

## Mayor Brown visits HOME, shares plans for increased racial and socio-economic diversity

By Samantha Long



Buffalo Mayor Byron W. Brown attended the meeting of HOME's Board of Directors on July 9, 2015. The Mayor's visit came after HOME Executive Director Scott Gehl suggested the organization sign Mayor Brown's *Opportunity Pledge*. This was the first time a Buffalo Mayor has ever attended a HOME Board meeting and HOME staff and Board Members were grateful to have the opportunity to sit down with Mayor Brown to discuss mutual concerns about housing related issues in the city. HOME and its supporters are excited to work with Mayor Brown and other local actors on this initiative.

The *Buffalo Opportunity Pledge* is a citywide effort to promote diversity and inclusiveness in Buffalo, helping to ensure that all residents will benefit from the positive growth and development in the Buffalo-Niagara region. According to the Mayor, since we "cannot legislate peoples' attitudes and choices" the *Opportunity Pledge* will be a catalyst for thought and action that will foster a more diverse and inclusive community, something that has always been central to HOME's mission.

Among topics discussed with Mayor Brown were efforts to increase minority and women owned businesses and efforts to prevent neighborhood gentrification. Also discussed, and of particular interest  
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## HOME prevents eviction of disabled veteran

By Daniel J. Corbitt, Esq.

According to the Department of Veterans Affairs (VA) report "Trends in Veterans with a Service-Connected Disability: 1985 to 2014" the number of service-connected veterans in the US increased by 5.5% from 3.7 million to 3.9 million between 2013 and 2014. These service members often face challenges ranging from physical to psychological impairments and in many cases can benefit from the use of a service or therapy animal. Unfortunately, HOME has heard many instances of discrimination against these individuals and their families due to unlawful restrictions placed by their housing providers. David (a pseudonym), a thirty-year-old married father who served in Iraq and Afghanistan, has one of these stories.

Since coming home from Afghanistan, David has struggled with a service-connected disability. In order to help him cope with the everyday challenges he experienced, he applied for a service animal from WNY Heroes, Inc., a nonprofit organization that provides support and assistance to veterans and their families. David was living with his wife and young son in an apartment in a suburban community outside of Buffalo. Soon after receiving his assistance animal, David contacted his landlord to explain the situation.

When David's landlord learned about the assistance animal, he became angry and told David that pets are not allowed at the apartment. David tried to explain to his landlord that the dog was an assistance animal and not a pet. Having the animal, which was specifically trained to assist individuals with service-related disabilities, was necessary for David to manage daily tasks. When the landlord refused to accept this explanation, David again turned to WNY Heroes for assistance. Chris Kreiger, co-founder and president of the organization, contacted the landlord and explained their program along with the laws governing these types of animals. Nevertheless, the landlord still insisted that pets are not allowed and threatened David and his family with eviction. The landlord also demanded access to David's medical records to verify that the tenant was disabled.

After learning of the situation from WNY Heroes, HOME advised David on his rights under the Fair Housing Act (FHA), which prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, familial status, and disability. One type of disability discrimination expressly prohibited by the FHA is the refusal to make reasonable accommodations in rules, policies,



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**FROM THE DIRECTOR:****FROM THE DIRECTOR: Inclusionary Zoning***By Scott W. Gehl*

Inclusionary zoning is a planning term for a range of mechanisms to assure that housing for families of limited means is included in larger developments. For the Buffalo-Niagara region, this concept could, over time, provide one element of a remedy for racial segregation and concentrated poverty.

**Segregation caused by public policy**

Although individual acts of discrimination have reinforced patterns of racial separation, it was public policies that gave rise to Buffalo-Niagara's segregated landscape.

The New Deal's Homeowner's Loan Corporation (predecessor of the Federal Housing Administration) institutionalized the practice of community ratings later used by mortgage lenders to "redline" neighborhoods. In the 15 years following World War II, 98 percent of mortgages insured by the FHA and the Veterans Administration went to Whites. These same federal programs fueled the post-war suburban construction boom, while federal highways permitted suburban residents to commute to jobs and amenities then centered in cities.

For cities there was a program called urban renewal. In Buffalo, urban renewal destroyed racially diverse neighborhoods east of Main Street. Displaced lower income residents were then steered into racially segregated public housing projects. Even after President Kennedy's Executive Order outlawing discrimination in public housing, the Civil Rights Act of 1964 and Fair Housing Act of 1968, the Buffalo Municipal Housing Authority continued to maintain a system of segregated housing.

Because racial segregation is the result of decades of deliberate public policy, concerted public policy will be necessary to create equal housing opportunity.

**Zoning**

In his book *Segregation: A Global History of Divided Cities*, respected historian Carl Nightengale writes of how, in the first decades of the 20th Century, the city planning movement and National Association of Real Estate Boards promoted the con-

cept of zoning to regulate land use. Commerce Secretary Herbert Hoover promoted a Standard State Zoning Enabling Act which gave municipalities the power to regulate land use by class. Today many communities have on their books statutes which prohibit multiple dwellings in most areas and even impose requirements which effectively prohibit the construction of affordable single-family homes.

Inclusionary zoning stands on its head conventional exclusionary zoning. Practiced in a variety of ways involving both single and multi-family housing, in its most basic form it is a legal requirement to include in new housing developments a set percentage of units affordable to families of limited means. The benefits include both creation of new housing and socio-economic integration.

The Erie County Fair Housing Partnership has made inclusionary zoning a provision of proposed fair housing legislation now under discussion in County Hall. The Partnership proposes that in every new multi-family rental development of eight or more units, ten percent would have rents affordable to families at 80 percent of area median. Furthermore, these units could not be clustered in one area of a development or have external finishes different from other units.

**Interest by City Hall**

In June HOME's Board of Directors voted unanimously to endorse the Buffalo Opportunity Pledge—intended to build "an inclusive, strong and prosperous city" whose benefits extend to all quarters of the community. On July 9th, Mayor Byron W. Brown and members of his staff came to HOME's offices to discuss the concept of inclusionary zoning, which he acknowledged could be an antidote to the racial segregation and concentrated poverty which have plagued the Buffalo-Niagara region for decades.

No promises were made that night, beyond serious consideration by top policy makers and continued conversation. And there is no more influential a conversationalist than the Mayor of Buffalo.

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# Supreme Court Maintains Important Tool for Fighting Segregation

By Daniel J. Corbitt, Esq.

Buffalo's image has radically changed in recent years. After decades of being portrayed as a rust-belt city in perpetual decline, Buffalo is being heralded as a city on the rise. While the full extent of this recovery has yet to be seen, one fact is clear: the Buffalo-Niagara metro region cannot experience a true revitalization while it remains one of the most segregated areas in the country.

Segregation is a problem that affects not just Buffalo, but the nation. Across the country, inequality and isolation are increasing despite the end of legally enforced segregation and laws that prohibit discrimination based on protected characteristics.

In *"Concentration of Poverty in the New Millennium,"* Paul Jargowsky, a professor of public policy at Rutgers University, finds that poverty has become more concentrated since 2000. Low-income families are more likely to live in high-poverty neighborhoods, in which 40 percent or more of the residents are poor. In 2011, 7 percent of poor Whites lived in high poverty neighborhoods, up from 4 percent in 2000; 15 percent of poor Hispanics lived in high poverty neighborhoods, up from 14 percent in 2000; and a shocking 23 percent of poor African-American lived in high poverty neighborhoods, up from 19 percent in 2000.

Here in the Buffalo-Niagara metropolitan area, people of color are disproportionately poor and clustered in the urban centers. Over the years, this problem has only gotten worse. Buffalo-Niagara was ranked 12th most segregated metro in 1980, 10th in 1990, and 8th in 2000. Currently, the region is the 6th most segregated metropolitan area in the United States. The concentration of predominately poor minorities in urban areas has deleterious effects on our communities, resulting in disinvestment, failing schools, poor housing and health conditions, crime and limited access to services.

Reducing segregation is critical if we are to create a more fair and vibrant community. One of the main tactics for reducing segregation is addressing discriminatory housing policies, which prevent a person from living in the

community of his or her choosing. Under the Fair Housing Act (the Act), it is illegal to refuse to "sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin." Despite these prohibitions, segregated housing patterns are often the result of discriminatory policies or practices that are disguised or ostensibly neutral. In such cases, it may be impossible to show evidence of a discriminatory purpose. Instead, successful challenges must focus on the consequences of the actions in question rather than the actor's intent.

To accomplish this, courts have developed the disparate-impact analysis. Under this analysis, a policy or practice has a discriminatory effect where it actually or predictably has a disproportionate impact on a group of persons, or creates, increases, or perpetuates segregated housing patterns because of a protected characteristic. For decades, every court of appeals has interpreted the Act to prohibit policies that have a discriminatory effect, regardless of whether they were adopted with a discriminatory intent. Until recently, the Supreme Court never weighed in on the matter and definitively stated that the Act allowed for disparate-impact claims. Opponents have attempted to roll back fair housing protections by arguing that the Act only allows claims for intentional discrimination, and not claims that cover practices that have a discriminatory effect. In *Texas Department of Housing and Community Affairs v. Inclusive Communities Project*, the Court finally settled the issue.

The case concerned the federal Low Income Housing Tax Credit program, which grants tax credits to developers who guarantee that a certain percentage of units in a project will be for low- and moderate-income families. In Dallas, ninety-two percent of units subsidized by these federal tax credits were built in already segregated (high-minority), low-income neighborhoods. The Inclusive Communities Project (ICP) of Dallas sued the Texas Department of Housing (TDHCA) under the Act, claiming that the TDHCA disproportionately allocated tax credits

in minority-concentrated neighborhoods, while disproportionately withholding tax credits from predominantly White neighborhoods. The case centered on whether the program violated the Act, even if the government agency sponsoring the housing did not openly state that its purpose was to keep minorities out of the suburbs. The TDHCA argued that the program was not unlawful because there was no discriminatory intent.

The Supreme Court disagreed, and held that the Fair Housing Act recognizes disparate-impact liability. Therefore, seemingly neutral policies and practices may be challenged in court where they disproportionately impact a protected group of people, or perpetuate or increase segregated housing patterns because of a protected characteristic such as race, color, or national origin.

A claim of discriminatory impact is only the first step in getting redress. Plaintiffs who bring fair housing lawsuits based on disparate-impact must show a causal connection between the challenged policy and its discriminatory effect. A causal connection is established when two events are related, and the second event happens because of or in response to the first event. Defendants can prevail by showing that there is a legitimate, nondiscriminatory reason for the policy or practice, and less-discriminatory alternatives are not available. Therefore, successful disparate-impact claims require more than evidence of racial disparity alone. And while these claims cannot singlehandedly solve the problems of inequality and segregation, they remain an important tool to ferret out subtle instances of housing discrimination.

Back here in Western New York, our much discussed renaissance is tempered by the reality that entire segments of the population are being denied an opportunity to contribute. Buffalo will never realize its full potential while it remains one of the most segregated places in the country. A real revitalization must improve the opportunities for all our region's residents. Because of the recent Supreme Court decision, disparate-impact claims remain one of the tools with which we can build a more just and inclusive community.

## From Surviving to Thriving: A Look at the CHC Mobility Program

By Craig Douglass

On April 4, 1968, The Reverend Doctor Martin Luther King, Jr. was assassinated. Seven days later, President Lyndon B. Johnson signed the Fair Housing Act of 1968 prohibiting discrimination in the sale, rental or financing of housing.

Despite the fact that the FHA was signed almost 50 years ago, discrimination still exists. When a family falls below the poverty line, they become particularly susceptible to discrimination, especially in housing. One method to alleviate the housing challenges of low-income households is the Housing Choice Voucher (HCV) Program, the federal government's major effort to assist very low-income families, the elderly, and the disabled in affording decent, safe, and sanitary housing. The HCV Program, commonly known as Section 8, gives its recipients the opportunity to live in the housing and neighborhoods of their choice.

Section 8 program participants are free to choose any housing that meets the requirements of the program and, unlike residents of subsidized housing, are not limited to units located in public housing projects. A housing subsidy is paid to the landlord directly by the Public Housing Agency (PHA) on behalf of the participating family, enabling the family to pay an affordable portion (30-40%) of their income on rent and utilities. This increased affordability in housing allows for families to devote resources to other things like food and health care. Additionally, studies like the one released by Harvard University in May 2015\* show that better neighborhoods can lead to better life outcomes. A Section 8 voucher can then be an effective means of promoting upward mobility for low-income families. One initial challenge for voucher participants is finding housing and being able to come up with the expenses for moving.

HOME's Community Housing Center (CHC) program can provide the assistance that makes the difference by offering housing search assistance and a security deposit assistance grant. If a person is a new Section 8 participant just coming off of the waiting list (which can be up to 10 years) and living in a high poverty area, they can enter the CHC Mobility Program. A high poverty area is one where 30% or more households live below the poverty line. In these conditions, opportunities for success are a lot less likely.

It's not surprising then that most new Section 8 participants choose to move from their current residence. Once a person enters the CHC mobility program, he or she attends a small group session where the Mobility Counselor advises about fair housing rights and what moving to a neighborhood with a lower poverty can mean for quality of life and access to opportunities. In addition to attending the small group session, participants attend an individual mobility counseling session to learn about their communities of interest and be provided with housing listings.

When the poverty level goes down, the quality of life and the opportunities go up. A census tract with a poverty level less than 25% is considered an opportunity community. If CHC participants successfully locate housing in a qualifying neighborhood, HOME can provide a security deposit grant of up to \$400 paid directly to the landlord. When a client relocates to an opportunity community, they are also offered the opportunity to participate in HOME's GO Case Management Program. In this program they can work on short-term goals, such as furthering education, financial literacy, or seeking employment or a new career. The end result is not just moving to a new residence but going from Surviving to Thriving.

Christopher's story is one example of how the opportunity for mobility in housing can be life-changing. While waiting for his voucher, Christopher was homeless and living out of his car in an area of Buffalo where over 35% of the population lives below the poverty level. After being on the waiting list for around 10 years, Christopher finally received a voucher and the chance to receive rental assistance in the housing of his choice. He desired a home in a community that was safe and free from discrimination, but was having a hard time finding a suitable apartment, working with landlords, and coming up with enough money for a security deposit. Then HOME stepped in to help. The CHC provided Christopher with information on his rights as a tenant, helped him find a quality apartment, and provided him with a security deposit assistance grant. Now enrolled in HOME's Greater Opportunities (GO!) case management program, Christopher plans to go back to school, take care of some outstanding credit issues, and eventually enter a first time home-buyers program.

Although there is a long way to go to eliminate discrimination and housing instability, HOME's CHC Mobility Program is a valuable resource for families fortunate enough to receive a Housing Choice Voucher. According to Christopher, HOME made a significant difference in his ability to find and secure decent housing. Stories like his are a reminder of how financial assistance, counseling and a real chance at mobility can have a substantial impact in helping individuals and families achieve more positive life outcomes. The CHC Mobility Program would not be able to provide this type of assistance without the generous support of HOME's members.

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### INSIGHT CONTRIBUTORS

**Daniel J. Corbitt, Esq, Craig Douglass,  
Scott W. Gehl, Samantha Long, and  
Alyssa Bergsten, Editor**

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to HOME, was the idea of inclusionary zoning, which could be incorporated in Buffalo's Green Code (an initiative for a strategic approach to the city's development). HOME, along with the Erie County Fair Housing Partnership, has been advocating for countywide fair housing legislation that would incorporate aspects of inclusionary zoning. (HOME's Executive Director Scott Gehl addresses this topic in this edition's From the Director). A countywide fair housing statute would provide a single set of guidelines for real estate agents, investors, and developers to follow regardless of the town or city. Additionally, it would mean that more residents of WNY have access to communities with greater opportunity.

In a sign of support for Mayor Brown's initiative, HOME Board members, staff and Friend of HOME Frank Mesiah signed the Opportunity Pledge at the July Board meeting. As Buffalo continues to grow and prosper by means of cultural and economic development, the Opportunity Pledge will play a vital role in ensuring that everyone in the Buffalo-Niagara region has the opportunity to thrive along with the communities they live and work in. The Opportunity Pledge, which has already been signed by more than 1,000 individuals and businesses, can be viewed and signed at [www.city-buffalo.com](http://www.city-buffalo.com). We encourage HOME supporters to also sign the pledge and share with others.



# HOME

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# HOME prevents eviction of disabled veteran

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practices, or services when such accommodations may be necessary to afford a person with a disability the equal opportunity to use and enjoy his or her dwelling. Unreasonable refusal to allow a disabled individual to have their service or therapy animal in their home very clearly constitutes unlawful housing discrimination.

HOME immediately sent a letter to the landlord that explained the protections afforded to disabled persons under the FHA, disclosed that David was disabled, and requested a reasonable accommodation to the "no pets" policy to allow David to keep his assistance dog in his family's home. The letter also explained what information the landlord could request to evaluate

David's disability-related need for the accommodation. (Generally speaking, a housing provider may ask for information that is necessary to evaluate whether a requested accommodation may be necessary due to a disability. Since David's disability was not obvious, the landlord was entitled to request reliable disability-related information that could verify a disability, describe the needed accommodation, and confirm the relationship between the David's disability and the need for the requested accommodation.)

After receiving the reasonable accommodation request, the landlord contacted a member of the HOME staff to further discuss the matter. Much to the client's relief, at the end of the

conversation, the landlord agreed to grant David's request, and allowed him and his family to stay in their home and live with the service animal. David expressed his gratitude for HOME's support, and is able to live without the fear of losing his home. He was happy to report that his assistance animal has not only provided invaluable treatment for his disability, but has also become an indispensable member of the family. Stories like David's provide us with a good reminder of why the work of agencies like WNY Heroes and HOME is so important.

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Buffalo, NY 14209  
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**HOME'S MISSION:** Housing Opportunities Made Equal is a fair housing organization continuing the struggle for civil rights by working to promote the value of diversity and to ensure all people an equal opportunity to live in the housing and communities of their choice—through education, advocacy, the enforcement of fair housing laws and the creation of housing opportunities.

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