Associations in Perspective:

Historical Housing Data, Company Towns, Chronology of Federal Involvement, Restrictive Covenants & Race, and Historical Housing Papers
2019
Community Association Fact Book Part Three

Associations in Perspective

- Housing Data Sources
- Early Company Towns & Privately Financed Communities
- Chronology of Federal Involvement
- Restrictive Covenants & Race
- Historical Papers – Perspectives on Housing
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FCAR provides authoritative research and analysis on community association trends, issues and operations. Our mission is to inspire successful and sustainable communities. We sponsor needs-driven research that informs and enlightens all community association stakeholders—community association residents, homeowner volunteer leaders, community managers and other professional service providers, legislators, regulators and the media. Our work is made possible by your tax-deductible contributions. Your support is essential to our research.

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—From *A Declaration of Principles*, jointly adopted by a Committee of the American Bar Association and a Committee of Publishers
Part Three – Associations in Perspective:
Housing Data, Early Company Towns, Federal Involvement,
Restrictive Covenants & Race, Historical Papers on Housing

Acknowledgement

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The information in the Community Association Fact Book was developed with significant assistance from Clifford J. Treese, CIRMS. A member of CAI almost since its inception, Treese is a past president of both CAI and the Foundation for Community Association Research (FCAR). We express our gratitude for his invaluable contributions. He can be reached at clifford.treese@gmail.com.

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Sources

American Community Survey (ACS)
Census – Statistical Brief 1994
Census – Partnership Branch
CAI: Common Ground magazine
CAI Government & Public Affairs (G&PA)
CAI Press
California Bureau of Real Estate
California Law Revision Commission
Colorado Department of Regulatory Agencies
Connecticut Judicial Branch Law Libraries
Department of Agriculture – Rural Development
Department of Veterans Affairs (VA)
Federal Emergency Management Agency (FEMA)
Federal Home Loan Mortgage Corporation (Freddie Mac)
Federal Housing Administration (FHA)

Federal National Mortgage Association (Fannie Mae)
Florida Department of Business & Professional Regulation
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Maryland Montgomery County Office of Common Ownership Communities
National Association of Homebuilders (NAHB)
National Association of Realtors (NAR)
Nevada Real Estate Division
Urban Land Institute
Virginia Common Interest Community Board

Notes on Community Association Data: The Fact Book is based on information from seven data sources grouped in two categories:

- Public Data: (1) Census data, (2) American Housing Survey (AHS), (3) State data, (4) Related housing industries data such as that from the National Association of Realtors (NAR), National Association of Homebuilders (NAHB), and
- FCAR and CAI Data: (5) FCAR data accumulated over time, (6) CAI data, also accumulated over time, and (7) Data provided by CAI members.

The public data is largely from the Census, the American Community Survey (ACS) and the American Housing Survey. Some public association data is available from individual states. This state data, also, may have a lag time from collection to publication. Usually, both the few states with association data and the ACS data lack specificity in critically identifying the three basic types of associations: condominiums, cooperatives and planned communities. Similarly, the public data may count certain association units, but not the entities (the associations) themselves. From a timing viewpoint, FCAR, CAI data and CAI member data are more readily available. Because of the timing issue, the Fact Book data generally may be one year ahead of public data.

Associations in Perspective
Part Three – Associations in Perspective:
Housing Data, Early Company Towns, Federal Involvement,
Restrictive Covenants & Race, Historical Papers on Housing

Introduction

Section Four on Restrictive Covenants & Race is new. All Sections have new material marked with ►.

Community associations are a significant part of U.S. Housing, see the Community Association Fact Book 2019. Community associations – condominiums, cooperatives and planned communities – have a long history in the U.S. Some of that history is covered in the aforementioned Fact Book 2019.

This Part Three has Five Sections that present additional association facts and history. The cites and dates below therefore are meant to provide a general context in which associations have been developed. Most association legislation takes place at the state and local level. There are five federal statutes and Agencies that deal directly with associations:

- Federal taxation which effects all associations,
- Federal flood Insurance which impacts both associations and their members if the association is in a Special Flood Hazard Area,
- FHA/VA mortgage insurance/loan guarantee programs that are still responsible for around 20% - 25% of all home mortgage closings,
- Federal legislation that establishes a rebuttable presumption of unconscionability in certain long-term association leases/contracts and the
- U.S. Census which counts and measures certain attributes of individuals in condominium associations, but does not count or measure the three basic types of associations themselves.

Associations in Perspective is in four Sections:

- Section One: Housing Data Sources
- Section Two: Early Company Towns & Privately Financed Communities
- Section Three: Chronology of Federal Involvement
- Section Four: Restrictive Covenants & Race
- Section Five: Historical Papers – Housing Perspectives

[Note: Section Five papers stop at the end of the 1970s. From the 1980s on, the number of papers and law review articles on community associations steadily increased.]
Section One: Historical Housing Data and Selected Resources from an Historical Perspective

Census Data


Congressional Research Service, A Chronology of Housing Legislation and Selected Executive Actions, 1892 - 2003

200 Years of Census Taking: Population and Housing Questions, 1790 - 1990

Census Overview and Procedural History, 1790 - 2010

► Census Questionnaires 1790 - 2010

► Index of Census Questions 1790 - 2010

Twenty Censuses – Population and Housing Questions, 1790 - 1980

► Census 2010 Instructions to Enumerators

► Census of Population and Housing, 1790-1950 [United States] Series

Housing Characteristics in U.S. Tables – 60 Years of Decennial Censuses

Tracking the American Dream: 50 Years of Housing History from the Census Bureau 1940 to 1990

Census Atlas of the United States, 2000

► Census Housing Patterns

► How American Homes Vary By the Year They Were Built


► Twenty Century Statistics 1900 – 1998
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► Statistical Abstracts Series 1879 - 2010

HUD, VA and American Housing Survey (AHS)

HUD Housing in the Seventies

The Impact of the Federal Government on Real Estate Finance in the United States,
1950, NBER, Miles Colean. See Chapter 1, Background of Governmental Intervention

U.S. Department of Housing and Urban Development Major Legislation on Housing and
Urban Development Enacted, 1932 - 2014

► The Role of Federal Credit Aids in Residential Construction, 1935 – 1951

► The Role of the Federal Government in Housing, 1956

32 Years of Housing Data – American Housing Survey, 1973 - 2005

Housing Assistance programs can be found in various federal departments and follow-
up Report on Housing Assistance by Agency, not all involving associations. See also
HUD PD&R Research

HUD Interactive Timeline From 1930

► A History of HUD

Housing Assistance programs can be found in various federal departments and follow-
up Report on Housing Assistance by Agency, not all involving associations. See also
HUD PD&R Research

► FHA Multifamily Data (limited for historical use)

► HUD User Datasets (limited for historical use)

► FHA Preparing for the Future Market Share Data 1935 – 2013

HUD Interactive Timeline From 1930
Part Three – Associations in Perspective:
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► A History of HUD

► History of the Department of Veterans Affairs

► VA Loan Data by County (limited for historical use)

► VA National Center for Veterans Analysis and Statistics

**Related Data Sources**

*Estimates of Residential Building, United States, 1840 - 1939*

*Housing Construction Statistics, 1889 - 1964*

*National Park Service – Historic Residential Suburbs, 1830 – 1960*

► The U.S. Economy in the 1920s – Housing and Households

*Housing and Home Finance Agency – Housing Statistics 1948*

*Housing Starts Background and Derivation of Estimates, 1945 - 1982*

► Historical Home Prices: Monthly Median Value in the US from 1953-2019

► Research and Data – Manufactured Housing Institute

► Historical Census Statistics on Population Totals By Race, 1790 to 1990, and by Hispanic Origin, 1970 To 1990, for the United States, Regions, Divisions, and States

**Research Related Issues**

► Data Sources for U.S. Housing Research, Part 1: Public Sector Data Sources

► Data Sources for U.S. Housing Research, Part 2: Private Sources, Administrative Records, and Future Directions
Part Three – Associations in Perspective: Housing Data, Early Company Towns, Federal Involvement, Restrictive Covenants & Race, Historical Papers on Housing

► Can Administrative Housing Data Replace Survey Data?
► Innovations in Federal Statistics: Combining Data Sources While Protecting Privacy
► 120 Years of U.S. Residential Housing Stock and Floor Space

Condominium Homeownership in the United States: A Selected Annotated Bibliography of Legal Sources

► Women's Work and Women's Households: Gender Bias in the U.S. Census
► Confronting Structural Racism in Research and Policy Analysis: Charting a Course for Policy Research Institutions

Section Two: Early Company Towns and Privately Financed Communities

2.1 Historic Suburbs: The 19th century saw the creation of what are now termed “historic suburbs.” Today, these types of Suburbs take the form of master planned communities, see Part Seven of the Community Association Fact Book. A few of these Historic Suburbs are mentioned in this Chronology.

There is one variant of “Historic Suburbs” and large-scale developments (in a contemporary sense) and that is the “Company Town” which only will be mentioned with just one example, Pullman Illinois, see below after the references.

2.2 Early Reports on Housing Built by Employers

► Housing of the Working People in the United States by Employers, 1904
► Housing by Employers in the United States, 1920
► Industrial Housing, 1920
Part Three – Associations in Perspective:
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2.3 Early Communities Developed by Companies or Privately Planned and Financed

Alcoa TN

Chicopee GA

Fairfield AL

Hopedale MA (Hopedale had a much longer history)

Kingsport TN

Kohler WI

Longview WA

Silvertown GA

Torrance CA

Vandergrift PA

Goodyear Heights OH

Indian Hill MA

2.4 Early Communities Developed by Government Agencies

Brooklawn NJ

Cradock VA

Hilton Village VA

Yorkshire Village NJ

Union Park Gardens DE
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Boulder City NV

Norris TN

2.5 Books and Articles on Company Towns

Books

Company Towns: 1880s - 1935

Building the Workingman’s Paradise: The Design of American Company Towns

The Company Town

In Good Company: Company Towns Across the U.S.

Company Towns – Oregon

Company Towns in the Americas

Company Towns of the Pacific Northwest

Toward New Towns for America

Articles

The Quality of Services in Company Towns: Sanitation in Coal Towns During the 1920s

NCAA Division-I Athletic Departments: 21st Century Athletic Company Towns

Class and Gender Roles in the Company Towns of Millinocket and East Millinocket, Maine, and Benham and Lynch, Kentucky, 1901-2004: A Comparative History


Three Industrial Towns by McKim, Mead & White

Coal Ball: Baseball and Its Role in the Colorado Fuel and Iron Company Coal Towns of Southeastern Colorado, 1900–1910
The Development of Model Towns In the Bituminous Coal Fields

Three Architects of Early New Hampshire Mill Towns

Towns Of The Western Railroads

Jefferson, Railroad Towns, and the Singular Plan of Aiken


“In looking over all the facts of the case the conclusion is unavoidable that the idea of Pullman is un-American. It is a nearer approach than anything the writer has seen to what appears to be the ideal of the great German Chancellor. It is not the American ideal. It is benevolent, well wishing feudalism, which desires the happiness of the people, but in such way as shall please the authorities. One can not avoid thinking of the late Czar of Russia, Alexander II., to whom the welfare of his subjects was truly a matter of concern. He wanted them to be happy, but desired their happiness to proceed from him, in whom everything should centre. Serfs were freed, the knout abolished, and no insuperable objection raised to reforms, until his people showed a decided determination to take matters in their own hands, to govern themselves, and to seek their own happiness in their own way. Then he stopped the work of reform, and considered himself deeply aggrieved. The loss of authority and distrust of the people is the fatal weakness of many systems of reform and well-intentioned projects of benevolence. Pullman ought to be appreciated, and high honor is due Mr. George M. Pullman. He has at least attempted to do something lasting and far-reaching, and the benefits lie has actually conferred upon a laboring population of eight thousand souls testify that his heart must be warm toward his poorer brother. Mr. Pullman has partially solved one of the great problems of the immediate present, which is a diffusion of the benefits of concentrated wealth among wealth-creators.”

*******
Part Three – Associations in Perspective: Housing Data, Early Company Towns, Federal Involvement, Restrictive Covenants & Race, Historical Papers on Housing

Section Three: Selected Chronology of Federal Involvement

1890 – Real Estate Mortgages “The Superintendent of Census was reluctant to enter upon such an extensive and cost investigation [of mortgages] as that of recorded debt upon the strength of suggestions offered by such investigations as had already been made. It was feared that the people regarded their debt, although evidenced by public records, as a part of their private affairs, and they would resent any inquiries in regard to it.”

1908 – National Association of Realtors (NAR) The National Association of REALTORS® was founded as the National Association of Real Estate Exchanges on May 12, 1908 in Chicago. With 120 founding members, 19 Boards, and one state association, the National Association of Real Estate Exchanges’ objective was “to unite the real estate men of America for the purpose of effectively exerting a combined influence upon matters affecting real estate interests.”

1919 – Report of the U.S. Housing Corporation, Vol. II, Houses, Site Planning Utilities, “The shortage of housing which the United States Housing Corporation was created to meet as a war-time emergency was not a new thing arising wholly by reason of the war. The war simply localized and aggravated a widespread, chronic, and steadily growing trouble of pace times, which still persists, and which the country must now face and deal with in general ways better adapted to the nature of American institutions than were some of the arbitrary methods of local relief adopted under the pressure of war.”

1920 – Richard T. Ely founds the Institute for Research in Land Economics and Public Utilities, an organization that emphasized “land economics” and planning that would eventually produce Helen Monchow’s influential 1928 book on deed restrictions and also serve to provide some of the intellectual underpinning for Hoover’s The President’s Conference on Home Building and Home Ownership (1931/1932).

1920 – Housing by Employers in the United States “Employers housing” is the term used to describe housing work done by employers in the interest of their employees. It is synonymous with the term “company housing.” The housing work must be incidental to the main business of the employer. The employer’s interest in the housing work must be that of an employer, and not primarily that of a real estate operator or builder…. Altogether 213 companies were scheduled [for the Survey], which operated 423 different establishments, employing 462,991 men, of whom 160,645, or 34.4 percent, were accommodated in company houses.”
1920/23 – **Mortgages on Homes** “What does a mortgage on a home signify?. We have no recent statistics to indicate the cases which the mortgage indebtedness represents prosperity and in those in which it represents a decline in prosperity or even failure. It is frequently said that people are mortgaging their homes to buy automobiles...We have no data on this subject.” [Foreword by Richard T. Ely]

<table>
<thead>
<tr>
<th>Census Year</th>
<th>Total</th>
<th>Rented</th>
<th>Owned</th>
<th>Tenure Unknown</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1920</td>
<td>17,600,472</td>
<td>10,188,111</td>
<td>7,041,283</td>
<td>4,131,878</td>
</tr>
<tr>
<td>1910</td>
<td>14,131,945</td>
<td>8,426,664</td>
<td>5,245,380</td>
<td>3,408,854</td>
</tr>
<tr>
<td>1900</td>
<td>10,488,814</td>
<td>6,351,836</td>
<td>3,615,078</td>
<td>2,338,533</td>
</tr>
<tr>
<td>18901</td>
<td>7,922,973</td>
<td>4,999,302</td>
<td>2,923,671</td>
<td>2,113,738</td>
</tr>
</tbody>
</table>

1 Figures include distribution of unknown, not shown separately for 1890

**Table 5 - Proportion of Owned and Rented homes, By Sections and Geographic Divisions: 1890-1920**

<table>
<thead>
<tr>
<th>Section and Division</th>
<th>1920 Rented</th>
<th>1920 Owned</th>
<th>1910 Rented</th>
<th>1910 Owned</th>
<th>1900 Rented</th>
<th>1900 Owned</th>
<th>1890 Rented</th>
<th>1890 Owned</th>
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</thead>
<tbody>
<tr>
<td>United States</td>
<td>59.1</td>
<td>40.9</td>
<td>61.6</td>
<td>38.4</td>
<td>63.8</td>
<td>36.2</td>
<td>63.1</td>
<td>36.9</td>
</tr>
<tr>
<td>The North</td>
<td>58.6</td>
<td>41.4</td>
<td>61.2</td>
<td>38.8</td>
<td>62.4</td>
<td>37.6</td>
<td>60.9</td>
<td>39.1</td>
</tr>
<tr>
<td>New England</td>
<td>64.6</td>
<td>35.5</td>
<td>67.4</td>
<td>32.6</td>
<td>66.2</td>
<td>33.8</td>
<td>64.9</td>
<td>35.1</td>
</tr>
<tr>
<td>Middle Atlantic</td>
<td>66.3</td>
<td>33.7</td>
<td>69.4</td>
<td>30.6</td>
<td>70.1</td>
<td>29.9</td>
<td>67.8</td>
<td>32.2</td>
</tr>
<tr>
<td>East North Central</td>
<td>52.3</td>
<td>47.7</td>
<td>54.2</td>
<td>45.8</td>
<td>55.5</td>
<td>45.5</td>
<td>53.3</td>
<td>46.7</td>
</tr>
<tr>
<td>West North Central</td>
<td>47.8</td>
<td>52.2</td>
<td>49.6</td>
<td>50.4</td>
<td>53.4</td>
<td>46.6</td>
<td>54.5</td>
<td>45.5</td>
</tr>
<tr>
<td>The South</td>
<td>62.3</td>
<td>37.7</td>
<td>66.2</td>
<td>33.8</td>
<td>70.4</td>
<td>29.6</td>
<td>72</td>
<td>28</td>
</tr>
<tr>
<td>South Atlantic</td>
<td>63.3</td>
<td>36.7</td>
<td>68.5</td>
<td>31.5</td>
<td>72.7</td>
<td>27.3</td>
<td>73.1</td>
<td>26.9</td>
</tr>
<tr>
<td>East South Central</td>
<td>64.4</td>
<td>35.6</td>
<td>67.1</td>
<td>32.9</td>
<td>71.4</td>
<td>28.6</td>
<td>72.5</td>
<td>27.5</td>
</tr>
<tr>
<td>West South Central</td>
<td>59.1</td>
<td>40.9</td>
<td>61.6</td>
<td>38.4</td>
<td>64.8</td>
<td>35.2</td>
<td>68.4</td>
<td>31.6</td>
</tr>
<tr>
<td>The West</td>
<td>56.1</td>
<td>43.9</td>
<td>53.3</td>
<td>46.7</td>
<td>57.1</td>
<td>42.9</td>
<td>55.9</td>
<td>44.1</td>
</tr>
<tr>
<td>Mountain</td>
<td>55.1</td>
<td>44.9</td>
<td>53.2</td>
<td>46.8</td>
<td>52.9</td>
<td>47.1</td>
<td>50.9</td>
<td>49.1</td>
</tr>
<tr>
<td>Pacific</td>
<td>56.6</td>
<td>43.4</td>
<td>53.3</td>
<td>46.7</td>
<td>60</td>
<td>40</td>
<td>59.2</td>
<td>40.8</td>
</tr>
</tbody>
</table>

1 Includes distribution of unknown as to tenure.
1928 – The Use of Deed Restrictions in Subdivision Development by Helen C. Monchow, “The field of public control of land uses is a comparatively new activity in this country….But not until about 55 years ago did a development appear which may be said to be the forerunner of the modern highly restricted subdivision. At Riverside, Illinois, was developed a community which used the device of control by deed restrictions in the modern sense.” See Riverside Illinois. See National Register – Historic Suburbs, many began like Riverside. Monchow’s book was the first systematic look at deed restrictions as being an important element subdivision development. In many respects, community associations through the subdivision process are another extension of land development that began very early in this country’s history. See the Fact Book 2018.

1930 – Census Note: “The 1940 census was the first to include a separate questionnaire on the condition of the nation’s housing stock. Unlike on the general population questionnaire, enumerators were required to check one of a series of options for each question, rather than write in a response. Organized by column number (and response options), enumerators collected the following information…..:”
1930/1944 – The Veterans Administration was created in 1930. From a housing perspective, the Department of Veterans Affairs is better known for the GI Bill of 1944, which is “said to have had more impact on the American way of life than any law since the Homestead Act of 1862.

1931/1932 – President Hoover’s Conference on Home Building and Home Ownership was designed to gather substantial information about housing. See Chapter 1 that includes a discussion of subdivision regulations. “The decisive step in the transition of land from purely rural or agricultural uses to urban uses is that of the subdivision of acreage land into urban building lots. The quality of life – that is, the general healthfulness and decencies of life of the people is as dependent upon the way the subdivision is laid out and upon the sanitary and other utilities installed in it as upon any other factor.”

1931 – Recent Trends in American Housing, Edith Elmer Wood, “The crux of the housing problem is economic. Under the ordinary laws of supply and demand, it is unsoluble…The estimate that a third of our people are badly housed was arrived at by careful calculation…There has been a slow, but steady decrease in home ownership in the United States for some decades, and a slow, but steady increase in the proportion of mortgaged homes. The 1930 figures are not yet available.”

<table>
<thead>
<tr>
<th>Division and State</th>
<th>Families Having Radio Set</th>
<th>All Farm Families</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Urban</td>
<td>Rural - Farm</td>
</tr>
<tr>
<td>United States</td>
<td>8,682,176</td>
<td>1,371,073</td>
</tr>
</tbody>
</table>

[Dwellings occupied by private families only, omitting the small number of institutions and other quasi-family groups for which data are presented in Table 39]
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<table>
<thead>
<tr>
<th>Year</th>
<th>Rented</th>
<th>Owned</th>
<th>Free</th>
<th>Encumbered</th>
</tr>
</thead>
<tbody>
<tr>
<td>1890</td>
<td>52.2</td>
<td>47.8</td>
<td>72.0</td>
<td>28.0</td>
</tr>
<tr>
<td>1900</td>
<td>53.9</td>
<td>46.1</td>
<td>68.7</td>
<td>31.3</td>
</tr>
<tr>
<td>1910</td>
<td>54.2</td>
<td>45.8</td>
<td>67.2</td>
<td>32.8</td>
</tr>
<tr>
<td>1920</td>
<td>54.4</td>
<td>45.6</td>
<td>61.7</td>
<td>38.3</td>
</tr>
</tbody>
</table>

1933 – **Home Owners Loan Corporation**  [Quoting from a commentary]

Pursuant to his recommendation, an Act of Congress approved June 13, 1933, created the Home Owners’ Loan Corporation to bring direct relief to home owners. Its principal purpose is to refinance mortgages of urban home owners faced with foreclosure.


1934 – **FHA** was created and “provides mortgage insurance on loans made by FHA-approved lenders throughout the United States and its territories. FHA insures mortgages on single family and multifamily homes including manufactured homes and hospitals. It is the largest insurer of mortgages in the world, insuring over 34 million properties since its inception in 1934.”

1934 – **First Annual Report of the Federal Housing Administration for the Period Commencing with the Approval of the Act on June 27, 1934, and Ending December 31, 1934**

**GENERAL STATEMENT**

The Federal Housing Administration is charged with the duty of encouraging improvement in housing standards and conditions by making improved credit facilities available to the owners and prospective owners of homes and other property. In accordance with the National Housing Act, it extends Government support by means of credit insurance covering private credit transactions. Hence, in achieving the desired results, chief reliance is placed upon private capital and initiative.
Part Three – Associations in Perspective: Housing Data, Company Towns, Federal Involvement, Restrictive Covenants & Race, Historical Papers – Housing Perspectives


The modernization credit-insurance plan of the Federal Housing Administration, during the early months of 1935, was already an effective means of expediting recovery in the building and allied industries, one of the purposes of the National Housing Act. It became an increasingly powerful stimulus to industry during the year. During the last 6 months modernization and repair notes insured under the plan averaged over $27,000,000 per month, four times the average amount during the latter months of 1934 when the plan was in effect.

1935 – Executive Order 7027 Establishing the Resettlement Administration

“I hereby prescribe the following functions and duties of the said Resettlement Administration to be exercised and performed by the Administrator thereof:

(a) To administer approved projects involving resettlement of destitute or low-income families from rural and urban areas, including the establishment, maintenance, and operation, in such connection, of communities in rural and suburban areas.

(b) To initiate and administer a program of approved projects with respect to soil erosion, stream pollution, seacoast erosion, reforestation, forestation, and flood control.

(c) To make loans as authorized under the said Emergency Relief Appropriation Act of 1935, to finance, in whole or in part, the purchase of farm lands and necessary equipment by farmers, farm tenants, croppers or farm laborers.”

1936 – Urban Land Institute (ULI) The National Real Estate Foundation for Practical Research and Education—the predecessor to the Urban Land Institute—is chartered in Illinois, with Walter S. Schmidt as its first president. The name was changed in 1939 to ULI. The model is that of a real estate college—a school of urbiculture—that could stand as an objective and recognized source of research and education, governed by a board of real estate professionals. In 1947, ULI published The Community Builders Handbook to facilitate larger more integrated residential development.
Part Three – Associations in Perspective:
Housing Data, Early Company Towns, Federal Involvement,
Restrictive Covenants & Race, Historical Papers on Housing

1936 – Third Annual Report of the Federal Housing Administration for the Year Ending December 31, 1936

The entire program of the Federal Housing Administration, it is estimated, has created the equivalent of at least 1 year’s work for 2,000,000 men. In many localities, where formerly there was much unemployment among building workers, shortages of skilled labor are now being reported.


The 1938 amendments gave immediate impetus to the home-mortgage insurance program. During March and April, the first 2 full months of operations under the new legislation, home mortgages submitted by lending institutions to our field insuring offices increased approximately 40 percent over the corresponding months of 1937. These months represented the peak season of building for the year 1937. May in that year represented a drop of 23 percent under April. However in May 1938, mortgages selected for examination and appraisal show no decline from the March and April weekly averages, and are running more than 60 percent higher than last year at the same time.

1937 – Wagner-Stegall Act “AN ACT To provide financial assistance to the States and political subdivisions thereof for the elimination of unsafe and insanitary housing conditions, for the eradication of slums, for the provision of decent, safe, and sanitary dwellings for families of low income, and for the reduction of unemployment and the stimulation of business activity, to create a United States Housing Authority, and for other purposes.”

1937 – United States Housing Authority Note: The United States Housing Authority was created in the Wagner-Stegall Act also known as the National Housing Act of 1937.
Part Three – Associations in Perspective:
Housing Data, Company Towns, Federal Involvement,
Restrictive Covenants & Race, Historical Papers – Housing Perspectives

1938 – Fifth Annual Report of the Federal Housing Administration Stewart Mcdonald,
Administrator for the Year Ending December 31, 1938

The sharp rise in these credit-insurance activities was largely instrumental in the vigorous revival in the residential construction industry which was one of the earliest and strongest forces acting for recovery in business and employment from the recession in late 1937 and early 1938.

Residential building was more active than in any other year since 1929, with an estimated total of 347,000 dwelling units commenced, of which 202,000 were in one-family structures. This volume of building was at a rate more than sufficient to house a year’s increase in population and also to replace houses destroyed and torn down. It is estimated that the dwellings built or improved with loans insured by this Administration since it began operations provide quarters for at least 7,500,000 persons.

Note: Homeownership Rates by State from 1900 - 2000

<table>
<thead>
<tr>
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<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>United States</td>
<td>66.2%</td>
<td>64.2%</td>
<td>64.4%</td>
<td>62.9%</td>
<td>61.9%</td>
<td>55.0%</td>
<td>43.6%</td>
<td>47.8%</td>
<td>45.6%</td>
<td>45.9%</td>
<td>46.5%</td>
</tr>
</tbody>
</table>


E. S. Wallace, 1938 “These developments focused attention on certain basic defects which had long existed in this portion of the credit system. The most important of these defects may be listed as follows: (1) the instability of real estate values, resulting from population movements and enhanced by the flow of speculative funds into and out of the real estate market, which has caused lenders to restrict their first mortgage loans to rather low percentages of appraised property values; (2) the unsatisfactory, costly, and frequently illegal system of second and third mortgages, resulting from the fact that many families attempting home ownership have not been able to provide from their own funds the difference between the amount of the first mortgage, thus restricted, and the cost of the home; (3) inefficient methods of appraisal ….” [A total of seven defects are listed.]
1938 --- **Fannie Mae** was created according to its Charter, as amended through 2008, to:

1) provide stability in the secondary market for residential mortgages;
2) respond appropriately to the private capital market;
3) provide ongoing assistance to the secondary market for residential mortgages (including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing;
4) promote access to mortgage credit throughout the Nation (including central cities, rural areas, and underserved areas) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing;
5) manage and liquidate federally owned mortgage portfolios in an orderly manner, with a minimum of adverse effect upon the residential mortgage market and minimum loss to the Federal Government.

Fannie Mae purchases mortgages, including for homes in community associations, from approved lenders according to underwriting standards in a [Selling Guide](#).

Note on Fannie Mae, Freddie Mac and Ginnie Mae: It will be helpful to briefly view all three entities right now. Over the course of several years, these entities were created and underwent several changes.

- 1954, Fannie Mae went from being a government agency to becoming a public-private mixed ownership entity often referred to as a Government Sponsored Enterprise (GSE, or “Enterprise”).
- 1968, Fannie Mae was reorganized as a for-profit shareholder owned corporation that was removed from the federal budget and funded itself through the stock and bond markets.
- 1968, HUD was given regulatory authority over Fannie Mae.
- 1968, Ginnie Mae was created to purchase mortgage debt from FHA, VA and other federal entities. Ginnie Mae securities are the only MBS (mortgage backed securities) backed by the full faith and credit of the U.S. government.
- 1970, Freddie Mac is created to help thrifts (S&Ls) to manage interest rate risk.
- 1989, the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) placed Freddie Mac on the same footing as Fannie Mae, as a GSE.
- 1992, the Office of Federal Housing Oversight (OFEO) was given certain regulatory authority over both Fannie Mae and Freddie Mac.
- 2008, the Housing and Economic Recovery Act created the Federal Housing Finance Agency (FHFA).
Part Three – Associations in Perspective:
Housing Data, Company Towns, Federal Involvement,
Restrictive Covenants & Race, Historical Papers – Housing Perspectives

- 2008, Fannie Mae and Freddie Mac are placed in conservatorship by the FHFA where both remain as of this Chronological History.
- See also Federal Housing Finance Agency Timeline

1938 – The 1938 Book of Small Houses, Chapter on The Builder by J.C. Nichols

“Recent years have produced much thought on the duration of restrictions. Farseeing operators are providing self-perpetuating restrictions assuring their renewal from period to period so long as the majority of home owners does not vote to change or abandon them at the end of a given time. There is a current realization among home builders that protection must go far beyond mere municipal zoning, is indeed a fundamental in insuring quality.”

Note: Jesse Clyde Nichols (1880 – 1950) was the developer of the Country Club District in Kansas City Missouri. Nichols help create the notion of a large scale planned community. See Worley, J.C. Nichols and the Shaping of Kansas City – Innovation in Planned Residential Communities (19990) and Weiss, The Rise of the American Real Estate Industry and Urban Land Planning (1987)

1939 – State Housing Summaries and Decisions

"In the course of his address before a section of the American Bar Association at its annual meeting held at Cleveland in July 1938, Mr. Leon H. Keyserling, Deputy Administrator and General Counsel of the United States Housing Authority, pointed out that "an increasing number of decisions in State courts are sustaining the validity and powers of local housing authorities. These local authorities, modeled in some respects after the New York Port Authority and other municipal authorities, are the real spear-heads of public housing. They constitute one of the most significant developments in recent law, and will play a major role in the coming history of municipal government."
Part Three – Associations in Perspective:
Housing Data, Early Company Towns, Federal Involvement, Restrictive Covenants & Race, Historical Papers on Housing

1939 – Sixth Annual Report of the Federal Housing Administration Stewart Mcdonald, Administrator for the Year Ending December 31, 1939

The quality of home construction was improved because a larger volume of it than ever before was financed with mortgages insured by the FHA. The property, location, and construction requirements and standards of the FHA thus were observed on an exceptionally large number of homes, and the influence of the FHA was felt on many others.

In addition, many of the new homes sold under financing arrangements other than the FHA’s insured mortgage system were nevertheless built under FHA commitments and standards and were inspected by the FHA during construction. This applies particularly to new large suburban developments.

The number of new one-family homes privately financed, approximately 325,000, was even larger than in 1929. The activity in construction of small homes undoubtedly resulted in large measure from the FHA’s mortgage-insurance system.

► 1908 – 1940 – Sears Kit Homes. Note: Over 32 years, Sears sold 70,000 kit homes in 370 house designs. See Sears Modern Homes

1940 – Actuarial Handbook of the Federal Housing Administration

1940 – Seventh Annual Report of the Federal Housing Administration for the Year Ending December 31 1940

These accomplishments were an important factor in the further recovery in the total volume of home constructions to the highest levels since 1928. Approximately 42 percent of all privately financed single-family homes built in 1940 were financed by FHA-insured loans and an additional substantial number were a direct outgrowth of the FHA program, although ultimately financed without FHA mortgage insurance. The quality of the new homes financed by private capital under the FHA program was maintained at high levels, reflecting the FHA’s careful requirements as to soundness of construction and location. The foreclosure experience on small home properties covered by FHA mortgage insurance also continued extremely favorable. Less than four-tenths of 1 percent of those properties have been foreclosed and turned over to the Administration.

The quality of the new homes financed by private capital under the FHA program was maintained at high levels, reflecting the FHA’s careful requirements as to soundness of construction and location. The foreclosure experience on small home properties covered by FHA mortgage insurance also continued extremely favorable.
### 1940 – Census of Housing

#### Table: Dwelling Units Not Needing Major Repairs

<table>
<thead>
<tr>
<th>Area, Occupancy and Tenure</th>
<th>All Dwelling Units</th>
<th>Reporting State of Repair and Plumbing Equipment</th>
<th>Dwelling Units Not Needing Major Repairs</th>
<th>Not Reporting State of Repair or Plumbing Equipment</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Total</td>
<td>With Private Bath &amp; Private Flush Toilet</td>
<td>With Running Water, No Private Bath, No Private Flush Toilet</td>
</tr>
<tr>
<td>United States</td>
<td></td>
<td></td>
<td>Total</td>
<td>Total</td>
</tr>
<tr>
<td>Total</td>
<td>37,325,470</td>
<td>35,826,442</td>
<td>28,612,715</td>
<td>17,793,341</td>
</tr>
<tr>
<td>Owner Occupied</td>
<td>15,155,763</td>
<td>14,395,627</td>
<td>12,098,562</td>
<td>8,686,266</td>
</tr>
<tr>
<td>Tenant Occupied</td>
<td>19,658,769</td>
<td>18,834,224</td>
<td>14,714,593</td>
<td>8,971,426</td>
</tr>
<tr>
<td>Vacant, for sale or rent</td>
<td>1,864,983</td>
<td>1,720,595</td>
<td>1,289,875</td>
<td>721,240</td>
</tr>
<tr>
<td>Vacant, not for sale or rent</td>
<td>606,555</td>
<td>571,996</td>
<td>505,685</td>
<td>232,409</td>
</tr>
</tbody>
</table>

#### Table: Median Age of Reporting Year Built

<table>
<thead>
<tr>
<th>Area, Occupancy and Tenure</th>
<th>All Dwelling Units</th>
<th>Median Age (years)</th>
<th>Reporting Year Built</th>
<th>Not reporting year built</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>1933-1940 (10 to 52.2 yrs old)</td>
<td>1879 or earlier (50.3 yrs or more)</td>
</tr>
<tr>
<td>United States</td>
<td>37,325,470</td>
<td>25.4</td>
<td>3,190,264</td>
<td>3,195,257</td>
</tr>
<tr>
<td>Owner Occupied</td>
<td>15,155,758</td>
<td>23.4</td>
<td>1,744,134</td>
<td>1,750,242</td>
</tr>
<tr>
<td>Tenant Occupied</td>
<td>19,658,769</td>
<td>27.6</td>
<td>1,105,824</td>
<td>1,112,515</td>
</tr>
<tr>
<td>Vacant, for sale or rent</td>
<td>1,864,983</td>
<td>22.4</td>
<td>217,001</td>
<td>219,087</td>
</tr>
<tr>
<td>Vacant, not for sale or rent</td>
<td>606,555</td>
<td>13.4</td>
<td>123,303</td>
<td>123,303</td>
</tr>
</tbody>
</table>

---

1 Includes occupied urban farm units totaling 82,289 in 1940 and 64,044 in 1930.

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**Part Three – Associations in Perspective:**

Housing Data, Company Towns, Federal Involvement, Restrictive Covenants & Race, Historical Papers – Housing Perspectives
Part Three – Associations in Perspective: Housing Data, Early Company Towns, Federal Involvement, Restrictive Covenants & Race, Historical Papers on Housing


1941 – Eighth Annual Report of the Federal Housing Administration for the year ending December 31, 1941

Operations of the Federal Housing Administration during 1941 were concentrated on the task of housing the vast army of American workers and their families engaged in the defense and wartime production effort of the United States. In furtherance of that objective, the activities of the FHA were directed toward stimulating a maximum volume of war housing construction by private enterprise and also involved full collaboration on the part of its extensive staff of experts, specialists and technicians in the over-all defense housing program sponsored by the Federal Government.

1941 – Cooperatives and the Income Tax, Israel Packel, “The courts have had the occasion to consider the exemption status of housing cooperatives, a form of consumers’ cooperative. In Garden Homes Company v. Commissioner 2 9 exemption was claimed by such an organization as a (1) building and loan association, (2) consumers’ cooperative, (3) municipal agency or (4) civic organization. The cooperative was denied the exemption on the first three grounds, but it was held to be exempt on the fourth ground. It should be noted, however, that in that case the City of Milwaukee had a real interest in the enterprise. In the more recent case of Amalgamated Housing Corporation v. Commissioner, a limited dividend housing cooperative was held to be non-exempt and the contention that it was a civic organization was rejected.”
1942 – *Ninth Annual Report of the Federal Housing Administration for the Year Ending December 31, 1942* - During the year 1942, the Federal Housing Administration concentrated its activities on aiding the construction of privately financed war housing accommodations. Insurance written on mortgages and loans, authorized under the National Housing Act, totaled more than $1,136,000, 000; constructions of approximately 160,000 privately financed new dwelling units were started under the FHA program; 67,500 applications for preference rating orders were processed for the War Production Board; and other important services were rendered in connection with war housing constructions.

1942 – *Section 216* of the Internal Revenue Code (IRC) was adopted in 1942 that allowed income tax deductions and real estate tax deductions for housing cooperatives.

1942 – *Emergency Price Control Act of 1942* precipitated numerous rental to cooperative conversions to avoid rent control.

1942 – *National Association of Home Builders* (NAHB) founded, as a breakaway from the National Association of Real Estate Boards.

1940 -1942 – *Mutual Ownership Defense Housing Division* created war time housing in a cooperative form and, later, in 1949 ---*Lanham Act* facilitated the conversion of public housing to housing cooperatives.

<table>
<thead>
<tr>
<th>Project</th>
<th>Location</th>
<th>Dwelling units</th>
<th>Development cost</th>
<th>Year purchased from government</th>
<th>Current status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Audubon Park</td>
<td>Audubon Park, New Jersey</td>
<td>500</td>
<td>$2,321,000</td>
<td>1947</td>
<td>Owned and maint. Audubon Mutual Housing Corp.</td>
</tr>
<tr>
<td>Avion Village</td>
<td>Grand Prairie, Texas</td>
<td>300</td>
<td>$920,000</td>
<td>1948</td>
<td>Owned and maint. Avion Village Housing Corp.</td>
</tr>
<tr>
<td>Bellmawr Park</td>
<td>Bellmawr, New Jersey</td>
<td>500</td>
<td>$2,321,000</td>
<td>1953</td>
<td>Owned and maint. Bellmawr Mutual Housing Corp.</td>
</tr>
<tr>
<td>Dallas Park</td>
<td>Dallas, Texas</td>
<td>300</td>
<td>$972,000</td>
<td>1948</td>
<td>Mutual ownership corp. dissolved</td>
</tr>
<tr>
<td>Greenmont Village</td>
<td>Kettering, Ohio</td>
<td>500</td>
<td>$2,385,000</td>
<td>1947</td>
<td>Owned and maint. Greenmont Village Mutual Housing Corp.</td>
</tr>
<tr>
<td>Walnut Grove</td>
<td>South Bend, Indiana</td>
<td>250</td>
<td>$1,149,000</td>
<td>1947</td>
<td>Owned and maint. Walnut Grove Mutual Housing Corp.</td>
</tr>
<tr>
<td>Winfield Park</td>
<td>Winfield Township, New Jersey</td>
<td>700</td>
<td>$3,704,000</td>
<td>1950</td>
<td>Owned and maint. Winfield Park Mutual Housing Corp.</td>
</tr>
</tbody>
</table>
Part Three – Associations in Perspective:
Housing Data, Early Company Towns, Federal Involvement,
Restrictive Covenants & Race, Historical Papers on Housing

1940 – 1942: Audubon Park is created by the Mutual Ownership Defense Housing Division.

1943 – National Housing Agency Home Use Guide 1943 - In carrying out this assignment, the Homes Use Service will follow principles which may be expressed in the 9 points below.

1. The war must be won. For any problem, the only satisfactory solution is that which best answers the question “What will help most to win the war?“

1943 – Tenth Annual Report of the Federal Housing Administration for the year ending December 31, 1943

The energies of the Federal Housing Administration during 1943 were concentrated on assisting private enterprise to provide housing for war workers. During the year ending December 31, 1943, 137,850 houses were constructed for war workers, representing nearly 90 percent of all housing constructed with priorities by private capital. This compared with 159,760 for 1942 and brought to over 600,000 the total new dwelling units provided through the FHA since the beginning of the emergency in July 1940.

1944 – Housing Design and Construction – An Analysis of War and Pre-War Experience

Volume I Volume II Volume III


“Private housing construction projects before the war were generally small scale operations of predominately one-family dwellings. According to a study made by the Bureau of Labor Statistics for the year 1938, two thirds of the builders constructed but one house per year and the average for all builders was 2.2 houses per year. Even for the one-third of the builders constructing 2 or more houses per year and providing for 70 percent of the total housing produced the average was only 4.8 houses per year. Only 11 percent of the total volume was handled by operators who built more than 100 houses per year.”
1944 – **Eleventh Annual Report of the Federal Housing Administration for the Period Ending December 31, 1944**

In 1944 the FHA rounded out its tenth year. It seems appropriate therefore at this time to review briefly the record of the FHA's first decade:

- Home loans by private lending institutions exceeding $8,000,000,000 have been insured under all phases of FHA operations.
- More than $3,500,000,000 of this total has been liquidated, a testament to the integrity and thrift of the American home-buying public.
- Over 6,000,000 American families have been enabled to buy, build or improve their homes through the FHA program.
- Currently, the FHA is self-sustaining. For five years it has paid all of its operating expenses out of income derived chiefly from premiums and fees.
- In addition, it had accumulated reserves of $97,265,000 in its insuring funds, for the payment of future losses and dividends.
- And now it has begun the distribution of dividends to home buyers who pay off their mortgages in full.

1945 – **History of the Administration of War Housing During World War II – National Housing Agency**

1945 – **Twelfth Annual Report of the Federal Housing Administration for the year ending December 31, 1945**

The Federal Housing Administration completed its war housing program during 1945 and turned its attention to homes for returning veterans.

From the beginning of the emergency in the summer of 1940 to the end of 1945 housing constructed by private enterprise with FHA insured financing totaled 762,598 family units. Most of this provided quarters for war workers migrating to war production areas. Under authority of the title VI of the National Housing Act loans aggregating $1,708,000,000, advanced by private lending institutions, were insured by the FHA to finance the construction of homes for war workers. More than 415,000 dwelling units were so provided.
1946 – Thirteenth Annual Report of the Federal Housing Administration for the year ending December 31, 1946

The urgent need for shelter made many veterans reluctantly willing to pay the asking price for whatever was available, without examining too closely its quality or suitability for their needs and without counting the cost in terms of continuing expense over the years necessary to amortize the mortgage loan. These considerations, however, are basic elements of the FHA system, and a veteran who financed his home with an insured mortgage during the year had more assurance than he otherwise would have had of an acceptable relationship between his current and prospective income and the obligation he was assuming and between the property he was buying and the price he was paying. To make this possible in the face of current conditions required exceptionally careful analysis of every case presented for insurance.

1947 – FHA Preliminary Housing Memoranda NOS I, II, III, IV

Housing, however, is perennially critical in a social sense. The Housing Census of 1940 provides ample quantitative evidence of deplorable state of a large part of the nation’s housing prior to the dislocations and emergency housing problems which have been created by the war, and the current readjustment to peace.

1947 – Fourteenth Annual Report of the Federal Housing Administration for the year ending December 31, 1947

The size of these figures indicates the significant place that the FHA occupies in the national housing picture. The availability of the FHA mortgage insurance has encouraged lending institutions to direct an adequate flow of funds into mortgages on small homes, thus making home ownership possible on a wider scale for families of moderate income. The mutual mortgage insurance system provided under section 203 of the National Housing Act has popularized the idea of mortgage terms related to the borrower’s income, and has helped to make home financing a sounder transaction for both borrower and lender. FHA risk-rating methods have established a pattern that is widely followed by mortgage lenders for uninsured as well as insured loans. FHA property standards have done much to improve the quality of home construction in general and have made the public more aware of the importance of good building practices. Many features of home financing that are now taken for granted were not in general use before the mutual mortgage insurance system of the FHA caused their advantages to have Nation-wide recognition.
1947 – **Park Forest, Illinois** Park Forest began in 1946 as a dream held by Carroll F. Sweet, Sr., to build a "G.I. Town" for returning veterans. Due to the lack of building during the Depression and World War II, the returning veterans and their young families faced a severe housing shortage. Carroll F. Sweet, Sr., introduced Nathan Manilow, a Chicago builder to Philip M. Klutznick, who was working in Washington D.C. as head of the Federal Public Housing Authority. Both men thought the dream was worth bringing to reality. The result was the first post-World War II planned community to include a shopping center and all of the amenities of modern life built in to the original plan. The plan was turned in to FHA in November 1946. Move-ins began in August 1948. On February 1, 1949, at the suggestion of the builders, Park Forest was incorporated as a village. By October 1949, 3,010 rental units had been completed. Construction of "For Sale" homes was begun by 1950.

1947 – **Levittown, New York** Levittown, Long Island, the most famous American postwar suburban development, was a household name, the “Exhibit A” of suburbia. It came on the eve of the baby boom and just before the 1948 Housing Bill liberalized lending, allowing anyone to buy a home with 5 percent down and extending mortgage terms to 30 years. Millions of families needed homes. Housing starts were down during the Depression and World War II. Returning vets armed with their GI Bill of Rights and guaranteed Veterans Administration low-interest loans wanted to move into places of their own. The Federal Housing Administration was guaranteeing loans from bankers to builders, and Long Island farmland was going cheap.

1949 and 1950 --- **Cooperative Housing in the United States** “After the end of World War II the severe housing shortage in this country led to an increased interest in cooperative housing as one means of solving the problem. This gave further impetus to a movement which began in the United States about a third of a century ago among people who held that by joining together in the purchase of land and the construction of houses they could obtain dwellings of good quality at less cost than those being provided in other ways. As things have worked out, some housing cooperatives have been outstandingly successful and have accomplished everything their sponsors hoped for. Others, however, have proved to be disappointing, either falling by the wayside or failing to attain the original objectives.”
1949 --- **Housing Act of 1949** Short Title and Declaration of National Housing Policy. Section 2 of the act establishes national housing objectives and the policies to be followed in obtaining them. The declaration states that: “the general welfare and security of the Nation and the health and living standards require housing production and related community development sufficient to remedy the serious housing shortage, the elimination of substandard and other inadequate housing through the clearance of slums and blighted areas, and the realization as soon as feasible of the goal of a decent home and a suitable living environment for every American family, thus contributing to the development and redevelopment of communities, and to the advancement of the growth, wealth, and security of the Nation.”

1950 – **Census of Housing**

<table>
<thead>
<tr>
<th>Subject</th>
<th>Total</th>
<th>With private toilet and bath, and hot running water</th>
<th>With private toilet and bath, and only cold water</th>
<th>With hot running water, lacking private toilet or bath</th>
<th>Only cold water, lacking private toilet or bath</th>
<th>No running water</th>
<th>Total</th>
<th>With private toilet and bath, and hot running water</th>
<th>Lacking hot water, private toilet or bath</th>
<th>Not reported</th>
</tr>
</thead>
<tbody>
<tr>
<td>Owner-occupied units</td>
<td>10,616,765</td>
<td>17,631,493</td>
<td>14,225,283</td>
<td>563,569</td>
<td>397,429</td>
<td>1,080,305</td>
<td>1,231,205</td>
<td>912,035</td>
<td>201,165</td>
<td>710,890</td>
</tr>
<tr>
<td><strong>YEAR BUILT</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1940 or earlier</td>
<td></td>
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<td><strong>HEATING EQUIPMENT</strong></td>
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1951 --- National Housing Act created mortgage insurance under 213 for the development of housing cooperatives. Eventually, the various National Housing Acts added other sections which could be used to create housing cooperatives such as 202 and 221(d)(3) and 221(d)(4). Beginning in the 1950s through the mid-1970s, FHA mortgage insurance programs played an important role in the growth of housing cooperatives.

FHA insured Coop Volume
1952 - 2008

See also A Brief History of Affordable Housing Cooperatives in the United States Gerald Sazama University of Connecticut Working Paper 1996-09 January 1996

1957 – FHA Housing Finance in the United States of America

1958 --- New Housing and Its Materials, 1940-1956 “About 97 percent of the single-family houses started in 1956 were completely detached, surrounded by their own plots of ground (table 1). The remaining small fraction of row and semidetached houses were concentrated in a few cities in the northeastern and southern regions. Although no strictly comparable figures are available for earlier periods, the 1950 Census of Housing indicates that the proportion of semidetached and row houses built in the 1940’s was higher than in recent years—probably in excess of 10 percent. The wartime controls in effect—particularly in the first half of the 1940’s—resulted in more compact, row house neighborhoods to conserve materials not only in the houses themselves but also in the extension of utilities, streets, and auxiliary community facilities……Since 1949 and 1950, when the record volume of
FHA-underwritten rental and cooperatively owned housing swelled, the count of units started in private multifamily buildings to approximately 200,000 a year, the trend in this type of residential construction was generally downward to a low of 113,000 units in 1956. This volume was in sharp contrast with annual building programs of 350,000 or more.”

1959 – Advisory Commission on Intergovernmental Relations (ACIR). Congress establishes the Advisory Commission on Intergovernmental Relations (ACIR), with members from various branches of government. Serves primarily as a research agency and think tank in area of intergovernmental relations. In 1989, ACIR publishes “Residential Community Associations: Private Governments in the Intergovernmental System.”

1960/61 – House Subcommittee on Housing of the Committee on Banking and Currency held at the request of Puerto Rico to discuss condominiums.

Note: See Footnote 226 in the Article. All the Footnotes in the Article, however, are useful in understanding the background on selling “flats” and “tenant in common” issues.

1961 – National Housing Act of 1961 provided for mortgage insurance for condominium units in 234(c) here. An important element of this 1961 Act is that in order to be eligible for the mortgage insurance the given state in which the housing was located had to have a condominium act. By the end of 1961, 31 states had what is now termed a First Generation Condominium Act. FHA insures mortgages made by approved lenders. Eventually FHA condominium criteria became consolidated into the 2009/2011 FHA Condominium Approval and Processing Guide. See other FHA Condominium Mortgagee Letters and References here

1962 – Condominium, Frank So, American Planning Association “A significant increase in interest by builders and public officials in the “condominium” has taken place in the past year. Principle interest has come about with the passage of Section 234 of the National Housing Act (Public Law 87-70, 87th Congress). See Herbert J. Friedman, Community Apartments: Condominium or Stock Cooperative, 1962. See Robert G. Natelson, Comments on the Historiography of Condominium: The Myth of Roman Origin (1987)

1962 – On November 20, 1962, President Kennedy signed into law Executive Order 11063 prohibiting segregation in the sale, leasing, or rental of federally owned or operated properties, as well as those provided with federal funds.
1963 – Senate Hearing To Provide for the Creation of Horizontal Property Regimes in the District of Columbia (September) The Hearing requests that a bill be reintroduced to allow for the creation of condominiums in the District of Columbia.

1964 – National Housing Act created FHA 234(d), created mortgage insurance for the development of a condominium project as a whole here. See also HUD Handbook 4580.1 (1973).

1965 – HUD is created. Housing and urban policy achieve cabinet status when the Housing and Home Finance Agency is succeeded by the Department of Housing and Urban Development. Robert Weaver becomes HUD’s first Secretary and nation’s first African-American cabinet member.

1968 & 1970 – Title IV and Title VII, respectively of the Housing & Community Development Acts, created the New Communities Program responsible for “New Towns” such as The Woodlands and others; the Program was terminated in 1983. For a list of the HUD New Towns.

1968 – Interstate Land Title Full Disclosure Act with registration, as of July 21, 2011, transferred to the Consumer Finance Protection Bureau. “Who is covered? Individuals who are developers of land and other individuals offering 25 or more lots for sale and using any means or instruments of interstate commerce (including the mails).” This includes units in community associations.

1968 – Ginnie Mae is created. While Fannie Mae was created in 1938, the Housing Act of 1968 split the corporation in two and created Ginnie Mae. Unlike Freddie Mac and Fannie Mae, Ginnie Mae (collectively, the GSEs) has explicit government backing and purchases mortgages from FHA, VA, Dept. of Agriculture’s Rural Housing Development Program and HUD’s Office of Public and Indian Housing. Also, unlike the GSEs, Ginnie Mae does not have Project Standards (like Fannie Mae) or Collateral Policy (like Freddie Mac).

1968 – Fair Housing Act. Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended, prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18), and disability. In addition to the Act (both before and after), there are other similar statutes and Presidential Executive Orders.
Part Three – Associations in Perspective: Housing Data, Early Company Towns, Federal Involvement, Restrictive Covenants & Race, Historical Papers on Housing

1970 – Department of Veterans Affairs authorized loans on condominium units and other single family housing. VA underwriting guidelines for common interest communities, condominiums and planned unit developments in the Lenders Handbook - VA Pamphlet 26-7, Chapter 16. See also Department of Veterans Affairs 38 CFR 36.4360 - Condominium loans - general.

1970 – Freddie Mac was created according to its Charter.

(b) It is the purpose of the Federal Home Loan Mortgage Corporation—
(1) to provide stability in the secondary market for residential mortgages;
(2) to respond appropriately to the private capital market;
(3) to provide ongoing assistance to the secondary market for residential mortgages (including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing; and
(4) to promote access to mortgage credit throughout the Nation (including central cities, rural areas, and underserved areas) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing.

Similar to Fannie Mae (both as GSEs), Freddie Mac buys loans from approved lenders. If the home is in a community association, then Freddie Mac underwrites the loan according to its Seller/Servicer Guide.

1970 – FHA Planned-Unit Development with a Homes Association which in very summary form is based on the Urban Land Institute’s “The Homes Association Handbook” (Technical Bulletin 50) 1964/1966. TB 50 is one of the seminal publications dealing with community associations. The author of TB 50, Byron Hanke, became one of CAI’s founders. Later in 1975, Professor Jan Z. Krasnowiecki published Townhouses with Homes Associations: A New Perspective.
1970 – Census Overview and Procedural History, Chapter 15 Population and Housing Items

“This question [relating to Tenure] was asked for all occupied units. There was a corresponding item on tenure in the previous censuses of housing, and also on the decennial census population schedules for 1890 through 1930. Cooperative and condominium units first were shown as a separate category in 1970; previously they were not distinguished from conventionally owned units. "A cooperative or condominium" was to be marked if the cooperative or condominium was owned outright or was being bought, even if mortgaged or not fully paid for. The owner or co-owner had to live in the unit, but did not have to be the head of the household. Cooperative or condominium ownership covered single-family houses, row houses, townhouses, etc., as well, as apartments. A cooperative was defined as housing owned by a corporation of tenants, in which the individual tenant is a shareholder in the property with a piece of the total ownership, and is entitled to occupy an individual housing unit. A condominium was defined as housing in which the buyer is enabled to own an apartment or house in a project of similar units. The owner receives his own deed and/or a mortgage on his unit, and also holds a common or joint ownership in all common areas and facilities that serve the project--land, roofs, hallways, entrances, elevators, etc.”

1970 – Census Subject Report – Cooperative and Condominium Housing “This report from the 1970 Census of Housing presents data on owner-occupied cooperative and condominium housing units cross-classified by various housing and household characteristics. Data are shown for the United States by inside standard metropolitan statistical areas (SMSA's), regions, and selected States and SMSA's.” The Subject Report on "Cooperatives and Condominiums" begins on p.211/720.

► 1973/1975 – Community Associations Institute (CAI), an international, nonprofit 501(c)(6) organization was created in 1973 to provide education, resources and advocacy to America's community association industry. In 1975, the Foundation for Community Association Research was created as a 501(c)(3) organization devoted to association research and scholarship.

1973 – Annual Housing Survey Questionnaire The Survey asks four questions of individuals that own or are considering buying a unit in a cooperative or condominium association. The Survey does not record or tabulate data about the associations themselves. From 1974-1983 results of the National AHS were released as a series of 6 reports. The first AHS condominium unit and cooperative unit data was released in 1975. In 1984, the Survey was renamed the American Housing Survey.
Part Three – Associations in Perspective:
Housing Data, Early Company Towns, Federal Involvement,
Restrictive Covenants & Race, Historical Papers on Housing

1973 – SEC Public Release NO 33-5347 “Offer and Sales of Condo or Units in a real estate development” in a “News Digest” form.

1974 – Fannie Mae begins purchasing condominium unit and planned community unit loans here

1974 – Equal Credit Opportunity Act This statute, together with other prior social and eventual legal changes, allowed women and minorities to gain better access to mortgage credit thereby helping to make homeownership in community associations increasingly possible and popular.

1975 – House of Representatives Hearing on Federal Trade Commission Decision to Terminate Investigation of Condominiums (April) “This hearing is concerned with the adequacy of the Federal Trade Commission’s response to allegations of unlawful consumer practices in the condominium industry.”

1975 – HUD Condominium/Cooperative Study (July) (3 printed volumes) and, while not legislation, this Study represents one of the two empirical studies HUD has done to try to understand associations.

1975 – United Housing Foundation v. Forman (April) the U.S. Supreme Court ruled that shares in a housing cooperative were not securities and while technically not a federal action it is still important.

1975 – Senate Hearings on Condominium Consumer Protection Act of 1975 (October) The Senate hearings make reference to the HUD July 1975 Condominium/Cooperative Study cited above, but mistakenly dates the three volumes as August 22, 1975. “The legislation we are considering today, S2273, is designed to clear up the condominium problems and abuses that we found in our hearings and you [HUD Secretary Carla Hills] found in your study….The major change is that we take HUD out of the business of registering condominiums altogether. Instead, the bill calls for HUD to set minimum standards for consumer protection and disclosure in condominium sales and conversions, but leaves enforcement of the law to the States or, alternatively, to individual action through the courts.”
Part Three – Associations in Perspective: Housing Data, Company Towns, Federal Involvement, Restrictive Covenants & Race, Historical Papers – Housing Perspectives


1976 & 1997 – Internal Revenue Code (IRC) Section 528 which provided for federal taxation of condominiums and planned communities was created. Cooperatives were under IRC Section 277 until 1998. Timeshare associations were added to IRC 528 in 1997. See Community Association Taxation.

1978 – Fair Debt Collection Practices Act (FDCPA) The Fair Debt Collection Practices Act (FDCPA) (15 USC 1692 et seq.), which became effective in March 1978, was designed to eliminate abusive, deceptive, and unfair debt collection practices. It also protects reputable debt collectors from unfair competition and encourages consistent state action to protect consumers from abuses in debt collection. Over time, FDCPA has been applied to association assessments and the practitioners who assist associations to collect assessments.

1978 – Lien Priority Article by Henry A. Judy, General Counsel of Freddie Mac and his principal outside counsel, Robert L. Wittie, article entitled “Uniform Condominium Act: Selected Key Issues,” that appears in 13 Real Property & Trust Journal 437 (1978) that provides the rationale for community association lien priority. See Joint Editorial Board for Real Property Acts July 2016 Comments on Lien Priority

1978 – Senate Hearing Condominiums and the Older Purchaser (November) here for Part 1 and here for Part 2 The hearing gathered information about a variety of issues faced by older purchasers in condominiums especially ones caused by developers.

1979 – Issues Congressional Hearing on Condominium Housing (June) This hearing received testimony (and some supporting documentation) from a number of association professionals and some association members number of witness. The Senate bill that became the Abuse Relief Act of 1980 (cited below) is included in the material. Also, some of the material was used in the 1980 HUD Study on Conversions (also cited below).

Part Three – Associations in Perspective:
Housing Data, Early Company Towns, Federal Involvement,
Restrictive Covenants & Race, Historical Papers on Housing

produced by CAI for HUD

1980 – HUD study “The Conversion of Rental Housing to Condominiums and
Cooperatives” which is the second study. Basically, the Study found that conversion was
a change in tenure, but not a loss of housing in the same sense as demolition and other
forms of destruction.

1980 – Condominium and Cooperative Conversion Protection and Abuse Relief Act

Quoting next from the Act cited above, in 1980, Congress found that:

(3) certain long-term leasing arrangements for recreation and other condominium- or
cooperative-related facilities which have been used in the formation of cooperative
and condominium projects may be unconscionable; in certain situations State
governments are unable to provide appropriate relief; as a result of these leases,
economic and social hardships may have been imposed upon cooperative and
condominium owners, which may threaten the continued use and acceptability of
these forms of ownership and interfere with the interstate sale of cooperatives and
condominiums; appropriate relief from these abuses requires Federal action; and

(4) there is a Federal involvement with the cooperative and condominium housing
markets through the operation of Federal tax, housing, and community
development laws, through the operation of federally chartered and insured
financial institutions, and through other Federal activities; that the creation of

(5) many condominiums and cooperatives are undertaken by entities operating on an
interstate basis.

1983 --- Rural Housing Amendments of 1983 Beginning with rural electrification in the
1930’s Depression, various agencies that eventually became the U.S. Department of
Agriculture (USDA) became engaged in rural development. Today, the Rural Housing
Service offers a variety of programs to build or improve housing and essential
community facilities in rural areas. See USDA Handbook HB 1-3555 for the development
of condominiums and planned unit developments.

1988 --- Fair Housing Act Amendments of 1988
Part Three – Associations in Perspective: Housing Data, Company Towns, Federal Involvement, Restrictive Covenants & Race, Historical Papers – Housing Perspectives


1991 --- HUD, Keating Memorandum on Fair Housing Occupancy Standards This statement of policy advises the public of the factors that HUD will consider when evaluating a housing provider’s occupancy policies to determine whether actions under the provider’s policies may constitute discriminatory conduct under the Fair Housing Act on the basis of familial status (the presence of children in a family).

1994 --- House of Representatives Hearing Credit Available for Condominium and Cooperative Purchases (1994) As a result [of the bad economic conditions], we had a situation where people who had made every payment on their house, on their condominium, or on their coop, were denied access to credit…..Banks in many cases are no longer the vehicles that actually provide credit, but are actually just paperwork passers that end up shipping the loans off to the secondary market, which is backed up by the full faith and credit of the tax payers of the United States."

1994 --- The Residential Condominium Association Building Association Policy (RCBAP) was created by FEMA for exclusively insuring only condominium associations under the National Flood Insurance Program (NFIP).

1996 --- U.S. Tax Court found that IRC Sub-Chapter T applied to housing cooperatives as the result of Thwaites Terrace v. Commissioner.

1999 --- Tax Exemption, the Internal Revenue Service adopts Revenue Ruling 74-99 which provides for the possible tax exemption of planned communities under IRC 501(c)(4) with further IRS clarification in Revenue Ruling 80-63.

2000 --- Title 24, § 982.628, Housing Choice Voucher Program permitted the use of Section 8 in condominiums and cooperatives.

2001 --- Federal Communication Commission’s OTARD Rule of 2001 which restricted an association’s ability to regulate the use and placement of satellite dishes.

2002 --- Intrawest No-Action SEC Letter – How to market a condominium unit for sale without running afoul of the SEC
2005 - **Bankruptcy Abuse Prevention and Consumer Protection Act of 2005**
Under the Act, community associations can expect to collect more delinquent common assessments than they did under the old law. In large part, this is because the Act makes it more difficult for anyone to eliminate their personal obligation to pay debts through bankruptcy ("discharge"). The Act makes all post-petition common assessments non-dischargeable.

2005 --- **Freedom to Display the American Flag Act of 2005** which provided that “A condominium association, cooperative association, or residential real estate management association may not adopt or enforce any policy, or enter into any agreement, that would restrict or prevent a member of the association from displaying the flag of the United States on residential property within the association with respect to which such member has a separate ownership interest or a right to exclusive possession or use.”

2007 --- IRS creates **Form 1120(c)** for housing cooperatives.

2007 --- **Mortgage Debt Relief Act of 2007, Section 4** Federal legislation modified the 80/20 Rule that applied to cooperatives (in Section 216 of the Internal Revenue Code) providing more flexibility in financial management [here](#).

2008 --- Federal Housing Finance Agency (FHFA) was created as part of the **Housing and Economic Recovery Act of 2008** (HERA). “The Act gave FHFA the authority necessary to oversee vital components of our country’s secondary mortgage markets – Fannie Mae, Freddie Mac, and the Federal Home Loan Banks. In addition, this law combined the staffs of the Office of Federal Housing Enterprise Oversight (OFHEO), the Federal Housing Finance Board (FHFB), and the GSE mission office at the Department of Housing and Urban Development (HUD).” The conservatorship of the GSEs gives the FHFA a prominent role in community association housing. FHFA’s one direct action in 2008 has involved “transfer fees”.

2008 --- **HERA** transfers authority for FHA condominium unit mortgage insurance from Sec. 234 of the National Housing Act (12 U.S.C. 1715y) to Sec. 203(b) of the Act (12 U.S.C 1709), putting condominium unit mortgages under the same statutory framework as FHA’s single family mortgage insurance program and the Mutual Mortgage Insurance Fund.

2009 --- **Federal Financial Institutions Examination Council** (FFIEC) Interagency Task Force on **Flood Insurance FAQs** provides detailed information dealing with condominium flood insurance requirements and the NFIP.

2010 --- Consumer Financial Protection Bureau was created in 2010 as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. The full impact of the Bureau is still unfolding although the requirement for disclosure of community association fees has become part of required disclosure in the purchase of a home.

2010 --- The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 mandates that lenders qualify consumers for mortgage loans on the basis of their ability to pay all monthly mortgage-related obligations, including community association regular and special assessments. The requirement to include association assessments in the loan underwriting process was codified in the joint agency Qualified Residential Mortgage rule and the Consumer Financial Protection Bureau’s Qualified Mortgage rule.

2011 --- Fannie Mae Cooperative Share Loan Eligibility

2012 --- Biggert-Waters Flood Reform Act of 2012 impacts many commercial and residential property types, but Section 100214 deals with the payment of condominium claims. Regulations have not yet been written for this Section.

2013 – American Disabilities Act – Pool Accessibility Guidelines For those associations with pools that provide a “public accommodation”, they are required to comply with the new pool accessibility modifications which must be made to applicable swimming pools and spas no later than January 31, 2013.

2013 --- S 1480 introduced in the U.S. Senate a bill “To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide assistance for condominiums and housing cooperatives damaged by a major disaster, and for other purposes.” This bill did not pass.

2014 --- On March 21, 2014, President Obama signed into law the Homeowner Flood Insurance Affordability Act. According to FEMA, this “law repeals and modifies certain provisions of the Biggert-Waters Flood Insurance Reform Act, which was enacted in 2012, and makes additional program changes to other aspects of the program not covered by that Act. Many provisions of the Biggert-Waters Flood Insurance Reform Act remain and are still being implemented.”
2015 --- In March, CAI provided an extended discussion of the Federal Disaster Policy and Community Association Homeowners making clear three points: (1) Community associations are an important part of U.S. housing, (2) FEMA has the authority under the Stafford Act to extend aid to association homeowners, and (3) that FEMA’s continued refusal to provide that assistance not only harms those homeowners and their associations and prolongs recovery, but also harms the larger community in which those associations are located. See CAI Public Policies for the full range of topics.

2015 --- H.R. 3863, the Disaster Assistance Equity Act of 2015 is introduced in the U.S. House of Representatives to qualify certain community associations to participate in FEMA's Public Assistance Program and permit condominium associations to use FEMA's Individuals and Household Assistance Program to fund repairs to common property.

2015 --- Condominium Unit Exemption in ILSA Effective March 25, 2015, the sale of condominium units will no longer be subject to the registration requirements of the Interstate Land Sales Full Disclosure Act (ILSA) under a new exemption.

2015 --- Consumer Financial Protection Bureau mortgage disclosure regulation, Know Before You Owe, becomes effective, requiring lenders to disclose community association costs and fees to borrowers early in the home loan shopping process. See CAI guidance to community associations.

2015 --- Federal Housing Finance Authority (FHFA) asserted that attempts by community associations to use legally permitted lien priority to collect delinquent assessments that mortgage lenders had refused to collect – that these efforts by homeowner boards of directors threatened the safety and soundness of the country’s financial system. FHFA did not similarly comment on whether the 14+ million foreclosure filings and 7+ million actual foreclosures triggered by poor mortgage lender underwriting and the chronic use of securitization – whether these foreclosures, in fact, did threaten the safety and soundness of the financial system. See CAI’s response and related information on lien priority.

2016 --- Department of Labor Administrator's Ruling on Joint Employment (1-2016) [This Ruling was withdrawn on June 7, 2017.] Through its enforcement efforts, the Department of Labor’s Wage and Hour Division (WHD) regularly encounters situations where more than one business is involved in the work being performed and where workers may have two or more employers. More and more, businesses are varying organizational and staffing models by, for instance, sharing employees or using
third-party management companies, independent contractors, staffing agencies, or labor providers. As a result, the traditional employment relationship of one employer employing one employee is less prevalent. WHD encounters these employment scenarios in all industries, including the construction, agricultural, janitorial, warehouse and logistics, staffing, and hospitality industries.

2016 --- The Urban Homesteading Assistance Board (UHAB, 2-2016) provides an initial recounting of limited equity housing cooperatives. UHAB’s “current research effort has been using the 425,000 unit figure as a benchmark to which we can compare the co-op data we have been collecting. Thus far we have accounted for just under 300,000 units of the 425,000 estimated to have been produced, 160,000 of which are still limited-equity. In the document below, we further explain and visualize our findings. This previous research has been very useful as a guide for our current work in more precisely counting the number of housing co-ops that remain limited-equity today. What we have found is that the difference between the limited-equity co-op units accounted for in previous research and the units found in our current research is attributed to three factors.”

<table>
<thead>
<tr>
<th>Limited Equity Housing Co-op</th>
<th>Previous Research</th>
<th>Current Research</th>
<th>Limited Equity Co-op Units Remaining Year 2016</th>
</tr>
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<tbody>
<tr>
<td>HUD-Insured and assisted</td>
<td>148,000</td>
<td>148,000</td>
<td>35,000 (35,000 additional remain as NOAH*)</td>
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<tr>
<td>Lanham Act</td>
<td>35,000</td>
<td>7,000</td>
<td>7,000</td>
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<tr>
<td>Former public housing</td>
<td>20,000</td>
<td>7,200</td>
<td>1,200</td>
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<tr>
<td>Farmers home</td>
<td>5,000</td>
<td>75</td>
<td>75</td>
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<tr>
<td>Mitchell-Lama (NY)</td>
<td>60,000</td>
<td>41,699*</td>
<td>36,295</td>
</tr>
<tr>
<td>State housing finance agencies</td>
<td>45,000</td>
<td>334</td>
<td>334</td>
</tr>
<tr>
<td>United Housing Foundation (NY)</td>
<td>40,000</td>
<td>41,118*</td>
<td>30,651</td>
</tr>
<tr>
<td>Tenant self-converted/UHAB</td>
<td>50,000</td>
<td>33,000</td>
<td>33,000</td>
</tr>
<tr>
<td>CDBG/LIH tax-credit</td>
<td>7,000</td>
<td>40</td>
<td>40</td>
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<tr>
<td>Mutual Housing</td>
<td>15,000</td>
<td>7,000</td>
<td>7,000</td>
</tr>
<tr>
<td>ROCUSA</td>
<td>Did not exist</td>
<td>10,000</td>
<td>10,000</td>
</tr>
<tr>
<td>TOTAL</td>
<td>425,000</td>
<td>295,182</td>
<td>155,071</td>
</tr>
</tbody>
</table>

*Co-op city counted for UHF, not Mitchell Lama
*NOAH (Naturally Occurring Affordable Housing)
2016 --- **Homeowner Tax Relief – Community Association Assessments** (3-2016) If enacted, the proposed deduction will be available for single filers with an adjusted gross income of $100,000 or less. Additionally, the deduction will be available for joint filers with an adjusted gross income of $150,000 or less, and on a sliding scale for taxpayers above the established adjusted gross income limits. The deduction will be available to homeowners in all forms of community associations (planned community, condominium association, housing cooperative) and available only for a primary residence. This bill recognizes the financial inequity facing homeowners in a community association as they pay property taxes and community assessments and receive many municipal services from their community association not the municipality.

2016 --- **Discriminatory Housing Practices Under the Fair Housing Act** (9-2016), This final rule amends HUD’s fair housing regulations to formalize standards for use in investigations and adjudications involving allegations of harassment on the basis of race, color, religion, national origin, sex, familial status, or disability. The rule specifies how HUD will evaluate complaints of quid pro quo (“this for that”) harassment and hostile environment harassment under the Fair Housing Act. It will also provide for uniform treatment of Fair Housing Act claims raising allegations of quid pro quo and hostile environment harassment in judicial and administrative forums.

2016 --- **FHA Proposes New Approval Process for Condominiums** (9-2016) In response to changing conditions in the condominium market, the Federal Housing Administration (FHA) proposed new regulations governing the approval process for condominium developments. FHA proposes to reinstate single unit approvals in unapproved condominium developments and to require condo projects to recertify their approval status every three years rather than the current two-year requirement.

2016 --- Federal Flood Risk Management Standard (FFRMS, 10-2016) Between 1980 and 2013, the United States suffered more than $260 billion in flood-related damages. On average, more people die annually from flooding than any other natural hazard. Further, the costs borne by the Federal government are more than any other hazard. Flooding accounts for approximately 85% of all disaster declarations. With climate change, we anticipate that flooding risks will increase over time. In fact, the [National Climate Assessment (May 2014)](https://www.nca2014.gov/) projects that extreme weather events, such as severe flooding, will persist throughout the 21st century. The new federal flood risk standard requires all future federal investments in and affecting floodplains to meet the level of resilience as established by the Standard.
2016 --- Agencies Propose Rules for Private Flood Insurance (OCC, 10-2016)
Specifically, the proposed rule would require regulated lending institutions to accept policies that meet the statutory definition of private flood insurance in the Biggert-Waters Act and permit regulated lending institutions to accept flood insurance provided by private insurers that does not meet the statutory definition of “private flood insurance” on a discretionary basis, subject to certain restrictions.

2016 --- FHA Mortgagee Letter 2016-15, Owner Occupancy Requirements in FHA Insured Condominiums (10-2016) The purpose of this Mortgagee Letter (ML) is to modify the Condominium Project Approval and Processing Guide, attachment to ML 2011-18 (as modified or extended by MLs 2012-18, 2014-17, 2015-27 and 2016-13) in order to implement the HOTMA requirements and establish the required occupancy percentage that must be met for purposes of FHA project approval. Further, this ML establishes requirements for conditions under which an individual condominium project could be approved at a lower percentage. The policies referenced above are superseded to the extent they conflict with the policies in this ML.

2016 --- Stewart E. Sterk, Cardozo Law Review, “Maintaining Condominiums and Homeowner Associations: Ending the Free Ride” (10-2016) “As a policy matter, associations liens should enjoy complete priority over mortgage liens. As a matter of fairness, priority for association liens prevents banks from free riding on maintenance expenditures made by non-defaulting unit owners and ensures that all units bear their fair share of maintenance expenditures. From an efficiency perspective, banks are in a far better position to account for potential economic downturns than are associations. Moreover, giving associations priority over banks solves what is otherwise a difficult collective action problem in situations where multiple banks hold mortgages on different underwater units within a single common interest community.”

2017 – Amateur Radio-- H.R. 555, the Amateur Radio Parity Act of 2017 preempted association governing documents that prohibit HAM radio antennas while also requiring that HAM radio antennas be approved by community associations prior to installation. H.R. 555 passed the House of Representatives by voice vote on January 23, 2017. Companion legislation, S. 1534, failed to advance in the Senate and Congress chose not to include H.R. 555 in major telecommunications legislation included in H.R. 1625, the Consolidated Appropriations Act, 2018 (P.L. 115-141). CAI met with officials at the Federal Communications Commission to discuss the community association housing model, architectural standards, and the process HAM operators may use to receive approval for installation of antennas.
2017 – Broadband Infrastructure (Wireline and Wireless)—The Federal Communications Commission (FCC) began a comprehensive examination of barriers to installation and upgrading broadband communications infrastructure, including long permitting times and increased expenses due to local regulations. CAI commented on FCC requests for information urging improved cooperation between associations and telecommunications providers on the installation of new high-speed Internet lines across community association property and installation of wireless broadband facilities. CAI made note that access to high-speed Internet services are an expectation of most homeowners and consumers.

2017 – Fair Housing Act, Association Liability for Third Party Discrimination — Community associations began compliance with a Fair Housing rule requiring that associations intervene in neighbor disputes if (1) the dispute violates the Fair Housing Act; (2) the association had a legal obligation to prevent fair housing violations; and (3) had or should have had knowledge of the fair housing violation. CAI representatives met with HUD Fair Housing Assistant Secretary and began development of position papers concerning the limits of association control over owners.

2017 – FEMA Disaster Assistance
- H.R. 1684, Disaster Assistance Support for Communities and Homeowners Act of 2017, legislation requiring FEMA provide technical assistance to community associations on qualifying for disaster debris removal and provide legislative recommendations to approve condominium associations for repair assistance following a presidentially-declared natural disaster passed the House of Representatives on June 26, 2017. The legislation failed to progress in the Senate.

- H.R. 3238, the Disaster Assistance Equity Act, introduced by U.S. Rep. Mark Sanford, to amend the Stafford Act to qualify associations to participate in FEMA disaster relief programs was introduced on July 13, 2017.

2017 – 2020 Census—CAI joined the Census Project in support of the 2020 decennial census and American Community Survey. CAI members worked with Census Bureau staff to validate community association housing unit counts produced by the Foundation for Community Association Research.

2017 – Housing Finance Reform—CAI convened a Housing Finance Reform Taskforce to study the role of community associations in the housing finance system, the interaction of associations with mortgage originators, servicers, and secondary mortgage market investors. The taskforce developed a series of recommendations for housing finance reform legislation.
2017 – Lien Priority and Reverse Mortgages – In 2016 the Federal Housing Administration (FHA) proposed to require that all FHA-insured Home Equity Conversion Mortgages (HECMs) be prior to all other liens excepting tax liens and other federal liens. CAI submitted comments opposing any abrogation of association lien priority statutes and presented information to FHA leadership. In January 2017, FHA released a final HECM rule that did not require subordination of association liens for a homeowner to receive a HECM loan. FHA noted that association lien priority would have the effect of improving mortgage servicing of such loans.

2017 – FHA Condominiums and Housing Opportunity Through Modernization Act (HOTMA) implementation---CAI carefully monitored FHA implementation of HOTMA and the development of new owner occupancy standards for FHA condominium approval. CAI verified the continuing downward trend of FHA approved condominiums and diminishing volume of condominium unit mortgages insured by FHA.

2017 – CAI Advocacy Summit—In September CAI advocates from across the country convened in Washington DC for a summit and to meet with Members of Congress and the Senate. Plans were announced for a summit in conjunction with CAI’s Annual Conference and Exposition in May 2018.

2018—Amateur Radio—the Amateur Radio Parity Act proposed would’ve preempted association governing documents that prohibit HAM radio antennas while requiring that HAM radio antennas be approved by community associations prior to installation. Opposition to the legislation from within the HAM radio community was a new development. The legislation failed to become law.

2018—Data Security—CAI monitored legislative initiatives to establish a national data security standard for commercial and non-profit entities. The legislation failed to become law.

2018—Flood Insurance—CAI supported short-term extensions of the National Flood Insurance Program (NFIP) while lobbying in support of a long-term reauthorization of the program. CAI supported increased flood mitigation resources and appropriate pricing of premiums based on flood risk. Legislation passed to extend the National Flood Insurance Program (NFIP).
2018—Housing Finance Reform—CAI carefully monitored legislative proposals to reform the housing finance system, meeting with industry partners and with lawmakers in support of the recommendations of CAI’s Housing Finance Reform Taskforce. CAI lobbied in support of reform legislation to ensure the housing finance system serves all forms of community associations in all phases of the business cycle. CAI urged that federal legislation protect state community association lien priority statutes and require effective enforcement of mortgage underwriting and servicing standards. The legislation failed to become law.

2018—Fair Housing Act, Association Liability for Hostile Housing Environment Created by Third Parties—CAI developed a white paper outlining the limitations of community association control over third parties that create hostile housing environments. The white paper was delivered to the Office of General Counsel and Office of Fair Housing and Equal Opportunity at HUD.

2018—Fair Housing Act, Reasonable Accommodation of Assistance Animals—CAI members began to report increasing concern over potential misuse of fair housing laws to evade association pet rules. CAI raised the issue of assistance animal fraud with HUD staff and will submit a white paper in 2019.

2018—Fair Debt Collection Practices Act—CAI supported the Practice of Law Technical Clarification Act, which exempted attorneys from certain FDCPA requirements when taking debt collection actions in conjunction with a court-supervised action. The legislation failed to become law.

2018—FEMA Disaster Assistance

- H.R. 1684, Disaster Assistance Support for Communities and Homeowners Act of 2017, was included in the Disaster Recovery Reform Act, which became Public Law 115-254. The legislation required FEMA to improve technical assistance consultations for debris removal operations in community associations and to offer legislative recommendations for the use of home repair assistance grants to restore disaster damaged condominium and cooperative common elements. The legislation passed.
- CAI Disaster Assistance Request Protocol—CAI implemented a state/federal public affairs protocol in support of community associations in disaster areas, contacting state and federal officials concerning debris removal. The protocol focused states on the need to request FEMA approval for private property debris removal programs and urged federal lawmaker support for these requests.
Part Three – Associations in Perspective: Housing Data, Company Towns, Federal Involvement, Restrictive Covenants & Race, Historical Papers – Housing Perspectives

2018—FHA Condominiums—CAI advocated for finalization of FHA’s condominium project approval rule. CAI met with the FHA Commissioner, presenting findings that FHA’s condominium program was shrinking despite condominium unit mortgages outperforming most categories of mortgages in FHA’s book of business. To additionally support these goals, CAI lobbied in support of a joint Senate letter to HUD Secretary Ben Carson urging finalization of a condominium rule, which was signed by 54 Senators. The condominium project approval rule was not released in 2018.

2018—CAI Advocacy Summit—In conjunction with the CAI Annual Conference in Washington DC, the largest number of CAI advocates to date traveled to Capitol Hill for meetings with Members of Congress and the Senate. Advocates urged Congress to pass disaster assistance legislation for community associations and to secure adoption of a final rule for FHA condominium project approval. Plans were announced for a summit in October 2019.

2019 CAI Update

Legislative Policy Issues

The following is a list of legislative bills introduced in the 116th Congress (January 3, 2019-January 3, 2021) impacting community associations. As of the publication of this report, none of the bills have passed.

Amateur Radio—H.R. 466
The American Radio Relay League (ARRL) submitted and withdrew a petition to the Federal Communications Commission (FCC) to preempt community association governing documents to the extent these documents control amateur service communications.
  » U.S. Rep. Adam Kinzinger (R-IL) introduced H.R. 466, the Amateur Radio Parity Act of 2019, legislation negotiated between the ARRL, CAI, and congressional leaders to preempt community association governing documents to the extent these documents prohibit amateur service communications while retaining community association authority over the design, placement, and installation of amateur services communications equipment.
  » The Amateur Radio Relay League (ARRL) withdrew support from H.R. 466, requesting Congress not advance the legislation.

FEMA Disaster Assistance—H.R. 5337
The Disaster Assistance Equity Act is introduced by U.S. Rep. Jerrold Nadler (D-NY), requiring the Federal Emergency Management Agency (FEMA) to determine it is in the public interest to remove disaster debris from community associations when a state or local government attests the debris is a threat to human health and safety or threatens the economic recovery of the community association. H.R. 5337 allows condominium and cooperative homeowners to use FEMA Individual Assistance to pay a pro rata share of uninsured damages to common elements.
Short-term Rentals in Community Associations—**H.R. 4232**

The Protecting Local Authority (PLAN) Act was introduced by U.S. Rep. Ed Case (D-HI). H.R. 4232 requires short-term rental websites to take down advertisements for short-term rentals in community associations that have opted to limit short-term rentals. CAI endorsed the legislation.

**Yes In My Backyard Act - H.R. 4351/S. 1919**

Introduced by U.S. Rep. Denny Heck (D-WA), requiring units of government accepting Community Development Block Grant funding to report every 5 years on actions taken to increase the supply of housing in the community. Companion legislation, S. 1919, was introduced in the U.S. Senate by Senator Todd Young (R-IL) who clarified the legislation does not affect community association governing documents.

Manager Education/Licensing Legislation

**S. 3779/H.R. 7032 Skills Renewal Act**

- **Summary:** The Skills Renewal Act, as currently constituted, permits individuals who have lost their jobs as a result of the COVID-19 pandemic to use a $4,000 tax credit to offset the costs associated with participating in a state-recognized worker training program or U.S. Department of Labor precertified training program in “high need” STEM areas. The Professional Certification Coalition has proposed to the bill sponsors that the Skills Renewal Act be expanded to permit use of the tax credit to cover costs associated with participating in a reputable certification or certificate program, including the costs of examinations or other assessments required to obtain such certification/certificate/other credential.

**S. 379**

- **Summary:** A bill to amend the Internal Revenue Code of 1986 to permit amounts paid for programs to obtain a recognized postsecondary credential or a license to be treated as qualified higher education expenses for purposes of a 529 account.

**S. 2123 – Break the Higher Education Act of 2019**

- **Summary:** This legislation provides financial assistance (Pell grants) that individuals can use to get training that would prepare them to seek a credential from a private certification organization, which indirectly benefits certification programs and individuals seeking certification.
Regulatory Policy Issues

Federal Communications Commission (FCC)
Wireless 5G—Proposed Expansion of OTARD Rule—The FCC proposed expanding the OTARD preemption of community association governing documents to the extent these documents unreasonably interfere with an owner’s placement of an over-the-air-reception device to wireless 5G receiver/repeater equipment. CAI submitted comments opposing the FCC proposal while expressing support for negotiations with wireless communications companies to facilitate access to wireless broadband internet connectivity.

Multiple Tenant Environment Bulk Broadband Internet Contracts—The FCC adopted a notice of proposed rulemaking to refresh the Commission record on the prevalence and structure of bulk broadband contracts in condominiums, cooperatives, homeowner associations, apartments, and commercial buildings.

Department of Housing & Urban Development
Fair Housing Act, Reasonable Accommodation of Assistance Animals—In response to growing concern among CAI members over misuse of fair housing laws to evade association pet rules, CAI formally requested HUD clarify Fair Housing Act applicability for emotional support animals.

HUD provided said clarification which can be found at www.caionline.org/assistanceanimals

Federal Housing Administration (FHA) Condominiums—A new FHA condominium project approval regulation was approved by the U.S. Department of Housing and Urban Development. Project approval timelines were extended from 2 to 3 years and a new single unit approval process was adopted to allow the agency to insure mortgages on condominium units in non-FHA approved condominiums. The rule provides FHA flexibility to set certain approval criteria within established ranges, easing administrative requirements.

2019 CAI Advocacy Summit
CAI advocates gathered in Washington DC, for meetings with Members of Congress and the Senate. In 93 meetings on Capitol Hill, CAI advocates urged

» Congressional support for HUD regulations clarifying applicability of the Fair Housing Act to emotional support animals
» Support for H.R. 5337, the Disaster Assistance Equity Act
» Support for H.R. 4232, the Protecting Local Authority (PLAN) Act, to protect community association control over short-term rentals
» Support for a long-term reauthorization of the National Flood Insurance Program
Notes: This Selected Chronology was created by Clifford J. Treese. Updating assistance was provided by
- Dawn M. Bauman, CAE, Sr. Vice President, Government Affairs, Community Associations Institute (CAI),
- Scott Canady, Principal at Tambala Strategy, and
- Douglas M. Kleine, CAE, Professional Association Services.

CAI’s web site hosts state and federal laws and regulations. Visit www.caionline.org/advocacy for a link to community association laws.
Section Four: Restrictive Covenants & Race

Langston Hughes on Restrictive Covenants

When I move
Into a neighborhood
Folks fly.
Even every foreigner
That can move, moves.
Why?
The moon doesn't
Neither does the sun.
In Chicago
They've got covenants
Restricting me -
Hemmed in
On the South Side
Can't breathe free.
But the wind blows there.
I reckon the wind
Must care.

Introduction

In Federalist Paper No.1, Alexander Hamilton (1755 –1804) said that a key element of the colonial crisis with Britain involved self-governance:

It has been frequently remarked that it seems to have been reserved to the people of this country, by their conduct and example, to decide the important question, whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force.

On the other hand, earlier political theorists, such as Thomas Hobbes (1588 – 1679), believed that the state alone possessed the efficient monopoly of coercion necessary to create and govern society. In theory and for most facts, self-governance won out initially for the colonists who were white and male and later was gradually expanded with Amendments 13th, 14th, 15th, 19th, 24th and 26th. The range of permitted self-governance, however, has been a continuing question especially when the power of one party can not only dictate the conduct of another, but can hem in that person by restricting fundamental life choices. In residential real estate, the evolution of local government’s control of property took the form of building codes, zoning laws and subdivision regulations. These are discussed in the Fact Book 2019. At the individual level, however, the question of self-governance in a real estate transaction meant that the seller could make a decision to deny a buyer and all future buyers access to property by the use of restrictive covenants that centered on race, religion, and ethnicity. As John Rawls might have said, this wasn’t and isn’t fair. This new Section Four in Part Three of the Community Association Fact Book 2019 provides an introductory discussion of restrictive covenants that used race-based criteria to limit and forbid access to property ownership by certain people.
Race – Past and Present in Two Books

The two books next set the context for the societal and governmental attitudes that led to laws that helped foster the use of race-based restrictive covenants after the Civil War ended – even though the adoption of the 13th Amendment to the Constitution abolished slavery.


Woodward, who died in 1999, has long been regarded as one of America’s most influential historians especially of the South. His original book was honored with a commemorative edition in 2002 with an Afterword by William S. Feely who said that the book “not only altered our picture of the past but also changed the history of the times in which it was written.” Woodward said that the ending of slavery began an era of adjusting to race relations that was working toward positive change until **The Compromise of 1877**.


Those years after 1877 led to undermining that status of Blacks by using various local laws then federal laws and regulations – as though the Civil War had no fundamental purpose. According to Geoffrey Stone, Rothstein “offers an original and insightful explanation of how government policy in the United States intentionally promoted and enforced residential racial segregation. The central premise of his argument, which calls for a fundamental reexamination of American constitutional law, is that the Supreme Court has failed for decades to understand the extent to which residential racial segregation in our nation is not the result of private decisions by private individuals, but is the direct product of unconstitutional government action. The implications of his analysis are revolutionary.”

Remnants of the Past

The use of covenants and deed restrictions in real estate transactions was not new. Prior to the adoption of zoning regulations, these covenants often served that purpose. The **Fact Book 2019** and earlier editions cite the work of Helen Monchow, **The Use of Deed Restrictions in Subdivision Development**, 1928. Many of the deed restrictions she cites deal with race, ethnicity and religion. Monchow’s study, however, was the first real study of what at the time was a novel use – using deed restrictions in an entire subdivision. Prior to Monchow's study, deed restrictions were attached to the single deed for a given home. Her study was the first to point out the wider use of deed restrictions by builder developers. Race was only one of the restrictions. Other restrictions dealt with unacceptable commercial uses.
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See the Federal Reserve Bank of Philadelphia on covenant restrictions for the period from 1920 - 1932:

How Prevalent Were Racially Restrictive Covenants in 20th Century Philadelphia? A New Spatial Data Set Provides Answers

“To date, we have reviewed hundreds of thousands of property deeds and identified nearly 4,000 instances in which a racial covenant had been included in the deed. The covenanted properties formed an invisible barrier to less densely populated areas sought after by white residents.”

The Legacies Continued with Shelley v. Kraemer, Supreme Court, 1948

Facts of the Case: In 1911, a St. Louis, Missouri neighborhood enacted a racially restrictive covenant designed to prevent African-Americans and Asian-Americans from living in the area. In 1945, an African-American family (the Shelley’s) moved into the neighborhood. Louis Kraemer brought suit to enforce the covenant and prevent the Shelley’s from moving into their house. A similar lawsuit arose in Detroit, Michigan. Both state supreme courts enforced the covenants because they were private rather than state action. The Supreme Court consolidated the cases on appeal.

Conclusion: In a unanimous opinion authored by Justice Fred Vinson, the Court held that standing alone, racially restrictive covenants do not violate the Fourteenth Amendment. Private parties may abide by the terms of such a covenant, but they may not seek judicial enforcement of such a covenant, as that would be a state action. Thus, the enforcements of the racially restrictive covenants in state court violated the Equal Protection Clause of the Fourteenth Amendment.

Other Commentary on Shelley v. Kraemer:

- Racial Restrictions and the Fourteenth Amendment: The Restrictive Covenant Cases (1949)
- NAACP Strategy in the Covenant Cases (1955)
- Shelley V. Kraemer Through the Lens of Property (2003)

Today and the Legacies of the Past

Shelley v. Kraemer did not physically remove racially restrictive covenants from the land records. For more background on local efforts to find and remove such covenants, see this brief history, Racially Restrictive Covenants in the United States. And this similar brief, but useful Racial Covenants, Yesterday and Today and Saving the Neighborhood.
The legacies of the past, however, can be complicated.

Public Actors, Private Law: Local Governments’ Use of Covenants To Regulate Land Use.
“Though covenants are usually considered the private sector’s alternative to zoning, governments also use covenants to control land use. Governments choose between zoning and covenants, and this choice illuminates the legal differences between the two tools. Covenants and zoning are not distinguished by the substantive restrictions each tool can impose on land use. Rather, a critical distinction between the two is that governments use the customizability of covenants, as tools of private law, to limit citizen enforcement of the covenants’ land use provisions. Zoning, by contrast, allows for citizen enforcement. Zoning also requires greater public participation and involves different amendment procedures.”

The Political Economy of Fair Housing Laws Prior to 1968
“The confluence of the Great Migration and the Civil Rights Movement propelled the drive for "fair housing" legislation which attempted to curb overt discrimination in housing markets. This drive culminated in the passage of the federal Civil Rights Act of 1968. By that time, 57 percent of the U.S. population and 41 percent of the African-American population already resided in states with a fair-housing law. Despite laying the political and administrative groundwork for the federal Fair Housing Act of 1968, the origins and diffusion of these state laws have not received much attention from scholars, let alone been subject to statistical efforts to disentangle multiple influences.”

Never a Neutral State: American Race Relations and Government Power
“This article reviews evidence from economic and legal history to argue that not only did U.S. governments incentivize and even mandate racial discrimination, but these acts tended to reinforce racial mistrust as time went by. Segregation became more strict, not less, from the end of Reconstruction until the mid-20th century, largely because of growing and self-perpetuating state action. Discrimination created its own constituency.

“This paper develops and tests a simple model to explain the origins of municipal segregation ordinances. Passed by cities between 1909 and 1917, these ordinances prohibited members of the majority racial group on a given city block from selling or renting property to members of another racial group. Our results suggest that prior to these laws cities had created and sustained residential segregation through private norms and vigilante activity. Only when these private arrangements began to break down during the early 1900s did whites start lobbying municipal governments for segregation ordinances.”
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Today and the Legacies at the Local Level

See these local examples of racially restrictive covenants.

- The rise and demise of racially restrictive covenants in Bloomingdale (DC) and this link concerning Boston.
- Racial Restrictive Covenants History Enforcing Neighborhood Segregation in Seattle
- Mapping Prejudice and Playground of the People"? Mapping Racial Covenants in Twentieth-Century Minneapolis and Long Shadow
- Fair Housing Center Boston: Racially Restrictive Covenants
- NAR: You Can’t Live Here - Enduring Impacts of Restrictive Covenants
- Chicago: Restrictive Covenants
- Deeds of Mistrust: Shelley v. Kraemer (1948) and Restrictive Covenants in Chicago, 1927-1950
- Houston: Race limits are banned, but language lives on in subdivision documents
- Baltimore: Here’s why getting rid of unenforceable racial housing covenants matters
- The deed to your Seattle-area home may contain racist language. Here’s how to fix it.
- Kansas City: ‘Curse of covenant’ persists — restrictive rules, while unenforceable, have lingering legacy

State Efforts to Remove Racially Restrictive Covenants from Governing Documents

[Fact Book Editor’s Note: I am grateful to Lydia A. Peirce Linsmeier, Esq. of CARPENTER, HAZLEWOOD, DELGADO & BOLEN, LLP for the cites next and for the Langston Hughes poem at the beginning of this Part.]

Washington RCW 64.38.028
Removal of discriminatory provisions in governing documents—Procedure.

Maryland Code, Real Property § 11B-113.3
(a) This section applies to any recorded covenant or restriction that restricts ownership based on race, religious belief, or national origin, including a covenant or restriction that is part of a uniform general scheme or plan of development.
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Cal. Civ. Code § 4225
(a) No declaration or other governing document shall include a restrictive covenant in violation of Section 12955 of the Government Code.

Va. Code Ann. § 36-96.6
Any restrictive covenant and any related reversionary interest, purporting to restrict occupancy or ownership of property on the basis of race, color, religion, national origin, sex, elderliness, familial status, sexual orientation, gender identity, status as a veteran, or disability, whether heretofore or hereafter included in an instrument affecting the title to real or leasehold property, are declared to be void and contrary to the public policy of the Commonwealth.

Community Associations Institute Public Policy on Discriminator Covenants

[Excerpt] AMENDMENT PROCESS TO REMOVE DISCRIMINATORY RESTRICTIVE COVENANTS

Policy
Community Associations Institute (CAI) supports a process by which a governing board of a community association may remove antiquated and unenforceable discriminatory restrictions contained in covenants without a vote of the owners. CAI advocates the adoption of state legislation that provides for a process to allow for the removal of restrictions deemed to be discriminatory under the federal Fair Housing Act and/or state anti-discrimination laws.

Background
In 1968, Congress passed the Fair Housing Act (“FHA”) to prohibit private parties from setting discriminatory terms and conditions on the sale or use of property by making the practice of writing racial covenants into deeds illegal. Despite being deemed illegal by the FHA, that law did not provide for a method of removing discriminatory provisions from deeds and governing documents and thus remain as a blot on housing documents such as plats, deeds, and homeowner association bylaws. These discriminatory covenants are unenforceable and may cause unnecessary emotional distress to members of the community. Learn more about CAI’s Fair Housing Policy here:

Recommendation
CAI supports legislation that authorizes a simple process whereby a governing board of a community association can remove antiquated, illegal, and unenforceable covenant restrictions deemed to be discriminatory under federal Fair Housing Act and/or state anti-discrimination laws. CAI supports complementary legislation that would mandate the removal of discriminatory restrictions upon receipt of an individual owner’s petition to the governing board of a community association or a court to remove discriminatory restrictions.

See also CAI STANDS FOR EQUALITY AND JUSTICE
Section Five: Historical Papers – Perspectives on Housing

Introduction: These articles below pick up on the theme of John Dilger’s book Neighborhood Politics: Residential Community Associations in American Governance. The initial substantial exploration of this topic was by Uriel Reichman in his 1975 J.S.D dissertation, Servitudes in Residential Private Government Systems. He has an article, Residential Private Governments: An Introductory Survey, that appeared in the Winter 1976 University of Chicago Law Review. In the early days, Reichman was quoted extensively - one way or the other. See this 1976 Oregon case involving who benefits from assessments, Footnote 3. The list of online articles next selectively pursues the theme of thinking about community associations and housing from a variety of perspectives with an emphasis of legal issues. Other more focused approaches have been popular such as the seminal approach to community associations --- Byron Hanke’s The Homes Association Handbook (revised edition 1966) which is based on functional benefits. See Donald Stabile, Community Associations: The Emergence and Acceptance of a Quiet Innovation in Housing. See also the Robert H. Nelson, Private Neighborhoods and the Transformation of Local Government while dealing with broader topics than community associations, most of the chapters contain endnote citations about associations. With the exception of the few books mentioned, this list provided next is comprised of publicly available online articles and books. The list is presented in chronological order with an emphasis on early publications that either deal directly with associations and or with certain housing themes (e.g., aftermath of WWI, architectural controls in land planning) that later became part of association development and operations. If you find an article of interest, you are advised to download it sooner rather than later to avoid “link rot”!
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► Housing Construction Statistics, 1889 - 1964

► Review of Structural Materials and Methods for Home Building in The United States: 1900 to 2000

► Housing of the Working People in the United States by Employers, 1904

San Diego - A Comprehensive Plan for Its Improvement, John Nolen, 1908
  • For a list of Nolen’s city and park planning publications

Address Delivered at the Second National Conference on City Planning, Frederick Law Olmsted, Jr., 1910

Madison - a model city, John Nolen, 1911

A Suburban Town Built on Business Principles, Frederick Law Olmsted, Jr, 1911

► Houston Tentative Plans for Its Development, Arthur C. Comey 1913

The Architectural Side of City Planning, Frederick L. Ackerman, 1915

Land Subdivision from the Point of View of a Development Company, Frederick Law Olmsted, 1915

City Planning - A Series of Papers, Ed. by John Nolen and Reviewed by Frederick Law Olmsted, Jr., 1916

The Housing Problem in War and Peace, Charles Harris Whitaker, Frederick L. Ackerman, Richard S. Childs, Edith Elmer Wood, 1918


New Ideals in the Planning of Cities, Towns and Villages, John Nolen, 1919

Lessons from Housing Developments of the United States Housing Corporation, Frederick Law Olmsted, Jr., 1919

The Housing Famine and How to End It, John J. Murphy, Edith Elmer Wood, Frederick L. Ackerman, 1920

© Foundation for Community Association Research
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► Housing by Employers in the United States, 1920

► Industrial Housing, 1920

► The Housing Shortage and the Supply of Building Material, 1920

► Celebrating the 1920s House: A Style for Every Taste

► The Book of Bungalows, 1920


► Mechanical Devices in the Home, 1922


► For More on Mariemont
  • Mariemont, a New Town in Ohio, 1920-21
  • Mariemont Preservation Foundation and John Nolen
  • “John Nolen and Building Mariemont”
  • Mariemont
  • John Nolen and the Committee of 100

Homebuilding in the Machine Age, 1920s - 1970s, Richard Harris

► For More on Art Juries in Planned Communities
  • Art Jury of Palos Verdes Estates, 1924. p.147/392. Art Jurys were the early form of an Architectural Control Committee.
  • Palos Verdes Art Jury 1923
  • An Old Brochure Reveals How the Palos Verdes Peninsula Became a Massive Planned Community August 27, 2019
  • Art Jury Rancho Sante Fe Association Protective Covenant, 1927/1928
  • Ticor Title Insurance Company, v. Rancho Santa Fe Association, February 18, 1986
  • Dolan King v. Rancho Santa Fe Association, June 23, 2000
  • RSF Association committee returns to Art Jury name, December 10, 2019
  • Residential Private Communities, p.99/132
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- Public Art Program San Luis Obispo June 2017

► Housing and Household Equipment Research in Home Economics 1925 -1950

New Towns for Old, John Nolen, 1927

The Neighborhood Unit  Clarence Perry (New York Regional Plan, 1929)

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The statistical information in this report was developed by Clifford J. Treese, president of Association Data, Inc., in Mountain House, Calif. A member of CAI almost since its inception, Treese is a past president of CAI and the Foundation for Community Association Research. We are grateful for his continuing support of both organizations.

Additional statistical information published by the Foundation for Community Association Research is available at foundation.caionline.org.

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