June 9, 2020

In Fight for Justice, Zoning Laws that Exclude Low-Income People Must be Changed

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OPINION

Opinion: In fight for justice, zoning laws that exclude low-income people must be changed

Sara C. Bronin, Opinion contributor Published 6:27 a.m. ET June 9, 2020 | **Updated 7:13 a.m. ET June 9, 2020**

As a person of color living in one of the country's poorest cities, it has been heartening to see how many people with privilege and power have turned up at protests against inequality and police brutality. As the protests fade, people of all backgrounds have pledged to work for change on many fronts, including criminal justice and policing reforms.

We must not forget about one of the most important perpetuators of fundamental inequalities in the country today: zoning. Zoning, which governs where people can live and work, is adopted at the local level, by local officials beholden to local constituents. Every resident of an affluent, suburban town who marched in solidarity should be on the phone today with their elected leaders, trying to get zoning reforms on their town's agenda.

Just about a century ago, zoning laws all over the country, but especially in the South, mandated segregation, specifying where people of color could live and work.

Suburban neighborhood. *(Photo: Getty Images)*

In 1916, the U.S. Supreme Court struck down this type of "racial zoning" as unconstitutional, in a case called Buchanan v. Warley (https://www.oyez.org/cases/1900-1940/245us60). At issue was a Louisville zoning ordinance that was written "to prevent conflict and ill feeling between white and colored races," and "to preserve the public peace." The method of achieving these goals? The "use of separate blocks for residences, places of abode, and places of assembly by white and colored people respectively."

The Supreme Court's reasoning was that while keeping the peace was an important goal, the ordinance violated due process rights enshrined in the 14th Amendment.

Today, no American city still maintains the racial zoning of early 20th century Louisville. Yet zoning today continues to perpetuate structural inequities and block access to opportunity.

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Zoning does this under the rationale of preserving property values and maintaining "orderly" development. In the law, the concept of orderliness is a thinly veiled euphemism often used to exclude black and brown people. The Supreme Court in 1926 unanimously sanctioned this rationale in Village of Euclid v. Ambler Realty Company (https://www.oyez.org/cases/1900-1940/272us365). It upheld a local zoning code in Euclid, Ohio, that separated different uses from each other through a zoning map and related text.

In issuing its opinion in Euclid, the Supreme Court offered the totally gratuitous observation that apartment buildings are "mere parasite[s that] come very near to being nuisances." Too many zoning officials today, especially those in suburban and affluent towns, seem to have adopted this point of view. They have come to define order as exclusion.

They use a few basic strategies to achieve their goals. They include in their zoning minimum size requirements for lots and housing. These rules drive up prices and make it difficult for low-income people to move in. They also ban anything other than "single-family homes," which means apartment buildings cannot be built. Forget using Section 8 vouchers (https://protect-us.mimecast.com/s/OPdmCpYoJQhzXwy5KCkWNHf?domain=nam10.safelinks.protection.outlook.com).

Affluent suburbs also often say that only a "family," (https://works.bepress.com/bronin/27/) related by blood or marriage, can live in a housing unit. This means that nontraditional families, or families related by kinship and common purpose, are shut out.

By excluding the poor and people of color, suburbs and affluent towns close off opportunities to people who need them most. This means opportunity to better schools, safer neighborhoods and higher-paying jobs. But most of all, it means an escape from the concentrated poverty that far too often condemns people to poor health, incarceration and premature death.

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We cannot turn to courts to make this right. Lawsuits against exclusionary zoning have seen only limited success, and we cannot expect this U.S. Supreme Court to dismantle zoning as we know it today. Only a few states, including California, New Jersey and Connecticut, provide state judicial remedies or people to challenge local zoning laws in court.

After we put out the immediate and literal fires, suburbanites should channel their righteous anger to remedying decades-old wrongs. Zoning laws should be included in the list of legislative reforms that will help give people opportunities they need, and cut inequality off at one of its most pervasive sources.

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