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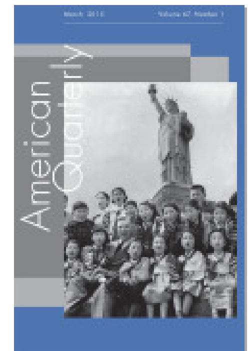

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# New Racial Meanings of Housing in America

*Elvin Wyly, C. S. Ponder, Pierson Nettling, Bosco Ho, Sophie Ellen Fung, Zachary Liebowitz, and Dan Hammel*

> In the twilight of materialism, the meaning of housing will be simplified and clarified, with a renewed emphasis on shelter and neighborhood. The false hope that everyone can get rich from real estate will be laid to rest for another fifty years, or perhaps for all time.
>
> —John S. Adams, "Housing Markets in the Twilight of Materialism"

> Equality begins at home.
>
> —Anita F. Hill, "Marriage and Patronage in the Empowerment and Disempowerment of African-American Women"

> Mr. Martin's "suspicious" profile amounted to more than his black skin. He was profiled as young, loitering, non-property owning and poor. . . . Why is a child dead? The rise of "secure," gated communities, private cops, private roads, private parks, private schools, private playgrounds—private, private, private—exacerbates biased treatment against the young, the colored, and the presumably poor.
>
> —Rich Benjamin, "The Gated Community Mentality"

Ideals of housing and home have always shaped periods of social and political transformation in America.[1] For more than a century these ideals have been intertwined with segregation and the structured inequalities of capital and race.[2] Challenges to class inequality and racism have been repeatedly deflected and co-opted by the complex social and political construct of the "American Dream" of home ownership. We should not be surprised, therefore, that the worst financial crisis since the Great Depression of the 1930s has destabilized the social relations of racial categories and identities in America's ongoing drama of racial formation.[3] For decades, the simultaneous acceleration of privatization and debt allowed white privilege to ignore Derrick Bell's call "to 'Get Real' about race and racism in America," to deal honestly with "the increasingly dismal demographics that reflect the status of those whose forebears in this country were slaves."[4] Housing—and especially the expansion of mortgage debt—was crucial in deflecting the more fundamental demands for redistribution and genuine economic justice that grew out of the

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civil rights movement. Risky, deceptive practices in the "subprime" mortgage market were particularly effective in replacing the old rigid justifications for *exclusionary* racism with more flexible, entrepreneurial forms of *inclusionary* discrimination that promised opportunity and access to the wonders of the market. The American Dream: no money down!

Predatory home-financing schemes were perfected in subaltern America, among the people and places marginalized by social relations of class, race/ethnicity, gender, and metropolitan spatial restructuring. For years, well-documented cases of targeting and predatory exploitation were waved away by policy elites as "anecdotal." High-profile legislative and regulatory debates typically featured economists and U.S. senators—almost always white men—sternly assuring everyone that the free market was delivering widespread benevolence and that we should not worry too much about these isolated cases. There are striking parallels between the way policymakers casually and repeatedly dismissed the mounting evidence of systemic targeting of African American women in predatory housing finance and the way women of color were treated in other high-stakes political encounters.[5] In October 1991, when Anita Hill testified about sexual harassment by Clarence Thomas, she did so alone, without the (white male) "patron to confer legitimacy at official proceedings . . . and to navigate the corridors of power."[6] The penalties of speaking truth to power as an individual were severe. One white male senator (Arlen Specter) accused Hill of "flat-out perjury," another (Orrin Hatch) accused her of fabricating her allegations based on a passage from *The Exorcist*, and another (Alan Simpson) complained, "The stuff we listened to, I mean, you know, come on—from the moon."[7]

A generation later, all the "anecdotes" of exploitative, racialized lending were again forgotten amid a spreading global financial crisis, and it was thus a bittersweet realization in October 2011 that Bell had died the night before the conference "Context and Consequences: The Hill-Thomas Hearings Twenty Years Later." The gathering of legal scholars at Georgetown Law showcased what has changed—and what has not—in the politics of race, gender, and power in America. In a new book on the financial crisis and the meanings of home in America, Hill offered optimism:

Today I am privileged to witness the coming of age of a generation that seeks to move beyond historic race and gender divisions. For them, the American Dream means nothing if it is not inclusive. Because of the financial crisis, and because of their having grown up in an era of less strident racial discrimination and in homes where women are breadwinners, they will be less willing and able to pay a premium to live in a racially-isolated (predominantly white) community.[8]

**Figure 1.**
Professor Anita Hill, October 2011. Courtesy of Elvin Wyly.

Hill's analysis is valuable and hopeful. Yet two incidents in America's long housing crisis—one from the central-city African American neighborhoods of northern industrial cities, another from the expanding suburban frontiers of the Sun Belt—illustrate the troubling mixture of continuity and change. For several years, an elderly African American widow in Akron, Ohio, was drawn into a series of risky, highly leveraged loans from Countrywide Mortgage; eventually, Addie Polk fell behind on the payments, and foreclosure proceedings began on the home she had bought in 1970 with her husband, Robert, a tire factory worker. In October 2008, with sheriff's deputies pounding on the front door to enforce an eviction order, Addie stayed upstairs in her bedroom and shot herself twice with a long-barreled handgun. Addie, ninety, survived the wounds, but died in a nursing home a few months later.

Several years later, another gun was fired. This time it was not self-inflicted, but a gunshot motivated by another person, with (1) a deep desire to protect a community where the housing crisis has frayed the social fabric, (2) an in-your-face personality sharpened by several encounters with law enforcement, (3) a suspicion of young black men, or (4) some combination of all factors. Seventeen-year-old Trayvon Martin was walking back from a convenience store to the home where his father was staying with his fiancée, in a gated com-

munity just outside Orlando, Florida. George Zimmerman, twenty-eight, saw Trayvon and called 911; Zimmerman was the coordinator for the neighborhood watch in the Retreat at Twin Lakes, where property values have fallen by half since the new community was completed six years ago; "a 'significant number' of foreclosures . . . have prompted investors to buy the properties at a discount and then rent them out."[9] Zimmerman told the 911 dispatcher he was concerned about recent break-ins, "and there's a real suspicious guy." Zimmerman ignored the dispatcher's instructions to wait for the police, and chased down Trayvon; a struggle ensued, and the unarmed teen was shot dead. After persuading the police he acted in self-defense, Zimmerman was released. Indignant rage spread quickly—an unarmed boy was dead, and no one was even arrested—until a special prosecutor filed second-degree murder charges. Public debate focused on Zimmerman's identity, biography, and racial attitudes: a Catholic altar boy whose father was a U.S. Army intelligence veteran of the Vietnam War and whose mother was a Peruvian immigrant. After high school graduation, Zimmerman moved to Florida and became a real estate broker as the market flourished. He was making more than $10,000 a month by his early twenties, but when the market collapsed he held a series of service-sector jobs before landing a full-time position at a "fraud-detection company," Digital Risk, that "helps institutions like Bank of America and Freddie Mac to rid their balance sheets of the kinds of toxic loans that led to the 2008 banking crisis. Mr. Zimmerman was among hundreds of auditors who work in a four-story office building . . . mining borrowers' files, sniffing out lies and scrutinizing hardship letters."[10]

A despondent elderly black women is alone in her bedroom, blaming herself for borrowing too much from the nation's largest mortgage lender, described by its cofounder and CEO as "having helped 25 million people buy homes and prevented social unrest by extending loans to minorities, historically the victims of discrimination."[11] A young black teen is profiled as "young, loitering, non-property owning and poor," and shot by the vigilant protector of a Sun Belt suburban gated community, a man who knows the importance of surveillance, real estate, and property values.[12] "Welcome to gate-minded America,"[13] where "an 'us vs. them' mentality festers" and property values are sustained "by creating an external enemy—those people outside the walls."[14]

These stories demand a reconsideration of American racial and ethnic relations—and in particular, changes in the connection between individual experiences of discrimination and the wider structures of inequality in American housing. In this article, our purpose is to analyze legal and institutional changes that have rescaled parts of America's racial political economy. Our

analysis draws on theories of racial formation and the racial state[15] and legal analyses of American federalism and banking regulation[16] to identify regional and local variations in the racialized inequalities of housing and home.[17] We focus specifically on the inequalities of the high-risk, subprime segment of American mortgage credit.[18] Despite a vast, interdisciplinary literature, many of the spatial inequalities of racialized risk remain unexplored.[19] As we shall show, however, space was crucial in transforming America's discriminatory racial state. The predatory exploitation of the urban core has gone mainstream, altering the spatial relations of privilege on the expanding frontiers of Sun Belt suburbia (fig. 2).

## New Laws of Spatial Organization

A generation ago, John S. Adams and other housing analysts suggested that postindustrialism was eroding the old foundations of scarcity—ending the long period of easy speculative real estate gains delivered through the steady suburbanization of the modern industrial metropolis.[20] The information economy would erode the arbitrage opportunities of geography, history, and urbanization. Housing would no longer promise to make everyone rich,[21] but would instead become a partly decommodified realm governed by the socially necessary use values of home, neighborhood, and community. Adams and his colleagues could not have predicted the speed and power of neoliberal policy decisions in the 1980s and 1990s that created a "global circulation of mortgages" that transformed local housing into "an electronic instrument,"[22] as the local lives and needs of individual home owners making monthly payments became the "postindustrial widgets" of mortgage-backed securities.[23] Housing-related debt was only part of the broader financialization of the American economy—before the collapse, the financial sector accounted for more than two-fifths of all U.S. corporate profits—but risky mortgage lending was a crucial site of innovation and exploitation that connected local inequalities with global circuits of investment, risk, and speculation.[24]

Postmaterialist interpretations of housing reflected broader debates over the nature of postindustrial society and were quickly subsumed within the economic theorists' view of a world freed from the messy constraints of real-world geographies.[25] These visions guided key policy decisions on banking deregulation for an entire generation. Our central argument is that deregulated market innovation reconfigured the relations between local housing markets and transnational financial circuits. Preexisting local racisms were integrated into wider spatial networks. But the insatiable "appetite for yield" enabled a ruinous

**Figure 2.**
Las Vegas, December 2008. Courtesy of Elvin Wyly. Between 2004 and 2006, Wall Street and local lenders funneled more than $20 billion in high-risk, high-cost subprime mortgage credit to consumers in the Las Vegas area. Compared with otherwise similar non-Hispanic whites, African American, and Latina/o borrowers in the region were twice as likely to be pushed into subprime credit.

competition that now threatens to undermine the political foundations of America's racial state.[26]

In America's utopia of spatial form, housing markets are defined by a regime of spatial segregation that keeps the other at a safe distance to protect white property values.[27] For many years, this regime was reproduced through pervasive practices of segregation in development and neighborhood social relations.[28] Yet the law and economics of housing finance were also crucial—particularly the division between "traditional" forms of closely regulated prime credit of white privilege and scarcity and its "nontraditional" others.[29] At first, this other entailed systematic exclusion from the institutions of mainstream credit. Over time, however, more and more marginalized people and places were incorporated into an expanding field of high-risk subprime and predatory debt.[30] The expansion of debt in turn fueled an acceleration in home prices, encouraging further innovations in leveraged risk—generating a steady stream of fees and investment returns for everyone in the industry.[31] "Nontraditional" forms of credit became an ever more important source of income for *local* realtors, mortgage brokers, and appraisers, for *regional and national* banks and bank holding companies,

and for Wall Street investment houses and investors around the world lured by the promise of high risk-adjusted yields. But yields require volume. The *rate* of exploitative profits has always been highest among the segregated and marginalized, but market volume is another matter: housing finance starkly illustrates Slavoj Žižek's parallax view. Between 2004 and 2010 high-risk subprime mortgages accounted for more than 39 percent of all mortgage loans made to single, non-Hispanic African American women—almost four times the share for non-Hispanic white male-female couples, and more than five times the rate for non-Hispanic Asian or Hawaiian/Pacific Islander traditional couples; these disparities are reduced only somewhat when we account for African American women's lower incomes and other factors.[32] Yet non-Hispanic whites remain a dominant plurality even in the subprime market, accounting for 45.9 percent of the 10.9 million high-cost loans made in these years (fig. 3).

From the perspective of marginalized communities, it is impossible to ignore the deeply racialized and gendered dimensions of the subprime boom and today's foreclosure disaster. Nationwide, foreclosure starts and serious delinquency rates in predominantly minority neighborhoods are more than twice as bad as those in predominantly white communities (table 1).

But a different view appears from the perspective of Wall Street and transnational investors. As the market accelerated between 2004 and 2005, the subprime share among single black women shot up from 36.2 percent to 52.4 percent, dwarfing the comparable rates among non-Hispanic white male-female couples (from 9.5 percent to 14.5 percent). Yet each percentage point increase in subprime share among single black women delivered fewer than 5,800 new customers—each one an opportunity for deceptive fees and charges on the front end and an ongoing stream of returns from leverage and speculation through securitization. By contrast, each percentage-point advance in subprime market share among non-Hispanic white couples delivered more than thirty-four thousand new prospects. By the time the global circulation of mortgages really took off in the first decade of the twenty-first century, America's most deeply marginalized communities—mostly but not exclusively, inner-city and inner-suburban neighborhoods of non-Hispanic African Americans—had been thoroughly devastated by generations of various kinds of exploitative financial schemes (fig. 4).[33] New volume for the newest forms of capitalist predation required new targets: suburbanizing African Americans and Latina/os, and eventually some of the traditional beneficiaries of America's institutions of Anglo white privilege.[34] Half of all mortgage volume in the 2004–7 credit binge went to neighborhoods where non-Hispanic whites comprised at least

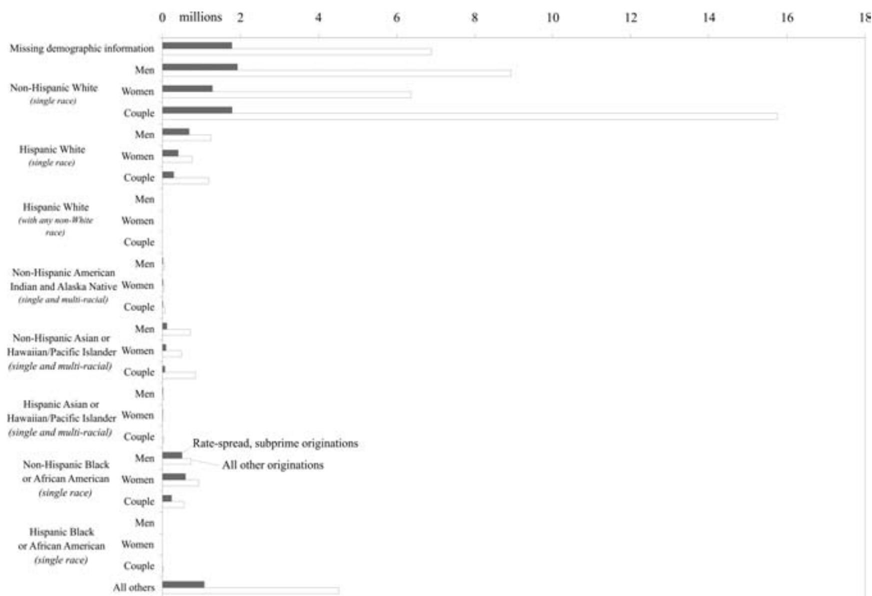


**Figure 3.**
Race, ethnicity, and gender in subprime lending. Number of rate-spread (subprime) originations and all other originations, 2004–2010. Source: Federal Financial Institutions Examination Council, *Frequently Asked Questions about the New HMDA Data* (Washington, D.C.: Federal Financial Institutions Examination Council, 2005–2011).

**Table 1**. Race, Risk, and Capital.

| Minorities as share of census tract population | Average tract subprime market share | *Block group estimates* | | |
|---|---|---|---|---|
| | | Mortgage volume 2004-2007 | Estimated foreclosure starts, Q32009-Q32010 | Average serious delinquency rate, Q32010 |
| < 20 | 20.1 | 21,400,752 | 914,282 | 6.81 |
| 20-39 | 22.8 | 8,435,290 | 460,778 | 8.19 |
| 40-59 | 28.4 | 3,957,123 | 255,536 | 9.75 |
| 60-79 | 32.7 | 2,712,836 | 203,328 | 11.51 |
| >80 | 43.0 | 3,065,190 | 272,949 | 14.25 |

*Data Source:* Calculated from Neighborhood Stabilization Program, Phase 3 data, matched with tract-level HMDA census characteristics. See US Department of Housing and Urban Development (2011), FFIEC (annual).

**Table 1.**
Race, risk, and capital, calculated from Neighborhood Stabilization Program, Phase 3 data, matched with tract-level HMDA census characteristics. Source: U.S. Department of Housing and Urban Development, *Neighborhood Stabilization Program 3 Downloadable Data Files* (Washington, D.C.: U.S. Department of Housing and Urban Development, 2011); and Federal Financial Institutions Examination Council, *Frequently Asked Questions about the New HMDA Data* (Washington, D.C.: Federal Financial Institutions Examination Council, 2005–2011).

**Figure 4.**
Cleveland, July 2010. Courtesy of Elvin Wyly. Cleveland was once an American icon, famous for making things. Then it became famous for deindustrialization, environmental catastrophe, and depopulation. Then came the predatory lending boom. More than $5 billion in subprime loans were made in the Cleveland metropolitan area at the height of the boom; these high-cost loans were about five times more likely to be sold to Wall Street and other private investors than conventional prime loans. Now the ongoing foreclosure crisis is making Cleveland famous yet again, this time for tearing down houses. Cleveland has about fifteen thousand vacant and abandoned homes, and dealing with them is described by the county land bank president as "the root canal of community development." Source: B Dennis, "The Foreclosure Crush," *Washington Post*, October 15, 2011.

80 percent of the population. White privilege in accumulated wealth enables most of these communities to better resist the devalorization of the ongoing crisis—foreclosure and delinquency rates are half those in the most racially marginalized and segregated neighborhoods—but volume again tells a different story. Two-fifths of all foreclosure starts nationwide are in predominantly white neighborhoods (table 1).

This is where the spatial constitution of American racial formation has been destabilized. In the second half of the twentieth century, the vast wave of suburbanization retained a predominantly white spatiality: middle-class aspirations conjoined upward *economic* mobility with *outward* residential mobility and *whiteward* institutional mobility through the privileged realms of education, job markets, and of course housing markets. For most of this period, the innovations of predatory capital were safely contained by the spatial

separations of the city-suburb divide and neighborhood-level processes of class difference and racial and ethnic segregation. But things changed dramatically after 2001, when the appetite for yield required volume—thus necessitating an expansion of predation into the markets of whiteness in American housing. To understand the present instability of American racial formation, therefore, we need to consider the spatial reorganization that enabled and encouraged a direct pipeline between inequalities usually experienced as local (i.e., racial segregation) and the speedy flows of credit and debt in national and transnational capital markets.

## All That Is Solid Melts into TARP

It is now widely recognized that the stable, locally oriented "golden age" of American housing and banking disappeared some time ago. Gone is the tightly regulated regime dominated by savings and loans connecting local borrowers and savers, reliant on the standard, thirty-year self-amortizing mortgage held on the lender's books; we now have something much more spatially complex, dynamic, and risky. The empirical details of this transformation are well documented in a vast and interdisciplinary literature.[35] For most of the post–World War II period, American housing was a Keynesian arrangement, in which the economics of supply-side housing construction cycles were governed by the "fundamentals" of demand for housing as a consumption good, paid for by the wages of an industrial economy. But postindustrialism and deregulated financialization created a more unstable post-Keynesian network of supply-side profit opportunities that were partly unhinged from wages and other fundamentals. Homes, borrowers, and financial obligations became the vehicles for capital accumulation backed by (and driven by) the steady rise in home prices.[36] Housing became a nexus between the slow materialities of place and the accelerating velocity of financial innovation and regulatory evasion. Mortgage finance became a sector with its own partly autonomous dynamics of production, consumption, and speculation.

Housing finance opened a thick pipeline for a capital "switching" crisis first predicted in the 1960s. Henri Lefebvre first hypothesized a switching process in which declining profit rates in the primary circuit of capital accumulation gradually encouraged an increase in investment and then speculation in a secondary circuit that provided the infrastructure that sustained capitalist social relations. Real estate turned out to be the part of this infrastructure that was the easiest to commodify for speculative purposes. Lefebvre's insight inspired a central part of David Harvey's analysis of urbanism and the connections

between local, urban forms of exploitation and higher-level processes of capital accumulation and financial speculation.[37] Harvey's work in turn encouraged generations of researchers to analyze various kinds of real estate trends to test the theory.[38] Ironically, the mixed results of these tests reflected data limitations that also blinded the neoclassical economists in charge of public policy—making it impossible, for instance, to measure how mortgage-backed securities were interwoven with the giant, unregulated, and undisclosed global market of trillions of dollars of credit default swaps. As the financial crisis swept the globe from the spring of 2007 into the fall of 2008, the daily headlines appeared as summaries of Lefebvre and Harvey: Marxist analyses of accumulation and financialization were eerily echoed in widespread discussions of Ben Bernanke's suggestion of a "global savings glut" flooding into U.S. financial instruments, Alan Greenspan's attempt to minimize the scale of the exploding subprime crisis by reassuring investors that "arbitrageable long-term assets are worth close to a hundred trillion dollars," and the dozens of obscure bailouts and guarantees begun with the Troubled Asset Relief Program (TARP).[39] Harvey's analyses of fictitious capital seemed almost mainstream by the time central bankers from around the world applauded the Federal Reserve's success at the annual conference in Jackson Hole, Wyoming, in August 2009: "Economists say Mr. Bernanke's most important accomplishment was to create staggering amounts of money out of thin air."[40] All that is solid melts into TARP.[41]

## Financialized Federalism

The scale of the global financial crisis shocked a broad spectrum of mainstream and conservative analysts, and made it clear how much had changed in the politics of geographic scale—the level or arena of decisions and actions that are usually divided into (deceptively) neat categories: local, urban/regional, state, federal/national, transnational/global.[42] In the United States, the fundamental scale conflict in law and politics involves the state-federal tensions first negotiated through the Federalist Papers.[43] The state-federal axis has been remade slowly over time, with evolving geographies of urbanization, immigration, electoral competition, and the regional contours of racial and ethnic identity. The American racial state, therefore, can be understood as the sequence of legislative and judicial attempts to adapt and interpret a seventeenth-century document written by slave-owning merchant classes yearning to be free—to cope with the jurisdictional battles as capital circulates more widely and encompasses growing shares of people and places once defined as racially and economically "marginal." For a short but important period in the twentieth

century, these contradictions were partly resolved through the spatiality of the modern metropolitan welfare state—symbolized by high-modernist, high-rise public housing at the core, and white middle-class owner-occupied housing on the expanding suburban fringe. The local white-ethnic political machines of northern industrial cities got federal help to rebuild their inner-city slums without disturbing established regimes of neighborhood segregation, while the broad coalitions of national and regional conservatism reaped the rewards of racially exclusionary FHA mortgage insurance, tax subsidies for ownership, and massive investments in the interstate highway system. Ironically, the largest welfare program in American history—the vast greenfield vistas of suburban houses for middle-class whites—is falsely remembered as a golden age of the private market. By contrast, the most concentrated loci of affirmative efforts to help the racialized victims of housing market failure—federally funded, publicly owned housing—were built only in those cities that actively sought the money, and only for a few years. Ever since Nixon imposed a moratorium on new public housing construction in 1973, this component of the "racial-state spatial fix" has been demolished bit by bit. Bipartisan policy shifts have forced tenants of public housing projects to become couriers delivering subsidies to private landlords (through Section 8/Housing Choice Voucher certificates) and investors (those purchasing Low Income Housing Tax Credits) (fig. 5). Eventually, a demonstration program crafted to deal with the specificities of racial and class segregation in one of the iconic centers of the urban welfare state (Chicago) was used as a template for a comprehensive but locally adaptable federal makeover of public housing.[44] Other commitments of the national Democratic coalition were reconsidered, and programs with explicit potential for political conflicts over race-class redistribution were "reinvented" (i.e., destroyed). But home ownership—and especially mortgage finance—would be different. For Democrats, public policies designed to "tap new markets" would connect minorities and the poor "to the regulated banking industry in a politically visible way."[45] Republicans, meanwhile, sought "to use increased rates of home ownership among blacks and Latinos to lure a slice of these culturally conservative but economically excluded groups away from the Democratic Party" and toward the Right.[46]

## Legal Spatial Fixes

The bipartisan appeal of mortgage finance was enhanced by a mixture of deliberate and unintentional changes in the laws and regulations governing banking and lending. The first significant cracks in the foundation of the stable postwar

**Figure 5.**
South Side Chicago, July 2010. Courtesy of Elvin Wyly. The empty green corridor to the right of the Dan Ryan Expressway is where the Robert Taylor Homes once stood. The projects were built in the late 1950s on the site of the old Federal Street slum, and demolished beginning in 1998. Source: K. Easterling, "Subtraction," *Perspecta* 34 (2003): 80–90.

housing finance system appeared in the late 1970s. The Supreme Court's 1978 *Marquette* decision allowed national banks to "take their most favored lender status across state lines and preempt the usury laws of the borrower's home state."[47] South Dakota and Delaware moved first to repeal usury limits as an economic development strategy, and soon the process of "regulatory exportation" intensified competition that weakened nearly all states' usury laws. Then, in response to the corrosive inflation and disintermediation of the late 1970s, Congressed passed the Depository Institutions Deregulation and Monetary Control Act (DIDMCA) of 1980. DIDMCA eliminated interest rate caps for first-lien residential mortgages and allowed other types of depository lenders (not just national banks) to take advantage of the *Marquette* decision.[48] Shortly thereafter, the Alternative Mortgage Transactions Parity Act (AMTPA) preempted, for nearly all types of lenders, state restrictions on "alternatives" from the standard, fully amortized fixed-rate loan—allowing variable rate terms, negative amortization, balloon payments, and other creative possibilities. The interactions between *Marquette*, DIDMCA, and AMTPA created intricate, non-Euclidian spaces of permissible financial transactions: *Marquette*

disconnected the rules from the state where a borrower lived, DIDMCA freed depository lenders from common state restrictions, and AMTPA liberalized certain types of nontraditional *loans*, regardless of whether they were made by deposit-taking banks or independent mortgage companies.

These laws provided the *necessary* conditions for the growth of high-risk mortgage lending, and by the 1990s the market was studded with niche subprime products targeting inner-city neighborhoods and rural mobile-home owners, particularly in renovation and refinance lending.[49] The *sufficient* conditions for a broader expansion required other changes in technology, regulation, financial competition, and transnational investment. Enhanced consumer credit surveillance, credit scoring, default modeling, and automated underwriting promised increased accuracy in extracting profits from consumers once viewed as too risky to serve.[50] Mortgage-backed securities, launched tentatively in 1968 by the government-sponsored Ginnie Mae, finally began to grow after the 1984 Secondary Mortgage Market Enhancement Act resolved tax issues and state regulations.[51] At the time, however, secondary market growth was slowed by the exploding savings and loan crisis—itself a product of deregulation—and the bad publicity made it hard for Wall Street's lobbyists to achieve more sweeping relaxation of Depression-era laws on securities and banking. Yet whenever regulatory capture and pressures on lawmakers failed, entrepreneurial innovation in legal evasion took up the slack: Wall Street quickly found new ways to subvert the old laws through products that fell through the cracks of existing laws, regulations, or narrow paths of enforcement. *The products fell through the cracks because they were designed exactly for this purpose.* One example comes from the bizarre, obscure sole-purpose companies established to handle the flow of mortgages and other asset-backed securities marketed to institutional investors around the world. Sometimes these entities were called special purpose entities (SPEs), sometimes special purpose vehicles (SPVs). Much of what makes them special is that they break the chain of legal liability, insulating investors from claims over violations of law committed by brokers or originators getting borrowers into the mortgage.[52]

Another factor was the widespread fear of budget surpluses. Debt itself is a partly autonomous circuit of capital investment, subject to its own switching crises. Projecting surpluses to infinity under then current budget laws, Clinton's Treasury Department announced in 2001 a plan to phase out the thirty-year "long bond." Suddenly, the universally recognized global safe harbor and benchmark for evaluating debt and credit risk was set to disappear, and anxious institutional investors around the world cast about for alternatives.[53] The securities of the government-sponsored enterprises (GSEs), Fannie Mae

and Freddie Mac, became popular replacements.[54] They were soon joined by the private-label mortgage-backed securities offered in ever-greater volume by the growing, deregulated Wall Street investment banks.[55]

So far, so good. All of this regulatory history is now well-known.[56] What makes it relevant to our claims about a new spatiality of racial inequalities in housing finance is the peculiar configuration of banking and financial regulation in American federalism. From the earliest days of the republic, the states viewed any kind of federal initiative in the realm of finance—a common currency, the creation of a central bank—as a dangerous threat to their sovereignty. Between Andrew Jackson's veto of the Second Bank of the United States in 1832 and the creation of the Federal Reserve in 1913, many of the state-federal tensions were negotiated only through a complex web of functional and geographic-legal divisions that placed careful limits on federal power. Only the Great Depression brought clear and consistent federal regulation—and even then, the most potent interventions were laid atop the existing framework that already separated national and state banks. There has never been a single regulator, therefore, supervising institutions involved in mortgage finance. Supervision depends on whether an institution has a state or national charter; whether it accepts customer deposits or exists solely to make mortgages; and whether it serves a mixture of business and consumers, or functions solely as a savings and loan. By the late 1990s the mortgage market was split across six regulatory agencies: the Office of the Comptroller of the Currency, the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the National Credit Union Administration, and the U.S. Department of Housing and Urban Development. After the repeal of Depression-era banking laws with the Gramm-Leach-Bliley Act in 1998, the regulatory matrix become even more complex with large, multisubsidiary holding companies.[57] George W. Bush's federal agencies led the way, "pre-empting" state laws on predatory lending for federally regulated lenders,[58] while in *Watters v. Wachovia* the Supreme Court struck down even modest requirements for subsidiaries of national banks to register to do business in a state.

This all makes for complicated geographies. While Adams hoped for a "renewed emphasis on shelter and neighborhood,"[59] deregulation and financialization created an intricate landscape of institutions whose behavior could not be regulated by local rules or, increasingly, by state laws that were preempted by weak and easily evaded federal regulations. The *where* of a consumer's interaction with mortgage finance still mattered to local brokers and small-time mortgage firms, but more of these local actors brought their business to (or were acquired by) the large, multisubsidiary national banks and holding com-

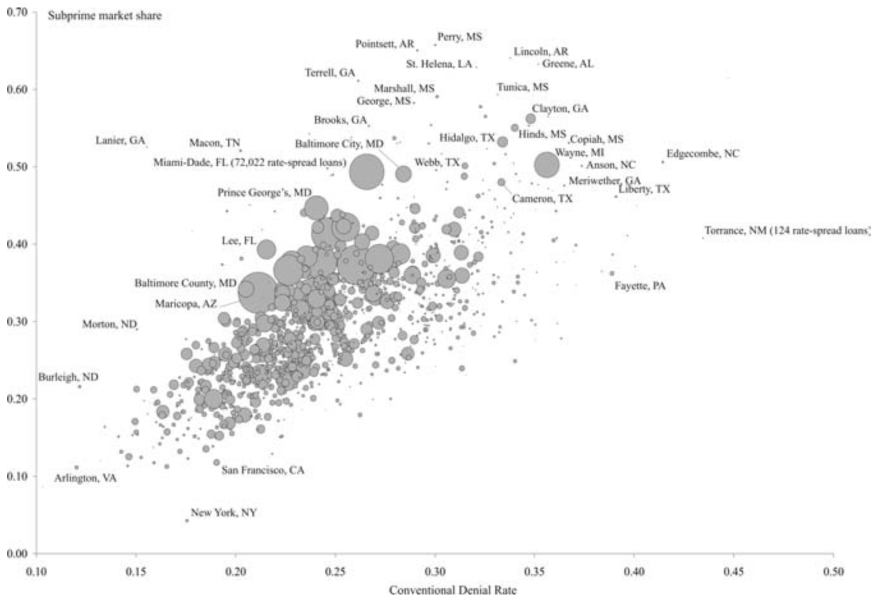


**Figure 6.**
Conventional mortgage denial rates and rate-spread market penetration, by metropolitan county. Circle sizes are scaled proportional to total number of rate-spread originations. Source: Federal Financial Institutions Examination Council, *Frequently Asked Questions about the New HMDA Data* (Washington, D.C.: Federal Financial Institutions Examination Council, 2007).

panies. For these expanding conduits of national and transnational capital, the combination of subsidiary-structure, preemption, and financial deregulation created a thoroughly post-Cartesian, non-Euclidian space of law and accumulation.

## Mapping the New Racial State

These new institutional spaces reconfigured the relation between localized racial-ethnic inequalities and broader spaces of finance. We can glimpse some of these new spaces if we explore the variation of subprime lending across the American urban system. Consider first the relations between old and new types of exclusion (fig. 6). Subprime market penetration rises smoothly with increasing local denial rates. Approximately half the variance in subprime market share in the nation's metropolitan counties can be attributed to a single factor—differences in conventional mortgage denial rates. The eye is drawn to the large circles representing the big markets with the highest subprime market penetration—Miami-Dade, Florida, and Wayne County, Michigan (Detroit)—and the exploitation of people in these places is indeed very important (fig. 7). Yet even

**Figure 7.**
Detroit, July 2010. Courtesy of Elvin Wyly. The view is to the north-northwest, just beyond Detroit's downtown core. In the foreground are the Brewster-Douglass Housing Projects, built on the site of Detroit's Black Bottom community. Wayne County, Michigan, is the nation's largest urban area with the worst combination of high mortgage denial rates and deep subprime market penetration. Blacks were more likely to be pushed into subprime loans compared with whites with similar incomes, and this disparity was deeply intertwined with neighborhood segregation.

more extreme cases at the top of the graph highlight a vast, diverse array of landscapes across the South—from the border cities of South Texas (Hidalgo County, just north of McAllen) to the growing suburban black middle-class communities south of Atlanta (Clayton County, Georgia), to several small-town counties across Louisiana, Alabama, Mississippi, and Arkansas.

These urban patterns are deeply shaped by historical and contemporary regional contexts of race and ethnicity (figs. 8, 9). For African Americans, the pattern still reflects the antebellum settlement fabric of small towns that emerged from the old plantation network across the Piedmont South, from Virginia to Mississippi.[60] Yet the Great Migration between World Wars I and II also made the "dream of Black Metropolis" a reality in Harlem, Chicago's South Side, Detroit, and other expanding industrial centers of the North.[61] After the civil rights movement of the 1960s, service-sector growth in the rising Sun Belt nourished a growing black middle class in Atlanta, while federal efforts to rectify discriminatory hiring and promotion in the civil service made the suburbs of Washington, D.C., an epicenter of African

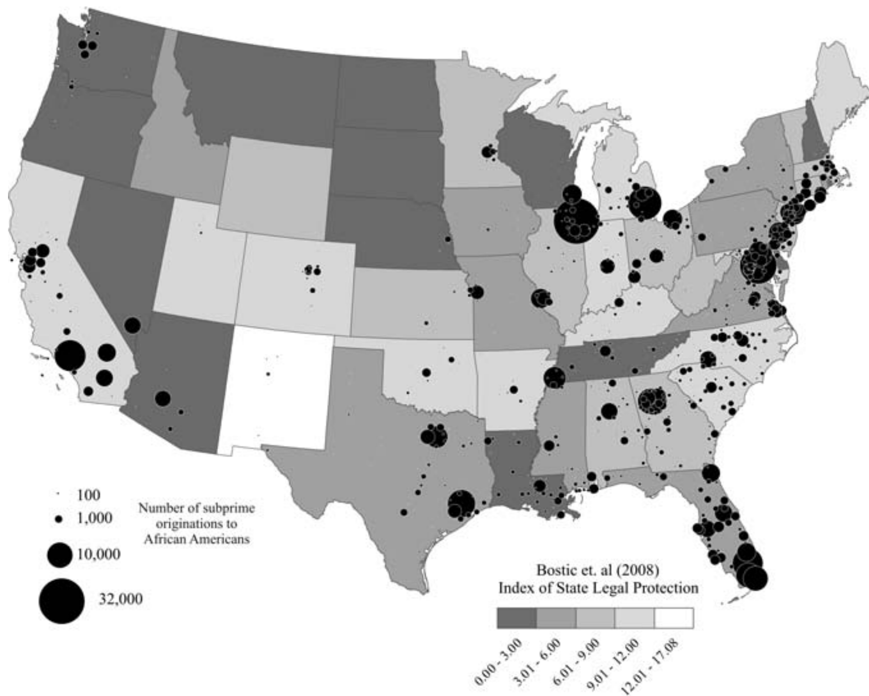


**Figure 8.**
Subprime loans to African Americans and state regulation. Sources: Federal Financial Institutions Examination Council, *Frequently Asked Questions about the New HMDA Data* (Washington, D.C.: Federal Financial Institutions Examination Council, 2007); and R. W. Bostic, K. C. Engel, P. A. McCoy, A. Pennington-Cross, and S. M. Wachter, *The Impact of State Anti-Predatory Lending Laws: Policy Implications and Insights* (Cambridge, Mass.: Harvard University Joint Center for Housing Studies, 2008).

American upward mobility. For Latinas and Latinos, by contrast, the housing and credit boom was deeply regionalized in the urban landscapes of Southern California, Florida, Texas, and Arizona. For both African Americans and Latinas/os, however, there is no clear relationship between intra-urban racial and ethnic diversity and the landscape of state-level attempts to restrict the worst abuses of predatory lending.

The patterns change when we analyze the segmentation of individual borrowers into risky credit, while using logistic regression to account for income, loan amount, and other borrower characteristics (fig. 10). Compared with otherwise similarly qualified non-Hispanic whites, African American home owners and home buyers in the suburbs of St. Louis, Missouri, are six and a half times more likely to wind up with high-cost credit. At the other extreme,

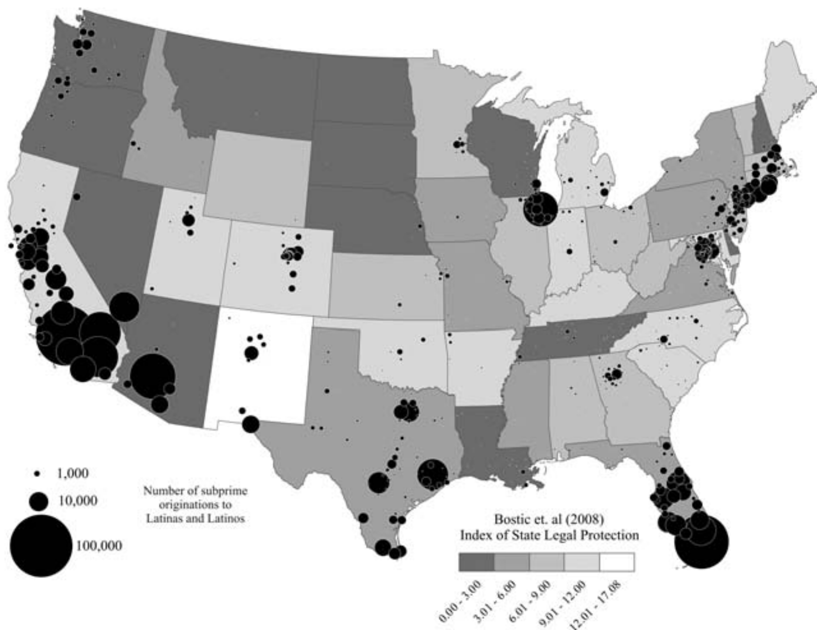


**Figure 9.**
Subprime loans to Latinos and Latinas, and state regulation. Sources: Federal Financial Institutions Examination Council, *Frequently Asked Questions about the New HMDA Data* (Washington, D.C.: Federal Financial Institutions Examination Council, 2007); and R. W. Bostic, K. C. Engel, P. A. McCoy, A. Pennington-Cross, and S. M. Wachter, *The Impact of State Anti-Predatory Lending Laws: Policy Implications and Insights* (Cambridge, Mass.: Harvard University Joint Center for Housing Studies, 2008).

the ratio drops to 1.74 for African Americans in Prince George's County, one of the nation's largest communities of black middle-class professionals in the suburbs east of Washington, D.C. Just on the other side of town, however, suburban Fairfax County, Virginia, posts the worst inequalities for Latina and Latino borrowers: a massive six-to-one disparity compared with otherwise similar non-Hispanic whites.

These variations in racial inequality are not entirely random: the massive black-white disparities toward the right of the graph, for example, clearly highlight the old southeast and northern deindustrialization. But the overall pattern is also not consistent or systematic. Additional regression analysis indicates that adding a vector of county measures of regional demography and industrial structure yields little improvement in model fit, after we control for borrower characteristics. This does not mean that local variations are insignificant—just that these local variations can be explained in terms of targeting

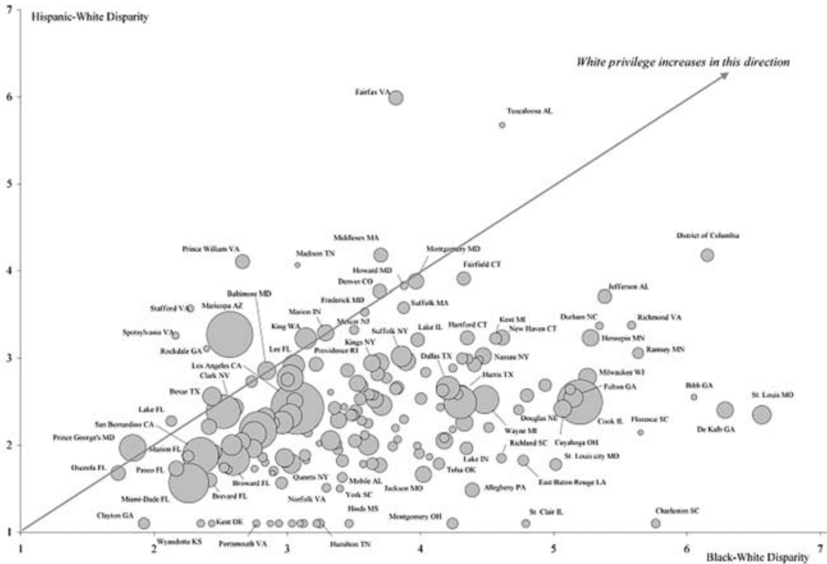


**Figure 10.**
White privilege in mortgage lending, by county. Odds ratios from logistic regressions of subprime segmentation, after controlling for applicant income, loan amount, and other borrower and lender characteristics. Circle sizes scaled proportional to total number of subprime loans; analysis restricted to metropolitan counties with at least five hundred subprime originations to African Americans. Not all counties are labeled. Source: Federal Financial Institutions Examination Council, *Frequently Asked Questions about the New HMDA Data* (Washington, D.C.: Federal Financial Institutions Examination Council, 2007).

and discrimination against certain *borrowers* by different kinds of *institutions.* Once these structures of inequality have been considered, however, other unique circumstances of regional context fade into the background. Inequalities once understood as local, neighborhood-level processes have been interwoven with national and transnational investment circuits.

## Securities, Subsidiaries, and Space

Urban and regional context have been reshaped by institutional restructuring. Logistic regressions of the prime-subprime division indicate that institutional configurations of mortgage capital played an independent role, even after accounting for class inequalities and the individual-level effects of racism and white privilege. Even after accounting for the segmentation of *individual* African Americans and Latinas/os into risky credit, for example, borrowers were much more likely to get subprime loans if they dealt with a lender specializing in

**Figure 11.**
St. Louis, Missouri, August 2007. Courtesy of Elvin Wyly. Comparing the odds of receiving high-risk subprime loans among whites and otherwise similar African Americans gives us what we might call an "exploitation ratio" for America's mortgage mode of accumulation. In the city of St. Louis this ratio is almost five; in the county, it's well over six. These inequalities are tightly integrated into transnational investment and debt markets. Todd Swanstrom estimates that direct costs of recent foreclosures in St. Louis County approach $1 billion (Swanstrom, *St. Louis County's Billion-Dollar Problem: Foreclosures* (Berkeley: Institute of Governmental Studies, University of California, 2011).

black and Hispanic markets. For a customer approaching a lender whose African American market share was one standard deviation higher than the industry average, the subprime odds jumped by a factor of 2.40. For Latina/Latino market specialization, the corresponding effect is 1.53. Secondary-market networks are also crucial: compared with loans held on the books, a mortgage sold to a purchaser in the "other" category (typically, an SPV) is 2.1 times more likely to be subprime. Credit outcomes cannot be explained solely in terms of borrowers' needs or characteristics, but also depend on factors decided by industry actors.

Regulatory climate also matters, but only for those institutions that have not reorganized themselves to evade restrictions (table 2). For the market overall, Raphael W. Bostic et al.'s measure of state lending protection does not significantly affect subprime segmentation.[62] But this national aggregate conceals a stark divide in financialized federalism: when the models are strati-

**Table 2.** Multivariate Models of Institutional Circuits.

*Standardized Odds ratios f rom Logistic Regression*

| *Variable* | **Full Market** | Avery Code f or Institution Type: Bank Holding Company | Foreign Banking Organization as a Bank Holding Company | Federally Chartered Credit Union | Financial Holding Company as Bank Holding Co. (foreign/domestic) | Financial Holding Company as Foreign Banking Organization | Federally Chartered Savings Bank | Independent Mortgage Bank | Nationally Chartered Commercial Bank | State Chartered Commercial Bank, not Federal Reserve Member | Savings and Loan Association | State Chartered Credit Union | State Chartered Commercial Bank, Federal Reserve Member | State Chartered Savings Bank |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Intercept | 0.08 | 0.67 | 0.00 | 0.46 | 0.03 | 0.00 | 0.01 | 0.02 | 0.90 | 0.20 | 0.03 | 0.44 | 0.50 | 0.43 |
| Applicant income* | 0.88 | 0.74 | 0.93 | 0.63 | 0.77 | 0.74 | 0.96 | 0.98 | 0.54 | 0.80 | 0.77 | 0.69 | 0.72 | 0.76 |
| Loan to income ratio* | 1.10 | 1.15 | 1.00 | 1.19 | 1.10 | 1.29 | 1.10 | 1.03 | 1.13 | 1.42 | 1.11 | 1.10 | 1.28 | 1.13 |
| Owner occupied | 0.62 | 1.49 | 3.94 | 0.64 | 0.65 | 0.36 | 0.44 | 0.61 | 1.57 | 0.49 | 1.39 | 0.43 | 1.43 | 0.62 |
| Subordinate lien | 1.14 | 0.40 | 4.74 | 0.38 | 0.78 | 1.61 | 1.60 | 1.82 | 0.33 | 2.64 | 1.31 | 0.72 | 0.04 | 0.42 |
| Jumbo loan | 0.77 | 0.79 | 0.93 | 0.64 | 0.51 | 0.53 | 0.93 | 1.05 | 0.89 | 0.77 | 0.59 | 1.42 | 0.55 | 0.96 |
| Pre-approval requested | 0.34 | 0.66 | 0.89 | 0.25 | 0.35 | 1.20 | 0.71 | 0.33 | 0.98 | 0.35 | 0.32 | 0.57 | 0.23 | 0.74 |
| Validity or quality edit failure | 1.20 | 1.99 | 3.07 | 2.61 | 1.63 | 1.07 | 1.28 | 0.63 | 1.95 | 0.64 | 1.97 | 2.74 | 1.91 | 2.39 |
| Home improvement | 0.65 | 0.65 | 0.71 | 0.76 | 0.81 | 0.63 | 0.49 | 0.99 | 0.70 | 0.32 | 0.53 | 0.79 | 0.89 | 0.55 |
| Refinance | 0.85 | 0.88 | 0.56 | 0.58 | 0.84 | 0.70 | 0.70 | 0.95 | 0.93 | 0.72 | 0.56 | 0.62 | 1.11 | 0.65 |
| Demographic information unknown | 1.12 | 0.82 | 0.84 | 1.19 | 1.23 | 0.94 | 1.09 | 1.05 | 0.90 | 1.04 | 1.16 | 1.37 | 0.58 | 0.72 |
| Female primary applicant | 1.08 | 1.15 | 1.18 | 1.03 | 1.09 | 1.01 | 1.09 | 1.03 | 1.23 | 1.14 | 1.10 | 1.05 | 1.03 | 1.16 |
| Hispanic | 1.42 | 1.63 | 1.86 | 0.98 | 1.50 | 1.02 | 1.43 | 1.35 | 1.29 | 1.31 | 1.32 | 1.29 | 3.12 | 1.31 |
| Native American | 1.25 | 1.35 | 0.60 | 1.27 | 1.22 | 1.07 | 1.27 | 1.33 | 1.16 | 1.39 | 1.31 | 1.23 | 2.20 | 1.25 |
| Asian | 0.93 | 1.00 | 1.08 | 0.73 | 0.83 | 0.74 | 0.94 | 1.01 | 1.03 | 0.87 | 0.78 | 1.14 | 0.66 | 0.74 |
| African American | 1.74 | 1.50 | 1.36 | 1.23 | 2.08 | 1.38 | 1.77 | 1.46 | 1.22 | 2.10 | 1.75 | 1.62 | 0.75 | 1.51 |
| Sold to GSE | 0.23 | 0.13 | 0.61 | 0.25 | 0.23 | 2.08 | 0.41 | 0.30 | 0.03 | 0.31 | 0.21 | 0.39 | 0.00 | 0.23 |
| Sold to private securitization | 2.40 | 0.55 | 0.01 | 0.12 | 2.89 | 0.47 | 1.78 | 2.86 | 0.00 | 1.25 | 0.87 | 7.81 | ... | ... |
| Sold to bank | 1.47 | 0.22 | 0.08 | 0.10 | 2.01 | 1.22 | 0.80 | 1.29 | 0.09 | 0.11 | 1.30 | 0.41 | 0.00 | 0.38 |
| Sold to finance company | 1.78 | 0.30 | 0.69 | 6.52 | 2.13 | 66.72 | 1.85 | 1.46 | 0.45 | 0.25 | 0.13 | 2.01 | 0.00 | 0.24 |
| Sold to affiliate | 1.06 | 0.27 | 0.25 | 0.53 | 0.81 | 2.20 | 1.61 | 1.26 | ... | 0.49 | 0.94 | 1.32 | ... | 0.23 |
| Sold to other purchaser | 2.10 | 0.37 | 0.01 | 0.92 | 6.11 | 1.23 | 0.43 | 1.14 | 0.39 | 0.04 | 0.94 | 0.38 | 0.06 | 1.35 |
| Lender share demographic unknown* | 1.53 | 1.07 | 0.56 | 0.67 | 1.26 | 1.41 | 1.70 | 2.46 | 1.15 | 0.73 | 1.13 | 0.80 | 1.26 | 0.92 |
| Lender share female* | 1.16 | 1.03 | 1.08 | 1.12 | 1.44 | 1.23 | 1.46 | 1.32 | 1.15 | 1.42 | 1.21 | 1.10 | 1.20 | 1.28 |
| Lender share Black* | 2.40 | 1.28 | 2.16 | 0.80 | 1.41 | 6.78 | 2.67 | 2.83 | 1.04 | 2.61 | 1.82 | 1.11 | 0.93 | 1.43 |
| Lender share Hispanic* | 1.53 | 1.39 | 1.72 | 0.89 | 1.16 | 2.76 | 1.94 | 1.63 | 1.30 | 1.63 | 1.36 | 1.33 | 1.56 | 1.07 |
| Lender share Native American* | 1.09 | 1.11 | 1.38 | 1.08 | 1.02 | 1.44 | 0.71 | 1.10 | 1.11 | 1.05 | 1.04 | 1.13 | 1.51 | 1.14 |
| Lender share Asian* | 0.63 | 0.75 | 0.92 | 0.32 | 0.61 | 0.97 | 0.58 | 0.76 | 1.00 | 0.99 | 0.80 | 0.66 | 1.13 | 0.61 |
| Bostic (2008) legal index* | 0.98 | 0.85 | 0.98 | 0.92 | 0.99 | 0.98 | 1.00 | 0.98 | 0.86 | 0.99 | 1.02 | 0.77 | 0.34 | 0.57 |
| Tract to MSA income percentage* | 0.73 | 0.72 | 0.79 | 0.83 | 0.72 | 0.74 | 0.74 | 0.80 | 0.65 | 0.76 | 0.77 | 0.78 | 1.01 | 0.76 |
| Tract minority percentage* | 0.95 | 0.93 | 1.09 | 1.14 | 0.94 | 0.85 | 0.94 | 1.01 | 0.84 | 0.94 | 0.95 | 0.87 | 1.13 | 0.96 |
| Number of observations, subprime | 3,302,131 | 76,636 | 3,626 | 9,164 | 961,084 | 170,085 | 264,503 | 1,537,060 | 1,050 | 199,338 | 69,488 | 6,483 | 275 | 3,147 |
| Number of observations, all other | 7,698,334 | 424,553 | 27,657 | 250,325 | 3,426,637 | 342,994 | 627,489 | 1,869,298 | 5,239 | 227,910 | 240,064 | 187,754 | 2,042 | 53,508 |
| Nagelkerke (1991) max-rescaled R-squared | 0.47 | 0.20 | 0.30 | 0.22 | 0.41 | 0.77 | 0.65 | 0.47 | 0.25 | 0.65 | 0.38 | 0.11 | 0.35 | 0.24 |
| Percent concordant | 86.4 | 76.8 | 82.5 | 81.0 | 84.4 | 95.6 | 91.9 | 85.9 | 80.1 | 91.8 | 84.2 | 73 | 85.5 | 83.8 |

*Continuous variable; odds ratios for continuous measures report the change in odds with a one standard deviation increase in the respective predictor variable.
... Coefficient not estimated.

*Data Sources:* FFIEC (2007); Avery (2010).

**Table 2.**
Multivariate models of institutional circuits. Sources: Federal Financial Institutions Examination Council, *Frequently Asked Questions about the New HMDA Data* (Washington, D.C.: Federal Financial Institutions Examination Council, 2007); and R. Avery, *HMDA Lender File, 2008 Filing Year* (Washington, D.C.: Board of Governors of the Federal Reserve, 2009).

fied by lender type, subprime segmentation is significantly reduced for three institutional forms: state chartered credit unions, state chartered commercial banks that are part of the Federal Reserve, and state chartered savings banks. For all other institutions, the standardized odds ratios are all quite close to 1.00, indicating no significant effect. For those institutions regulated by states, legislators' response to the deception of predatory lending *did* have an effect on how borrowers were treated in the market for high-cost loans. Unfortunately, the insignificant results for all other lending types confirm the effectiveness of the Bush administration's selective assault on federalism. Lenders simply reorganized themselves and traded a restrictive charter for a permissive one. Building on the bipartisan federal enchantment with a laissez-faire approach to financial-sector innovation that began in the Clinton years, George W. Bush's administration mobilized conservative forces in an "active obstruction of state and local legislative attempts to rein in predatory lending."[63]

The liberation of federal pre-emption was most crucial for the highly mobile and postindustrial factions of mortgage capital. For the market as a whole, selling loans to Wall Street—the SPVs coded as "other purchaser"—reflects and reinforces subprime segmentation; all else constant, a loan sold to an SPV is twice as likely to be high cost. But the odds ratio skyrockets to more than six for lenders organized as financial holding company as bank holding company," a regulatory category that includes both domestic and transnational institutions. For many years, banks and financial holding companies with gold-plated reputations dismissed predatory lending concerns by pointing to the more egregious behavior of nonbank, independent mortgage companies. But subprime profits were irresistible, and by 2006 financial holding companies were fast closing on independent mortgage companies and made $144.6 billion in high-cost loans. For these factions of capital, securitization was the name of the game. All the loan-sale circuits post high odds ratios, while the value below parity for affiliates (0.81) indicates that these institutions were careful about drinking their own poison. The low value for GSE sales (0.23) is also crucial, although this effect is common to nearly all the other lender types as well.[64] This result confirms that the GSEs "followed rather than led Wall Street and other lenders in the rush for fool's gold."[65] We can visualize this division between the hybrid public/private channels of the GSEs and the back-channel private-label route if we graph each of the 8,886 lenders and subsidiaries separately (fig. 12). Tellingly, the largest exception to the GSE-subprime trade-off is Countrywide, which at the peak was the nation's largest mortgage originator. "Since its foundation in 1969," Cassidy recounts, "Countrywide had portrayed itself as a conservative issuer of prime loans, but it had also adapted a 'match-

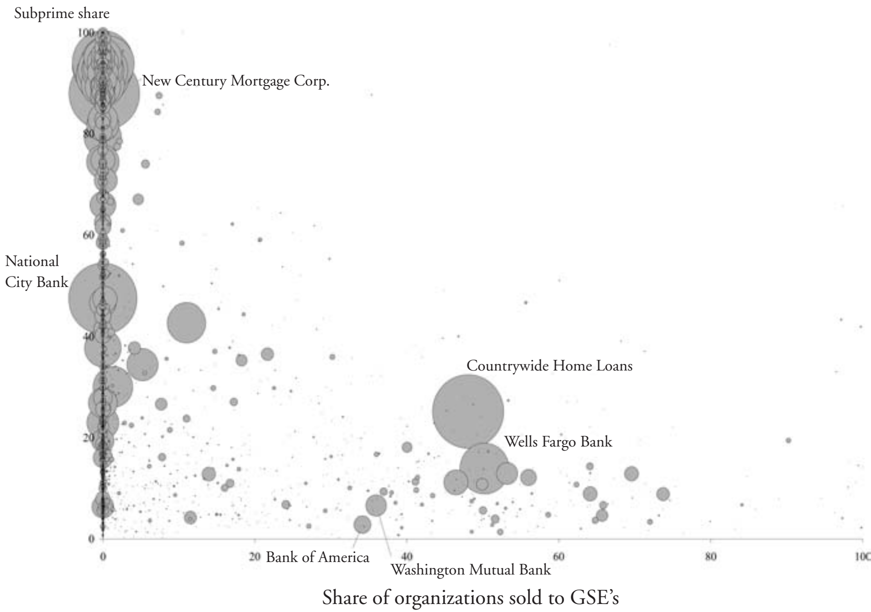


**Figure 12.**
Same-year mortgage sales to GSEs and subprime share. Circle sizes are scaled proportional to total number of rate-spread originations. Source: Federal Financial Institutions Examination Council, *Frequently Asked Questions about the New HMDA Data* (Washington, D.C.: Federal Financial Institutions Examination Council, 2007).

ing strategy,' which committed it to offering its customers any deal that its rivals were offering."[66] The crescendo of competition between 2004 and 2006 drove Countrywide into loans that Angelo Mozilo knew were dubious (judging from the private e-mails that have circulated in the press and legal proceedings). But as the nation's largest originator, Countrywide had to move into the "new market" of middle-class whites to maintain volume, in a multivariate loan model of subprime segmentation, income makes no difference, although the lender was apparently reserving its prime products for the larger loans. Tract minority composition measure is close to parity. Disparities for African Americans and Hispanics (2.1 and 1.4, respectively) are not as bad as many other lenders.

Mozilo famously declared in a Milken Institute speech that the firm had been forced to lower its lending standards and "the industry faced special pressure from minority advocates to help people buy homes."[67] Investigative journalists later discovered exactly where the pressure had come from. Shortly after becoming chief executive of Fannie Mae, Daniel H. Mudd traveled to Mozilo's office in the hills northwest of Los Angeles, where Mozilo warned him that Fannie's reluctance to buy the firm's more risky loans threatened their

long-standing partnership; Countrywide now had the option of bypassing the GSEs and selling directly to Bear Stearns, Lehman Brothers, and Goldman Sachs. "You're becoming irrelevant," Mozilo reportedly told Mudd; "You need us more than we need you . . . and if you don't take these loans, you'll find you can lose so much more."[68]

## Alternative Cartographies

Understanding these new spaces of unequal risk requires that we view states, cities, and neighborhoods from the perspective of financial institutions. This means taking seriously Peter Gould's quip that "space is not a wastepaper basket that sits there waiting for us to fill it with things, but something we define to suit our needs."[69] One way to accomplish this definition involves using the mathematical transformations of multidimensional scaling to map crucial facets of the boom and the subsequent crash,[70] in the context of varied state regulations on predatory lending.[71]

The resulting two-dimensional mathematical projection charts the contours of a painful housing collapse (fig. 13). This is not a chart but a map: states to the "south" on this map have laws establishing standards well above the weak federal limits. The strongest state laws are found south of a line running just above New Jersey, Washington, D.C., and New York, and extending south of Colorado to curve up, including Georgia and Texas. Highly leveraged subprime borrowers with low credit scores are more prevalent to the "east," while low-doc loans are more common to the "west." The housing boom drove prices up the most in the northwest quadrant of the map, and it is here where prices fell the farthest in the crisis: on the ride up from 2001, real house prices increased more than 90 percent in an arc stretching from New York through what the business press dubbed the "sand states" (California, Florida, Nevada, and Arizona) to Maryland; by early 2010, prices had fallen at least 39 percent in the sand states. Fully 30 percent of the subprime loans outstanding in Florida were in some stage of foreclosure in May 2010.

This alternative cartography presents an unusual view of the states, but it is not entirely abstract. The upper-right-hand section of the map has few state restrictions, generally higher subprime market penetration, and a subprime profile oriented toward highly leveraged, low-credit borrowers; most of the Confederacy remains in this section of the map, a reminder that "a pall of debt" still "hangs over" the land more than a century after W. E. B. Du Bois's eloquent analysis.[72] From the perspective of lenders and the housing boom, the midsection of the map stretches all the way from Oregon to Montana,

**Figure 13.**
U.S. states in housing finance space, 2004–2010. Map created with classical multiple dimensional scaling algorithm. Circle sizes are scaled proportional to total number of rate-spread originations. Sources: Federal Financial Institutions Examination Council, *Frequently Asked Questions about the New HMDA Data* (Washington, D.C.: Federal Financial Institutions Examination Council, 2007); Federal Reserve Bank of New York, *Nonprime Mortgage Conditions in the United States* (New York: Board of Governors of the Federal Reserve, 2010); and FHFA (2011).

Michigan, and Pennsylvania, with middle-range scores on most indicators. The regulatory battlegrounds are New Jersey, New York, Massachusetts, Illinois, and New Mexico. New Mexico stands out as exceptional, with Governor Bill Richardson working with a coalition of church officials to pass major predatory lending legislation in 2003.[73] But in the non-Euclidian space of housing finance and regulation, the state next door is far away, at the epicenter of deregulatory growth that collapsed in California, Florida, Nevada, and Arizona.[74]

Other spatial contortions are apparent elsewhere on the map: New York is right next to Washington, D.C., which is itself reconfigured in turn by legal geographies. In terms of consumer protection, the leafy streets of northwest Washington and the disinvested blocks of Anacostia are closer to the distant, working-class small towns of the Appalachian ridge-and-valley section of Virginia than to the adjacent suburbs of Maryland and West Virginia. And in one of those Virginia suburbs, about half of all the debt claims of mortgage borrowers across all of America's states, cities, and suburbs are legally claimed by a single company, Mortgage Electronic Registration Systems (MERS).[75]

Capital and law are constantly reconstructing this map of American federalism. The integration of persistent local segregation processes with broader networks of securitization, however, may destabilize the gerrymandered electoral geographies that have long favored conservative and reactionary factions in the United States.[76] Subprime expansion beyond the confines of northern inner cities into the expanding Sun Belt suburbs has devastated housing wealth—and all the conservative ideological promises of home ownership—in precisely those places where Democratic and Republican competition is most fierce, and where the coalition of economic and cultural conservatives is most unstable. This becomes clear from the foreclosure and delinquency estimates compiled as part of the Neighborhood Stabilization Program.[77] While many of the highest local delinquency rates appear in the safe Democratic seats of northern deindustrializing cities, the largest *number* of foreclosures hit hardest in a mixture of Democratic and Republican districts in the states that appear in the upper-left corner of figure 13: parts of North Las Vegas, Victorville, and other centers across Riverside and San Bernardino counties in California's Inland Empire, the Phoenix area, and Miami-Dade. The single hardest-hit neighborhood in the nation, a block group with more than two thousand foreclosure starts as of May 2010, is in a patchwork of master-planned communities in the San Tan Valley in Arizona's Sixth Congressional District, southeast of Phoenix. This is Goldwater territory, about two-thirds Anglo white and one-quarter Latino, represented by the rock-solid conservative commitments of Jeff Flake. Flake is now running for John Kyl's Senate seat, and in October 2012 he will receive the "Defending the American Dream Award" at the Sixth Annual "Defending the American Dream Summit" sponsored by the Koch Brothers' Americans for Prosperity Foundation. Flake's opposition to foreclosure relief—in early 2009, he tweeted, "my constituents wonder why they have to keep paying for others' mistakes"—nicely symbolizes the Right's attempts to restore the natural affinity of home ownership with the cult of John Galt heroic individual entrepreneurialism. The Right's coalition of cultural and economic conservatives seems to be holding for now. But the alliance is unstable, and it is becoming harder to find scapegoats for the devastation of the home equity premiums once provided by suburban white privilege.

## Conclusions: A Paler Shade of the American Racial State?

> "As he traveled across South Carolina on Tuesday, Mr. Santorum . . . said the party can win back the White House only by offering a 'clear contrast' with President Obama.
>
> 'We need contrasts,' Mr. Santorum said, 'not just a paler shade of what we have.'"
>
> —Jeff Zeleny, "Santorum Cites a Local Legend," *New York Times*

> The present moment constitutes a bundle of contradictions in respect to racism. How is it possible to have persistent forms of racial inequality in a period in which colorblindness is the hegemonic racial ideology and most whites claim that racism is no longer relevant?
> —Michael Omi and Howard Winant, *Racial Formation in the United States: From the 1960s to the 1990s*

Housing in America, once the foundation of a national identity of domestic family security and economic upward mobility, is deeply unstable in today's rapidly shifting racial state. Housing was at the birth of America's latest lurch to the right: Rick Santelli's call for "a tea party" went viral after the financial anchor screamed about "bailing out the losers" when news broke in early 2009 that the Obama administration was considering plans to write down a small part of the principal for some mortgages. The administration quickly backed off and was able to get Congress to agree to only very limited programs helping borrowers—most of them requiring the voluntary participation of mortgage servicers. We are now half a decade into the American Housing Depression. By the time the Republican primary contest heated up in early 2012, the American Right was working furiously to restore the ideological stability of capital accumulation, consumer responsibility, and corporate rights. Gone was the "shocked disbelief" of a Fed chairman forced to admit in open congressional testimony that his "whole intellectual edifice" had collapsed. Once again, the national conversation went back to the Right's familiar Reagan mantra: government is not the solution to the problem, government *is* the problem.[78] In the populist conservative imagination, it is all about public debt, and too much government spending going to help others—*those* people, everyone but me, us, and ours—all those *others.*

American capital achieves its fixes through a hybrid racial state. One part of the racial state is the fluid, dynamic interplay of images, discourses, and ideologies used to fight over the meanings of racial categories and their political mobilization.[79] Thus we have Herman Cain's meteoric trajectory as a one-hit-wonder Republican primary candidate achieving popularity with his "9-9-9" tax plan that maps the way to the Steve Forbes flat-tax world. When sexual harassment allegations sent Cain's campaign into a nosedive, Cain joked that he wondered if Anita Hill might not endorse him. A few months later he appeared on Bill Maher's "Real Time" in front of a poster advertising the "documentary" film *Runaway Slave: From Tyranny to Liberty. Runaway Slave* "discovers the unknown history of the Civil Rights Movement" and "exposes the NAACP as a mouthpiece of the Democratic Party, and the NAACP's leaders as the ultimate 'race hustlers' who perpetuate—and profit—from a victim mentality that hurts the African-American community."[80] Produced by

Dick Armey's FreedomWorks, *Runaway Slave* declares that "while the African-American community has triumphed over the scourge of physical slavery, many still suffer from a mental slavery—to government."[81]

This simulacra racial state moves fast: racial images, categories, and politics move like mercury. It does have serious performative consequences, and thus the critical Left must always be in the arena to challenge the evasive new constructions of white privilege manufactured by the powerful coalitions of capital and racism. But another part of the project must devote attention to the old-fashioned material inequalities that are still quite literally *located* in real places and real neighborhoods. This part of the American racial state involves the layering of fast capital on a mixture of urban landscapes—some of them rapidly growing, others quickly declining, others slow and stable. The interplay of suburbanization, history, demography, and all the hidden biases of market practices and public policy help reinforce many of the old inequalities. The evidence from the foreclosure disaster tells a painfully familiar story: using the most widespread ways of measuring segregation in the nation's one hundred largest metropolitan areas, J. S. Rugh and D. S. Massey find that black–white residential segregation has a significant, independent effect on foreclosure.[82] The magnitude of the effect, moreover, "clearly exceeds that of other factors linked by earlier studies to inter-metropolitan variation in foreclosures."[83] Even as old forms of discriminatory exclusion gave way to new kinds of segmented inclusion, residential segregation remained a crucial site of tensions and contradictions in American housing.

America's subprime boom reconfigured the scale of class-monopoly rent.[84] Local loan sharks were replaced by a vast food chain of predators in pinstripes, each claiming a share of the surplus value extracted from borrowers, or of the fee income thrown off by the manufacture of fictitious mortgage capital. Loan sharks know they are loan sharks. But today's predators deny all intent to deceive, or discriminate. For many, this claim may be an honest defense: millions of ordinary middle-class investors around the world received quarterly financial statements on portfolios that, inevitably, included substantial investments in mortgage-backed securities—many of them those famous "tranches" backed by the monthly payments of subprime borrowers who may have been pushed into usurious obligations by deceptive local brokers. But we can acknowledge the absence of discriminatory intent in the newly transnationalized commodity chain of class-monopoly rent without denying the persistence of deeply racist processes, structures, and outcomes: this is the crucial legal distinction between *disparate treatment* and *disparate impacts.* Good intentions are no match for the powerful structures of law and capital accumulation. Perspective also matters,

in the simple numerators and denominators of all those statistics. If you care about a particular marginalized community, then the high rates of market penetration are what matters. Between 2004 and 2010 the market share of high-risk subprime mortgages to single black women was almost four times the share for Anglo white couples. But Wall Street sees a different view: Anglo white couples outnumber single black women three to one. Wall Street made it clear that local brokers and lenders could target any submarket, any community that made sense in a particular urban and regional context—so long as borrowers were delivered to feed the vast securitization machine.[85] In the expansion, grabbing market share meant adapting some of the old abuses used to strip wealth from the black inner city to the broader multicultural mosaic of the Sun Belt suburbs—including a growing proportion of Anglo whites. Now, in the Depression, the old exclusionary disparate impacts are making a comeback in a troubling equilibrium of white privilege. Nationwide loan-level models of black-white mortgage segmentation (controlling for income and other factors) fell from 3.1 in 2006 to 1.6 in 2009, but the old black-white denial disparities shot up from 1.9 to 2.5 in the same period.

The evidence presented in this article documents the crucial role of institutional and legal strategies in reshaping the relations between neighborhood racial inequalities and national and transnational networks of financialization. The devastation wrought by deregulated mortgage capital exploited the loopholes of federalism in ways that may have destabilized the long-established role of racial segregation in maintaining American class inequality. In the familiar story of inner-city and inner-suburban segregation, financial exploitation reproduced relatively stable forms of gerrymandered political marginalization. But now we have a more confusing story in the vast archipelago of gated communities in Sun Belt suburbs, where even the racially and ethnically integrated master-planned subdivisions are trapped by the fears of losing the home equity premium so long promised by American white privilege. Anita Hill is right that "the American Dream means nothing if it is not inclusive," but so is Derrick Bell when he demands that we "'Get Real' about race and racism in America."[86] One part of getting real involves building the infrastructure of discrimination enforcement that was stripped out of civil rights legislation in the 1960s and 1970s to avoid Southern filibusters.[87] That might offer a first step toward the "simplified and clarified" meaning of housing in America, "with a renewed emphasis on shelter and neighborhood" as well as genuine equality.[88]

## Notes

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