

EXECUTIVE SUMMARY:

LEGAL LEVERS FOR HEALTH EQUITY IN HOUSING



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People can make healthier choices if they live in neighborhoods that are safe, free from violence, and designed to promote health. Ensuring opportunities for residents to make healthy choices should be a key component of all community and neighborhood development initiatives. Where we live, learn, work, and play really does matter to our health. Creating healthy communities will require a broad range of players—urban planning, education, housing, transportation, public health, health care, nutrition and others—to work together routinely and understand each other’s goals and skills.

— Robert Wood Johnson Foundation Commission to Build a Healthier America, "Time to Act: Investing in the Health of Our Children and Communities: Recommendations From the Robert Wood Johnson Foundation Commission to Build a Healthier America." 2014.

Background

Every person needs a healthy home, in a neighborhood that supports, not thwarts, them. The nation is built of its communities; it cannot thrive if they do not. Yet housing is in a bad way in many places in this country — not enough units, not affordable enough, not in the right places. Tens of millions of Americans are suffering physically and mentally from poor housing options, which means that America could be a much happier, healthier place if we whipped our housing problems. Likewise, our housing problems have been here for a long time, with many of the changes being for the worse, which means, from the optimist’s point of view, that our approach so far leaves substantial room for new directions.

Law has done much to create and maintain the communities we live in now, and it will be indispensable to changing them. But what change? What, fundamentally, should be the goal for more effective housing policy? We think a fundamental change in how we do housing work requires a vision broader than just eliminating hazards or adding more amenities in poor places. The goal in our view is health equity in housing. By this we mean having a substantial proportion of people living in the U.S. who have the option to live in racially and socio-economically mixed communities where all residents benefit from safe and affordable homes, good schools, transportation, parks and recreational facilities, and

economic opportunities. We set out to determine how law is, or could be, used to promote health equity in housing.

Methods

We identified a range of laws and enforcement strategies that we call “legal levers,” which address housing problems in the U.S. Recognizing that housing is a complex system, we organized these levers into five domains (Figure 1). We conducted literature scans to establish what is known about the impacts and effectiveness of these levers. We also conducted semi-structured interviews with a diverse group of people who are active in housing practice and policy to find out what they thought about the use of legal levers for health equity in housing: what works, what doesn’t, what might be tried next?

Legal Levers for Health Equity in Housing

Our world of expensive, sometimes unsafe housing in segregated, often unhealthy neighborhoods, is not an accident or by-product: it is what our current housing system reliably produces, year after year. And that system is complex, involving many different people, organizations, conditions, and policies. Therefore, it is imperative to deploy law within a strategic systems approach that recognizes the complex links between different legal practice areas — like antidiscrimination, zoning, tax, regional governance — and the links between law and other mechanisms of policy, like education, transportation, and social support. Just doubling down on one legal lever, such as fair housing enforcement, will not bring much improvement when there are too few quality homes in the neighborhoods where people want to move.

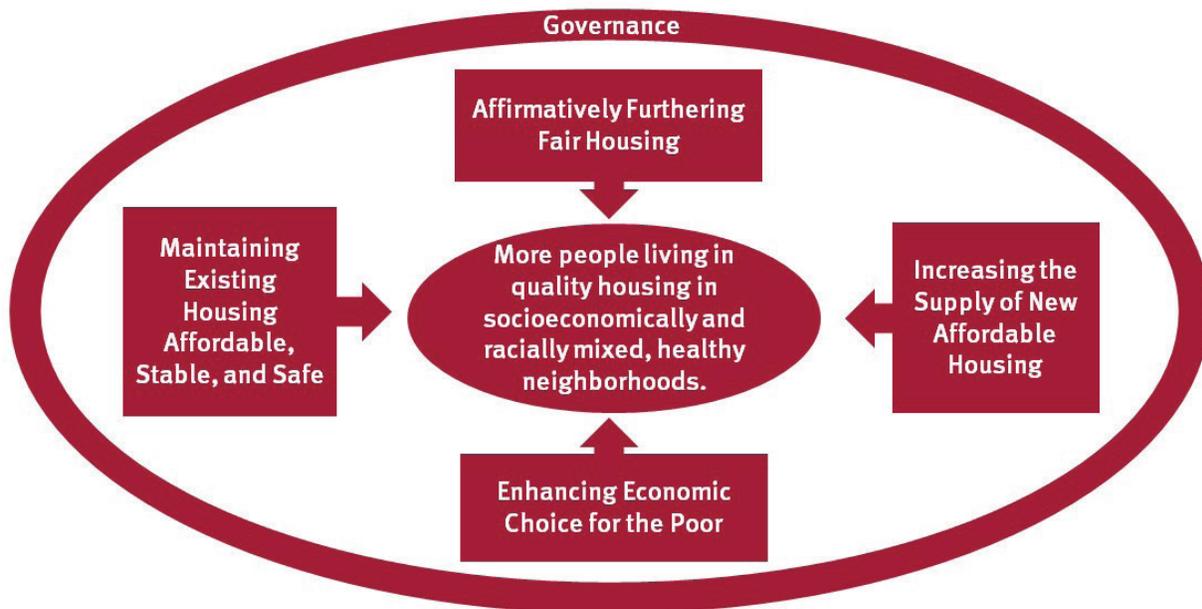


Figure 1: Legal Levers Model for Health Equity in Housing

Our model of legal levers aims to pull together the key factors many have identified — and typically work on — separately. It is also, we stress, a “logic model” in the most basic sense, in that the domains are derived from our selected goal, health equity in housing. The model is also rooted in logic in the sense that there is very little research evidence addressing whether most of the individual levers actually do the specific things they purport to do, let alone whether they operate in synergy with other levers to promote health equity. The model is a conceptual interface to help people from many backgrounds include law in a systematic approach to promote greater health equity in housing.

Key Findings and Recommendations

Like other treatments, laws can have unexpected side-effects. This means that evaluation — and less formally, careful observation and frequent reflection — must be integral to strategies for change. Taking an experimental, adaptive approach, in which tactics and strategies for change are assiduously monitored and adapted in response to feedback, allows people working for change to learn as quickly as possible what seems to be working. Achieving legal change can be difficult, given powerful conflicting interests, but it is possible. A less obvious but equally important challenge is figuring out what reforms and innovations to advocate. Laws that don’t work, or cause harm, squander the efforts that went into enacting and enforcing them. Worse, as long as they are perceived as “solutions,” they can stand in the way of further policy innovation and reform. Successful use of the many legal levers we identify depends heavily on our understanding of whether and how they work, alone and in combination. Below are some key findings and recommendations for action based on our research.

Report I: A Vision of Health Equity in Housing reviews the strong relationship between housing, neighborhood and health, and reviews old and new evidence about health, health equity and housing to make the case for “health equity in housing” as a top goal of the movement to create a Culture of Health.

Report II: Legal Levers for Health Equity in Housing: A Systems Approach describes some of the factors that make housing in the US a complex system, establishes our model of legal levers in that system, and introduces the levers we identified.

Report III: Health Equity in Housing: Evidence and Evidence Gaps reviews the evidence base for each lever, outlining what we know and don’t know about their impacts and how they are influencing health equity in housing. This report is meant to clean the slate of misconceptions and unwarranted confidence in legal levers, to help us better structure future efforts as the experiments they are.

Report IV: Creative People and Places Building Health Equity in Housing discusses 10 themes that emerged from interviews with housing practitioners and leading researchers about the use of legal levers for health equity in housing.

Report V: Governing Health Equity in Housing focuses on governance as an approach to the challenge of achieving health equity in housing. It starts with the theoretical perspective offering a description of governance as a multi-level, multi-actor practice that embraces complexity and uses an adaptive strategy of experimentation and learning that is measured by results. The report then illustrates a successful practice of effective governance in one of fair housing’s greatest success stories, the achievement and maintenance of health equity in housing in Oak Park, Illinois.

Report VI: Health Equity through Housing: A Blueprint for Systematic Legal Action summarizes the findings from our literature scans and interviews into recommendations for research and action needed to achieve health equity in housing.

More Research

There is a lack of evidence on whether legal levers are actually doing what they purport to do, and whether they are tending to produce health equity in housing.

More — and more timely — research is needed to evaluate the impacts of legal levers for health equity in housing, but more than evidence alone is needed for change. Due to the complexity and interconnectedness of the U.S. housing system, research can and should be integrated into a strategic program of action within and eventually across levers and domains.

Action for the Future

Using legal levers to achieve health equity in housing will require:

1. Changes to levers that seem to be mostly harmful (e.g., exclusionary zoning);
2. Tweaks to levers that are successful in some ways (e.g., LIHTC and Housing Choice Voucher program); and,
3. Systematic evaluation of laws that seem to have potential but little is known about their impacts (e.g., laws aimed at protecting tenants)

A systematic experimental approach must be used to rapidly test the implementation and impacts of innovative ideas, and diffuse those that work. △

Figure 2: Selected legal levers for health equity in housing

Increasing the Supply of New Affordable Housing	Maintaining Existing Housing as Affordable, Stable, and Safe	Affirmatively Furthering Fair Housing	Enhancing Economic Choice for the Poor	Governance
<ul style="list-style-type: none"> • Low-Income Housing Tax Credit Program (LIHTC) • Land-use regulations (zoning) • Anti-vacancy laws • Land banks • Land trusts • Building codes 	<ul style="list-style-type: none"> • Housing code enforcement • Landlord-tenant laws • Disability discrimination laws • Lead laws • Nuisance property ordinances • Just-cause eviction laws • Free legal representation in housing court • Eviction record laws • Rent control • Mortgage foreclosure and property tax foreclosure 	<ul style="list-style-type: none"> • Fair housing protections • Affirmatively Furthering Fair Housing Rule (AFFH) • Inclusionary zoning • Fair share mandates (e.g., <i>Mount Laurel</i> doctrine) • Other state-level inclusionary development mandates (e.g., Massachusetts Comprehensive Permit law, California Housing Element law) 	<ul style="list-style-type: none"> • Federal rental assistance programs • Other federal renter support mechanisms • Mortgage interest deduction • Earned Income Tax Credit • Minimum wage • Legal protections against discriminatory and predatory consumer lending • Legal financial obligations 	<ul style="list-style-type: none"> • Local government law • Regional planning law • Governance element of other legal levers (e.g., AFFH, litigation, regional voucher administration, LIHTC)