

## **Media Kit**

# Texas Department of Housing and Community Affairs v. The Inclusive Communities Project, Inc.

***Supreme Court Oral Argument Set for Wednesday, January 21, 2015***

**To listen to a recording from the media briefing hosted by civil rights and housing advocates, please click here:**

<http://www.nationalfairhousing.org/Portals/33/MediaRoundTable011515.mp3>

### **What is this case about?**

The Supreme Court's upcoming ruling on the Fair Housing Act in *Texas Department of Housing and Community Affairs v. The Inclusive Communities Project, Inc.* will test our nation's commitment to equal treatment under the law and will determine whether equal opportunity in housing continues to be one of our most cherished values.

The case focuses on Dallas, Texas, where the State of Texas approved the construction of affordable housing along racial lines. Over a period of years, a Texas housing agency reinforced residential segregation by consistently approving affordable housing in African American neighborhoods instead of fairly distributing that housing across all communities to promote integration.

### **Why is this case important?**

Recent events in Ferguson and beyond demonstrate that our nation is at a pivotal time for racial justice. The decision in this case will not only profoundly impact the housing choices of millions of Americans of all backgrounds but it will also shape the fabric of the neighborhoods and communities in which we live for decades to come.

A full and effective Fair Housing Act is essential to ensure that every American has equal access to housing and is free from housing discrimination. When persons are denied equal access to housing, it reduces the availability of good jobs, quality education, safe streets, and a clean and healthy environment, all of which are central to the American Dream.

A decision in favor of the State of Texas in this case would eliminate a key protection under the Fair Housing Act and could re-open the door to housing policies and practices that exclude people based on their race, color, national origin, gender, religion, disability or familial status.

### **What is disparate impact and why am I hearing about it in this case?**

The U.S. Supreme Court will decide whether to uphold a central legal protection under the Fair Housing Act which has been used for over four decades to address widespread discrimination in housing and has been unanimously endorsed by our nation's appellate courts. That protection, often referred to as the "disparate impact" standard, ensures that banks, landlords, and other housing providers use policies that apply fairly to all persons. Some policies that seem neutral in theory can exclude or segregate particular communities in practice. This protection under the Fair Housing Act allows us to recognize

and prevent harmful and inequitable policies so that everyone is treated fairly. If the Supreme Court were to eliminate this protection, the following could happen:

- An apartment complex could exclude applicants without full-time jobs. This bars people like disabled veterans or seniors who do not work full-time but can still afford an apartment.
- A bank could charge an exorbitant deposit fee for those who seek home mortgage loans. With this high barrier, older Americans, veterans or persons of color with limited means would be forced to take on more risky and costly loans or not have access to financing at all.
- An apartment building could restrict occupancy to one person per bedroom. Families with children would be barred from renting or would be forced to rent more costly multi-bedroom apartments.

### **What is the question in this case?**

The Supreme Court is considering whether this key legal protection – that prohibits housing providers from using discriminatory policies when other options exist – will remain available to victims of housing discrimination under the Fair Housing Act.

### **What is the Fair Housing Act?**

The Fair Housing Act protects Americans from discrimination in housing and the inequality that results from segregation. Under the Fair Housing Act, it is illegal to discriminate based on race, color, national origin, religion, sex, disability, or familial status.

The Fair Housing Act was passed by Congress with broad bipartisan support one week after the assassination of Dr. Martin Luther King, Jr. and it continues to enjoy support from elected officials on both sides of the political aisle. It is a key part of Dr. King's civil rights legacy and remains one of the most crucial pieces of civil rights legislation for advancing racial equality in our history.

### **What is the history of this legal protection now being challenged?**

There are 45 years of legal precedent – including rulings by 11 different appellate courts across the country – upholding this specific protection under the Fair Housing Act. When *Texas Department of Housing and Community Affairs v. The Inclusive Communities Project, Inc.* was considered in the lower courts, both the U.S. District Court for the Northern District of Texas and the U.S. Court of Appeals for the Fifth Circuit relied on the disparate impact standard under the Fair Housing Act.

Originally adopted by the Nixon Administration as an enforcement tool, both Republican and Democratic Administrations have relied on the disparate impact standard over the last four decades to address widespread discrimination in housing.

### **Who is against longstanding fair housing protections?**

The companies trying to dismantle the Fair Housing Act are some of the big banks and insurers that brought our economy to the brink of collapse just a few years ago, due largely to unlawful abuses and

discrimination. The vested financial interest of these big corporations in removing common sense protections for Americans should not trump the national interest or the values of equal opportunity.

## Recent Polling/Relevant Statistics

The U.S. Department of Housing and Urban Development estimates that more than 3 million instances of housing discrimination occur each year. Many more instances are unreported.

The degree of residential segregation across our nation is staggering. According to U.S. Census estimates, 75% of African American families nationwide reside in just 16% of the Census tracts. According to the most recent Census, “[d]espite [some] declines, residential segregation was still higher for African Americans than for the other groups across all measures.” Segregation levels among Latinos and Asian Americans have remained constant since 1980, with these communities residing in even more isolated and homogeneous enclaves now than they did in 2000, continuing a trend visible since 1980.

## Briefs of Petitioner and Respondent

**Brief of petitioner, Texas Department of Housing and Community Affairs:**

[http://www.americanbar.org/content/dam/aba/publications/supreme\\_court\\_preview/BriefsV4/13-1371\\_pet.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/supreme_court_preview/BriefsV4/13-1371_pet.authcheckdam.pdf)

**Brief of respondent, The Inclusive Communities Project:**

[http://www.americanbar.org/content/dam/aba/publications/supreme\\_court\\_preview/BriefsV4/13-1371\\_resp.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/publications/supreme_court_preview/BriefsV4/13-1371_resp.authcheckdam.pdf)

## Briefs of Amici Curiae in Support of Respondent, The Inclusive Communities Project

Below is a list of supporters who have joined amicus briefs in support of respondent, The Inclusive Communities Project. Copies of amicus briefs can be found here: <http://www.scotusblog.com/case-files/cases/texas-department-of-housing-and-community-affairs-v-the-inclusive-communities-project-inc/>

- American-Arab Anti-Discrimination Committee
- American Association for Access, Equity and Diversity
- American Association of People with Disabilities
- American Association of Retired Persons
- American Civil Liberties Union
- Americans for Financial Reform
- American Jewish Committee
- American Planning Association and Housing Land Advocates
- Anti-Defamation League
- Asian Americans Advancing Justice
- Asian Americans Advancing Justice – Asian Law Caucus
- Asian Americans Advancing Justice – Los Angeles
- Professor Ian Ayres (Yale Law School)
- Bend the Arc: A Jewish Partnership for Justice

- California Rural Legal Assistance, Inc.
- Center for Community Self-Help
- The Center for Responsible Lending
- Center on Race, Poverty & the Environment
- Charles Hamilton Houston Institute for Race and Justice at Harvard Law School
- City Project
- Constitutional Accountability Center
- Disability Law Center
- Earthjustice
- Family Equality Council
- Futures Without Violence
- Gay & Lesbian Advocates & Defenders
- Hope Enterprise Corporation
- The Housing Equality Center of Pennsylvania
- Housing Scholars (62 scholars)
- Howard University School Of Law Fair Housing Clinic And Civil Rights Clinic
- Human Rights Campaign
- Institute for Science and Human Values, Inc.
- Lambda Legal Defense & Education Fund, Inc.
- LatinoJustice PRLDEF
- Lawyers' Committee for Civil Rights Under Law and its affiliates
  - The Washington Lawyers' Committee for Civil Rights and Urban Affairs
  - Lawyers' Committee of Civil Rights Under Law of the Boston Bar Association
  - The Chicago Lawyers' Committee for Civil Rights Under Law, Inc.
  - Colorado Lawyers' Committee; Mississippi Center for Justice
  - Public Counsel, Los Angeles, California
  - Public Interest Law Center of Philadelphia
  - Lawyers' Committee for Civil Rights of the San Francisco Bay Area
- The Leadership Conference on Civil and Human Rights
- The Leadership Conference Education Fund
- Legal Momentum
- Current and Former Members of Congress (23 members)
  - Senator Edward Brooke
  - Senator Walter F. Mondale
  - Representative Judy Chu
  - Representative Marcia Fudge
  - Representative Ruben Hinojosa
  - Representative Keith Ellison
  - Representative Raul Grijalva
  - Representative Sheila Jackson Lee
  - Representative Maxine Waters
  - Representative John Conyers, Jr.
  - Representative George Miller

- Representative Michael E. Capuano
- Representative Carolyn Maloney
- Representative Steve Cohen
- Representative Al Green
- Representative Gwen Moore
- Representative Joyce Beatty
- Representative William Lacy Clay, Jr.
- Representative Emanuel Cleaver, II
- Representative Ted Deutch
- Representative Jerrold Nadler
- Representative Hank Johnson
- Representative Luis V. Gutierrez
- MFY Legal Services, Inc.
- Milwaukee Branch of the National Association for the Advancement of Colored People
- NAACP Legal Defense & Educational Fund, Inc.
- National Action Network
- National Association for the Advancement Of Colored People
- National Black Law Students Association
- National Center for Lesbian Rights
- National Center for Transgender Equality
- The National Coalition Against Domestic Violence
- National Community Land Trust Network
- The National Community Reinvestment Coalition
- The National Consumer Law Center
- National Council of La Raza
- National Disability Rights Network
- National Fair Housing Alliance
- National Housing Law Project
- The National Law Center on Homelessness & Poverty
- National Low Income Housing Coalition
- The National Network to End Domestic Violence
- The National Organization for Women Foundation
- The National Resource Center on Domestic Violence
- The National Women’s Law Center
- National Workrights Institute
- Natural Resources Defense Council, Inc.
- Students from the New York University School Of Law Seminar On Critical Narratives In Civil Rights
- The Opportunity Agenda
- The Poverty & Race Research Action Council
- Real Estate Professional Trade Organizations
- The Sargent Shriver National Center on Poverty Law
- Services And Advocacy For GLBT Elders

- Sociologists, Social Psychologists, And Legal Scholars (10 members)
- United States Attorney Generals (17 Attorney Generals)
  - Martha Coakley, Attorney General of Massachusetts
  - Eric Schneiderman, Attorney General of New York
  - Thomas C. Horne, Attorney General of Arizona
  - Joseph Foster, Attorney General of New Hampshire
  - Kamala Harris, Attorney General of California
  - Gary King, Attorney General of New Mexico
  - George Jepsen, Attorney General of Connecticut
  - Roy Cooper, Attorney General of North Carolina
  - Russell Suzuki, Attorney General of Hawaii
  - Ellen Rosenblum, Attorney General of Oregon
  - Lisa Madigan, Attorney General of Illinois
  - Lori Swanson, Attorney General of Minnesota
  - Chris Koster, Attorney General of Missouri
  - Sean Reyes, Attorney General of Utah
  - William Sorrell, Attorney General of Vermont
  - Mark Herring, Attorney General of Virginia
  - Robert Ferguson, Attorney General of Washington
- United States Cities and Counties (22 Cities and Counties)
  - San Francisco
  - Atlanta
  - Baltimore
  - Boston
  - Birmingham, Alabama
  - Carrboro
  - Chapel Hill
  - Columbia, South Carolina
  - Dubuque
  - Durham
  - Flint
  - Los Angeles
  - Memphis
  - Miami
  - Miami Gardens
  - New Haven
  - New York
  - Oakland
  - Philadelphia
  - Seattle
  - Toledo
  - King County, Washington
- Former officials of the United States Department of Housing and Urban Development (9 former officials, including Henry G. Cisneros, former Secretary of HUD)

- Former officials of the United States Department of Justice (6 former officials, including former Assistant Attorney General for Civil Rights under President George H.W. Bush, John R. Dunne, and J. Stanley Pottinger, former Assistant Attorney General for Civil Rights under Presidents Richard Nixon and Gerald Ford)
- Women's League for Conservative Judaism