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Ben Carson's Call of Duty as America's Housing Chief

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Carson’s Call of Duty

Dr. Ben Carson, the nominee for Housing and Urban Development Secretary, has made almost no public pronouncements about housing policy. The one exception is a 2015 WASHINGTON TIMES op ed in which he addresses the Obama Administration’s Affirmatively Furthering Fair Housing rule. While Dr. Carson appears to agree with the Obama Administration’s diagnosis of the problem of segregation, he attacks its solution. If he refuses to vigorously enforce the rule at HUD, it is still incumbent on him to address the underlying problem it was meant to address.

Carson acknowledges the history of structural racism in American housing markets. He notes that segregation was caused in part by the federal government’s reliance on “redlining.” Redlining refers to the mid-20th century practice at the Federal Housing Administration of drawing a red line around minority communities on underwriting maps and then refusing to insure mortgages within those borders.

He also acknowledges that racially restrictive covenants played a significant role in maintaining segregation. Racially restrictive covenants were legally enforceable agreements among property owners to keep homes from being sold to members of various minority groups. African Americans were the group most often targeted by them. These covenants were very common in the mid-20th century, until the Supreme Court ruled that they were not legally enforceable. Shockingly, the Federal Housing Administration continued to encourage their use even after the Supreme Court’s ruling.

Carson also acknowledges that “the Fair Housing Act and other laws have greatly reduced explicit discrimination in housing” but that “significant disparities in housing availability and quality persist.” All in all, Carson’s take on the history of American housing policy is consistent with the consensus view across the left and the right: the federal government promoted segregationist housing policies for a large part of the 20th century.

Where he veers sharply from the Obama Administration is in crafting a solution. The Obama Administration promulgated a rule pursuant to the Fair Housing Act that would require localities to affirmatively promote fair housing if they chose to take funds from HUD. While Carson states that the Obama rule is based on a “tortured reading of Fair Housing law,” the statutory authority for it is pretty clear. The Fair Housing Act states that HUD is to administer housing programs “in a manner affirmatively to further the policies of” the Act. 42 USC §3608(e)(5).

Carson has characterized the Obama Administration rule as a “socialist experiment.” I think his characterization is just plain wrong, particularly because the federal government often ties the provision of federal funds to various policy goals. Think, for instance, of how federal highway dollars were tied to lowering state speed limits to 55 miles an hour. Such linkages are hardly socialist experiments. They merely demonstrate the power of the purse, a long-time tool of the federal government. Even if Carson cannot be convinced of this, the debate over how to address this legacy of discrimination does not end there.

After all, Carson’s op ed identified a serious problem – segregation resulting from longstanding policies of the federal government. He then stated that he does not agree with the Obama
Administration’s approach to solving the problem. He concluded by stating, “There are reasonable ways to use housing policy to enhance the opportunities available to lower-income citizens . . .” But he failed to identify a single policy to address the problems caused by those longstanding and discriminatory federal policies.

If confirmed, Carson must outline how HUD can address the legacy of structural racism in American housing markets. The text of the Fair Housing Act makes it clear that HUD must administer its housing programs in a manner that would affirmatively further the policies of the Act.

The problem Carson faces is clear. The duty imposed upon him by the Act is clear. What remains unclear is how he will fulfill that duty. He has both a legal and moral obligation to set forth his vision, if he is bent on rejecting that of the Obama Administration.

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