

The (Complicated) HISTORY OF FAIR HOUSING IN AUSTIN

By: John Egan



1966

In April 1966, almost three years after assuming the presidency, Texas native **Lyndon Baines Johnson** proposed a bold initiative — the first federal legislation aimed at combating discrimination in the sale or rental of housing. But efforts to pass the third prong of the Civil Rights



Act, with the Fair Housing Act as one of its pillars, failed in 1966 and 1967.

1968

The legislation endured “a long and stormy trip,” as LBJ called it, until the president signed it into law on April 11, 1968, a week after the assassination of civil rights leader the Rev. Dr. Martin Luther King Jr. With a few strokes of Johnson’s pen, it became illegal under the Civil Rights Act’s Title VIII provision, informally called the Fair Housing Act, to discriminate against a buyer or renter of housing on the basis of race, color, religion or national origin.

At the bill-signing ceremony, Johnson said the new law “proclaims fair housing for all — all human beings who live in this country — is now a part of the American way of life.” Black families, he declared, would “no longer suffer the humiliation of being turned away because of their race.”

>>2018

Fast forward to 2018, the 50th anniversary of the Fair Housing Act, and we, as a community and as a nation, are still coping with housing discrimination. However, today’s discrimination comes in different forms compared with 1968, when LBJ pushed the housing measure through Congress.

Fred Fuchs is an attorney who leads the housing teams at Texas RioGrande Legal

Aid Inc., an Austin-based nonprofit that provides free legal services to low-income Texans. Fuchs said he thinks LBJ would be both pleased and disappointed with how the Fair Housing Act has played out.

By and large, Fuchs says that housing discrimination today isn’t as blatant as it was in 1968, however, LBJ’s signing of the Fair Housing Act hardly wiped housing discrimination off the map in Austin or anywhere else in the United States. Today, people with disabilities confront housing discrimination, as do people with low income or criminal records.

And unfortunately, even the types of housing discrimination that LBJ sought to eradicate, such as discrimination based on race, remain a problem.

Austin REALTOR® **Socar Chatmon-Thomas**, former president of the Austin Board of REALTORS® and a current board member of the National Association of REALTORS®, says: “We still have discrimination in housing in this country, whether it’s clients saying things like, ‘It’s getting too dark around here! Let’s leave this neighborhood,’ or sellers

saying, ‘I want to sell this home to a good Christian family.’”

Chatmon-Thomas and other housing professionals in Austin acknowledge a decrease over the years in overt discrimination in housing. However, they say, more subtle discrimination is occurring as it relates to housing needs, including people who are disabled, who rely on federal housing vouchers or who have a criminal past.

Let’s take a look at each of those three categories.

PEOPLE WITH DISABILITIES

Of the 28,181 complaints reported in 2016 about housing discrimination around the country, 55 percent involved discrimination on the basis of disability, according to a 2017 report from the National Fair Housing Alliance. That was followed by complaints based on racial discrimination (19.6 percent) and discrimination against families with children (8.5 percent). More than 90 percent of those cases were connected to rental housing, the report says.

1988

In 1988, people with substantial mental and physical impairments were added as a protected class to the Fair Housing Act, as were families. Gender was included in the law in 1974.

Regarding people with disabilities, the law

requires housing providers to make “reasonable accommodations” for them, such as permitting tenants to have service animals even though a landlord imposes a no-pet policy.

PEOPLE WITH FEDERAL HOUSING VOUCHERS

A 2017 article published in the Journal of Planning Literature points out that the federal Housing Choice Vouchers Program seeks to achieve two goals: erase pockets of poverty and the social woes that accompany them, and give poor households better access to better neighborhoods.

“However,” the article says, “research suggests that voucher holders would like to move to higher-opportunity neighborhoods, but often are unable to do so. One of the most prominent reasons for this is that, in most cities and states, local law allows landlords to discriminate against potential tenants on the grounds of their ‘source of income’ (SOI).”

Housing advocates say source-of-income discrimination becomes a proxy for racial and ethnic discrimination, as well as economic discrimination.

Voucher holders who are African-American or Hispanic live in higher-poverty areas compared with voucher holders who are white, just as low-income people of color without housing assistance live in higher-poverty neighborhoods, according to a 2017 report from the Urban Institute.

PEOPLE WITH CRIMINAL RECORDS

Fuchs says criminal history represents a “new frontier” in fair housing. Current policies that prohibit people convicted of nonviolent felonies or misdemeanors from leasing a place to live are too broad, leaving many of these people in a jam, no matter how long ago the conviction was and no matter how solid an applicant’s references are, according to Fuchs and other sources.

This situation disproportionately hurts African-Americans and Hispanics, Fuchs said.

“Some people make stupid mistakes when they’re 21 or 22, and now they’re 37 and have a family, and they’re still paying the consequences for something that they shouldn’t have to pay the consequences for anymore,” he said.

Chatmon-Thomas agreed, saying that past convictions “still haunt people in the rental market.”

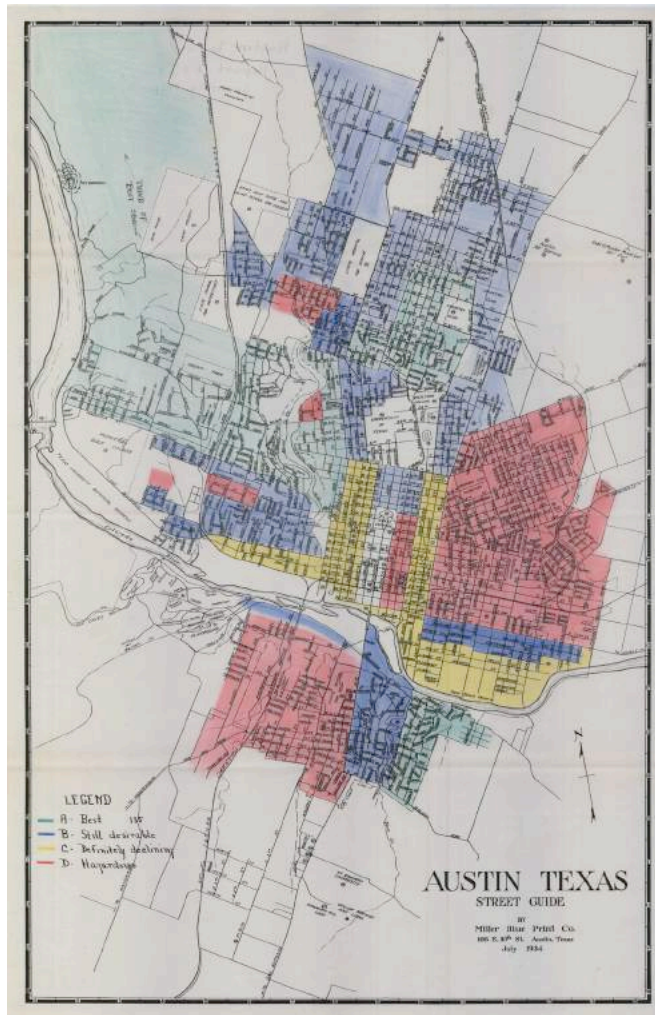
AUSTIN’S HISTORY OF HOUSING DISCRIMINATION

While the Austin of 2018 is viewed as a bastion of progressive thinking, it hasn’t always been that way. Austin has a checkered past when it comes to housing discrimination — perhaps the most egregious example of housing discrimination in Austin dates back 90 years.

1928

The City of Austin’s 1928 master plan established the “Negro District” to address the “Negro problem,” according to Six Square, an Austin nonprofit dedicated to promoting African-American arts and culture in a historically black six-square-mile area of Central East Austin. The boundaries of that section of Austin, both then and now, are Manor Road to the north, East Seventh Street to the south, Airport Boulevard to the east and I-35 to the west.

“The goal was to keep the races from mixing,” Six Square says on its website. “Black residents who refused to move to this area risked being denied basic city services such as water, electricity, or proper roads.”



1935 Austin, TX map shows the Koch and Fowler’s “negro district” in red.

Source: UT Libraries, Perry-Castañeda Library Map Collection

For years, Hispanics, too, were relegated to living in an area east of I-35 and south of the “Negro District.”

However, housing discrimination in Austin occurred well before creation of the “Negro District,” though.

1889

Shortly after arriving in Austin in 1889, Col. Monroe Shipe bought a large tract of land about two miles north of the Texas Capitol and the University of Texas campus, according to a report prepared for the Institute for Urban Policy Research and Analysis. Two years later, in 1891, Shipe platted (and later developed) Austin’s first upscale suburb, the report says. The whites-only suburb was designed to be “select and entirely free from nuisances and an objectionable class of people, proper restrictions being taken to guard against undesirable occupants,” according to the report.

1934

In the next century, in 1934, housing discrimination in Austin was reinforced through a practice known as redlining. Under that practice, lenders denied mortgages to homeowners and prospective homeowners in “risky” minority neighborhoods. In the wake of redlining, housing discrimination persisted for several decades. Complaints about redlining continue to pop up across the country.

Austin REALTOR® Robert Wright — the first black person in Austin to sit on the Austin Board of REALTORS® and the board of the Texas Association of REALTORS®, and the only black REALTOR® in Austin to be inducted into the National Association of REALTORS® RPAC Hall of Fame — recalled unsuccessfully trying two or three times in the mid-1960s, before passage of the Fair Housing Act, to buy a home in an area of his choice, rather than where all blacks were expected to live in Austin.

At the time, East Austin was the only area of the city where black real estate agents worked and were allowed to show homes to black buyers, Wright said. He was turned down when he asked to be shown homes throughout Austin, other than in the historically black district in Central East Austin, and decided to remain in the military, where he enjoyed a long and distinguished career. “I didn’t have anything against East Austin; I still don’t have anything against East Austin,” he said. “My problem was someone trying to tell me where I had to live. Central East Austin is very important to Austin’s black history, and I am proud to spend a great amount of time and service there, because that is my choice and because I am not forced to do so.”

Even shortly after passage of the Fair Housing Act in 1968, Austin wrestled with housing discrimination. After the act became law, the Austin City



Austin, TX East Side in 1960.

Source: Texas Dept. of Transportation

Council approved an anti-discrimination ordinance that aligned with the Fair Housing Act. The Austin Apartment Association, Austin Board of REALTORS®, and Austin Association of Home Builders (now known as the Home Builders Association of Greater Austin) organized a campaign to throw out what they dubbed the city’s “forced housing” ordinance.

1968

“This is not a racial thing. This is not a civil rights thing. This is not a housing thing. This is not a housing thing,” the Austin Board of REALTORS® proclaimed in a 1968 newspaper ad opposing the anti-discrimination ordinance. “This is really just another skirmish in the never-ending struggle between those who believe in the basic human right of private ownership of property and those who believe that the government should control or own everything.”

In the ad, the ABoR rebuked the ordinance as a socialist-style move that was “only a half-way step to communism.”

1969

Opponents of the Austin ordinance succeeded in putting the issue on the ballot in October 1968; the majority of voters sided with them and rejected the anti-discrimination measure. However, supporters of the ordinance vowed that the city would enforce the federal Fair Housing Act when it took effect on January 1, 1969.

“The opponents of the Fair Housing Ordinance have won the right to demonstrate the feasibility and workability of overcoming discrimination in housing by voluntary means. They have not won the right to deny housing to qualified persons by whim or on the basis of the overriding priority of property ownership,” then-Mayor Harry Akin warned at a special City Council meeting held two days after the vote.

Housing discrimination did subside in subsequent years, yet the dilemma certainly hasn’t faded.

2014

In 2014, the Austin City Council added “source of income” to an existing ordinance that banned housing discrimination on the basis of race, color, creed, religion, sex, national origin, disability, student status, marital status, familial status, sexual orientation and gender identity. The source-of-income amendment was aimed at preventing landlords from discriminating against low-income residents who use government-issued housing vouchers.

The Austin Apartment Association then challenged the source-of-income provision in court, arguing that apartment owners shouldn't be forced to accept housing vouchers.

The following year, in 2015, state lawmakers voided the City of Austin ordinance and blocked other local housing ordinances in Texas from including source-of-income requirements.

“We're frustrated that the Texas Legislature is interfering in local efforts to protect low-income people from discrimination,” John Henneberger, co-director of the Texas Low Income Housing Information Service.

Foes maintain that the state law discriminates against people of color, since the majority of housing vouchers go to African-Americans, Hispanics and other minority groups.

“We're frustrated that the Texas Legislature is interfering in local efforts to protect low-income people from discrimination,” John Henneberger, co-director of the Texas Low Income Housing Information Service, said after the state legislation was approved. “Local fair housing laws like source-of-income protection help low-income families, particularly families of color, find decent homes near good schools and good jobs. The Legislature should not be making that harder to do.”

In 2017, the City Council gave the green light to file a lawsuit against the state law. As of February 2018, the matter was pending in court.

For its part, the Austin Apartment Association says the city's lawsuit is a waste of city resources and likely will be tied up in court for several years. The group asserts “there are more constructive ways to address the issue.”

HOUSING DISCRIMINATION IN AUSTIN TODAY

Despite the legal wrangling over source-of-income mandates, Austin has made great strides in fair housing in the decades since LBJ signed the Fair Housing Act into law, observers say. Yet affordability stands out as a hurdle for many people hunting for housing in Austin.

“If you can afford it, color is no longer a major factor in where you live in Austin,” Wright said. “From a fair housing standpoint, housing segregation prior to the Fair Housing Act has changed more to economic segregation than color segregation. However, we still have work to do in increasing black homeownership in Austin and all across Texas.” Chatmon-Thomas offered a different take on segregation in Austin.

“Certain parts of the city are still quite segregated and others are not,” she said. “As a city, I feel that we should actually live like the Austin in our PR brochure. We should be an Austin for all, not just an Austin for some.

‘Inclusiveness’ is the word that comes to mind.”

Whatever the level of segregation might be, the shortage of affordable housing continues to weigh heavily on Austin.

Low-income residents, disabled residents, families with children and other disadvantaged people in Austin “don't really have fair housing opportunities or choices because there's not enough quantity,” said Michael Gerber, president and CEO of the Housing Authority of the City of Austin, which provides rental assistance and housing to thousands of local residents.

Gerber said the Housing Authority's mantra is this: “All types of housing for all types of people in all parts of town.”

He outlined five strategies for helping realize that goal.

1. Continue to invest in affordable housing. Gerber said the city is running out of money for affordable housing that was approved in previous bond programs. A measure that likely will appear on the November 2018 ballot would authorize about \$100 million in bond money for affordable housing in Austin, he said.
2. Preserve affordable housing. Too much affordable housing is being lost to redevelopment, according to Gerber and other advocates.
3. Stretch the dollars. Gerber said “every tool available” must be used to leverage funding for housing. As an example, the Housing Authority is replacing low-density units at two of its complexes with higher-density units to make room for more residents.
4. Promote inclusiveness in city policies that govern housing and related matters.
5. Foster public-private partnerships. The Fair Housing Act wasn't meant to assign government agencies the sole duty of fixing the nation's housing problems, Gerber said. Rather, he

added, government agencies, businesses, nonprofits and other stakeholders must team up to improve opportunities for fair housing.

Austin REALTOR® Tarek Morshed tacked on another strategy: Converting properties owned by the city, the Austin Independent School District and other entities — properties that he called “diamonds in our backyard” — into developments for affordable housing. Key to that, he said, would be cutting through bureaucratic red tape, such as the fee-waiver process, to make it happen.

“It truly comes down to whether the city and other related entities are willing to think outside of the box, along with creative developers collaborating with the city,” Morshed said. “I, for one, know plenty of creative developers — including myself — that would love to take this on if the city and other entities were ready to play.”

WHAT CAN REALTORS® DO?

Gerber urged local REALTORS® to become part of the solution to struggles Austin faces in terms of fair housing.

“Sometimes it’s hard for us to get out of our comfort zone, but we need more REALTORS® who see the value and transformative difference of rental assistance vouchers and other financial support We need to make sure that REALTORS® are helping marry families with great opportunities,” he said.

Gerber added: “Just because

someone’s poor doesn’t mean they couldn’t benefit from a REALTOR® working with them to live in a community with better schools or live in a community where there’s greater access to a job or greater access to transportation options”

While Austin still grapples with unfairness in housing, Gerber expressed hope for the future.

“Fair housing is an issue that not just Austin has struggled with but the state of Texas has struggled with. Fortunately, we’re in the most progressive community in the state, and we have a real opportunity to empower people, to lift people up,” he said. “We are, I think, the best positioned of any community in the country to address these deep, systemic challenges.”

Fifty years after the Fair Housing Act went from proposal to promise, Chatmon-Thomas said we can’t let our guard down when it comes to fair housing.

“Some people in this country seem to believe that since we’ve had an African-American president, our work in this realm is done,” she said. “This couldn’t be further from the truth; our current political climate reflects that.” ■

There’s a lot ABoR members can do to advocate for fair housing locally and in our industry:

Learn.

Learn the ins and outs of fair housing through these NAR and TAR resources:
NAR: [nar.realtor/fair-housing](https://www.nar.realtor/fair-housing)

Register for “Fair Housing: Here’s Where We Are” on April 10 at 10:00 a.m. at ABoR HQ (TREC #33813, . This ABoR Academy course explores how the Federal Fair Housing Act applies to day-to-day encounters in listing, sales, leasing, or property management. You can register and explore more courses at [ABoR.com/Calendar](https://www.ABoR.com/Calendar).

attend.

Attend the 2018 Fair Housing Summit April 2-5 at the Austin Convention Center, featuring keynote Julián Castro. For more information, visit [AustinFairHousingSummit.com](https://www.AustinFairHousingSummit.com).

Join ABoR leaders at the NAR REALTORS® Legislative Meetings and Trade Expo May 14-19 in Washington, D.C. We’ll be meeting with our local Congressmen and advocating for issues that protect homeowners and expand access to homeownership for all.

join.

Get involved in an ABoR Policy Team. All ABoR members have the opportunity to volunteer with policy teams that focus on public policy related to property rights, growth and development, water and conservation, and transportation. Policy teams make recommendations to ABoR’s Legislative Management Team to create our Annual Public Policy agenda, and much more. For more information, visit [ABoR.com/Advocacy](https://www.ABoR.com/Advocacy).

Cited sources: