part the continuation of a trend toward residential dispersion that began prior to the enactment of the Fair Housing Practices Law and has continued to the present. We are faced, then, with the problem: How much of the desegregation occurring since the enactment of the anti-bias legislation came about because of the Law, and how much would have occurred in any case?

Relevant information comes from the Commission's conciliation conferences with landlords and real estate brokers accused of violating the Law. In 44 per cent of the first 304 cases considered by the Commission to have been settled satisfactorily to the complainant, the complainant was finally offered the apartment he initially had been refused or another, comparable apartment. This achievement, though small, represents a positive increase in integrated housing that would not have occurred had the Commission not intervened under the authority of the Fair Housing Practices Law.

Other information as to the social function of the Law comes from a study of the complainants' place of residence and would-be residence. Assume that every Negro complainant had succeeded eventually in obtaining the vacancy applied for. Would there then have been a trend toward greater dispersal of

⁴ Cowgill, Donald O., "Trends in Residential Segregation of Nonwhites in American Cities, 1940-1950," *American Sociological Review*, 21 (Feb. 1956), 43-47.

TABLE 3

Racial Composition of Census Tracts in Which Negro Complainants Resided and in Which They Attempted To Rent

Proportion of non-whites in census tract	Census Tract of residence	Census Tract of vacancy
75% or more	24%	*
50-74.9	8	1
25-49.9	12	5
10-24.9	12	11
Under 10%	44	83
Subtotal 100%	(443)	(479)
No change of residence or out-of-town residence	(12)	(37)
Address unknown	(15)	(51)
Repeaters' complaints	(97)	
Total Negro complaints	(567)	(567)

* Fewer than 1/2 of 1 per cent.

Negroes from areas of high Negro concentration toward areas of high white concentration?

Obviously, one cannot estimate trends in the community at large solely from knowledge of the dispersal desires of Negro housing complainants. The pattern derived from a study of this group of Negro residents of New York nevertheless clarifies the social function of the Fair Housing Practices Law. With the help, therefore, of data provided by the City of New York Commission on City Planning, the writers ascertained what proportion of the population was Negro in the census tract in which the complainant was living when he filed his complaint and also in the tract in which the desired apartment was located and compared them.

According to Table 3, while one complainant in every four—or 24 per cent—resided in a census tract that was 75 per cent or more Negro, fewer than one complainant in a hundred—or only 0.2 per cent—based his complaint upon alleged racial discrimination in such areas. This finding is confirmatory evidence,

TABLE 4

Racial Composition of Census Tract Where Vacancy Was Located by Education of Negro Complainant

Proportion of non-whites in census tract of vacancy	Non-employed	Manual worker	White-collar	Professional
Under 1%	18%	22%	28%	40%
1-9.9%	64	64	47	49
10% or more	18	14	25	11
Total cases (100%)	(22)	(155)	(134)	(182)

TABLE 5

Racial Composition of Census Tract Where Vacancy Was Located by Occupation of Negro Complainant

Proportion of non-whites in census tract of vacancy	Less than high school	High school grad.	Some college	College grad.
Under 1%	21%	30%	34%	34%
1-9.9%	53	47	55	51
10% or more	26	23	11	15
Total cases (100%)	(34)	(132)	(102)	(163)

if any were needed, that indeed certain areas of the city have been considered by custom appropriate for Negroes only and certain other areas for whites only.

Another finding, however, was unexpected. This was that 44 per cent of the complainants already resided in areas 90 per cent or more white. It would appear then that the protection of the Fair Housing Practices Law is made use of to a surprising extent by Negroes already resident outside the major ghetto establishments of the city. But when these Negroes have sought to repeat their initial success in finding homes in predominantly white areas, they have been rebuffed.

A trend analysis quarter by quarter of the residential location of complainants did not indicate any consistent tendency for complainants to come either more often or less often from areas of high segregation. Nor was there discernible any consistent tendency for complainants to allege discrimination either more or less often in areas of low segregation. In short, the distributions reported in Table 3 appear to reflect a stable situation.

Tables 4 and 5 show that whether the Negro complainant sought a vacancy in an area of higher or lower segregation depended in part upon his occupation

and education. Of those who sought vacancies in census tracts where non-whites were fewer than one per cent, a larger proportion were employed in professional (40%) than in white-collar (28%) or manual (22%) pursuits. A similar correlation holds for education.

Summary

In sum, although the language of the Fair Housing Practices Law is universalistic in offering protection to every citizen of the City of New York without regard to ethnic affiliation, this study found that the **effective** social reach of the legislation was much more restricted. During the first three years the Law's clientele was disproportionately Negro whereas the representation of Puerto Ricans was little more than proportionate to the estimated number of Puerto Ricans in the total population. In the second place, the Negro clientele was disproportionately young and middle class in educational and occupational attainment. In the third place, the Commission on Human Rights was able to intervene successfully in behalf of members of this young middle-class social group more frequently than in behalf of the older, less well educated Negro complainants of the lower class. Finally, the relevance of the Fair Housing Practices Law to residential desegregation must be evaluated in light of the fact that a large proportion of the complainants under the Law already were residing outside the established Negro ghettos.

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80 LAFAYETTE STREET
New York, N. Y. 10013

Telephone: 566-5050