INSTITUTE FOR RESEARCH ON POVERTY DISCUSSION PAPERS

252-75

AN ANALYSIS OF DISCRIMINATION

BY REAL ESTATE BROKERS

John Yinger

UNIVERSITY OF WISCONSIN - MADISON

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February 1975

The research reported here was supported in part by funds granted to the Institute for Research on Poverty at the University of Wisconsin-Madison by the Office of Economic Opportunity pursuant to the Economic Opportunity Act of 1964. The opinions expressed are solely those of the author.

ABSTRACT

The factors that give real estate brokers economic incentives to discriminate against blacks are analyzed in this paper. It is argued that a broker's job consists of three steps: (1) attracting customers, (2) matching customers with listings, and (3) finding financing for "matched" customers. It is then shown that at each of these steps the structure of the real estate industry interacts with the racial prejudice of the white community and of brokers to give each broker economic incentives to discriminate against blacks. The techniques used by brokers to discriminate are also reviewed, and several proposals designed to eliminate broker discrimination are made.

AN ANALYSIS OF DISCRIMINATION BY REAL ESTATE BROKERS

Discrimination in the sale of single-family houses is a complex phenomenon involving racial prejudice and the practices of real estate brokers, house builders, lending institutions, and all levels of government. A complete analysis of discrimination in housing would consider all of these factors and the ways they interact in the housing market. Such a complete analysis is not attempted in this paper; instead, we take a first step toward designing policies to eliminate discrimination in the sale of single-family houses by analyzing the behavior of the agents who actually do most of the discriminating, namely real estate agents. The discriminatory practices of real estate agents are supported by the policies of house builders, lending institutions, and government, and by the prejudice of the white majority, but it is nevertheless real estate agents who "steer" blacks away from white neighborhoods and who quote higher prices to black customers than to white customers.

Accordingly, this paper analyzes the racial beliefs and practices of real estate brokers in an attempt to understand the economic incentives that lead brokers to discriminate against blacks. By economic incentives we mean any factors that lead the broker to discriminate in order to increase his profits. The analysis is limited to economic incentives because of the expertise of the author, not because other incentives are considered unimportant. In addition, the interaction between real estate brokers and the other participants in discrimination in housing is not considered in this essay, with the exception of some

comments on the influence of lending institutions on brokers' racial practices.

In this paper the term "discrimination" is defined to be behavior that denies one group of people rights or opportunities given to others. Price discrimination is one--but by no means the only--example of such behavior. It is important to distinguish discrimination from prejudice--which is an inflexible attitude toward a group of people--and from segregation--which is the actual physical separation of different groups of people.

The analysis in this paper is based on a conceptual framework for the real estate broker's role, which is presented in Section 1. The racial policies of the major real estate association and the racial attitudes of individual brokers are described in Sections 2 and 3. Using the conceptual framework, we then show in Section 4 how the racial attitudes of real estate brokers, of lenders, and of the white community give brokers economic incentives to discriminate against blacks. The techniques used by brokers to discriminate against black brokers and against black buyers are described in Sections 5 and 6, and, finally, in Section 7, some proposals for dealing with discrimination by brokers are made.

1. THE REAL ESTATE BROKER

Real estate brokers serve many functions in the sale and management of housing services. In this paper we will concentrate on their role as middlemen between the buyers and sellers of single-family houses. The central function of this brokerage role is to supply information to prospective buyers and sellers of housing. Buyers need to know what

houses are available and how to get the most housing services for their money; sellers need to know how to make the most profit on their houses. As one of the many real estate textbooks puts it,

> The principal reasons why sellers and buyers of real estate engage the services of a real estate broker are (1) the broker's reputation and ability to conclude transactions professionally and equitably, (2) his store of knowledge concerning the growth potential of locations within neighborhoods, and (3) his skill and know-how in following through on matters affecting financing, insurance, taxation, accounting, and property management. (Ring, 1972, p. 313)

In short, real estate brokers sell their knowledge and expertise about real estate transactions.

The income of a real estate broker depends on his community and his fellow brokers in a fairly complex way. These relationships are central to the analysis in this paper and will be discussed in some detail.

To begin with, a real estate broker must attract potential buyers to his office. According to Ring, "advertising is the largest source of prospects," but in addition, "personal contacts are important" (1972, p. 321). Because of the personal nature of a customer's association with a real estate broker, the broker's reputation in his community will affect his ability to attract customers through advertising or personal contacts. Potential buyers are more likely to respond to the advertisments of or to direct contacts with a broker who has the reputation of being an honest and professional businessman who is concerned with the housing needs of the people in his community. Formally, the probability that a real estate broker will attract a given customer is some function of the prestige of the broker and of the number of

contacts the customer has with the broker, either personally or through advertising, relative to his contacts with other brokers.

Secondly, a real estate broker must match customers to available houses. In order to do so, he requires access to a wide variety of listings. According to Ring, many listings "are obtained by canvassing on the part of the broker and his salesmen, who solicit them" (1972, p. 316), and other listings are brought to the broker's office on the initiative of the seller. Thus a broker's prestige and contacts in the community also help him in the second stage of his job; the higher his prestige and the wider his contacts, the more likely he is to attract a given listing.

In addition, many listings are obtained through contacts with other brokers. Since two brokers can both increase their chances of matching customers with listings if they share their listings, it will often be in their interests to do so. Multiple listing services, which pool the resources of many brokers, are important extensions of this logic. With multiple listing services, brokers are no longer confined to the listings they can attract, and the range of listings available to them may extend far beyond the boundaries of their community.

In short, the probability that a real estate agent will be able to match a customer with a house is some function of the broker's prestige, his contacts in the community, his standing with other brokers, and his access to multiple listing services.

Finally, in order to make a sale, a real estate broker must assist a buyer who has been matched with a house in finding financing and

insurance for his purchase. A housing transaction cannot be closed until these needs of the buyer have been fulfilled. Financing is particularly important. The broker's main consideration is that lending institutions may be unwilling to provide a mortgage for a customer unless they consider the customer to be both a good risk and a suitable resident for the neighborhood of the prospective purchase. In addition, lending institutions will cooperate more fully with (and be more likely to honor the loan requests of) real estate brokers who have good reputations and who have brought them "credit-worthy" customers in the past. In short, the probability of a real estate broker completing a particular transaction is a function of the matching of the customer with a listing and of the reputation of the broker.

The role of the real estate broker can be summarized in three steps:

1. Attracting customers.
2. Matching customers with listings.
3. Finding financing for "matched" customers.

The probability of a broker completing a sale to a particular customer, and thereby receiving a commission from the seller, can be thought of as the product of his probability of success at each of these steps.

In order to complete this specification of real-estate-broker behavior, both the number of potential buyers in the market in a given time period and the costs of various actions by brokers must be considered. For example, if there are N identical potential buyers, a broker's expected number of sales is

$$\text{Sales} = N(P_1)\ (P_2)\ (P_3)$$

where P_i is the probability of success with one buyer at step i. Since the three probabilities are functions of various sets of actions by the broker (such as advertising and actions that affect his prestige), we can also write that a broker will maximize

$$\text{Profits} = K[N(P_1(A_1))(P_2(A_2))(P_3(A_3))]$$
$$-C_1(A_1) - C_2(A_2) - C_3(A_3)$$

where K is the amount of the broker's commission, A_i is the set of actions that determine P_i, and C_i is the cost equation associated with A_i. Clearly, the A_i's are the broker's choice variables in this maximization problem.

This formulation involves a serious misspecification, however, because K is not a constant--it depends on the value of the houses sold by the broker as well as on the way a listing is obtained. If a listing is obtained from a multiple listing service, for example, the broker will have to split his commission with the broker who provided the listing. Therefore, K is also a function of the broker's actions that affect the type of customers he attracts and of the way he obtains his listings, or

$$K = K(A_1, A_2) \quad .$$

Unfortunately, there is no simple way to summarize the way a broker decides what actions to take; however, in comparing two sets of actions with the same K and the same costs, the broker will clearly want to choose that course of action that will maximize the probability of making a sale.

The interrelationships among brokers are highly developed and center around the institution of the local real estate board. Local

boards help individual brokers to learn new brokerage techniques and to keep abreast of the developments in specific housing markets. They are also the main places where contacts among real estate brokers take place, and are likely to be the organizations with which multiple listing services are connected. These factors lead Ring to state that

> everyone engaged in the real estate business should be a member of his local board. In this way he not only keeps in touch with general developments in the field of real estate but is given better opportunities to cooperate with his fellow real estate men. (1972, p. 313)

The National Committee Against Discrimination in Housing makes a similar comment:

> Except for large firms, the average broker depends on other brokers to increase potential purchasers for his listings and expand listings for his customers. Membership in local boards facilitates co-brokerage and participation in multiple listing systems. (1970, p. 70)

Local real estate boards are related to each other in various ways. In 1971 there were about 1,590 local boards affiliated with the National Association of Real Estate Boards (NAREB). Of the 500,000 brokers who were members of these local boards, 94,000 were also members of the national and state associations (U.S. Commission on Civil Rights, 1971, p. 620). Estimates of the proportion of active brokers who are on NAREB-affiliated local boards vary from less than one-third (Ring, 1972, p. 20) to 24 percent (Wall Street Journal, cited in Denton, 1967, p. 54).

NAREB has a very strong influence on the real estate industry. Its members are the most prestigious and successful brokers. In fact, the Wall Street Journal says that "a NAREB official once estimated" that brokers on NAREB-affiliated boards "handle 90 percent of real estate transactions" (cited in Denton, 1967, p. 54). Furthermore,

the NAREB Code of Ethics is regarded as the definitive standard for the behavior of real estate agents; not only does it guide the behavior of brokers who belong to NAREB-affiliated local boards, but since NAREB has been the main force behind "the promotion and standardization of Real Estate Laws," the NAREB code also serves as a guide for much of the legislation designed to govern the behavior of other brokers (Ring, 1972, p. 20). In addition, NAREB has an active Department of Education, which exercises considerable influence over university real estate programs and the content of state real estate licensing laws. Although such laws vary from state to state, it is usually the case that one must spend a year or two as a salesman with an established broker before one is eligible for the broker exam (Ring, 1972, p. 302). Thus brokers are exposed to NAREB's philosophy during both their university training and their apprenticeship.

Finally, membership on a NAREB-affiliated local board is a requirement for membership in other professional real estate organizations. Denton gives the following examples of organizations with this requirement: National Institute of Real Estate Appraisers, Institute of Real Estate Management, and National Institute of Real Estate Brokers (1967, p. 55). Ring lists eight associations that are under the jurisdiction of NAREB (1972, p. 22). In order to make use of the services provided by these organizations, a broker must join a NAREB-affiliated local board and follow the NAREB Code of Ethics.

In summary, the real estate broker depends for his livelihood on a complex set of relationships with his community and his fellow brokers.

The standards and practices of real estate brokers are passed on through a system of local boards and university programs and are determined to a large degree by NAREB.

2. NAREB'S RACIAL POLICIES

The history of NAREB's racial policies can be traced in the statements made by NAREB and its member boards and in real estate textbooks, most of which have been written by NAREB members. In this section a brief review of this history is presented: for a more complete presentation the reader is referred to Helper (1969, chs. VII and VIII) and to Laurenti (1960b).

The organized real estate industry had its beginnings in the mid-1800s. The first permanent local boards were founded in New York and Baltimore in 1858 (Helper, 1969, p. 220). By 1908 there were forty-five local boards, which gathered in Chicago to form the National Association of Real Estate Exchanges, later renamed NAREB (Helper, 1969, p. 221). The membership of NAREB grew to 3,000 by 1911 (Ring, 1972, p. 20). As conceived by its founders, NAREB was an organization to set up and promote standards for real estate agents. These standards were expressed in a Code of Ethics to which all members (officially called Realtors) were expected to adhere (Helper, 1969, pp. 221-222).

During the early 1900s housing discrimination against blacks had a solid legal foundation. Between 1910 and 1917, fifteen state courts upheld the right of localities to pass racial zoning ordinances (U.S. Commission on Civil Rights--henceforth U.S. CCR--, 1973, p. 3). As early as 1910, states used the argument that black entry lowered property values to justify such ordinances (U.S. CCR, 1973, p. 6). NAREB-affiliated local boards shared this view. In 1914 the Real Estate

Board of New York issued a report that claimed that property values in Harlem had dropped "over $100,000,000" in the preceding ten years due to the entry of blacks and that they would drop even farther "unless something is done to control the situation" (Helper, 1969, p. 223). The Chicago Real Estate Board recognized that blacks needed housing, but felt more strongly that white property values required protection. In 1917 it issued a committee report that stated:

> The Committee is dealing with a financial proposition and not with racial prejudice, and asks the co-operation of influential colored citizens. Inasmuch as more territory must be provided, it is desired in the interest of all, that each block shall be filled solidly and that further expansion shall be confined to contiguous blocks, and that the present method of obtaining a single building in scattered blocks, be discontinued. Promiscuous sales and leases here and there mean an unwarranted and unjustifiable destruction of values and the loss in the majority of instances is borne by the small owner whose property represents his life savings; the loss is not only individual, but public, inasmuch as reduced values means reduced taxes. (Helper, 1969, p. 225)

In 1917 the legal grounds for discrimination against blacks in housing were changed by the U.S. Supreme Court, which ruled in Buchanan v. Warley that racial zoning was unconstitutional. Because of this decision, the focus of discrimination shifted to a new device: the racial restrictive covenant. These covenants were statements included in title deeds or agreements among all the property owners in a given area that prohibited the future sale or rental of property to non-whites. (See Vose, 1959, pp. 7-8.) Between 1917 and 1948, such covenants were upheld in nineteen state courts (U.S. CCR, 1973, p. 3).

NAREB was an active participant in the development of racial restrictive covenants; indeed, such covenants became the principal legal support for its racial policies. In 1922 NAREB published a real estate

textbook that declared that "the purchase of property by certain racial types is very likely to diminish the value of other property" (U.S. CCR, 1973, p. 3). This text was followed in 1924 by a revision of the Code of Ethics that introduced the following Article 34:

> A Realtor should never be instrumental in introducing into a neighborhood a character of property or occupancy, members of any race or nationality, or any individuals whose presence will clearly be detrimental to property values in that neighborhood. (quoted in Helper, 1969, p. 201)

Furthermore, according to Laurenti, "the pronouncements of the real estate experts" between 1923 and 1933 "were uniformly gloomy concerning what would happen to prices if a nonwhite should move into a white neighborhood" (1960b, p. 264). These sentiments were reflected in the textbooks written in that period. (See Laurenti, 1960b, pp. 264 ff.)

During the 1930s and 1940s the legal foundation of racial restrictive covenants was developed. In 1944, nine leading experts on property law, writing for the prestigious American Law Institute, published the Restatement of Property. This document made the legal argument that the doctrine of free disposal of property could be restricted if "social consequences render desirable the exclusion of the racial or social group in question." Two benefits, it argued, are to be gained from such restrictions: "The avoidance of unpleasant racial and social relations and the stabilization of the value of the land" (Vose, 1959, p. 4).

NAREB made careful use of the point of view expressed in the Restatement of Property in its defense of racial restrictive covenants. Statements and texts that appeared during this period continued to emphasize the decline in property values with nonwhite entry and the

responsibility of real estate agents to restrict blacks to black areas. (See Helper, 1969, p. 231, and Laurenti, 1960b, p. 265.) Laurenti reports, however, that in statements made during the 1940s "there appears a clear tendency to think about the problems more critically" (1960b, p. 264). Several writers on real estate recognized

> (1) that minority occupancy might only "threaten" values, and (2) that while nonwhites might cause market disruptions which would temporarily depress prices, eventual neighborhood stability would move prices up again. (Laurenti, 1960b, p. 266)

A few writers went even farther and claimed "that nonwhite entry does not harm--any may even improve--values" (Laurenti, 1960b, p. 226). Nevertheless, the main thrust of the writings on real estate did not change; writers continued to stress the real estate agent's duty to guarantee the stability of house values by restricting the entry of nonwhites into white areas.

The Supreme Court shifted the legal grounds of discrimination in housing a second time by ruling in Shelly v. Kramer in 1948 that it was unconstitutional for any governmental agency to enforce racial restrictive covenants. Such covenants could still be included in deeds, but no one could be prosecuted for breaking them.

It appears that the Shelly decision did not alter the NAREB position on nonwhite entry. In 1949 a NAREB official wrote, "I doubt whether these opinions militate in any way against the efficacy of Article 34" (Helper, 1969, p. 233). In fact, there is evidence that without the legal support of racial restrictive covenants, the real estate industry felt even more responsibility for insuring the stability of white neighborhoods. For example, the St. Louis Real Estate Board issued the following policy in 1955:

> no Member of our Board, may, directly or indirectly, sell to Negroes, or be a party of a sale to Negroes, or finance property for sale to or purchase by Negroes, in any block, unless there are three separate and distinct buildings in such block already occupied by Negroes. (Helper, 1969, p. 234)

Furthermore, the textbooks in the field continued at least up until 1956 to present the position

> that homogeneity of the residents is a basic requisite of the stable residential neighborhood and that the entry of a different racial group (Negroes are mentioned by some specifically) helps to bring about or to speed the decline of property values and of the neighborhood. (Helper, 1969, p. 215)

The official statements of NAREB became more cautious after the Shelly decision. Thus in 1950 the Code of Ethics was revised and Article 34 was replaced with the following Article 5:

> A Realtor should not be instrumental in introducing into a neighborhood a character of property or use which will clearly be detrimental to property values in that neighborhood. (quoted in Helper, 1969, p. 201)

Since the word "occupancy" is not included in this new version, the article does not literally apply to the case of selling to a black in a white neighborhood; however, real estate agents expressed considerable confusion about the new wording. For example, the Realtor's newspaper reported in 1965 that the new wording

> caused inquiry from some boards surprised to learn that Realtors no longer could be subjected to disciplinary action if they assisted minority families in finding homes in "all-white" neighborhoods. There was no indication, however, that Realtors generally undertook to follow such a policy, the resistance of home owners being at that time almost universally adamant. (cited in Denton, 1967, p. 47)

In addition, Helper reports that officials of the Chicago Board conceded in 1955-1956 that Article 5 was still interpreted to cover the introduction of blacks into white neighborhoods (1969, p. 201).

During the 1960s there were several dramatic legal developments concerning discrimination in housing. Title VIII of the Civil Rights Act of 1968 made it illegal to discriminate in the sale of housing on the basis of race, religion, or national origin. Single-family houses sold by the owner are exempted from this legislation, provided that the seller does not own more than three such houses. In 1968 the Supreme Court ruled in Jones v. Meyer that on the basis of an 1866 civil rights law, it is illegal for anyone, including the single owners exempted from Title VIII, to discriminate in the sale of housing; however, there are no legal sanctions attached to the 1866 law.

NAREB expended considerable energy fighting the passage of fair-housing laws. Denton (1967, ch. 1) and Helper (1969, ch. X) document this struggle in some detail. The resistance to fair-housing legislation continued after the passage of the Civil Rights Act of 1968. A NAREB memorandum dated August 18, 1968, analyzes the Civil Rights Law using the following example:

> A Negro buyer asks for a $20,000 house in a given neighborhood. Although not publicized, the salesman is "well aware" that suitable properties are available yet he "informs the prospect that the office has no listings in the category." Has the law been violated?

The memorandum answers

> The law does not give any person the right to purchase or the right to inspect dwellings whose identity is vague and uncertain. The essence of the offense is discriminatory refusal to sell a dwelling which the purchaser wants to buy. (cited in National Committee Against Discrimination in Housing--henceforth NCDH--, 1970, p. 76)

The position of NAREB has been reversed in the last few years; NAREB statements now support fair housing. For example, the California Real Estate Association recommends a Code of Practices to its local

boards that says, in part,

> 1. It is the responsibility of a Realtor to offer equal services to all clients without regard to race, color, religion, or national origin in the sale, purchase, exchange, rental or lease of property. . . .
>
> 2. Realtors, individually and collectively, in performing their agency functions have no right or responsibility to determine the racial, creedal, or ethnic composition of any neighborhood or part thereof. . . .
>
> 4. Each Realtor should feel completely free to enter into a broker-client relationship with persons of any race, creed, or ethnic group.
>
> a. Any conduct inhibiting said relationship is a specific violation of the rules and regulations of this board and shall subject the violating Realtor to disciplinary action.
>
> (quoted in U.S. CCR, 1971, pp. 633-34)

This code of practices has been adopted by many real estate boards in California and other states.

At this point it is difficult to assess the role of NAREB in perpetuating a discriminatory ideology. Although its public position now favors fair housing and nondiscrimination, it has a long history of discriminatory attitudes. Such attitudes do not change quickly, and it is likely that the beliefs reflected in the pre-1968 statements of NAREB and its affiliated boards are still very common among NAREB members. Furthermore, these beliefs probably continue to be passed on to new brokers during their years of training in universities and as salesmen.

3. THE RACIAL IDEOLOGY OF REAL ESTATE BROKERS

As we have emphasized throughout this essay, NAREB positions are passed on to brokers through the contacts that individual brokers have with real estate boards and through the strong influence that NAREB has on university real estate programs; it is therefore not surprising

that surveys reveal the racial ideology of individual real estate brokers to be very similar to the racial policies expressed by NAREB. The term "racial ideology" refers to shared beliefs about nonwhites. In this section we will review the evidence about the racial ideology of real estate brokers.

Laurenti (1960b, p. 270) cites a survey of sixty-four real estate firms in San Francisco in the late 1950s which found that two of the main reasons why brokers do not sell to blacks in white neighborhoods are that such behavior would "go against the wishes of most of the white residents and depreciate property values." A second survey in the San Francisco area was presented by Denton in 1970. He concluded that

> by and large, the vast majority of realtors still believe in residential segregation and believe that to maintain their control of the market for used homes they must find ways to prevent minority prospects from finding housing in all-white neighborhoods. (cited in Foley, 1973, p. 100)

Furthermore, Biochel et al. (1969) report on a survey of 164 members of the Greater Pittsburgh Board of Realtors in 1965 which found that 58 percent of the realtors were opposed to fair-housing legislation and 33 percent were opposed to the concept of a nondiscriminatory housing market.

The most extensive evidence about the racial attitudes of individual brokers is provided by Helper (1969); some of her major findings are described below. The Helper study is based on extensive interviews with ninety real estate agents on the south side of Chicago in 1955-1956.

To begin with, Helper reports that

> The majority of the respondents believe that most white people entertain unfavorable images and beliefs about

> Negroes and do not wish to have Negroes as neighbors in the same building or even in the same neighborhood. The real estate brokers reach this conclusion on the basis of what the white people say and do. (1969, p. 73)

In addition, 75 percent of the brokers believe that there will be an ultimate decline in the values of single-family houses after black entry; another 10 percent believe that there will be a decline at some point due to black entry (1969, Table 26, p. 327).

Almost all of the brokers interviewed by Helper also "take it for granted that once Negroes enter an area, the white people will move out and the area will become mostly or wholly Negro" (p. 108). Furthermore,

> The belief of most respondents that change from white to Negro occupancy is inevitable once a Negro has entered is the basis for (1) their not selling to Negroes in a area or block because, if they did, they would be responsible for the inevitable change and all it entails, and (2) their selling to Negroes once the cutoff determined by the respondent has been reached. (p. 11)

Thus, residential succession is viewed by the brokers as a serious threat to the white community which it is their duty to prevent. As Helper puts it

> The practitioners of exclusion see as the outcome for themselves a clear conscience, peace of mind, and personal satisfaction in knowing that they are not hurting people by lowering the value of their property, giving them unwanted neighbors, or starting their neighborhood on the downgrade, and also contentment in knowing that their reputation, their status in the community, and their business itself will not be harmed. (p. 140)

Helper also compares the ideology of the brokers with the ideology expressed by NAREB. She finds that these two

> real estate ideologies are alike in the following points: (1) The real estate man has to make a living, but he must do so honestly--that is, according to the Code of Ethics. In this

> way lies success, and in this way he is loyal to his business and helps raise it to a profession. (2) The real estate man has a particular moral responsibility to his client because of the importance of his services. (3) To achieve his goal of service, it is the real estate man's duty to protect the standard of the community so that it will remain desirable and thus stable. In this way he will protect the stability of its property values and his clients' equity. (4) To maintain the desirability of the neighborhood, he is to protect its homogeneity, so that residents will be satisfied with their neighbors of the same standards and so that there will be harmonious relations between them. (p. 217)

In addition, Helper identifies a type of racial ideology--the exclusion ideology--which is made up of beliefs that are particularly unfavorable to blacks. This exclusion ideology, which is held by 85 percent of the brokers in Helper's sample is similar to the NAREB ideology

> in these main points: (1) White people do not want Negroes as neighbors. The coming of Negroes drives the white people out of their neighborhoods. People like to live with their own kind. (2) Property values decline when Negroes enter an area. (3) The neighborhood declines when Negroes enter. (4) Racial residential segregation is approved. (p. 218)

In conclusion, individual brokers express a remarkably similar racial ideology to that promulgated by NAREB. According to Helper, this similarity exists whether or not the broker is a member of a NAREB-affiliated local board--a finding that indicates "the ideological influence of the real estate institution" (p. 219). Helper's discussion also shows that the differences between the two ideologies are primarily ones of degree. The NAREB ideology is more systematic, more general, and less personal than that of individual brokers. In any case, the pervasiveness of the racial ideology described above is, as we will see, crucial in understanding the racial <u>practices</u> of real estate brokers.

4. REAL ESTATE BROKERS' ECONOMIC INCENTIVES TO DISCRIMINATE

The racial ideology described in the previous section is not simply a set of beliefs; it is also a code that real estate brokers are expected to follow by their colleagues and by their community. To use Denton's term (1967, p. 37), it is a "private law system" which specifies both the rules and the sanctions that accompany the breaking of these rules. In this section we will show how these sanctions give real estate brokers an economic incentive to discriminate against blacks. We will begin by presenting some general beliefs expressed by real estate brokers about the consequences of selling to blacks in white neighborhoods; then we will describe how these consequences affect the probability of success at each of the three steps of the broker's job discussed in Section 1.

The study of real estate agents in San Francisco in the late 1950s that was mentioned in the previous section discovered that one-third of the brokers felt that "there is a sizeable threat to the business of the broker who is thought to have arranged" a sale to a nonwhite in a white neighborhood (cited in Laurenti, 1960b, p. 269). In addition, Laurenti reports, the study found that one of the "three main reasons that impel brokers to restrict nonwhites to a special housing market" is that "to violate an established neighborhood pattern would, they believe, damage their business income and reputation" (p. 270).

The brokers in Helper's study also expressed a fear of sanctions if they sold to a black in a white neighborhood.

> At least two thirds are firmly convinced that they would suffer some harmful consequence if they sold in this way. One group

> stressed business consequences only, and a larger group spoke only of social consequences, but most mentioned both. (1969, p. 135)

And on the basis of the information she obtained, Helper concludes that

> The consequences for the broker who deals unrestrictedly with Negroes are drastic in proportion to the scope of such dealings and to his position in the real estate world. (p. 163)

The first step a real estate agent must take in order to obtain a commission is to attract potential buyers. Success in this step depends, as we have said, on the broker's prestige in his community and on his visibility, that is, on the number of contacts potential buyers have with his office. Thus brokers are very aware of how their actions affect their standing in their community. Indeed, Helper's interviews reveal that

> Most of the respondents spoke of the community in which their main business was carried on as the source of the strongest external influence upon their racial policy and the one of which they were the most aware. The "community" includes clients, other real estate men, property owners (especially in a block where a property is for sale), friends, relatives, organizations, agencies, and certain conditions and events beyond control, such as the sale or rental of property by other real estate men or owners. (p. 152)

Helper further argues that

> between the broker and the people of the community there is a two-way relationship--one of interdependence. The broker wants to retain the goodwill of his clients and other property owners. To a large extent, he depends on them for his livelihood and his standing in the community. The people in it depend on him not to introduce unwelcome neighbors. (pp. 153-54)

As a result of this relationship, brokers do not want to do anything to endanger their position in their communities. As Helper puts it in discussing broker beliefs about the consequences of unrestricted selling to blacks,

> Most of all, respondents fear damage to their reputation and their name and subsequent loss of social standing in the community. (p. 137)

In short, because of the prejudice of whites, a broker who sells to blacks in a white area will lose prestige in his community. This loss will result in fewer prospects coming to his office and hence in fewer commissions. Since the probability of success in this first step depends on visibility as well as prestige, a broker could make up for his loss in prestige by more advertising or some other source of visibility, but in doing so he would raise his costs.

Some additional evidence that brokers do not want to lose customers (and listings) by being observed selling to blacks is given by Helper. She was told that "some white real estate brokers are uneasy and wish to hide their dealings with Negroes." Indeed, she was told of one broker "who had set up an office for dealing with Negroes under another name," and she observed that "a few respondents. . .gave the impression that they were trying to hide or keep in the background their dealings with Negroes" (p. 44).

The second step in the broker's job is to match potential buyers with available listings. The probability of achieving such a matching increases with the number of listings to which a real estate agent has access. As we have said, listings are obtained through a broker's personal contacts in his community, through other brokers, and through multiple listing services; therefore, the probability of success in the second step is a function of his prestige and visibility in the community, his relationships with other brokers, and his access to multiple listing services.

As noted earlier, brokers are very concerned about the effect their racial practices will have on their prestige. In addition, a loss of potential listings was mentioned specifically by several brokers in Helper's sample. These brokers feared

> that property owners living near the property sold to a Negro will not give them their listings, and other white owners in the same area and in other white areas will follow suit. (p. 136)

And on the basis of his survey of brokers in the New York area, Mandelbaum concludes that

> the white community is the source of almost all their business, and brokers fear that many whites would not give listings to agencies that show homes to blacks. (1972, p. 1)

The effect that a broker's racial practices have on other brokers' attitudes is equally important for success in the second step of his job. In the past, the punishment for brokers who sold to nonwhites in white areas was simply expulsion from the local board. Such brokers were said to have violated Article 34 of the Code of Ethics and were denied the many advantages of board membership. For example, Helper reports that in 1948 a broker was expelled from the El Monte Realty Board in California for selling to a Mexican-American in a white neighborhood (1969, p. 232). In 1949, "in Atlanta, the Georgia Real Estate Commission revoked the license of a broker who sold property in a white area to Negroes" (Vose, 1959, pp. 224-25). Another broker was expelled from the Southeast Realty Board in Los Angeles in 1956 for selling to a Mexican-American. When he sued unsuccessfully for damages, the Superior Court ruled that it would have granted a restoration of membership, but would not award damages (Denton, 1967, p. 49).

And finally, the Sarasota (Florida) Board of Realtors expelled a broker in 1963 for selling to a black doctor in a white neighborhood (Helper, 1969, p. 282).

Since the official policy of NAREB and its affiliated local boards has now been changed, brokers can no longer be expelled for selling to nonwhites; however, brokers can still refuse to cooperate with any of their colleagues who do not behave as the racial ideology described earlier indicates that they should. As Helper puts it, some brokers

> fear loss of status with business colleagues--other brokers will resent the broker's sale and will criticize him severely; they will no longer cooperate with the offender and may even ostracize him. (1969, p. 137)

Despite the civil rights laws of the 1960s, real estate brokers still appear to exert pressure on each other to follow exclusionary practices as much as possible. For example, the NCDH study (1970) of the brokers in the New York Metropolitan Area discovered several examples of brokers working against a colleague who had sold to a black in a white area. In one case in 1967 a broker brought suit against nearby brokers on the grounds that they conspired

> to drive her out of business by advising customers and clients not to deal with her because she would sell homes to people of a minority race. (p. 69)

The third step in the broker's job is closing the deal, which involves finding financing for potential buyers who have been matched with listings. It is well known that lending institutions have a history of discrimination against blacks. (See, for example, McEntire, 1960, ch. XIII, and Foley, 1973, pp. 105-6.) Some of the economic reasons for this behavior are analyzed by Courant (1973, sec. IV.4).

A discussion of discrimination by lending agencies is beyond the scope of this paper, but it is appropriate for us to note some of the attitudes that brokers have about lenders.

To begin with, almost two-thirds of the brokers in Helper's study "said that few lending agencies in Chicago make loans to Negroes" (1969, p. 166). In addition,

> over half the respondents have felt the "boot" of the lending agency at one time or another when trying to make a sale to a Negro buyer, especially in a nearly white area. A loan from an agency for a sale to a Negro in a white area is out of the question in the opinion of all respondents, and such selling would gain the broker a permanent ouster from practically all agencies. A few respondents have not been refused loans to Negroes by certain agencies, but the threat and the fear of having loans withdrawn if they sell to Negroes too soon deters such sales. (p. 171)

These quotations indicate that lending institutions affect the racial practices of brokers in two ways. First, since many lending institutions will not make loans to blacks, it is more difficult for a broker to find financing for black customers than for white customers. This difficulty represents a higher cost for the broker and therefore gives him an economic incentive not to deal with blacks. Second, lending institutions are less likely to cooperate with brokers who sell to blacks in white neighborhoods; thus brokers have an incentive to follow exclusionary practices in order to insure future cooperation from lending institutions.

In summary, surveys reveal that brokers perceive that harsh economic consequences would result from selling to a black in a white neighborhood. These consequences would significantly affect the probability of their success at each of the three steps on the way to a commission; therefore, brokers have a strong economic incentive to

follow exclusionary practices. The broker who sells to blacks in a white area will attract fewer potential buyers, have access to fewer listings, and have a smaller chance of finding financing for "matched" buyers. Such a broker will therefore make fewer sales, receive fewer commissions, and make less money than his discriminating colleagues.

5. DISCRIMINATION BY REAL ESTATE BROKERS AGAINST BLACK BROKERS

One result of the racial ideology held by white real estate brokers is the exclusion of black brokers from local boards and other real estate organizations. The causes of this exclusion do not appear to be primarily economic ones. The presence of black brokers on local boards will not affect the prestige of individual white brokers, and it may increase the listings available to white brokers. In the past, brokers may have resisted black members in the belief that black brokers would encourage black entry into white neighborhoods, which would lower property values and thus broker commissions; however, this argument does not explain the continued resistance of white brokers to black brokers after the strong evidence of Laurenti (1960a) and others that property values do not decline with black entry. Some white brokers may have long-run fears about their ability to do business in a community with a large black population, but only "a small number" (apparently three) of the brokers in Helper's study mentioned such long-run considerations (1969, pp. 136-37). Therefore, the continued resistance of real estate brokers to black membership on local boards can only be attributed to the strength of their anti-black beliefs and their feelings of responsibility to the white community. As McEntire puts it,

> The exclusion of real estate brokers who are not white from the trade associations testifies to the racial attitudes of the real estate fraternity and symbolizes the separate housing market for minority groups. (1960, p. 249)

The history of black membership on local real estate boards reveals the extent of the prejudice of white brokers. According to NAREB, there were no blacks on local boards up to 1945 (McEntire, 1960, p. 249). By 1956, there were about eight boards with black members (Helper, 1969, p. 237), and a survey conducted in 1962 discovered only eighteen boards with one or more black members (Helper, 1969, p. 287). Denton reports that in 1966 black brokers gained admittance to three local boards through court action (Contra Costa in northern California, Santa Barbara, and Trenton-Mercer County) (1967, pp. 52-53). Finally, a survey of black brokers in the New York area in 1970 revealed that over half of the black brokers had tried to become members of local boards and about half of these had succeeded, mostly after 1967; however, half of the ten suburban boards surveyed in the same study had black members with full access to affiliated multiple listing services (NCDH, 1970, p. 72).

There are several reasons why it remains difficult for black brokers to become members of local boards despite the strong anti-discrimination laws that now exist. In the first place, as Denton (1967, pp. 52-53) points out, the legal autonomy of NAREB-affiliated local boards means that local boards that exclude blacks can only be integrated one at a time through court action. A successful suit by black brokers for membership on one board does not carry over to other boards. Furthermore, the requirements for membership are very stringent. According to the NCDH, in order to join a local board, a

broker must

a. have two board-member sponsors;

b. have a full-time real estate business;

c. be subject to members' objections;

d. be investigated;

e. take an exam (in some areas); and

f. be voted on by the directors of the board.

The main difficulty faced by the black brokers interviewed by the NCDH who tried for membership was in finding sponsors (NCDH, 1970, p. 71). Finally, the fees for membership are high--about $1,000 per year for local, state, and national NAREB dues, plus multiple listing fees. The two-thirds of the black brokers surveyed by the NCDH who did not seek board membership but believed that membership would help their business appear to have been unable to afford the fees. Most of the rest of the brokers--those who did not believe membership would help their business--believed that white brokers would not cooperate with them (NCDH, 1970, p. 72).

The admission of black brokers to local boards and multiple listing services that obtain listings in white areas is an important step in eliminating discrimination in housing. Since black brokers excluded from boards obtain their listings entirely from the black community, they are unable to help blacks find housing except in black or changing neighborhoods. As Foley puts it in summarizing the 1970 Denton report,

> In the San Francisco Bay Area, at least, a broker is on the distribution list for listings produced by his own real estate board, but he only has access to the listings produced by other

> boards if he can establish his own reciprocity with brokers in these other boards or if he can take out a nonresident membership in these areas. A minority broker who is a member of a core-city real estate board thus may find it difficult or impossible to have access to listings of suburban real estate boards. He therefore has great difficulty in providing the full range of listings in suburban areas to a minority client, and the client is at the mercy of the majority-white brokers in these suburbs. (1973, pp. 103-4)

As long as black brokers do not have access to as wide a variety of listings as do white brokers, they will operate at a competitive disadvantage. They will have a lower probability of matching potential buyers with listings and thus have fewer commissions. Furthermore, their exclusion from local real estate boards leaves them without the many services that such boards provide. Black brokers have responded to this situation by forming their own organization--the National Association of Real Estate Brokers. This organization offers many of the services obtained by white brokers from NAREB-affiliated boards, but it cannot supply black brokers with listings in all-white areas.

6. DISCRIMINATION BY REAL ESTATE BROKERS AGANIST BLACK CUSTOMERS

As the economic incentives described in section 4 lead us to expect, there has been and continues to be considerable discrimination by white real estate brokers against black customers. A wide variety of tactics has been developed for carrying out such discrimination. In the past, many brokers simply refused to deal with blacks, but civil rights laws have forced brokers to be more subtle. In this section we will present some evidence about the extent and variety of discriminatory techniques.

To begin with, McEntire reports that

> In a Los Angeles study, 1955, a white couple representing themselves as possible house buyers, called on twelve real estate

> brokers doing business in a new residential area of 12,000 homes, chiefly FHA- and VA-financed. The couple was followed after a brief interval by a Negro, also purporting to be looking for a house to buy. To the white couple, all brokers offered listings and information that many houses were available with down payments as low as $1,000. None of the realtors offered any listings to the Negro "prospect," some saying that no houses were available, others that down payments were prohibitively high--from $3,000 up. (1960, p. 239)

In addition, McEntire cites a San Francisco study in which

> interviews with representatives of sixty-four real estate firms handling residential properties in most sections of the city led to the conclusion that four out of five brokers offered their services to prespective Negro home buyers either not at all or on a restrictive basis. (p. 240)

The study by Helper provides extensive information about discrimination by real estate brokers. Of the ninety brokers in her sample, 22 percent had no dealings with blacks, 70 percent sold to blacks only on a restricted basis, and only 8 percent sold to blacks without restriction. Furthermore, 83 percent of the brokers said that they would never sell to a black in an all-white area (1969, p. 317). These brokers indicated that they would sell to a black in a given area only if there were already blacks living there (pp. 40-41).

Many techniques were used by the brokers in Helper's study to keep blacks out of white neighborhoods. Tactics that did not involve misrepresentation were used by 71 percent of the brokers. The brokers simply said that they would not sell to blacks, said the owner would not allow them to sell to blacks, or explained why concern for the white community prevented them from selling to blacks. Several also warned of the danger of physical harm to blacks who moved into a white neighborhood. The rest of the brokers who dealt with blacks (29 percent) used some kind of misrepresentation. They did not show blacks properties that were available, or they lied about such

properties--saying they were not for sale or had already been sold. Some brokers falsely told black buyers that nothing was available; other brokers neglected to return calls to black buyers after promising to do so (pp. 42-45 and Table 14, p. 319).

Helper also cites several reports and lawsuits that allege that discrimination by real estate brokers was still prevalent in the mid-1960s in several cities in Illinois, Ohio, Pennsylvania, New Jersey, California, and Michigan (pp. 288-92).

The civil rights laws of the 1960s have made discriminatory behavior by real estate agents more difficult. It is no longer possible, for example, for them to simply refuse to sell a particular house to a black customer. However, the three sources discussed below indicate that discriminatory behavior has not disappeared. The basic reason why real estate brokers can continue to discriminate despite strong civil rights legislation is that they control the flow of information about houses that are for sale. Because of the volume and complexity of this information, it is very difficult for law-enforcement officials to verify whether or not blacks and whites are treated equally, or in other words, whether or not they receive the same information. As the NCDH puts it,

> If the housing market were completely open, information on all housing currently for sale (or rent, as the case may be) would be freely available to any and all comers, and all customers would be able to compete on an equal footing for the available supply. In fact, this is not the case for <u>any</u> customer. . . . We shall undertake to indicate in what ways information is less available for non-white (usually black) customers than for others. (1970, p. 69)

That this control over information should lead to a noncompetitive result like discrimination should not come as a surprise to economists.

One of the central assumptions of perfect competition is that both buyers and sellers possess perfect information. Without this assumption, that is if there is uncertainty, information must be treated as a commodity, and the owners of information will have some monopoly power. Because of this monopoly power, there will be a misallocation of resources, and owners may be able to discriminate in the sale of their information. (See Arrow, 1962.)

The three studies reviewed below all shed some light on the restrictions real estate brokers place on the flow of information. The 1970 study by Denton of real estate brokers in the San Francisco area indicates that there is substantial discrimination in the details of a real estate transaction. He writes

> Our conclusion about how discrimination takes place is that every routine act, every bit of ritual in the sale of rental of a dwelling unit can be performed in a way calculated to make it either difficult or impossible to comsummate a deal. Everyone in real estate recognizes how easily deals are killed by poor salesmanship, ignorance and ineptitude on the part of intermediaries, failure to show property to good advantage, and other non-purposive errors. Yet no one has made an analysis of how these devices are intentionally used to destroy the interest of minority people in looking for housing in all-white neighborhoods. Perhaps this is because most of these devices can not be reached by law. . . .
>
> Since brokers almost invariably act as agents for landlords and homesellers, the general rule of law is that they are under no obligation to renters or buyers to offer them service. Theoretically, California solved this problem with the Unruh Act, passed in 1959, which requires all business. . .to provide every prospective customer with the same services. However, in recent years, there has been so little attempt to enforce this act, that we discovered that many salesmen and brokers made frank verbal avowals of their unwillingness to serve minority prospects. It should be noted that we found no evidence of outright refusals, but we think this is a specious difference. . . . (cited in Foley, 1973, p. 100)

The Denton study is further summarized as follows:

> Majority white persons are able to spend a long period searching for housing and can expect the cooperation of a real estate broker; they are not screened until financial negotiations begin. But minority prospects may be screened at the very start before a broker even expresses willingness to be of direct assistance. Various delaying tactics may be employed by the broker. For example, the broker may delay the submission of the client's order or find technical difficulties. The difficulties are reflected in the fact that two thirds of the black adult population say they expect difficulties to be created by some white person when looking for a house. Twice as many blacks believe real estate companies are harmful to their rights as find them helpful. (National Academy of Sciences, 1972, pp. 22-23; I have inferred that these comments are mainly a summary of Denton, but the NAS document does not specifically say that they are.)

The 1970 NCDH study is based on a survey of real estate agents in the New York Metropolitan Area. The NCDH argues that the first opportunity brokers have to discriminate is in deciding what listings to show a particular buyer. Since the buyer only knows about the few listings that are advertised, a broker has considerable flexibility in deciding what listings to show the buyer. To be specific, the NCDH found that brokers usually advertise only a few listings in the paper (their best "drawing cards") in order to maximize their flexibility. Some brokers only advertise listings that they are willing to sell to blacks; others show blacks houses that are identical to the advertised ones except that they are in a black neighborhood. Needless to say, these tactics are difficult to expose.

The NCDH study also claims that black customers still occasionally encounter outright refusal of broker services.

> More frequently, nonwhite customers meet with efforts to discourage them, with evasion or misrepresentation, with withholding of information or with delaying tactics. (p. 77)

The NCDH survey revealed that the following evasive tactics were used with black customers:

a. Telling the buyer there are no houses meeting his specifications currently available when such houses actually are available.

b. Limiting houses shown to black, fringe, or changing neighborhoods (which are obtained through a multiple listing service or co-brokerage with a black broker).

c. Saying that a house is sold when it is not.

d. Not making the follow-up calls that would be made for a white buyer or not keeping appointments.

e. Advising blacks they cannot afford a house in circumstances where whites would be advised otherwise.

f. Misrepresenting the price or other terms of the transaction or refusing to bargain.

g. Refusing "the courtesy inspection by plumbers, electricians or termite experts" and saying that the house must be bought "as is."

h. Delaying until a white buyer is found or the seller removes the house from the market.

i. Refusing to help the buyer find a mortgage.

(See NCDH, 1970, p. 78.) Although none of these tactics makes it impossible for a black to buy a house in a white neighborhood, in combination they make it extremely difficult.

Finally, in a series of interviews with brokers in the New York area, Mandelbaum found that

> A number of the brokers admitted that they had discouraged blacks from buying homes in certain areas or had failed to encourage them as they would prospective white buyers. (1972, p. 1)

This type of discrimination is often referred to by the misleadingly neutral term "steering." According to Mandelbaum,

> brokers learn which areas will accept a black family, perhaps because another is already living there, and they use sophisticated salesmanship to steer blacks away from neighborhoods in which emotions run high. (p. 10)

Mandelbaum cites four techniques for helping keep blacks out of white neighborhoods. The first was described by one broker he

interviewed as follows:

> The broker explained that even if a black family insists on looking in an area that he deems impractical he can usually avoid selling them a house there.
>
> He maintained that he does not deceive or misrepresent. He does not keep a blank check on hand to be filled out when needed as "proof" that someone else has just put a deposit on the desired house. "The old tricks don't hold much water any more," he said. "An intelligent black buyer knows he's being discriminated against, and he'll file a report."
>
> Instead, this broker employs what he described as a "no-action" approach. When the prospective buyer expresses misgivings over room sizes or layout or the lack of sewers, for example, the broker permits that imperfection to stand. "You don't talk facts of life," he said. "You agree." Rather than pushing the sale, the broker might simply say, "Gee, that's a shame. I thought you'd like this one." He would then try to steer the buyer to something in a less volatile area.
>
> The broker observed that blacks are particularly vulnerable to such tactics because they are inexperienced home buyers. "The black buyers are afraid to buy," he said. "It's a new thing. They think they're going to be taken, and sometimes will back out out of fear." (p. 10)

Another broker expressed this same point of view. He said that

> an agent can avoid selling to a black by using all of a home's variables--its age, size, the number of bedrooms. "You can qualify a guy out of two thirds of your market if you try hard enough and honestly say, 'I didn't have anything he was looking for.' " (p. 10)

Second, Mandelbaum reports that

> steering is made easier by the use of multiple listing systems that cover a wide geographic area. Under such a system, particular brokers share all their listings, and some of those in all-white sections sometimes use it to steer black buyers to integrated communities 15 or 20 miles away, where the agents will not be criticized. (p. 10)

The third tactic is described as follows:

> blacks are most frequently discriminated against, the brokers said, when they come into an agency to see a specific house and then reject it. In such a situation, the sales person can choose not to show the buyer other houses and can neglect to call him back when others come available. (p. 10)

Finally,

> Another broker said some salespeople alert sellers when blacks are being brought to see their homes. The homeowner may then insist that the house cannot be seen because it needs cleaning or because he is not dressed. When the broker tries to arrange another appointment, the owner can make it difficult to do so. (p. 10)

In summary, real estate brokers have devised a variety of subtle techniques for excluding blacks from white neighborhoods. These techniques are based on the brokers' control over the flow of information about houses that are for sale, and are therefore difficult to detect.

7. PROPOSALS FOR DEALING WITH DISCRIMINATION BY REAL ESTATE BROKERS

The analysis of real estate broker behavior presented in this paper suggests several ways to attack discrimination against blacks in housing. In this section we will review both the incentives that lead brokers to discriminate and the discriminatory techniques used by brokers, and make several proposals designed to help eliminate broker discrimination.

Our analysis of the first step in the real estate broker's job--attracting customers--implies that the prejudice of white customers gives real estate brokers an economic incentive to discriminate against blacks. Since the elimination of white prejudice is a seemingly unattainable goal, there appears to be no way to get rid of this economic incentive; however, there is a fundamental circularity in the causal sequence that leads to discrimination by brokers, so that legislation that effectively <u>prevents</u> discrimination by brokers will also eliminate the ability of white customers to reward brokers who discriminate. In other words, if no brokers can exclude blacks from white areas,

then white customers cannot patronize brokers because of their exclusionary practices. This is not to say that white prejudice is unimportant, but that it is not sufficient to cause discrimination by brokers. Note that this conclusion also applies to the role of white sellers' prejudice in the second step of the broker's job.

Discriminatory behavior by the lending institutions with which a broker must deal in the third step of his job also gives the broker an economic incentive to discriminate. As we have said, there are two components to this incentive: first, discrimination by lenders means that a broker must expend more effort to close a transaction with a black buyer; and second, the need for future cooperation from lenders leads a broker to avoid the racial practices of which lenders disapprove. The first component represents a real obstacle to the elimination of discriminatory practices by brokers. Until there is legislation that can effectively prevent discrimination by lenders, such discrimination will be reinforced by brokers who do not want to make the extra effort necessary to find financing for blacks. Although an analysis of the racial practices of lending institutions is beyond the scope of this paper, it is interesting to note that the NCDH makes the hopeful conclusion that

> there is substantial evidence that banks seldom refuse to grant mortgages to qualified non-whites because they are purchasing homes in white areas, once a common practice. (1970, p. 80)

The second component, like white prejudice, is not sufficient to cause discrimination by brokers. If no broker can discriminate, then lending institutions cannot choose to cooperate only with brokers who do discriminate.

Our analysis of the second step in the broker's job, and in particular our analysis of the relationships among brokers, leads to some more definite conclusions about broker discrimination: (1) A broker has an economic incentive to discriminate because he is likely to lose cooperation from other brokers if he refuses to do so; (2) There is strong resistance to the membership of black brokers on local boards and multiple listing services. The crucial factor in both of these cases is the control held by NAREB-affiliated local boards over access to the listings brokers can obtain--either through each other via the local board or through multiple listing services. If these listings were available to all licensed brokers, then brokers would not have an incentive to discriminate in order to insure their access to them. Implementation of the following proposals would make listings more accessible to all brokers, regardless of their race or racial practices:

Proposal 1. That the federal government support the efforts of qualified minority brokers to gain membership on NAREB-affiliated local real estate boards.

Proposal 2. That multiple listing services be open to all licensed real estate brokers at cost.

Proposal 3. That regulations to limit the stringency of membership requirements for local real estate boards be adopted by the federal government.

Note that the second proposal would not require brokers to give their listings to multiple listing services, but it would allow any broker to supply a buyer for any listing that was filed with the service.

It is interesting to note that several anti-trust suits have been filed by the U.S. Department of Justice against NAREB-affiliated boards on grounds similar to those discussed above. For example, a suit was brought against the Pittsburgh board to restrain, among other

things, the practice of "agreeing to make multiple listing services available only to members," "agreeing to exclude part-time brokers" from the board, and "agreeing to stringent membership requirements" (U.S. Department of Justice, 1972).

Finally, our discussion of the techniques of discrimination by brokers leads us to focus on eliminating restrictions in the flow of information about houses that are for sale. As we have said, the factor that allows a broker to discriminate is his control over this flow of information. It might be possible for a governmental agency to perform elaborate checks on the accuracy and completeness of the information brokers pass on to blacks, but judging from the persistence of discrimination despite strong civil rights legislation, successful checks have not yet been devised. A more direct approach would be to require brokers to relinquish some of their control over this information. In particular, if all listings were posted in a central agency, brokers would be releasing information that they might otherwise not give to black buyers. This approach would allow black buyers and fair-housing groups to find out what houses were actually available. Computer technology would make it very easy to cross-classify the listings in various ways so that the information they contained would be accessible to anyone buying a house.

Implementation of the following proposal would greatly reduce brokers' control over housing information:

> Proposal 4. That all listings be filed, upon receipt, with a central agency run by the government, and that these listings be made available to anyone who wants to examine them.

This proposal would not prevent all of the discriminatory tactics used by real estate brokers, but it would be a step in the right direction. Brokers could still use their position as experts to encourage or discourage black buyers about particular houses, but it would be difficult for them to avoid showing houses in white neighborhoods to blacks.

It is appropriate at this point to briefly discuss the independent role of the seller in housing discrimination. Since the seller must agree to the final sale price, he is in a position to discriminate simply by refusing to accept the offers of black buyers, regardless of the prices contained in such offers. This type of discrimination can occur whether or not the real estate broker involved is willing to make the sale. A central clearing house could be used to help prevent seller discrimination if actual sales prices were posted along with advertised prices. Such a procedure could be used to establish the existence of seller discrimination whenever an offer from a black customer was passed over in favor of an offer from a white that involved a lower price.

Proposal 4 is very similar to proposals that have been put forward by others who have studied discrimination in housing. The National Committee Against Discrimination in Housing recommends:

> Establishment of a central, computerized listing service capable of supplying upon public request information on houses and rentals by location, size, price, terms, etc., for entire New York Metropolitan Region, cross-referenced with information on local employment opportunities. (NCDH, 1972, p. 43, Recommendation 5)

> Legal requirement that offerings of residential property for sale or rental be listed publicly for a minimum number of days

> before acceptance of deposit from buyer or renter. (NCDH, 1972, p. 43, Recommendation 9)

In addition, the National Academy of Sciences, in its report "Freedom of Choice in Housing" (1972), makes the following recommendation:

> Comprehensive government action is required to strengthen the processes and facilities necessary to achieve a single open market in housing and to insure "fair shopping" conditions. Action required includes
>
> Positive assistance for minority home seekers;
> Positive incentives for housing middlemen to operate in a manner that encourages stable racial mixing; and
> Measures to insure equal access to real estate board listings throughout the metropolitan area. This may involve the creation of new marketing institutions. (p. 60, Recommendation 9)

And finally, Mandelbaum reports that

> William H. Ince, chairman of the Metropolitan Housing Council of the N.A.A.C.P., suggested that brokers be required to display all their listings publicly. That way, Mr. Ince said, the brokers could not be blamed for showing homes to blacks. (1972, p. 10)

Discrimination by white real estate brokers has long been reinforced by the prejudice of the white community, the discriminatory behavior of lending institutions, and the racial ideology that has developed among real estate brokers; indeed, all of these factors are important elements of the highly interconnected system of discrimination in the housing market. In the short run, all of these elements support each other so that it is enormously difficult to eradicate discrimination. But in the long run, the fundamental interdependence of these elements might help in the fight against discrimination. By eliminating brokers' control over information, which allows them to discriminate, and by eliminating local boards' control over access to listings, which gives

brokers an incentive to discriminate, one would also eliminate the economic incentives to discriminate that are associated with white prejudice and lender discrimination. In this situation, brokers would no longer have any economic incentives to exclude blacks from white areas, and the discriminatory ideology of real estate brokers would no longer have any economic foundations.

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