Ten Years and Counting
Housing Mobility, Engagement and Advocacy: a Journey Towards Fair Housing in the Dallas Area
From Founder/Senior Counsel
Elizabeth K. Julian

The proposition that low income minority families moving to better housing in better communities, with safe streets, good schools and job opportunities enhances both the lives of those families and of society is supported by social science research, and, frankly, common sense. However, the landmark federal housing discrimination cases that established “housing mobility” as an appropriate legal remedy for segregation made clear that the civil rights involved need no more basis than the Constitution.

As in Brown v. Board, the fundamental proposition in those cases was that the policy of racial segregation that was imposed and perpetuated by official conduct was itself a violation of rights guaranteed by the Constitution and Laws of the United States. Denying an African American the opportunity to live where whites were afforded an opportunity to live caused actionable injury and gave rise to entitlement to relief. Separate was inherently unequal.

Housing mobility, at its most basic, provides that relief. Good housing mobility policy ensures that minority families are given the full range of choices and opportunities that are and have been available to low income white families. Regardless of what they chose, vindicating that right is itself a legitimate goal of litigation and social policy.

Of course, the ever growing body of social science research tells us that children are more likely to thrive and succeed, by any number of measures, in lower poverty, less racially isolated environments. And we believe that true choice is one that is informed by this growing body of research. But, before we get to those arguments, we should remind ourselves that guaranteeing and securing equal opportunity under the law is itself worth the struggle.

From the President
Demetria McCain

The Legacy of Accessing Opportunity

Between the late 1700s and mid-1800s, enslaved Africans traveled through a network of cross-country routes to escape our country’s legalized system of chattel slavery in hopes of living as independent human beings. African Americans, most notably Harriet Tubman, and a cadre of bold whites aided in these attempts. Later, in the first half of the twentieth century, the country witnessed the Great Migration when millions of African Americans sojourned from the rural south, including Texas, to the northeast, midwest and west seeking job opportunities and to escape growing racist violence such as lynching.

In reflecting upon both movements, we see people who wanted something different. We see people traveling from or to what they saw as potentially life changing opportunities. While nothing compares to the escape from America's peculiar institution, it is for potentially life-changing opportunities that ICP’s families daily make the choice to move to new communities. Some move upwards of thirty-five miles from poverty-concentrated, racially segregated neighborhoods.

As ICP moves through its second decade of providing housing mobility counseling for low income families and advocating to remove barriers that keep them out of high opportunity areas of the Dallas Metroplex, we forge ahead knowing our efforts of the past ten plus years have: helped create hundreds of rental units in low-poverty, safe neighborhoods with higher performing schools; educated thousands of voucher holders about fair housing rights and helped shift policies. Today, demand for affordable housing in high opportunity areas outpaces supply by leaps and bounds. Join us as we continue this work!

The Inclusive Communities Project (ICP) is a not-for-profit organization that works for the creation and maintenance of thriving racially and economically inclusive communities, expansion of fair and affordable housing opportunities for low income families, and redress for policies and practices that perpetuate the harmful effects of discrimination and segregation.
Mobility Assistance Program

The Mobility Assistance Program is a housing mobility counseling program serving low income families participating in the Dallas Housing Authority’s Housing Choice Voucher Program. MAP works to insure that families are made aware of and have access to high quality rental housing in lower poverty, higher opportunity areas of Dallas, Collin, Denton, Tarrant, Rockwall, Ellis and Kaufman counties. MAP is committed to providing the families with whom they work a wide range of services, including housing search assistance and counseling designed to help them access good schools, safe neighborhoods, employment and a healthy environment.

MAP annually educates about 3,000 voucher holders about their fair housing rights and mobility options.

About 350 families per year access housing in opportunity areas with ICP's move-related financial assistance.

“We are caught in an inescapable network of mutuality, tied in a single garment of destiny.”
– Dr. Martin Luther King, Jr. in “Letter from the Birmingham City Jail,” 1963
Mobility Assistance Program

The Housing “Choice” Voucher is a federal subsidy that offsets a family’s rent so they may rent a unit in the private market. In the Dallas Area, vouchers are concentrated in high poverty, segregated neighborhoods usually with food deserts, low performing schools, crime hot spots and heavy industrial areas.
Inclusive Communities Housing Development Corporation

As part of its Inclusionary Housing Initiative, ICP created a non-profit subsidiary in 2009 called the Inclusive Communities Housing Development Corporation, (ICHDC) with Ann Lott as the Executive Director. ICHDC has been a resource for affordable housing developers, both for-profit and not-for-profit, who want to create affordable housing opportunities in neighborhoods and communities that offer good schools, safe neighborhoods, economic opportunities and healthy environments for children, with particular focus on those communities that have little or no affordable housing.

ICHDC began its work by administering a small rental program for families with Section 8 Housing Choice Vouchers, but its efforts quickly evolved using various approaches. ICHDC’s initiatives have served as models for strategically addressing racial barriers to fair and equal housing opportunities for low-income families. The organization has been instrumental in fostering the development of over 650 units of quality, affordable rental housing in high opportunity communities in the DFW area.

The first fruits of ICHDC’s labor were realized in 2011 with the award of Low Income Housing Tax Credits (LIHTCs) to build an apartment community in a solidly-middle income and high growth suburban city located approximately 25 miles north of downtown Dallas. The apartment complex was the first low-income housing built in this suburban city in nearly 20 years, and other LIHTC housing in high opportunity areas quickly followed.
ICP has retained the zealous services of the Daniel & Beshara, P.C. Law Firm, a firm led by dedicated civil rights attorneys well-versed in the history of discrimination in Texas.

Advocacy ✶ Litigation

ICP’s leadership recognizes that pursuit of a mission as controversial and ambitious as ICP’s necessarily involves the ability to use the stick as well as the carrot. A number of the most difficult impediments to achieving ICP’s mission involve persistent resistance. Litigation has been and can be an effective tool in eliminating these impediments.

“Much progress remains to be made in our Nation’s continuing struggle against racial isolation.... The Court acknowledges the Fair Housing Act’s continuing role in moving the Nation toward a more integrated society.”

Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc. 135 S.Ct. 2516, 2525.

www.danielbesharalawfirm.com

The Washington Post

Supreme Court upholds a key tool fighting discrimination in the housing market

Civil rights groups and the Obama administration won a major victory Thursday as the Supreme Court upheld a tool that advocates argue is essential to fighting housing discrimination and patterns of segregation.
Highlighted Cases

**ICP v. TDHCA** – suit challenging the administration of the LIHTC program by the state housing agency in a manner that perpetuates racial segregation, limits housing choices for low income families of color to low income areas of slum and blight, and makes affordable housing unavailable in high opportunity, predominately Caucasian neighborhoods of the Dallas metropolitan area. The case went to the Supreme Court on the issue of whether or not the legal theory of “disparate impact” was cognizable under the Fair Housing Act. In June of 2015 the Supreme Court ruled in ICP’s favor, and affirmed that disparate impact was indeed an appropriate standard for establishing a violation of the Fair Housing Act. On remand the District Court dismissed the case on the grounds that ICP did not prove a specific TDHCA policy caused the segregation about which the plaintiffs were complaining, citing the guidance from the Supreme Court.

However, that ruling did not disturb the landmark win on the issue of Disparate Impact in the Supreme Court, nor did it reverse the substantial results achieved on the ground during the eight years of the litigation. When the case was filed in 2008, 92% of the LIHTCs in Dallas were in areas with more than 50% minority residents, often characterized by conditions of slum and blight. From 2011 to 2016, 60% of the LIHTC units approved by TDHCA for ICP’s area of operation have been in lower poverty, higher opportunity areas, many of which are non-minority concentrated. While the relief sought by the litigation focused on the Dallas area, the state has implemented many of the changes statewide, reflecting an institutional recognition of the need for a more balanced and less discriminatory process. ICP is proud of the results achieved in this landmark case, which reflects ICP’s commitment to aggressive adversarial advocacy to remove barriers to our clients’ access to opportunity and to address the pernicious legacy of racial segregation.

**ICP v. U.S. Treasury** – suit challenging the U.S. Department of Treasury’s administration of the LIHTC program as in violation of the FHA and the U.S. Constitution. ICP alleged that the Treasury Department and its related entity, the Office of Controller of the Currency (OCC), have failed to administer the LIHTC program in a manner to affirmatively further fair housing, as required by the Fair Housing Act, and has administered the LIHTC program in a manner that perpetuates racial segregation, limits housing choices for low income families of color to low income areas of slum and blight, and makes affordable housing unavailable in high opportunity, predominately Caucasian neighborhoods of the Dallas metropolitan area. On Oct. 29, 2016 the District Court denied the government’s Motion to Dismiss the case regarding the claims brought against the agency for intentional discrimination under the 5th Amendment and related laws, as well as the claim brought under the APA for failure to comply with the duty to affirmatively further fair housing. The court dismissed the disparate impact claim based on grounds similar to its ruling in the ICP v. TDHCA case. The case is pending in federal court.

**ICP v. HUD** – ICP sued HUD twice to enjoin the Department from establishing fair market rents under the Housing Choice Voucher program in a manner that perpetuates racial segregation, limits housing choices for low income families of color to low income areas of slum and blight, and makes affordable housing unavailable in high opportunity, predominately Caucasian neighborhoods of the Dallas metropolitan area. Both suits were resolved in settlements that resulted in small area fair market rents, based on zip codes, which dramatically increased voucher holders’ “buying power” if they wanted to use their voucher to access housing in higher opportunity, higher rent areas, and made substantially more units available in predominately Caucasian areas to HCV families.

For a complete discussion Daniel & Beshara, P.C.’s work for ICP please see their website: www.danielbesharalawfirm.com
Advocacy ✶ Local, State & National Policy Discussion

With the goal of developing plans that affirmatively and effectively further such housing opportunities, with particular emphasis on market-driven high-opportunity areas of the Metroplex, ICP talks and listens to local, state, federal appointed and elected officials, local civic/non-profit/business and faith based leaders, housing and community development professionals, neighborhood association leaders and others whose actions can impact the availability of such opportunities.
With the help of a 2015 grant from the Boone Family Foundation, ICP began its Voices for Opportunity Initiative to help train and support low-income persons, social service professionals, and members of the greater community, who want to publicly raise their concerns about the need for more affordable housing in high opportunity areas.

Selected ICP-authored Publications


- **Housing Mobility: A Civil Right, in The Integration Debate: Competing Futures for American Cities 85** (2009).

- **HUD-Assisted Low-Income Housing: Is it Working and for Whom?,** 18 Poverty & Race 3 (July/Aug. 2009).


- **Recent Advocacy Related to the Low Income Housing Tax Credit and Fair Housing,** 18 Journal of Affordable Housing & Community Development Law 185 (Winter 2009).

- **Fair Housing and Community Development: A Time to Come Together,** 41 Indiana Law Review 555 (2007).

- **An Unfinished Agenda,** 29 Shelterforce 20 (Winter 2007).


Dallas Housing Authority’s (DHA) May 31, 2016 Resident Characteristics Report shows that 87 percent of its 15,749 voucher holders are Black and a similar share existed in 2011, when Small Area SMRs (SAFMRs) came online. According to then DHA Executive Director Mary Ann Russ, over 5,000 DHA voucher holders moved to more integrated and opportunity-rich areas during the first three years the agency used zip-code based subsidies.

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About our Cover Art

Photographer Elijah (then fifth grade) was the first place winner of ICP’s 2014 Opportunity Housing Photo Contest!

His two winning photos are: the park where he plays (back cover) and hands of his friends with background text of things important to him (front cover).
We make two general assertions:

(1) that American cities and suburbs suffer from galloping segregation, a malady so wide-spread and so deeply embedded in the national psyche that many Americans, Negroes as well as whites, have come to regard it as a natural condition; and

(2) that the prime carrier of galloping segregation has been the Federal Government. First it built the ghettos; then it locked the gates; now it appears to be fumbling for the key. Nearly everything the Government touches turns to segregation, and the Government touches nearly everything.”

– Senator Edward Brooke, 114 Congressional Record 2280 (1968)
Because of ICP, today Elijah plays here.