

The Fair Housing Act of 1968

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The Fair Housing Act of 1968 is generally considered by historians to be the third leg of landmark civil rights cases. The first two were the Civil Rights Act of 1964 and the Voting Rights Act of 1965. This lesson plan explores the history and impact of the Fair Housing Act of 1968.

Objectives:

Students will be able to:

1. Explain the provisions of the Fair Housing Act.
2. Explain the reasons for the need for the Fair Housing Act
3. Identify specific sections of the Constitution, Bill of Rights, Civil Rights laws or other laws that apply to the Fair Housing Act.

THE FAIR HOUSING ACT

Background and Historical Considerations

At the end of the Civil War, the Thirteenth, Fourteenth and Fifteenth Amendments were added to the United States Constitution. These amendments ended slavery and were meant to make citizens of freed slaves citizens with all the rights and privileges of every other American. The reality was that racism was rampant and it led to blatant discrimination against African-Americans. Although various ethnic groups, such as immigrants from Asia and Ireland, also suffered from discrimination in the 19th century, African-Americans suffered the most and it continued well into the 20th century. States actually passed laws, sometimes called Jim Crow laws, which legalized discrimination.

In 1909, the NAACP (National Association for the Advancement of Colored People) was founded. The members of this organization began to bring lawsuits in the courts alleging that discrimination amounted to constitutional violations. They were fairly successful, their most famous case being the 1954 case of *Brown v. Topeka Board of Education*. However, the NAACP knew it would take legislation to make significant inroads into ending discrimination. With the leadership of Dr. Martin Luther King, Jr. in the 1960s, the Civil Rights Movement gained great momentum and the executive and legislative branches of government were forced to recognize that major changes were needed.

There major pieces of federal legislation that comprise the Big Three in Civil Rights: the Civil Rights Act of 1964, the Voting Rights Act of 1965 and the Fair Housing Act of 1968. (For activities about the Civil Rights Act of 1964 and the Voting Rights Act of 1965, go to The Missouri Bar website portion for teachers at <http://missourilawyershelp.org/educational-resources> .)

The Fair Housing Act was passed to address discriminatory practices by real estate agents, landlords and any entity or person who was in the business of selling or renting housing of any kind. What were these discriminatory acts?

- Real estate covenants forbidding the sale of property to people of certain races in a particular neighborhood or real estate development. (Covenants are agreements

- between two parties.) Real estate covenants may cover a variety of issues, not all of which are discriminatory. For example, some real estate developers put things like no clotheslines of any kind in the yard, no carports, no unattached garages, no mowing the grass before 9:00 a.m. on Saturday morning, etc. These provisions are meant to enhance the value of the property and make people want to buy houses and live in these areas. However, the racially discriminatory covenants were meant to keep neighborhoods white by preventing by African-Americans from purchasing homes within the covenant boundaries.
- Blockbusting was the practice of real estate agents telling homeowners that members of a particular race, religion or ethnic group were moving into their neighborhoods, which would significantly reduce the value of their property. This led to homeowners selling their homes for less than they were worth. The real estate agents then sold these scared homeowners houses in a more expensive neighborhood **and** sold the now less-valued homes to people of a particular race, religion or ethnic group, which created segregated, economically less attractive neighborhoods.
 - Redlining came about in the 1930s when the federal government made money available to banks and other lending institutions for home mortgages. This was one of many federal programs designed to bring the nation out of the Great Depression. Banks, many times in collaboration with real estate agents, would draw a “red line” around an area considered risky in which to make home loans. These areas were largely racially segregated areas. This was a hardship for both the buyer and the seller. A seller could not sell a house because no one could get a decent loan to buy it nor could the seller hope to move to a better neighborhood without selling the house. A buyer could not hope to become a home owner without a mortgage.

Prior to 1968, there were several attempts to eradicate racial discrimination in housing:

- Arguably the most famous fair housing case was a 1948 case that came from St. Louis, Missouri. The Supreme Court of the United States held in *Shelley v. Kraemer*, 334 U.S. 1 (1948) that courts could not enforce racial covenants in real estate. The covenant in the *Shelley* case had been made by the home owners in a St. Louis neighborhood in 1911 and it said that for fifty years, no one “of the Negro or Mongolian Race” could buy property in that neighborhood. When the African-American Shelley family bought a house in the neighborhood in the 1940, Mr. Kraemer, a neighborhood home owner, sued them for violating the covenant. Eventually, the Shelleys’ case was heard in the Supreme Court of the United States. The Shelleys won their case. Note: One of the Shelleys’ lawyers was Thurgood Marshall, the first African-American appointed to the Supreme Court of the United States. Fittingly, he was appointed by the champion of the Fair Housing Act of 1968—President Lyndon B. Johnson.
- President John F. Kennedy issued an executive order in 1962 prohibiting discrimination in housing matters where any federal agency was involved.
- Title VI of the Civil Rights Act of 1964 prohibited racial discrimination in housing matters by any agency or entity that received any kind of federal monies.

Despite these attempts at ending discriminatory housing practices, they continued. In April of 1968 all three branches of government got involved with this issue. The Supreme Court of the United States heard the case of *Jones v. Alfred H. Mayer Co.*, 392 U.S. 409 (1968). Mr. Jones, an African-American, lived in St. Louis County, Missouri. He accused a real estate company of refusing to sell him a home because of his race. This is considered a landmark case because the Court decided for Mr. Jones on the grounds that this kind of racial discrimination violated the Thirteenth Amendment.

President Lyndon B. Johnson, who was instrumental in the passage of the 1964 and 1965 Civil Rights laws, was determined to get Congress to pass a stronger fair or open housing law. President Johnson had overcome the resistance by using his considerable political expertise to get Congress to pass the 1964 and 1965 laws. He rallied the support of Congress and the American people by appealing to their desire to honor the assassinated President John F. Kennedy.

In 1968, the Fair Housing Act also met resistance from both houses of Congress. In the Senate, Senator Edward Brooke, the first African-American Senator, spoke passionately about his inability to find housing for his family after returning from serving in World War II. The Senate passed the bill on the same day that Dr. Martin Luther King, Jr. was assassinated, April 4, 1968. President Johnson then called upon the House of Representatives to honor Dr. King's memory by passing the act and they did so with unusual speed on April 10. President Johnson signed the bill into law on April 11.

Both Republicans and Democrats had members who supported the bill and who opposed the bill. One of the representatives in Congress at that time was George H.W. Bush from Texas, who was to become the 41st president of the United States. In his book, *All the Best*, President Bush wrote about why he voted for the Fair Housing Act:

The most controversial vote of my four years in the House of Representatives was the Open Housing Bill of 1968, which was an extension of the 1964 Civil Rights Bill. Almost all of my constituents were opposed to it, as were most of the Texas congressional delegations. I still had some constitutional concerns about the bill, just as I did in 1964, but the problem of discrimination troubled me deeply. I particularly became passionate on the issue after my tour in Vietnam, where I saw young black soldiers fighting and dying for love of their country while affluent white kids ran away or got deferred, letting others go in their place. Were we supposed to tell these black soldiers when they came home that they couldn't buy houses in our neighborhood?

When President Bush came back to Houston to address his constituents, he was met with boos and derogatory signs and remarks. He said this in his speech about why he voted for the bill:

What this Bill does do in this area is to remove an obstacle -- what it does do is try to offer a promise or a hope -- a realization of The American Dream. In Vietnam I chatted with many Negro soldiers. They were fighting, and some were dying, for the ideals of this country; some talked about coming back to get married and to start their lives over. Somehow it seems fundamental that this guy should have a hope. A hope that if he saves some money, and if he wants to break out of a ghetto, and if he is a good character and if

he meets every requirement of purchaser -- the door will not be slammed solely because he is a Negro, or because he speaks with a Mexican accent. In these troubled times, fair play is basic. The right to hope is basic.

At the end of his speech, he received a standing ovation.

Provisions of the Fair Housing Act

The Fair Housing Act prohibits the following actions:

- Refusal to sell or rent a dwelling to any person because of race, color, religion, or national origin. Later on through legislation or executive orders, familial status, disability and gender were added to this list.
- Discrimination based on race, color, religion, or national origin in the terms, conditions or privileges of sale or rental of a dwelling. Later on through legislation or executive orders, familial status, disability and gender were added to this list.
- Advertising the sale or rental of a dwelling indicating preference, limitation, or discrimination based on race, color, religion, or national origin. Later on through legislation or executive orders, familial status, disability and gender were added to this list.
- The Department of Housing and Urban Development (HUD) enforces the provisions of the Fair Housing Act. The fines for violating the act are hefty: \$16,000 for a first time violation, \$37,500 for a second violation, and \$65,000 for a third violation.

Teaching about the Fair Housing Act

1. Go over the background of the act with students, using the information from this study guide or from other resources.
2. Study the *Shelley v. Kraemer*, 334 U.S. 1 (1948) case. (Go to <https://www.oyez.org/cases/1940-1955/334us1> for an excellent teaching resource.)
3. Discuss the *Jones v. Alfred H. Mayer Co* 392 U.S. 409 (1968). This case is different because the Court relied on the 13th Amendment rather than the 14th Amendment for its decision. Go to <https://www.oyez.org/cases/1967/645> for further information.
4. Discuss with the students the concept of *disparate impact*. For a discussion about what disparate impact means, take a look at the case of *Texas Dept. of Housing and Community Affairs v. Inclusive Communities Project, Inc.* (2015) at <https://www.oyez.org/cases/2014/13-1371>.
5. Discuss how real estate covenants can increase the value of property? How can they be unfair?
6. Using a map of your school district, draw a red line around a neighborhood and discuss how unfair it would be for banks and real estate agents to decide this was not a good neighborhood.

Resources

1. <http://www.history.com/topics/black-history/fair-housing-act> This website has an excellent speech by President Lyndon B. Johnson regarding the passage of the Fair Housing Act.
2. <http://wxxinews.org/post/connections-teaching-redlining-schools> Teaching redlining
3. <https://www.rethinkingschools.org/articles/why-is-this-the-only-place-in-portland-i-see-black-people-teaching-young-children-about-redlining> Rethinking schools
4. http://www.pbs.org/race/000_About/002_04-teachers-02.htm Race the Power of illusion-PBS
5. <https://ww2.kqed.org/lowdown/2016/04/27/redlining/> How Government Redlining Maps Encouraged Segregation in California Cities [Interactive]

Teaching with Primary Documents

1. <https://www.justice.gov/crt/fair-housing-act-2> The original document may be viewed on this site.
2. <http://www.blackpast.org/aah/redlining-1937> View a “redline” map.
3. <http://talkingpointsmemo.com/primary-source/redlining-holc-fha-wilkins-weaver> View a letter written by Roy Wilkins, then assistant head of the NAACP, to an individual in President Hoover’s administration about the practice of redlining.

For further study and discussion and enrichment

1. Have students research the term *redlining* as it pertains to housing and study how it provided for segregated neighborhoods and consequently segregated schools.
2. Research the *Shelley v. Kraemer*, 334 U.S. 1 (1948) case and discuss how the Supreme Court of the United States used the Fourteenth Amendment to find the racially restrictive covenant in that case unconstitutional. Why has the rationale in this case been viewed by some constitutional experts as “groundbreaking”?
3. Discriminatory housing practices have been associated with the economic instability of a neighborhood i.e. Ferguson, MO. What do you think about that assertion?
4. Use United States Census data to track racial changes from the 1930s to the present in North St. Louis County. Can the trend be related to blockbusting?
5. Interview older citizens, both white and African-American, and ask if they have anecdotal information about blockbusting or white flight.

Grade Level Expectations (DESE approved 4.16):

Theme 1-History Continuity and Change	E. Analyze the causes and consequences of a specific issue tied to government as well as the challenges and opportunities faced by those trying to address the problem.
Theme 1-Government Systems and Principles	A. Analyze laws, policies, and processes to determine how governmental systems affect individuals and groups in society.
Theme 4-Government in Action	A. Trace the changing power relationships between branches of the United States government over time.

	B. Analyze changing ideas regarding an “active judiciary,” and an “active executive branch” in United States government over time.
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