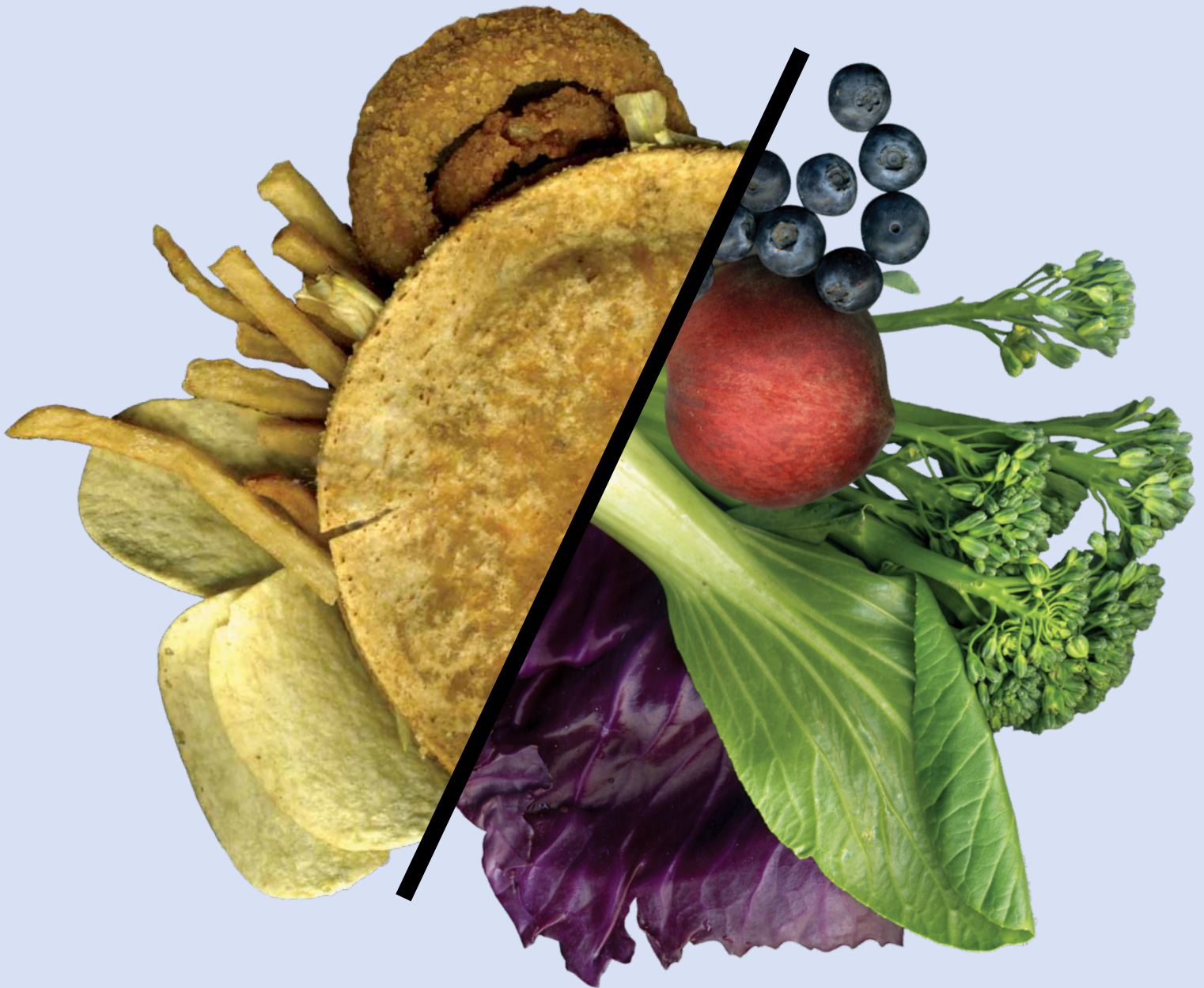


UNSHARED BOUNTY

How Structural Racism
Contributes to the
Creation and Persistence
of Food Deserts



Unshared Bounty: How Structural Racism Contributes to the Creation and Persistence of Food Deserts

June 2012

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About The ACLU Racial Justice Program

The Racial Justice Program (RJP) is a program of the American Civil Liberties Union, the nation's leading advocate of civil liberties and civil rights. The RJP's mission is to preserve and extend the constitutional rights of people of color. Committed to combating racism in all its forms, its advocacy includes litigation, community organizing and training, legislative initiatives, and public education.

About The New York Law School Racial Justice Project

The New York Law School Racial Justice Project was created in 2006 as a legal advocacy initiative to protect the constitutional and civil rights of people who have been denied those rights on the basis of race and to increase public awareness of racism and racial injustice in the areas of education, employment, political participation, and criminal justice. Since then, the Project has worked to achieve these goals through impact litigation, amicus briefs and public education initiatives.





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A. Introduction

“Civilization as it is known today would not have evolved, nor can it survive, without an adequate supply of food.”¹

NORMAN BORLAUG, AMERICAN AGRONOMIST, NOBEL

LAUREATE, “FATHER” OF THE GREEN REVOLUTION.

Food is life. It is necessity and pleasure, family and community, culture and power. When plentiful and freely shared, food creates healthy communities and strong societies; when scarce or unfairly distributed, it damages and, in time kills, spirit, body, family, community. Food touches everything and is never just food: “it is also a way of getting at something else: who we are, who we have been, and who we want to be.”² Above all, food “marks social differences, boundaries, bonds and contradictions.”³ In America, these social differences, boundaries and contradictions are starkly reflected in the fact that 23.5 million Americans currently live in food deserts,⁴ urban and rural communities with no access or severely limited regular access to healthy and affordable food.⁵

The concept of food deserts originated in the United Kingdom to describe newly-built isolated public housing devoid of viable food shopping for residents.⁶ Since then, the term has been applied by policymakers, government officials, and researchers to low-income rural and urban communities within the United States lacking convenient access to healthy food. Measurements used to identify food deserts vary. The U.S. government, for instance, defines an urban community lacking access to healthy foods as at least 500 people within a census tract living over a mile from a supermarket.⁷ The government

specifically tracks low-income communities lacking access to supermarkets and focuses on census tracts with income at least 80% below the average income in the area.⁸ A leading research group in the study of food deserts, The Mari Gallagher Research & Consulting Group (“Gallagher”), defines food deserts as neighborhood blocks that are more distant from grocery stores than other blocks within a city.⁹ For instance, Gallagher classifies Chicago blocks located farthest from grocery stores at .58 miles, as food deserts relative to Chicago blocks located closer to grocery stores at .39 miles.¹⁰ The research group argues that the ratio of the distance to a grocery store relative to the distance to a fast food restaurant is relevant to a neighborhood’s food balance.¹¹ When fast food restaurants are closer than supermarkets to a neighborhood, the neighborhood is more likely to make unhealthy food choices.¹² In general, even though researchers measure food deserts in various ways, when they label an area a “food desert” they tend to mean that those living within the area lack easy access to healthy food.

As previously mentioned, 23.5 million people in the U.S. live in low-income neighborhoods located more than 1 mile from a supermarket.¹³ African Americans are half as likely to have access to chain supermarkets and Hispanics are a third less likely to have access to chain supermarkets.¹⁴ Area-specific studies have found that minority communities are more likely to have smaller grocery stores carrying higher priced, less varied food products than other neighborhoods.

Area-specific studies find disparities in access to supermarkets between predominantly low-income minority communities and non-minority communities. Detroit, which is 83% African American and 6% Latino,¹⁵ has no major chain supermarkets.¹⁶ In Los Angeles, predominantly white residential areas have 3.2 times as many

supermarkets as predominantly African-American areas and 1.7 times as many as predominantly Latino areas.¹⁷ Residents of predominantly African-American neighborhoods in Chicago have to travel the farthest distance to get to a grocery store as compared to white or even racially diverse neighborhoods.¹⁸ In Washington D.C., the District's two lowest income neighborhoods, which are overwhelmingly African-American, have one supermarket for every 70,000 residents compared to 1 supermarket for approximately every 12,000 residents in two of the District's highest income and predominantly white neighborhoods.¹⁹

The lack of supermarkets within low-income inner-city minority communities is not a demographic accident or a consequence of "natural" settlement patterns. Rather, government policies and their resulting incentives have played a significant role in shaping the segregated landscape of American cities.²⁰ For instance, prior to President Roosevelt's New Deal policies, the "typical northern black resident was likely to live in a neighborhood dominated by whites"²¹ and only "a third of U.S. metropolitan dwellers were suburban dwellers."²² Neighborhoods tended to be "densely clustered with tiny convenience stores...rather than the new super center style grocery store."²³ The government sponsored New Deal,²⁴ and numerous additional policies sponsored by state and federal governments, significantly influenced the settlement patterns of Americans. During the 1940s, low-interest home loans offered to middle-class white families through the Federal Housing Administration and the Veterans Administration enabled them to move from cities to suburbs.²⁵ Supermarkets, along with many other types of businesses, followed white middle-class incomes to the suburbs.²⁶ African American families were unable to access the same low-interest home loans as white families due to government sanctioned redlining, restrictive housing covenants, and discrimina-

tion, and were left stranded in the cities.²⁷ By 1970, the demographics of the country had drastically changed, and the typical northern African American was "more likely to live with other blacks than with whites"²⁸ and "suburbanites constituted a majority within metropolitan America."²⁹ Cities continued to lose supermarkets in the 1980s while, nationally, supermarket openings surpassed closings.³⁰

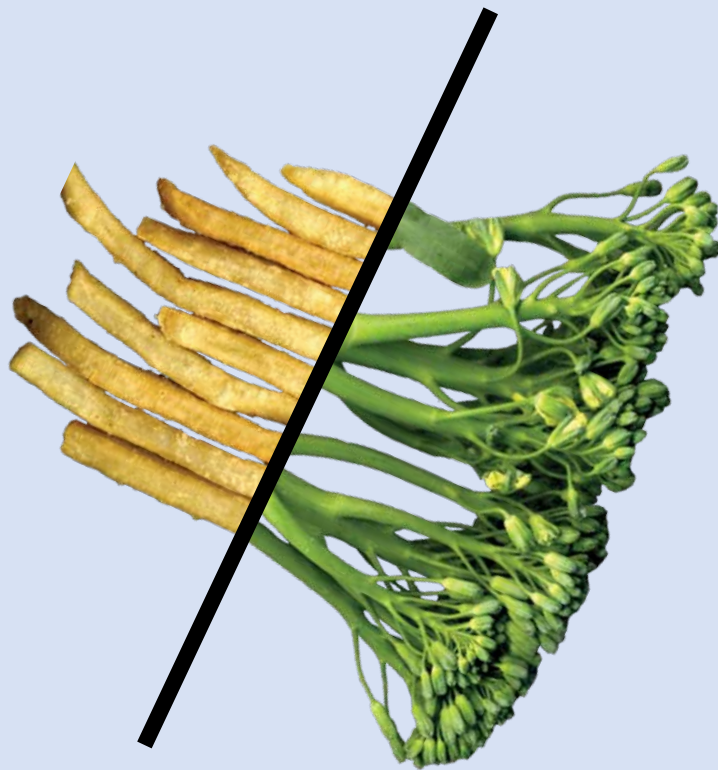
The scarcity of supermarkets within the inner city continues to impact minorities living in low-income urban neighborhoods. African Americans, Latinos, and Native Americans living in these neighborhoods travel farther,³¹ have fewer choices, and pay more for food³² than their counterparts. When minority families shop locally for groceries they find a grocery store that is "2.5 times smaller than the average grocery store in a higher income neighborhood"³³ with higher priced food,³⁴ less fresh produce, and more processed food.³⁵ The inner-city minority diet reflects the limited choices minorities face close to home;³⁶ the minority diet is more likely to contain processed food loaded with fat, sugar and salt.³⁷ The daily intake of foods higher in fat, salt and sugar translates into a nutrient poor diet that leaves minorities living in low-income neighborhoods vulnerable to obesity,³⁸ heart disease, hypertension,³⁹ and all manner of chronic illnesses related to a poor diet.⁴⁰ Among other things, a poor diet can influence cognitive development in early childhood,⁴¹ an individual's susceptibility to illness,⁴² and, potentially, educational outcomes within a community.⁴³ The lack of supermarkets in a community can also affect employment within a community, as supermarkets are a source of jobs for employees with a variety of skill sets.⁴⁴

A significant amount of research has been devoted to examining the causes and consequences of the scarcity of affordable fresh food within cities. Academics and public advocates in

the United States and abroad have documented the existence of food deserts, acknowledged the correlation between the existence of food deserts and race and income, warned of the detrimental impact of food deserts on the health and welfare of residents, and proposed possible solutions for expanding food options for underserved communities.⁴⁵ Public health and other government officials have become sufficiently alarmed about the impact of food deserts that First Lady Michelle Obama has made eradication of food deserts one of her priorities,⁴⁶ and the United States Department of Agriculture now publishes an interactive online map to help individuals learn whether they live in a food desert.⁴⁷ Balanced against the large number of reports highlighting the prevalence and serious consequences of food deserts are a small number of reports that question the severity of the problem. Methodological shortcomings in those reports suggest that the concerns about the impact of food deserts are well-founded.⁴⁸

This study does not purport to be an exhaustive one. Although the problems associated with food deserts are not peculiar to urban areas, the relationship between food deserts and structural racism is clearest in cities. Accordingly, the serious issue of food deserts in rural areas is not addressed here. Further, the purpose of this report is neither to reiterate the findings of prior studies nor to review their conclusions. Rather, the report aims to bring to the discussion three aspects of food deserts that so far have not been sufficiently examined. First, the report traces the evolution of food deserts and identifies the impact they have on the day-to-day lives of residents in neighborhoods lacking a supermarket. Second, the report considers not just the correlation between food deserts and race and income, but also examines the government policies and private practices that have contributed to the problem. Lastly, the report outlines

approaches communities have used to address the scarcity of nutritious foods. It proposes that to have a long term impact on food deserts, efforts must not just address the lack of healthy food options within a community, but also the underlying causes for the food disparities.



B. Life in a food desert

1. *Anthony's Story*

Anthony⁴⁹ is eighteen years old and lives with his mother, Mary, in Anacostia, a residential neighborhood in Southeast Washington, D.C. A former high school track and basketball athlete, Anthony attends Montgomery Community College in nearby Maryland. There are no supermarkets in his neighborhood. One or two corner stores sell milk, cereal and other packaged foodstuffs. The nearest grocery store is “a twenty-minute bus ride away.” Mary shops for groceries twice a month “when she has the money.” On rare occasions she also shops for fruits and vegetables at a farmer’s market, though she has to travel for over forty-five minutes on two buses and a train to reach it. Anthony rarely eats breakfast at home and when he does it usually consists of cereal. His normal morning meal comes either from the local McDonald’s or a hot dog stand on the way to school. If he is home for lunch, he usually has “something like a hot pocket.” More often, his midday meal again takes place at a McDonald’s or at a Chipotle near his school. For dinner, Anthony calls home to see if Mary cooked, though she does not do so often. So again, he eats at McDonald’s if he is in his neighborhood or a Chipotle if he is at school. On occasion when he and Mary have dinner together Anthony eats Chinese takeout, their preferred items from the menu being orange chicken, nuggets, and fries. Anthony eats at McDonald’s more than any other establishment because “it is cheap and there is one every three blocks” in his neighborhood in addition to Subways and Pizza Hut. Anthony “does not like or dislike” his food options because, as he put it, “I’m used to it, it’s all I know.”

2. *Anthony's Neighborhood: Greater Anacostia, Washington, D.C.*

Like most urban food deserts, the story of Anthony’s neighborhood is a story of the structural racial and class inequities that remain embedded in many of our government and private institutions.

Anacostia is the colloquial name for a large portion of southeast Washington D.C. consisting of several neighborhoods east of the Anacostia River. Its historic downtown sits immediately across the Frederick Douglass Bridge, located at the intersection of Good Hope Road and Martin Luther King, Jr. Avenue. Anacostia’s historic district was incorporated in 1854 as Uniontown and was one of the first suburbs in the District of Columbia. The neighborhood was originally planned for D.C.’s working class, many of whom worked across the river at the Navy Yard (now relocated). Anacostia’s initial subdivision of 1854 carried restrictive covenants prohibiting the sale, rental or lease of property to Negroes, Mulattoes, and anyone of African or Irish descent. Prevented from living in Uniontown by these covenants and segregation laws, Frederick Douglass, often called “the Sage of Anacostia,” bought an estate just outside of Anacostia in Cedar Hill. Douglass built a house there and lived in it until he died in 1895. Today, the home is a historical site.

Most of Anacostia’s residential development took place in the early 20th century, particularly during The Great Migration of southern African-Americans to the North, and during World War I when the United States government built the Anacostia Naval Station and Bolling Air Force Base. In the late 1950’s to early 1960’s, Anacostia underwent its most rapid and drastic demographic change. The area transitioned from a population that was nearly 90% white (mainly

European-American) to one that was—and remains—over 95% Black.⁵⁰ The initial catalyst for this demographic change was the National Capital Park and Planning Commission’s decision to build the Anacostia Freeway (I-295), which cut off the entire population of Greater Anacostia from the Anacostia River waterfront. In the following years, there was a large influx of Black residents—not coincidentally at the same time as the federal government made the D.C. public school system the first fully integrated system in the country. As a matter of necessity and urban planning, the municipality also constructed several massive public housing complexes in the area into which many middle and low-income Black families moved. This resulted in White flight, during which time White residents from historical Anacostia (“Central Anacostia”) took with them most of the community infrastructure and wealth. The public housing also concentrated D.C.’s poorest residents in areas far from the city center and its service and amenities. By 1957, Anacostia became the United States’ first majority-Black city.

According to the 2000 Census, Greater Anacostia has a population of approximately 7,950, of which 92% is African-American, 5% Non-Hispanic White, and 3% other.⁵¹ The median household income is \$29,480. Located in Ward 8, Anacostia is the most impoverished section of D.C.—the site of most of D.C.’s homicides, welfare recipients, Medicare patients, unemployed, and public housing residents.⁵² According to the United States Department of Agriculture, Anacostia is also a food desert.⁵³ Of the City’s forty-three full service grocery stores, only three are located in Ward 8, as compared to eleven full service stores in Ward 3, Washington’s highest income area.⁵⁴ Along with Ward 7, Ward 8 has the highest obesity rate in the District.

To walk through Anacostia is to experience the visual pollution of fast food signs that seems to dot

every other block and the miasma of stale grease that seems to permanently hang in the air the reality of what it means to live in a food desert.

3. *A tale of two New York neighborhoods: Brooklyn Heights and Bedford-Stuyvesant*

The stark disparities in access to healthy food between Greater Anacostia and the wealthier neighborhoods of Ward 3 are not unique to the District of Columbia. Every major metropolitan area in the United States contains side-by-side versions of the food desert of Greater Anacostia and the fresh food-rich neighborhoods of Ward 3. In the Boston area, it is Cambridge versus Germantown; in Philadelphia, it is Center City versus North Philadelphia; in Baltimore, it is Woodbury versus Cherry Hill; in Chicago, it is the Southside and the North; in Los Angeles, it is South Los Angeles and Westwood; in San Francisco, it is Nob Hill and Hayes Valley.⁵⁵

Or, take New York City. A mere 4.2 miles apart, the Brooklyn Heights and the Bedford-Stuyvesant sections of Brooklyn present two drastically different worlds for the residents who live there. Residents of Brooklyn Heights live within walking distance of full-line supermarkets and grocery stores and have the ability to choose from a variety of healthy food options while residents of the Bedford Stuyvesant live within virtual food deserts with limited access to healthy food options particularly, fresh fruit and vegetables.

Home to a population of roughly 74,259 persons,⁵⁶ Brooklyn Heights is a burgeoning neighborhood replete with booming businesses, brownstones and the attractive Brooklyn Promenade with its scenic view of the lower Manhattan skyline. According to the U.S. Census bureau the median household income of residents within Brooklyn Heights in the year 2000 hovered around \$56,293.⁵⁷ More recent statistics compiled by

City-Data reveal that as of 2009 the median household income in Brooklyn Heights was \$88,887,⁵⁸ whereas the median household income for the Borough of Brooklyn as a whole is less than half of that figure and stands at \$40,476.⁵⁹ The 2000 census estimates that the percentage of families living below the poverty level in Brooklyn Heights is 13.8 percent.⁶⁰

Although situated near the heart of Brooklyn, a racially and culturally diverse borough, the majority of Brooklyn Heights' residents are white. In fact, whites account for 62.6 percent of the population in Brooklyn Heights while African Americans make up 20 percent of the population.⁶¹ Although 12.3 percent of the population in Brooklyn does not speak English entirely or are unable to speak English well, only 1.2 percent of the population in Brooklyn Heights is similarly situated.⁶² Moreover, the percentage of foreign-born residents of Brooklyn Heights is less than half of that of Brooklyn and stands at 14.3 percent in comparison to the 37.8 percent of the borough as a whole.

The demographics of Brooklyn Heights with respect to household size and composition are also markedly different from the rest of the borough. Households headed by single mothers account for 1.8 percent of the population in Brooklyn Heights as compared to 14.9 percent of the borough-wide population.⁶³ Households are also typically smaller in the Brooklyn Heights section of Brooklyn and are estimated at 1.8 persons as opposed to the 2.8 figure of the borough as a whole⁶⁴ or the average household size for New York City, which stood at 2.63 in the year 2009.⁶⁵

Not surprisingly, Brooklyn Heights is not listed among the areas classified as food deserts. There, neighborhood residents have access to four full-service supermarkets, two fruit and vegetable stores, an outdoor farmer's market operating

three times a week, two bakeries, a butcher shop, a fishmonger, and three specialty cheese and chocolate stores. In light of these offerings residents of neighboring lower-income areas often venture to Brooklyn-Heights to shop.⁶⁶

Just a few miles away, residents of the Bedford-Stuyvesant section of Brooklyn live in a drastically different environment. Although a culturally vibrant and rich neighborhood, Bedford-Stuyvesant is lacking and under developed in many respects. Noticeably absent is the plethora of full-line supermarkets available in Brooklyn Heights.⁶⁷ In their place are bodegas and other convenience stores, which offer fewer and less healthy food items at higher price points. Bedford-Stuyvesant, a highly populated and compact neighborhood located in central Brooklyn is over-saturated with 176 bodegas.⁶⁸ In fact, "about 8 in 10 food stores in Bedford-Stuyvesant . . . are bodegas."⁶⁹ Though some bodegas carry fruits and vegetables only 21% of the bodegas in Bedford-Stuyvesant carry apples, oranges, and bananas. And only 6% of bodegas carry green leafy vegetables.⁷⁰ Farmers' markets, which typically serve as an alternative when fresh produce is limited in neighborhood food purveyors, offer only limited access to fresh produce in Bedford-Stuyvesant. Consequently, Central Brooklyn, where Bedford-Stuyvesant is located "has the highest proportion of residents who do not eat the recommended servings of produce. [And, a] massive 94%-96% go without adequate produce consumption."⁷¹ As a result, those who call Bedford-Stuyvesant home are forced to shop outside their neighborhood to find healthy affordable food. Residents unable to shop elsewhere must do so at one of the 12 supermarkets located in the area, supermarkets which "generally have low square feet per customer ratios and limited quality products; they compete with the many convenient but unhealthy bodega and fast food restaurant options."⁷²

With a population estimated at 112,682 in 2009⁷³ the Bedford-Stuyvesant area of Brooklyn clearly stands in stark contrast to Brooklyn Heights. Unlike Brooklyn Heights, the average household size in Bedford-Stuyvesant is 2.91, considerably higher than that in both the borough of Brooklyn and the City of New York.⁷⁴ Although the households are larger, the median household income of residents reported in the 2000 census was \$20,839, well below that of neighboring area Brooklyn-Heights.⁷⁵ While more recent surveys estimate that in 2009 the median household income of residents in the area grew to \$27,748, this small increase still leaves the area significantly lagging behind the median household income of residents of New York State as a whole, which is estimated at, \$54,659.⁷⁶ Not surprisingly, the poverty rate in Bedford-Stuyvesant is alarmingly high as 32.4 percent of the residents earn income below the poverty level and 18.3 percent of said residents earn income below 50 percent of the poverty level.⁷⁷ Also unlike Brooklyn Heights, 85.6 percent of the residents of Bedford-Stuyvesant are African-American while 3.6 percent are whites.⁷⁸ With respect to cultural diversity, 32.3 percent of the residents of Bedford-Stuyvesant are foreign born⁷⁹ and 19.8 percent of the population speaks a language other than English at home.⁸⁰ The disparity is clear. Low-income areas and neighborhoods primarily inhabited by persons of color are disproportionately affected by the epidemic of food deserts.

4. *Food disparities are not just an East Coast phenomenon: Chicago's Segregated Communities*

Though Chicago's neighborhoods are miles away from Anthony's Anacostia neighborhood and the neighborhoods of Brooklyn, the city's food disparity patterns mirror the patterns of the East Coast cities. Food deserts rim the southern and western borders of Chicago, not coincidentally overlapping areas populated by low-income minorities.⁸¹ Those

living in the Southside and Westside of Chicago are less likely to have a grocery store within walking distance of their home, as compared to those living in other parts of Chicago.⁸² Additionally, those living in the Southside and Westside of Chicago have easier access to fast food restaurants relative to supermarkets, when compared to other parts of Chicago.⁸³ Easier access to less healthy prepared foods available at places such as McDonald's makes the decision to eat more nutritious foods less convenient and more time consuming.⁸⁴

Reflecting the limitations of their food environment, individuals living in the predominantly African American neighborhoods of the Southside and Westside tend to have higher body mass indexes than those living in the predominantly white neighborhoods of the North and Northwest.⁸⁵ The higher body mass indexes translate into a greater predisposition to diabetes and cardiovascular disease.⁸⁶ In 2003, the death rate from cardiovascular disease for African American communities in Chicago was nearly double that of white communities' at 12.18 deaths per 1000; the diabetes death rate was nearly triple at 45 deaths per 1000. The cancer rate for African American neighborhoods was also elevated in comparison to white communities at 10.28 deaths per 1000.

The segregated landscape of Chicago's neighborhoods, and the accompanying disparities of food resources within Chicago, is not a coincidence of geography but a consequence of decades of government policies and discrimination by Chicago's residents. Patterns of segregated living were nonexistent in Chicago prior to 1890.⁸⁷ Even as late as 1920, as the Southside was developing into a predominantly African American settlement area, census tracts could not register the increasing segregation of the city and no census tracts were 90% African American.⁸⁸

After the Supreme Court's dismissal of *Corrigan v. Buckley*, a case challenging judicial enforcement of racial covenants, private real estate agreements discriminating against African Americans proliferated.⁸⁹ The Chicago Board of Real Estate undertook a campaign to promote the adoption of racial covenants across Chicago.⁹⁰ The Board drafted model covenants and sponsored speakers and organizers to coordinate the implementation of racial covenants across the city.⁹¹ By the late-1920s, almost 85% of Chicago was covered by racial covenants.⁹² The predominantly African American neighborhoods in the Southside of Chicago were "hemmed in" by residences encumbered by racial covenants.⁹³ When African American families attempted to move into predominantly white neighborhoods, they suffered violent consequences.⁹⁴

Even after racial covenants were declared illegal by the United States Supreme Court in *Shelley v. Kraemer*, Black-white segregation in Chicago persisted. In the 1940s, retail businesses, such as Marshall Field, petitioned the government for legislative aid in protecting downtown Chicago from white flight and African-American resettlement.⁹⁵ Through the Redevelopment and Relocation Acts of 1947, the Chicago government authorized the razing of houses in "blighted" areas, predominantly African American neighborhoods, for private redevelopment.⁹⁶ African American homes were destroyed to be replaced by luxury apartments unaffordable to the area's original residents.⁹⁷ Under the auspices of the Chicago Housing Authority, those displaced were rehoused with the very poor in high-rise apartments located primarily in the Southside and Westside.⁹⁸ The Housing Authority's policies required it to maintain pre-existing segregated patterns of residency in Chicago;⁹⁹ these policies, and the Redevelopment Acts, gave official sanction to private patterns of discrimination.¹⁰⁰

As poor blacks were concentrated within the city, upper and middle income whites moved out of Chicago to the suburbs. Supermarkets developed alongside the newly arrived population, and enjoyed cost advantages unavailable to businesses in the city.¹⁰¹ The suburbs' cheaper land enabled supermarkets to expand and shift their sales model from one that depended on mark-up profits to one that depended on profits from volume sales.¹⁰² Supermarkets were able to establish their own manufacturing facilities or purchase products directly from manufacturers.¹⁰³ Within the city, not only did retailers move outside of Black neighborhoods, perceiving the neighborhoods to be economically "unstable" and "blighted," but the retailers also faced competition from bigger chains located on the city's outskirts.¹⁰⁴ The competition from the suburban chains caused some city grocers to close, and other grocers moved out of predominantly African American communities, identifying them as declining markets.¹⁰⁵

The segregated landscape of Chicago continues to impact its African American residents. Focusing on two adjacent communities, Austin and Oak Park located on the Westside of Chicago, the communities' disparate access to healthy foods illustrates the continuing gap in services between majority African American and more diverse neighborhoods. Though Austin and Oak Park are neighboring locations, they differ markedly in their demographics. In 2000, Austin's population of 117,527 was predominantly African American.¹⁰⁶ Its median household income was \$33,663, with 24% of the population living below the poverty line.¹⁰⁷ A quarter of Austin's households did not own a car.¹⁰⁸ In comparison, Oak Park's population of 52,500, was more than 66% white.¹⁰⁹ The median income of Oak Park's residents was \$59,183.¹¹⁰

Though both Austin and Oak Park have similar numbers of food providers per capita, it is the specific mix of food stores within the two neighborhoods that sets them apart. In Austin, small independent grocers, those having an annual sales of \$2.5 million or less, and liquor stores predominate.¹¹¹ Independent grocers and liquor stores tend to carry a limited variety of produce and often carry produce of poor quality.¹¹² In contrast, Oak Park tends to have more chain supermarkets and independent supermarkets, stores with an annual sales of \$2.5 million or more.¹¹³ These tend to carry a broader variety of produce and better quality produce.¹¹⁴ In a survey examining the quality of foods available in Austin and Oak Park, researchers found that on average independent grocers in Austin carried only 4 out of 14 fruits and vegetables listed by USDA in its Community Food Assessment Handbook.¹¹⁵ Fifty-nine percent of the surveyed independent grocers carried onions and potatoes, and 44% carried tomatoes, the next most carried item on the list.¹¹⁶ In comparison, independent and chain supermarkets in Oak Park and Austin carried nearly all of the fruits and vegetables listed by the USDA in its Community Food Assessment Handbook.¹¹⁷ Researchers surveying the produce quality in supermarkets in Oak Park and Austin found that none of these stores carried poor quality produce.¹¹⁸ In contrast, the surveyors found that 53% of Austin's independent grocers carried at least one poor quality produce item; no independent grocer in Oak Park carried poor quality produce items.¹¹⁹ Ultimately, the researchers concluded that "if food availability contributes to health through optimal dietary patterns then Austin residents may experience difficulty attaining good quality diets from within the community."¹²⁰

5. *A different coast, but the same story...*

Traveling to the opposite corner of the United

States, far from Anthony's neighborhood of Anacostia, the Brooklyn neighborhoods of New York City, and the Midwest neighborhoods of Chicago, the disconcerting patterns of food access persist. Los Angeles, a relatively young city whose population did not reach 100,000 until the turn of the century,¹²¹ exhibits similar income and race disparities as its older counterparts.

As late as 1870, Los Angeles was a small settlement with a population of 33,381.¹²² The minority population of Los Angeles County was negligible at 5%.¹²³ Those migrating to Los Angeles were relatively well-to-do African Americans and whites.¹²⁴ As Los Angeles matured, it grew in relatively dispersed patterns.¹²⁵ Unlike its East coast and Midwest counterparts, the city did not have a significant industrial core, and because of the advent of street railways and interurban electric lines before the principal period of its growth, developers were able to build homes farther from the city center.¹²⁶

When African Americans first migrated to the area, they were optimistic about their future in Los Angeles, and some early African American visitors commented that they felt "[they] belonged."¹²⁷ Following the general pattern of residency, Blacks migrating to Los Angeles dispersed throughout the city.¹²⁸ During the early 1900s, African Americans began occupying a settlement area now encompassed by South Los Angeles, centered on Central Ave.¹²⁹ Early attitudes of those living in Los Angeles towards Blacks were mixed. Pro-business interests in the area supported the Republican anti-segregation movement and espoused an "open shop" policy, hiring non-union employees.¹³⁰ Schools in Los Angeles were desegregated.¹³¹ However, African Americans did continue to experience discrimination. Some homes and neighborhoods carried restrictive racial covenants, selectively enforced, and Blacks were sometimes unable to

procure employment or were relegated to jobs with lesser pay.¹³²

It was after World War I that discrimination encountered by African Americans intensified, backed by government resources.¹³³ In 1919, the California Appellate Court validated racial occupancy restrictions.¹³⁴ Soon afterwards, the United State Supreme Court dismissed *Buckley v. Corrigan*, a case challenging the legality of racial covenants, on jurisdictional grounds.¹³⁵ These developments emboldened and legitimized white racism.¹³⁶ “[The] National Association of Real Estate Boards [began advising] its affiliates on how to promote segregation.”¹³⁷ Developers adopted racial covenants covering thousands of homes at a time.¹³⁸ In contrast to cities like Chicago, where a majority of houses predated the widespread use of racial covenants and each house within an existing neighborhood had to actively adopt racial covenants in order to prevent African American families from moving into the neighborhood, in Los Angeles, where neighborhoods were just being built, entire developments were sold with racial restrictions.¹³⁹ Individuals living within race restricted housing were required to uphold the covenants regardless of their own private beliefs.¹⁴⁰ Zoning ordinances were also used to restrict the character of a neighborhood and “ ‘protect’...districts from perceived ‘nuisances,’ such as factories, apartment complexes and unwanted institutions.”¹⁴¹ “[C]lass biased zoning indirectly promoted racial segregation because neighborhoods designated to include only luxury homes drew residents from the ranks of the overwhelmingly white upper crust of the city [and generally excluded blacks].”¹⁴² In neighborhoods near existing Central Ave neighborhoods that were predominantly African American, violence, attributed by some to the Klu Klux Klan, kept the community from expanding further southward.¹⁴³

Though the situation for African Americans in Los Angeles was far less optimistic in the 1920s than it had been at the beginning of the century, the city continued to be a draw for African Americans. The city offered the prospect of home ownership to African American families, which other cities did not.¹⁴⁴ In 1930, 33% of black families living in Los Angeles owned their homes, compared to 10.5% in Chicago and 5.6% in New York.¹⁴⁵ Additionally, entrepreneurial opportunities existed for African Americans living in Los Angeles. In 1933, the *Los Angeles Sentinel* opened on Central Ave, a newspaper that continues to be “the largest Black newspaper in the West.”¹⁴⁶ Around that same time, William Nickerson Jr., Norman Oliver Houston and George Allen Beavers, Jr. founded the Golden State Mutual Life Insurance Company, still the largest Black-owned insurance company in the West.¹⁴⁷ A number of other prominent businesses and important buildings were also established on Central Ave during the 1930s.¹⁴⁸ As African Americans were increasingly kept from conveniently accessing businesses in other neighborhoods, they expanded their own business community clustered along Central Ave.¹⁴⁹

White residential developments became increasingly dispersed with the advent of automobiles. The high proportion of car owners in Los Angeles, at 35% in 1928, facilitated both the building of “new housing in suburban areas, [and] made it possible for shoppers to travel easily to outlying areas.”¹⁵⁰ Because land in outlying areas was less expensive, “new markets opted [to build in] largely homogeneous, white middle- and upper-class suburban neighborhoods with inexpensive and abundant land.”¹⁵¹ Restrictive covenants, redlining, and housing discrimination made supermarkets located in the suburbs less accessible to predominantly African American neighborhoods.¹⁵² Businesses grew alongside

predominantly white neighborhoods, catering to their needs. Unlike other cities, in which public market houses thrived, in Los Angeles, the dispersed patterns of living made public market houses, central locations hosting vendors selling groceries, less popular.¹⁵³ The city began moving away from delivery-oriented grocery stores by the 1900s, and by the 1930s, Ralphs had established a number of self-service grocery stores.¹⁵⁴

Purchasing homes in predominantly white communities continued to be difficult for African Americans, even after the U.S. Supreme Court decision *Shelley v. Kraemer*, invalidating racial covenants. Seven years after the decision, “a survey of twelve brokers serving a suburban Los Angeles neighborhood of 12,000 new homes found that none were willing to sell to Blacks.”¹⁵⁵ “Also exacerbating housing conditions was the influx of 160,000 Blacks into the community, doubling its population.”¹⁵⁶ By mid-century, “73% of nonwhite renters and 93% of nonwhite homeowners in Los Angeles lived in substandard dwellings.”¹⁵⁷ In contrast, white housing options, subsidized by federal government loans under the New Deal, increased. Between 1940 and 1957, 1 million new housing units were built within Los Angeles County of which 98.5% were occupied by whites.¹⁵⁸ To improve access to Los Angeles’ suburbs, the California State Highway commissioned the building of government subsidized highways.¹⁵⁹ The highway cut through a middle-class Black neighborhood, further exacerbating tensions between African Americans and whites.¹⁶⁰

The passage of the Fair Housing Act in 1964 did little to alleviate rising tensions between the African American and white communities. The Act was significantly limited by amendments and “the immediate impact of the new law was felt mainly by educated Black professionals with above average incomes...[and] no provisions [of

the Act met] the mass housing demands of working class communities of color.”¹⁶¹ Even so, the relatively conservative Act garnered widespread white opposition.¹⁶² The real estate community within Los Angeles drafted a proposal to invalidate the Fair Housing Act, Proposition 14, and the proposal was approved by a majority of voters.¹⁶³ Though the proposition was eventually found to be unconstitutional, the overwhelming support garnered by the proposition stoked tensions between the African American and white communities.¹⁶⁴ In South Los Angeles by 1965, “only two out of three residents lived in sound housing and the percentage in extremely substandard homes deemed dilapidated and deteriorating had doubled over the past five years.”¹⁶⁵ Adding to the pressures within the African American community was increasing unemployment, as heavy industrial corporations, following a nationwide trend, went out of business or transferred out of the city. In a “time of phenomenal prosperity for Southern California and the nation,”¹⁶⁶ the unemployment rate in South Los Angeles stood at double the rate for metropolitan Los Angeles.¹⁶⁷ Additionally, as African American professionals moved out of older neighborhoods, the concentration of poor African Americans increased in the city.¹⁶⁸

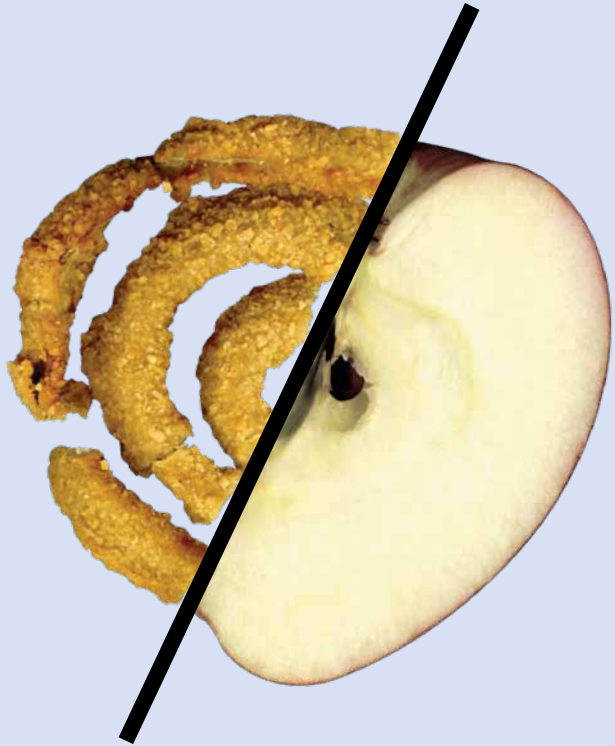
High unemployment rates, substandard living conditions, and unresponsive government policies culminated in civil unrest in 1965. During this time, “more African Americans relocated from Los Angeles than from any other major metropolis during the 1960s.”¹⁶⁹ Along with the flight of residents, businesses also relocated outside of South Los Angeles.¹⁷⁰ Almost three decades later, similar conditions once again culminated in riots.¹⁷¹ Following the Rodney King riots of 1992, the California legislature took the unprecedented step of investigating the causes of the unrest.¹⁷² The legislative report found that 32.9% of the residents of

South Los Angeles lived below the poverty line.¹⁷³ It also noted that the median income of those living in South Los Angeles in 1989 was \$20,593, nearly \$14,000 less than the average median income of Los Angeles.¹⁷⁴ The report also found that South Los Angeles faced significant retail disparities and that South Los Angeles had “one retail store for every 415 residents, versus a countywide average of one store for every 203 residents.”¹⁷⁵

Nearly two decades following the race riots, South Los Angeles continues to experience high rates of poverty. The median income of families living in South Los Angeles is \$30,000, which is now \$25,000 less than that of Los Angeles County.¹⁷⁶ Thirty percent of South Los Angeles’ population lives below the poverty line.¹⁷⁷ Disparities in resources between South Los Angeles and predominantly white communities continue to persist. South Los Angeles has one supermarket serving twice as many people as supermarkets in West Los Angeles,¹⁷⁸ a predominantly white community.¹⁷⁹ The supermarkets in South Los Angeles are less likely to carry a variety of fresh fruits or vegetables compared to those in West Los Angeles.¹⁸⁰ The difficulties of maintaining a healthy diet due to the inconvenience of accessing grocery stores, is exacerbated by the ease of access to less healthy food options.¹⁸¹ The South Los Angeles community has more fast food restaurants than West Los Angeles and four times as many liquor stores per square mile.¹⁸²

The disparate food environments of the two communities are correlated with worse health outcomes for those living in South Los Angeles. South Los Angeles’ residents are at a 68% higher risk of developing coronary heart disease relative to those living in West Los Angeles and at a 23% higher risk than the rest of Los Angeles County.¹⁸³ This translates to a higher mortal-

ity rate from Coronary heart disease for those living in South Los Angeles when compared to the rest of the county.¹⁸⁴ Additionally, those living in South Los Angeles are twice as likely to have diabetes compared to those living in West Los Angeles.¹⁸⁵ They are also more likely to die of stroke.¹⁸⁶ Three of the five leading causes for premature death for those living in South Los Angeles are coronary heart disease, diabetes, and stroke;¹⁸⁷ all are found to be correlated with diet.¹⁸⁸ Those living in South Los Angeles are also at a greater risk of developing all types of cancers when compared to those living in Los Angeles as a whole.¹⁸⁹ The disparate health outcomes are alarmingly correlated with the geographic locations in which predominantly low-income African Americans reside.¹⁹⁰



C. Structural Causes of Food Deserts

Though every city has its own story, some of the largest cities share surprising similarities in their settlement patterns. Washington, DC, Chicago, Los Angeles, and New York City did not start as segregated cities, and yet today, the cities' neighborhoods reflect clear patterns of segregation. Patterns of segregation are accompanied by disparities in access to resources. Individuals living in predominantly minority, low income neighborhoods are more likely to experience difficulties in obtaining fresh fruits, vegetables and other healthy foods compared to their non-minority counterparts.¹⁹¹ A primary reason for these disparities are ostensibly race-neutral policies espoused by the government that have had racialized consequences.

The study of public policies, private institutions, and other institutionalized structures that interact and create racialized outcomes is the study of structural racism.¹⁹² The structural racism model posits that to understand why race disparities persist, it is important to examine how institutions interact.¹⁹³ The model moves beyond blaming racist individuals or race-neutral institutions for social outcomes, to look at the cumulative impact of multiple institutions on race.¹⁹⁴ A central tenet of the theory is that the relationship between institutions influences behavior, i.e. institutions encourage specific types of responses.¹⁹⁵ This results in an understanding that social inequities such as food deserts are not necessarily the result of one institution's actions but rather the actions of multiple institutions over time. By altering the method of analysis, to one that looks at cumulative causation, the structural racism model enables the fashioning of a multi-pronged remedy with which to address the complex dynamic of racism.¹⁹⁶

It is not by happenstance that low-income neighborhoods and communities of color are often devoid of affordable and nutritious food choices but have easy access to fast-food restaurants, bodegas and convenience stores. Rather, food deserts are a manifestation of structural inequities that have been solidified over time. The structural influences that have resulted in the disparate access to healthy food for minorities are innumerable. Housing policies, financial policies, and government regulations have all interacted over time to contribute to the disparity in healthy food options within cities.

1. Residential Segregation

Numerous federal and state policies have contributed to residential segregation patterns. In 1930, a typical African American was living in a community dominated by whites, but by 1970 "[African Americans] in all northern cities were more likely to live with other blacks than with whites."¹⁹⁷ These patterns of segregation are still evident today; in 2000, a study found that 66% of African Americans would have to move out of their neighborhoods into white neighborhoods for African Americans and whites to be distributed in proportion to their current national populations.¹⁹⁸ Another study found that 55% of Hispanics would have to move out of their neighborhoods to white neighborhoods to be distributed in proportion to their relative population share.¹⁹⁹ The racial segregation across neighborhoods is correlated with differences in resources; African American and Hispanic neighborhoods are less likely to have access to supermarkets that have lower prices,²⁰⁰ more varied food products²⁰¹ and healthier foods.²⁰² The segregated living patterns are not a natural consequence of private choices, but have been significantly influenced by government policies.

Policies implemented as early as 1933 continue to influence living patterns. In 1933, the FDR government established the Home Owners Loan Corporation (HOLC) to provide low-interest mortgages to those at risk of foreclosure.²⁰³ The HOLC incorporated race-discriminatory criteria into its lending requirements and deemed those living in racially or ethnically mixed neighborhoods to be “too risky” for loans.²⁰⁴ Later, the Fair Housing Administration (FHA) and the Veterans Administration (VA) adopted lending standards similar to the HOLC.²⁰⁵ The FHA underwriting manual of 1939 specifically stated that “if a neighborhood is to retain stability, it is necessary that properties shall continue to be occupied by the same social and racial classes.”²⁰⁶ The FHA significantly reduced the down payment burden for a home purchase and increased the repayment period of a home loan up to 30 years.²⁰⁷ The benefits of these loans were unavailable to minorities.²⁰⁸ The New Deal policies championed by FDR had a significant impact on American homeownership; from 1934 to 1969 the number of families living in homes they owned increased from 44% to 63%.²⁰⁹

After the New Deal, the federal and local governments continued to influence racial settlement patterns. In the 1950s, the tax bases of cities declined as middle-income whites moved to suburbs.²¹⁰ Interests within cities, such as universities, hospitals, foundations and businesses, sought the help of the federal government to stem white flight. They were able to procure the passage of the Housing Acts of 1949 and 1954.²¹¹ These Acts espoused a policy of urban renewal and authorized funds for slum clearance and public housing.²¹² In a number of cities, the practical effect of the policies was the clearance of predominantly Black neighborhoods.²¹³ To gain federal funding for the “slum” clearance projects, states had to guarantee affordable replacement housing for those displaced.²¹⁴ “In

order to save money, maximize patronage jobs, and house within the ghetto as many blacks as possible, local authorities constructed multiunit projects of extreme high density.”²¹⁵ Cities placed predominantly African American public housing in African American neighborhoods conforming to majority racist sentiments.²¹⁶ The federally financed and state instituted urban renewal policies became emblematic of the differential treatment of Blacks and whites by the government, as “family public housing increasingly became a minority relocation program...while government subsidies brought homeownership and suburban mobility within the reach of the white middle class.”²¹⁷

Zoning policies predated urban renewal policies of the mid-century, and also contributed to the patterns of segregation evident today.²¹⁸ Zoning ordinances were first used in Los Angeles to protect residential areas from industrial uses.²¹⁹ The zoning power was subsequently expanded to be used to “exclude undesirable groups from entering [upscale] communities.”²²⁰ When the Supreme Court found that discriminatory zoning ordinances were unconstitutional in *Buchanan v. Warley*,²²¹ cities turned to implicit means of zoning against minorities.²²² They enacted ordinances that restricted home occupancy to nuclear families to discourage occupancy by minorities more likely to live with extended families or non-family members.²²³ Other cities enacted ordinances limiting the type of work that could be done from a home to middle-class occupations, to discourage low-income residents.²²⁴ Some cities restricted multi-family homes from being built within a community, also to discourage low-income residency.²²⁵ In *Metropolitan Housing Development Corporation vs. Arlington Heights*,²²⁶ an ordinance restricting low-income housing disparately impacting minorities was challenged.²²⁷ The Supreme Court found that the ordinance was not uncon-

stitutional because no intent to discriminate was shown.²²⁸ Zoning ordinances served, and continue to serve, as proxy means of influencing the racial make-up of a community.²²⁹

The public policies that have influenced segregated living patterns reflect private sentiments of discrimination. In 1962, 61% of white Americans polled in a survey believed that “white people[had] a right to keep blacks out of their neighborhoods if they [wanted] to, and blacks should respect that right.”²³⁰ Nearly 20 years later, in 1980, a survey found that only 40 percent of whites were “willing to vote for a community wide law stating that ‘a homeowner cannot refuse to sell to someone because of their race or skin color, [i.e. The Fair Housing Act].’”²³¹ In 1990, a Detroit survey of whites found that 73% of white respondents would not move into a neighborhood that was more than 50% Black.²³² Discrimination towards African Americans continues to influence real estate practices. One researcher looking at 71 different studies auditing real estate practices of the 1980s found that “Blacks averaged a 20 percent chance of experiencing discrimination in the sales market and a 50 percent chance in the rental market.”²³³ A 1988 HUD study looking at Housing Discrimination found that “Blacks were systematically shown, offered and invited to inspect far fewer homes than comparably qualified whites.”²³⁴

Public policies and private discrimination continue to shape segregated living patterns. Living patterns are correlated with access to educational opportunities, employment opportunities, and, ultimately, to the health of those living within a community.²³⁵ One factor influencing the health of individuals is access to affordable nutritious foods.²³⁶ Studies comparing specific neighborhoods have found that low-income neighborhoods and minority neighborhoods are

less likely to have access to large supermarkets.²³⁷ Federal and state policies have influenced the evolution of supermarkets and their relative scarcity in low income and minority communities just as they have influenced segregated living patterns.

2. Commercial Flight from Urban Communities

Statistics comparing supermarket access in minority communities to non-minority communities are troubling. One study surveying the 25 largest cities found that all the cities studied except for Cleveland, Ohio had fewer stores per capita in low-income neighborhoods.²³⁸ Another study, looking at the nationwide distribution of supermarkets found that African American neighborhoods had access to half as many chain supermarkets as white neighborhoods; Hispanic neighborhoods had access to a third as many.²³⁹ National studies that did not separately consider inner-city minorities, however, did not find disparities across races. Studies specifically looking at inner city access of supermarkets in Detroit, Minneapolis, St. Paul, D.C., Los Angeles, Chicago, and New York City all found disparities in inner-city minority access.²⁴⁰

Federal government policies have not only influenced disparate minority living patterns but also have affected the development of supermarkets in minority communities. As middle-income whites moved out of cities to suburbs subsidized by government loans, businesses relocated with them.²⁴¹ Grocery stores and retailers alike fled to the suburbs to take advantage of the middle income and largely homogenous white market.²⁴² Upon relocation to the suburbs, supermarkets shifted from the traditional retail model which provided products through small, specialized stores such as, meat markets, bakeries, produce shops, to a model which integrated various products under one roof.²⁴³

The supermarket evolved to take advantage of inexpensive suburban lands, and business friendly suburban zoning. From an initial average size of 10,000 sq. ft. the supermarket grew to an average size of 25,000 sq. ft. by 1950.²⁴⁴ By 1994, supermarkets preferred at least 40,000 to 45,000 square feet of land space.²⁴⁵ Industry experts hypothesized this size was the “minimum necessary to attain the volume and mix of goods that allow a store to stay competitive on pricing.”²⁴⁶ As supermarkets grew, they were able to capture larger portions of the suburban market. Urban supermarkets were costlier to maintain than suburban markets, and “inner city markets, with a few exceptions, were virtually abandoned by leading chains.”²⁴⁷

Because of their larger sizes, suburban supermarkets and chain stores were able to realize a number of economic advantages. Supermarkets were able to cultivate buying power with manufacturers and obtain large volumes of goods at discounted prices.²⁴⁸ Sometimes, because they were so large, they were able to produce their own products, selling these at discounted prices.²⁴⁹ Chain supermarkets had the added advantage of “an intricate distribution network [that] allowed chains to better forecast demand and thus plan inventories and site selection more effectively.”²⁵⁰

Supermarkets located in cities found it difficult to compete with their suburban counterparts. Land areas required for supermarkets were often unavailable in the city.²⁵¹ Land costs, themselves, were higher in the city than the suburbs.²⁵² Additionally, city zoning laws were stricter because businesses and residents existed side-by-side.²⁵³ Noise regulations, traffic regulations, and pollution regulations, for example, were all less business-friendly in the city.²⁵⁴ Because suburban customers were able to purchase more products to carry in their cars than city customers could, suburban supermarkets also enjoyed

a cost savings per customer.²⁵⁵ Supermarkets were able to spend less per person per trip for a suburban customer than an urban customer on cashiers, scanners, and other overhead costs.²⁵⁶ All of these contributed to cost advantages enjoyed by suburban supermarkets and price savings enjoyed by suburban consumers.

3. *Continuing Supermarket Scarcity in Urban Communities*

Costs facing supermarkets locating in the city continue to be higher than those locating in the suburbs. The land demands supermarkets have evolved to require are difficult to accommodate within cities. Piecing together parcels of land, sometimes controlled by multiple entities, for a supermarket project within a city can be time consuming and prohibitively expensive.²⁵⁷ Building costs for supermarkets also tend to be higher within the city because construction is more regulated within cities.²⁵⁸ “Restrictive licensing and permitting, high licensing fees, and archaic safety and health regulations” all increase the cost of doing business for supermarkets within the city.²⁵⁹

Compounding the difficulties of locating supermarkets in the city are problems of commercial redlining and the refusal of insurance companies to provide insurance coverage to businesses located in predominantly black or minority neighborhoods. Business continue to suffer from the inability to procure loans in the inner city “because of the limited attention that mainstream banks paid them historically.”²⁶⁰ In general, banks are not enthusiastic about lending to small businesses because the transaction costs are high in comparison to loans given.²⁶¹ Additionally, inner-city residents have limited access to equity capital because those they know lack savings and money to lend.²⁶² Additionally, businesses often face high insurance rates because of per-

ceived or actual crime in inner city locations.²⁶³ Perceptions of crime rates by businesses and insurance companies can sometimes be biased, but nonetheless contribute to increased costs.²⁶⁴

Public sector policies related to land use and zoning also continue to play a central role in increasing the cost of supermarkets seeking to build within cities. These policies are often antiquated and discourage supermarkets from locating in the city. In New York City, for example, large tracts of land are currently zoned for industrial usage though few industrial businesses remain in New York.²⁶⁵ This land can be used to accommodate retail uses, but it has not been. A second example are zoning ordinances setting higher requirements for parking for supermarkets relative to other stores.²⁶⁶ A higher parking requirement in inner cities where land is scarce makes the prospect of operating a supermarket unlikely. Even where space is available the increased parking requirement can prove to be cost prohibitive as “[n]ew grocery stores may be required to purchase more land to accommodate parking than would be justified by the demand.”²⁶⁷ Smaller grocery stores and convenience stores, not burdened by higher parking requirements become the alternative for those living in cities. The price paid by consumers is less fresh produce because smaller stores “have a harder time accommodating equipment or space needed for fresh produce or perishable products.”²⁶⁸

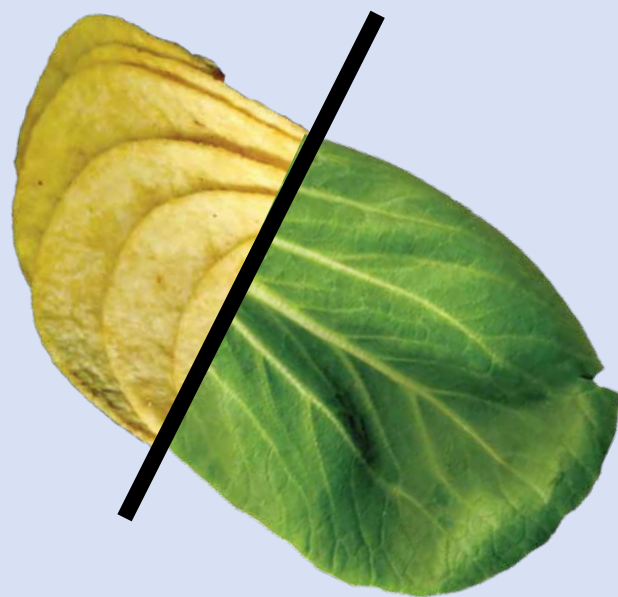
4. *Blaming the Victims*

Even while policymakers acknowledge that food access issues disproportionately affect minorities, their rhetoric continues to suggest that the scarcity of supermarkets within predominantly low-income minority neighborhoods is a matter of choice. For example, an article published in *Amber Waves*, a U.S. Department of Agriculture,

Economic Research Service entitled “Access to Affordable, Nutritious Food is Limited in “Food Deserts,”²⁶⁹ states that “[c]onsumers’ demographic and economic characteristics, buying habits, and tastes also may explain why stores do not locate in some areas or carry particular foods.”²⁷⁰

By failing to acknowledge and discuss the historic influences for the dearth of supermarkets within cities, policymakers imply that minorities are themselves to blame for their lack of healthy food options. John Powell notes that “[r]-esidential segregation is both a cause and a product in the processes that shape construction of race in America. Once structures are in place they appear to have a logic and momentum of their own that reproduces and naturalizes the meanings that they help shape.”

Ignoring past influences constraining the choices of minorities redirects attention from social constraints imposed by institutions on minorities to minorities’ personal choices. Choices made within constrained circumstances are interpreted as freely chosen personal tastes. The forces that act to make the choice of eating healthier foods more difficult for minorities are ignored, and instead, minority ‘tastes’ are characterized as inferior and used to reinforce negative stereotypes of race.



D. The Impact of Food Deserts on Communities of Color

Anthony's Future

Looking ahead to Anthony's future, if he continues to live in a neighborhood with out-of-balance food choices, Anthony is more likely to develop a number of diseases relative to his non-minority counterparts. He is at a greater risk for becoming obese.²⁷¹ He is more likely to suffer from high blood pressure.²⁷² Like his minority counterparts, he is more likely to develop diabetes as an adult and suffer debilitating consequences from the disease.²⁷³ In the long run, he faces a higher likelihood of developing all types of cancers.²⁷⁴ Ultimately, he has a greater chance of dying from these diseases relative to his non-minority counterparts.²⁷⁵

1. Food Access and Minority Health

Americans and Hispanics suffer from rates of obesity at 45% and 36.8% respectively, comparatively higher than the white rate of obesity at 30%.²⁷⁶ Obesity has been linked to a wide range of health problems including Type 2 Diabetes, cardiovascular disease, various types of cancer, high blood pressure, and high cholesterol among both adults and children.²⁷⁷ The rates of these diseases have been found to be higher among African Americans than whites.²⁷⁸ Hispanics also face elevated risks for some of these diseases.²⁷⁹ Though a causal relationship between obesity and an unhealthy food environment is difficult to establish for a number of reasons,²⁸⁰ data does exist to support the proposition that environment influences food intake.

A number of observational studies confirm a link between the greater availability of healthy foods and their increased consumption. One study

examining the consumption of low-fat milk in low-income and middle-income communities, found that low-fat milk was more readily available in middle-income communities and that middle-income communities were more likely to consume low-fat milk.²⁸¹ In a second study, where fresh fruit and vegetables were stocked at two small stores within a Latino community in North Carolina, fruit and vegetable purchases increased at these stores compared to two control group stores.²⁸² A third study, however, found that though a supermarket opening was correlated with increased purchases of fresh fruits and vegetables, the size of the increase was not statistically significant when compared to a control group that also increased consumption of fruits and vegetables. This study cautioned against assuming that supermarket openings are themselves attributable to increased consumption of fruits and vegetables and that increases may also alternatively be attributable to changing tastes in the overall population.²⁸³

National studies looking at the relationship between obesity and food environment are rare. A recently published study following a cohort of kindergarten students in the United States for five years and observing the correlations between their food environment and weight gain found that their food environment was not independently correlated with weight gain.²⁸⁴ The study also found that supermarkets and smaller food vendors are more accessible in low-income minority neighborhoods than non-minority communities. The study was limited by a number of factors. Over the course of the five years children were required to participate in the study, a number of study participants dropped out. Characteristics of those who dropped out were correlated with predominantly minority low-income groups.²⁸⁵ Additionally, as larger studies generally do, the study used a

database of restaurants and supermarkets to define the “environment” that children lived in rather than canvassing neighborhoods to specifically identify restaurants and grocery stores.²⁸⁶ The database may not have accurately tracked store closings and openings over the course of five years and the resulting changes in the food environment.²⁸⁷ Finally, the study did not separate out children who lived in the central city, suburbs and rural environments.²⁸⁸ The study found that densities of fast food restaurants, grocery stores, and supermarkets were greater for the neighborhoods of poor and minority children than for non-minority children.²⁸⁹ Since minorities are more likely to live in cities than suburbs,²⁹⁰ the study may have been comparing low-income minority children living in cities to middle-income white children living in suburbs. Supermarkets within one mile are not easily accessible for an individual living in the city without a vehicle compared to an individual living in the suburb with a vehicle. The findings in this study are likely better understood within the context of smaller studies that do not face similar constraints.

In addition to analyzing the effect of the environment on health, studies have also looked at the correlations between food intake and pricing. A number of studies agree that food intake is also influenced by price constraints. Household surveys of food spending find that low-income households spend less on groceries on a per unit basis than other households.²⁹¹ Studies also find that a healthy diet often costs more than a less healthy diet. Foods containing fats, oils, sugar, potatoes, refined grains and beans are often the lowest cost options at food stores.²⁹² Additionally foods with longer shelf lives are more affordable than perishable foods such as meats, vegetables and dairy products.²⁹³ Pricing of foods often correlate with diet. Studies looking at grocery store purchases find that “purchases in high

income markets are less energy dense than in low-income markets.” Studies also find that diet quality improves with income increases.²⁹⁴

Analyzing the effect of food environments on minority food choices is complicated by studies looking at the influence of price constraints on food choices. A number of studies have found that supermarkets tend to carry lower priced items relative to smaller grocery stores and convenience stores.²⁹⁵ These studies have also found that price differentials generally affect the prices of packaged goods.²⁹⁶ Comparisons between supermarkets and other store types are complicated by differences in the quality of products carried,²⁹⁷ the range of products carried, and the sizes of products carried. Smaller stores tend to have a limited variety of items which often translates into less bulk goods and less private label products manufactured by the store, both types of products are likely to affect prices.²⁹⁸

A number of studies confirm disparate access to larger supermarkets and chain supermarkets in urban minority neighborhoods. These studies have found that in cities where residential segregation exists such as Detroit, D.C., Los Angeles, Chicago, and New York City minority neighborhoods are less likely to have access to larger supermarkets.²⁹⁹ Some studies have also found that minority neighborhoods are more likely to have access to smaller grocery stores, liquor stores, and fast food restaurants than higher income neighborhoods.³⁰⁰

In summary, studies looking at the relationship of food access, food choice and health have found correlations between food access and food choice. Food choice for low-income minorities has been found to be affected both by prices and by the accessibility of healthy foods. Improving the food environment within minority communities has led to improvements in diet.

2. Educational outcomes

Disparities in minority food environments may also contribute to the disparities in educational outcomes for children of color. Nutrition plays a crucial role in physical and cognitive development, starting in utero.³⁰¹ Studies show that insufficient nutrition during pregnancy, infancy, and early childhood places infants and children at risk of “impaired emotional and cognitive development and adverse health outcomes.”³⁰²

Overall, poor nutrition in school-age children leads to decreased curiosity and cognitive functioning.³⁰³ Studies have shown that children who consume healthy foods tend to not only be more fit, but perform at higher levels in school and are more emotionally balanced.³⁰⁴ Poor nutrition also leads to weakened immune systems and thus more days spent away from school.³⁰⁵ The more school days a child misses during the school year, the more likely she is to fall behind her peers.³⁰⁶ Students who miss many days are more likely to drop out prior to completing their high school degrees, and thus to face “diminished lifetime earning potential.”³⁰⁷

Disparate food environments may even exacerbate the effects of lead poisoning. In some lower-income urban neighborhoods, exposure to lead paint in older homes remains one of the most toxic threats to child health, and is linked with impaired learning, school performance, and antisocial behavior.³⁰⁸ A diet high in calcium and iron can help reduce the absorption and toxicity of lead for children who are exposed to lead, thereby attenuating these effects on learning and behavior.³⁰⁹

The nutritional disadvantages facing low-income children of color may exacerbate the other challenges they will face in getting a good education, including a lack of access to good

books, large class sizes, a lack of quality teaching and advanced curricula and dilapidated school facilities.³¹⁰ Nutritional disadvantages accumulate over a child’s learning years, worsening educational outcomes.

3. Access to economic opportunity

Through their negative impact on community health, food deserts influence the economic opportunities available to residents of low-income communities and communities of color in urban areas. However, the absence of supermarkets also translates directly into the absence of jobs that could be associated with those retail establishments. The City of New York estimates that the city has an unmet need for 100 supermarkets, and that an average grocery store can generate between 100 and 200 jobs.³¹¹ Practitioners point out that grocery stores are “high-volume ‘anchors’ that generate foot traffic and attract complementary stores and services like banks, pharmacies, video rentals, and restaurants,”³¹² thereby providing a multiplicative effect on local economic development. One recent study estimates a grocery “leakage” – that is, grocery purchases made by residents of low grocery access areas, outside of the neighborhood in which they live – of \$14 million per year in metropolitan Los Angeles,³¹³ while other estimates have put national grocery leakage at \$ 8.7 billion.³¹⁴



E. Addressing the Problem of Food Deserts

The difficulty in addressing food deserts lies in the framing of the problem. There are several creative approaches to increasing the ability of minority communities to access fresh, affordable and healthy food. But, their narrow formulation of the problem offers only a temporary and superficial fix to the underlying issues of structural racism that discourage investment in and service of minority communities. To truly solve the problem of food deserts we must challenge the residential segregation, commercial redlining, and other government policies and private practices that perpetuate disparities in food access in low-income minority neighborhoods.

1. Increasing Opportunities for Investment in Minority Communities

Policies and programs that encourage supermarkets and other large-scale food retailers directly address one of the root causes of the existence of food deserts — the failure of lenders and retailers to invest in operations in low-income, communities of color. In many ways, direct investments by lenders and retailers can help undo the decades of accumulated disinvestment. However, if we are to assess the impact and effectiveness of policies at overcoming the cumulative “ripple” effects of structural racism, simply importing large-scale retail stores — themselves a business model cultivated in response to white flight and suburbanization — into densely-populated urban neighborhoods may not be effective at uprooting the multiple aspects of structural racism that lead to food deserts.

An example of the benefits of investment in minority communities is Bedford-Stuyvesant Restoration, a 44-year old community development corporation that works with residents and business to improve the quality of life in Central Brooklyn, New York. Faced with the complete

absence of a major supermarket retailer in the heart of the historically African-American neighborhood of Bedford-Stuyvesant, Bedford-Stuyvesant Restoration co-founded, with national retailer PathMark, the Restoration Supermarket. Local efforts to bring a national supermarket into the community had been thwarted for years by the unwillingness of commercial lenders to provide loans and the risk aversion of the national chains, who were unaccustomed to doing business in a low-income minority community. Realizing they needed to reduce this perceived risk for a national supermarket, Bedford-Stuyvesant Restoration developed a co-ownership model in which they invested 2/3rd of the up-front funding, obtained from a host of smaller lenders including credit unions and black-owned banks. This co-ownership model had the advantage of ensuring some community ownership and control over the supermarket, while still providing the access to suppliers and management expertise of a national supermarket chain. When this 25-year co-ownership agreement expired, Restoration had little trouble finding an interested retailer to invest completely in a new store, and leased the retail space to Foodtown, a regional supermarket that operates using a franchise model. Today, the Super Foodtown located in Restoration Plaza employs a significant people and boasts an impressive selection of fresh, prepared, and packaged foods.

Several efforts around the nation are addressing this structural barrier to the development of supermarkets in urban communities of color by providing financing to support the opening of new supermarkets or support the improvement of infrastructure through existing markets in underserved communities:

- Pennsylvania has established the highly successful Fresh Food Financing Initiative (FFFI), a statewide financing program designed to attract supermarkets and grocery stores to underserved

urban and rural communities. This initiative is a public-private partnership that provides grants of up to \$250,000 and loans that range from \$25,000 to \$7.5 million “for predevelopment costs including, but not limited to, land acquisition financing, equipment financing, capital grants for project funding gaps, construction and permanent finance, and workforce development.”³¹⁵ The Initiative has provided funding for 88 fresh-food retail projects, improving access to healthy food for an estimated half a million people and generating more than 5,000 jobs in the process.³¹⁶

- President Obama has announced the Healthy Food Financing Initiative, a partnership between the Departments of Treasury, Agriculture, and Health and Human Services, which allocates \$400 million dollars to rid the nation of food deserts within seven years by bringing grocery stores offering fresh fruits and vegetables and other healthy options to underserved communities.³¹⁷ This financial assistance comes in the form of federal tax credits, below-market rate loans, loan guarantees, and grants,³¹⁸ and supports projects such as construction and expansion of grocery stores and enhancement of corner stores with refrigeration units that allow for the sale of fresh fruits and vegetables.³¹⁹
- New York City’s Food Retail Expansion to Support Health (FRESH) program, provides zoning and financial incentives to promote the establishment and retention of neighborhood grocery stores in underserved communities throughout the five boroughs. Benefits available to eligible grocery store owners and developers include both zoning and financial incentives.³²⁰ Eligible grocery store owners and developers are also exempt from certain parking requirements that must otherwise be followed for commercial spaces.³²¹

“Today, 23.5 million Americans live in low-income areas that lack stores likely to sell affordable, nutritious foods. Nutrition education is important, but making sure families have places to go to buy healthy foods is critical to ending the epidemic of childhood obesity. Just recently the First Lady reinforced the Administration’s goal that every family in every community in America would have access to fresh, healthy, affordable food. Bringing grocery stores and other similar establishments to vulnerable communities can also create jobs and stimulate economic growth.”

DEREK DOUGLAS, SPECIAL ASSISTANT TO THE
PRESIDENT FOR URBAN POLICY.

2. Expanding Healthy Options

In the absence of supermarkets, residents of food deserts do much of their shopping at convenience stores and bodegas. One study of Brooklyn, New York revealed that as many as 8 out of 10 food stores in the minority communities of Bedford-Stuyvesant and Bushwick are bodegas.³²² In a similar study, researchers found that approximately 2 out of 3 food stores in East

and Central Harlem are bodegas.³²³ These bodegas typically carry far less fresh and healthy foods than a traditional supermarket. For instance, only 1 out of 3 bodegas in Brooklyn sell reduced-fat milk, as compared to 9 out of 10 supermarkets; only 28% of bodegas carry apples, oranges, and bananas, as compared to 91% of supermarkets; and only about 1 out of 10 bodegas sell leafy green vegetables.³²⁴

One reason smaller food retail outlets in communities of color do not stock fresh foods and vegetables is their limited access to suppliers and vendors of these products. Bodega owners may have access to a very limited number of food vendors who are willing to make deliveries to their stores because of redlining. Other bodegas that do stock fresh fruits and vegetables are often purchasing them through retail themselves, leading to a mark-up in price to customers and resulting in a lower shelf-life for these items.

Initiatives that address the limited ability of smaller retailers to stock, sell, and earn a profit from healthy foods will be most helpful in the interim. Among such initiatives are:

- Pennsylvania's Fresh Food Financing Initiative has implemented a Corner Store Initiative which provides small grants to bodega operators to purchase space-efficient refrigeration units. This initiative has funded purchases for 29 corner stores in Philadelphia.³²⁵
- Washington, D.C.'s Healthy Corner Store Program also provides funding for corner stores to improve infrastructure if they sell healthier foods and advertise the availability of fresh foods, including providing access to fruit and vegetable suppliers, allowing store owners to sell longer lasting products at a low cost.³²⁶

- The New York City Health Department's Healthy Bodegas Initiative has the goal of boosting "the availability of and demand for healthy foods in New York City neighborhoods with the highest rates of poverty and chronic disease."³²⁷ The Initiative works with bodegas to help these stores 1) stock and sell a variety of wholesome foods, such as fresh fruits and vegetables, whole grain products and low-fat and fat-free milk; 2) display nutritious foods prominently in their store; and 3) label and promote healthful items.³²⁸

Another set of solutions focuses on providing access to fresh produce without reliance on the physical infrastructure of a store.

- In Detroit, where 92% of food stamp recipients purchase their food at liquor stores and corner shops, the "Peaches and Greens Truck" brings fruits and vegetables directly to communities.³²⁹
- In Baltimore, Maryland a new law transforms public libraries into "virtual supermarkets." Under this new law, residents who could not utilize online grocery shopping because companies would not deliver to their homes can now order groceries online and have them delivered to their local library.³³⁰
- The Children's Aid Society, a New York non-profit, partnered with the Council on the Environment for NYC to initiate the Youthmarkets Program, community school-based greenmarkets run by students. Youthmarkets address the acute lack of fresh fruits and vegetables in low-income communities by bringing fresh, local and healthful produce directly into schools where students and families congregate. Youthmarkets are located in the East Harlem, South Bronx, and Washington Heights communities.

3. *Increasing Opportunities to Use Public Benefits to Access Healthy Foods*

The New York City Council provides funding for Electronic Benefits Transfer (EBT) scanners, signage, community outreach and a staff member to operate the machines at four Greenmarkets around the City.³³¹ This allows customers to swipe their EBT or credit card at a designated Greenmarket Info Table in exchange for market tokens, with which they can shop in the Greenmarket. Farmers are able to accept the tokens as cash and then redeem them with the market manager at day's end."³³² EBT machines are now available at 23 Greenmarkets citywide. Food stamp purchases during 2010 at Greenmarkets doubled, growing from \$251,000 in 2009 to over \$500,000 in 2010.³³³ Some markets have reported nearly \$6,000 in food stamp sales in a single day. In addition, over 80% of these food stamp dollars were used to purchase fresh fruits and vegetables.³³⁴

4. *Increasing Consumer Education*

By focusing on these structural factors giving rise to food deserts, we do not suggest that consumer demand plays no role in influencing actual food consumption and consequent community health. The choices made by individuals and families as to what food they ultimately consume are clearly a critical, and indeed, the most proximate factor determining the impact of food on community health. But, these choices must be understood in context, and are the result of the social, economic, physical, commercial and political environment in which low-income families of color live. Supply-side solutions alone clearly cannot solve the problems of unhealthy food consumption. As Stefania Patinella of The Children's Aid Society notes "people's food choices are basically determined by their food environment. When people are in a situation with a restricted set of choices, and then expected to make the hardest possible

choice — to go out and travel far distances to find fresh foods, bring it home, and prepare it — it's hardly surprising that we have the unhealthy communities that we have."

In New York City, The Children's Aid Society helps to increase demand for fresh foods through educating children and parents on cooking for health and nutrition. The Children's Aid Society has established initiatives that collectively promote healthy eating, fitness, and wellness for children preschool age through adolescence. These programs, through arrangements and agreements with local vendors, attempt to counteract the poor nutritional environments of children in low and no-income communities.



F. Conclusion

The problem of food deserts may only now be commanding the attention of the scientific community and the notice of political leaders but it is by no means a new phenomenon. Over sixty years ago, James Baldwin, writing of his native Harlem neighborhood in an essay titled “The Harlem Ghetto” remarked:

Harlem, physically at least, has changed very little in my parents’ lifetime or in mine. Now as then the buildings are old and in desperate need of repair, the streets are crowded and dirty, there are too many human beings per square block. Rents are 10 to 58 percent higher

than anywhere else in the city; food, expensive everywhere, is more expensive here and of an inferior quality...”

What Baldwin identified in Harlem so long ago and what scientists, scholars and politicians are only now beginning to confront is that the root causes of food deserts lie in structural racism and class inequality. Therefore, to truly solve the problem of food deserts we must challenge the residential segregation, commercial redlining, and other government policies and private practices that perpetuate disparities in food access in low-income minority neighborhoods. We must, in short, admit that, no less than the lack of access to fair housing and equal employment opportunities, the lack of access to healthy food is, a mark of inequality, a violation of basic civil rights, and a denial of fundamental human dignity.

Endnotes

¹ Norman Borlaug, Nobel Lecture: The Green revolution, Peace, and Humanity (December 11, 1970), http://www.nobelprize.org/nobel_prizes/peace/laureates/1970/borlaug-lecture.html.

² Carole Counihan & Penny Van Esterik, *Introduction to Food and Culture: A Reader* 1, 1 (Carole Counihan & Penny Van Esterik, eds., 1997).

³ *Id.*

⁴ U.S. Dep't of Agric., Access to Affordable and Nutritious Food: Measuring and Understanding Food Deserts and Their Consequences: Report to Congress at iv (2009), <http://www.ers.usda.gov/publications/ap/ap036/ap036.pdf>.

⁵ See INSTITUTE OF MEDICINE AND NATIONAL RESEARCH COUNCIL, THE PUBLIC HEALTH EFFECTS OF FOOD DESERTS 5 (National Academies Press 2009), <http://www.nap.edu/catalog/12623.html>; Food Conservation and Energy Act of 2008, H.R. 6124, 110th Cong. §7527(a) (2008), available at: <http://www.gpo.gov/fdsys/pkg/BILLS-110hr6124enr/pdf/BILLS-110hr6124enr.pdf>.

⁶ Paula B. Ford & David A. Dzewaltowski, *Disparities in Obesity Prevalence due to Variation in the Retail Food Environment: Three testable Hypotheses*, 66 (4) Nutrition Rev. 216, 217 (2008).

⁷ *Food Desert Locator*, U.S. Dep't of Agric., <http://www.ers.usda.gov/Data/FoodDesert/about.html> (last visited on 4/5/2012) ("To qualify as a 'low-access community,' at least 500 people and/or at least 33 percent of the census tract's population must reside more than one mile from a supermarket or large grocery store (for rural census tracts, the distance is more than 10 miles)").

⁸ *Id.* ("To qualify as a 'low income community,' a census tract must have either: 1) a poverty rate of 20 percent or higher, OR 2) a median family income at or below 80 percent of the area's median family income.").

⁹ Mari Gallagher, Mari Gallagher Research & Consulting Group, *Good Food Examining the Impact of Food Deserts on Public Health In Chicago* 6 (2006).

¹⁰ Mari Gallagher, Mari Gallagher Research & Consulting Group, *Good Food Examining the Impact of Food Deserts on Public Health In Chicago* 16-17 (2006).

¹¹ *Id.*

¹² *Id.*

¹³ U.S. Dep't of Agric., Access to Affordable and Nutritious Food: Measuring and Understanding Food Deserts and Their Consequences: Report to Congress at iii (2009).

¹⁴ Lisa M. Powell, Sandy Slater, Donka Mirtcheva, et al., *Food Store Availability and Neighborhood Characteristics in the United States*, 44 Preventive Med. 189, 189 (2007) (finding that "low-income neighborhoods have fewer chain supermarkets with only 75% of that available in middle income neighborhoods... The availability of chain supermarkets in African American neighborhoods is only 52% of that in white neighborhoods with even less relative availability in urban areas.; Hispanic neighborhoods have only 32% as many chain supermarkets compared to non-Hispanic neighborhoods. Non Chain supermarkets and grocery stores are more prevalent in low income and minority neighborhoods."); *But See*, Helen Lee, *The Role of Local Food Availability in Explaining Obesity Risk Among School-aged Children*, 74 Soc. Sci. & Med. 1193, 1193 (2012) (finding that "children who live in residentially poor and minority neighborhoods are...more likely to have greater access to fast food outlets and convenience stores...however, these neighborhoods also have greater access to other food establishments...including, large scale grocery stores." A benefit of this study is that it looks at household data unlike Lisa M. Powell et al. who use census tract data, however, a shortcoming is that the study's sample did not distinguish between urban access and rural access to supermarkets. Also the study was "not nationally represent[ative] and the attrition [rate] in the sample was non-random [with children who remained in the study for the full five year period more likely to be white, live in a rural residence, "come from a dual parent family, live in a household with fewer children and have mothers with slightly higher educational levels" all characteristics likely correlated with poor, minority households].").

¹⁵ Sarah Treuhaft, Michael J. Hamm & Charlotte Litjens, Policy Link, Fair Food Network & The C.S. Mott Group, *Healthy Food For All: Building Equitable and Sustainable Food Systems in Detroit and Oakland* 17 (2009), http://www.fairfoodnetwork.org/sites/default/files/Healthy-FoodForAll_FullReport.pdf.

¹⁶ J. Smith, & N. Hurst, *Grocery Closings Hit Detroit Hard:*

City Shoppers' Choices Dwindle as Last Big Chain Leaves, The Detroit News, July 5, 2007, <http://www.kendalto.com/DetroitNewsOnlinePrinter-friendlyarticlepage.htm>.

¹⁷ Amanda Shaffer, L.A.'s Grocery Gap: The Need for a New Food Policy and Approach to Market Development 12 (2002) (finding that "zip codes with a white majority experience the greatest number of supermarkets per person: 3.17 times as many supermarkets as populations with an African-American majority; 1.09 times as many supermarkets as populations with an Asian majority; 1.69 times as many supermarkets as populations with a Latino majority").

¹⁸ Mari Gallagher, Mari Gallagher Research & Consulting Grp., Examining the Impact of Food Deserts on Public Health in Chicago 16-17 (2006), http://www.marigallagher.com/site_media/dynamic/project_files/Chicago_Food_Desert_Report.pdf ("When we analyze food access by race at the block level [among majority white, majority African American, majority Latino and majority diverse census blocks], we find that majority African-American communities have the lowest access to 1) chain grocery stores, 2) independent and smaller grocery stores, and 3) all grocery stores...").

¹⁹ Dana Conroy & Shana McDavis-Conway, Food Research and Action Center, Healthy Food, Healthy Communities: An Assessment and Scorecard of Community Food Security In the District of Columbia 5 (2006), <http://www.dchunger.org/pdf/healthfoodcomm.pdf> ("Due to unequal distribution, not every resident has the advantage of a supermarket in his or her neighborhood. While Wards 2, & 3 in the Northwestern part of the City have twelve supermarkets-or one store for every 11,881 residents-Wards 1, 4, 5, 7, and 8 do not have adequate numbers of stores for their land and population size. For example, only two chain supermarkets operate east of the river in Wards 7 & 8-an area with over 140,000.").

²⁰ Olati C.A. Johnson, *Stimulus and Civil Rights*, 111 Colum. L. Rev. 154, 159 (2011) ("[I]t is increasingly clear from recent social science literature that federal grant programs in housing, transportation, and social welfare generated significant racial harms."); James H. Carr and Nandinee K. Kutty, *The New Imperative for Equality*, in *Segregation: The Rising Cost for Americans*, 5-6 (James H. Carr & Nandinee K. Kutty, eds., 2008) ("Programs and practices

that systematically harmed minority households and communities included the use of restrictive housing covenants that limited housing location for minorities; a wide range of discriminatory practices by real estate professionals that further marginalized housing choice for African Americans; lack of government redress against violence to minorities who sought to move out of their segregated communities; biased underwriting policies of the Home Owners Loan Corporation (HOLC), the Federal Housing Administration (FHA) and Veterans Administration (VA) that further limited minority locational choice, as well as undermined the value of properties in minority communities; urban renewal programs that forced relocation of African American families to isolated, unsafe, and poorly constructed high-rise public housing projects; and inferior treatment of minorities in the GI bill, New Deal programs and other public housing assistance efforts.").

²¹ Douglas S. Massey, *Origins of Economic Disparities: The Historical Role of Housing Segregation*, in *Segregation: The Rising Cost for Americans*, 67 (James H. Carr & Nandinee K. Kutty, eds., 2008) ("Whereas a typical northern black resident was likely to live in a neighborhood dominated by whites in 1930, by 1970 the situation had completely reversed. Now blacks in all northern cities were more likely to live with other blacks than with whites, and in four cities the average black person lived in a neighborhood that was over 80 percent black.").

²² *Id.* at 63 (James H. Carr & Nandinee K. Kutty, eds., 2008) ("While only one-third of U.S. metropolitan residents were suburban dwellers in 1940, by 1970 suburbanites constituted a majority within metropolitan America.").

²³ Sarah Treuhaft & Allison Karpyn, Policy Link & The Food Trust, *The Grocery Gap: Who Has Access to Healthy Food and Why It Matters*, 11 (2010), <http://www.policylink.org/atf/cf/%7B97C6D565-BB43-406D-A6D5-ECA3BBF35AF0%7D/FINALGroceryGap.pdf>.

²⁴ Douglas S. Massey, *Origins of Economic Disparities: The Historical Role of Housing Segregation in Segregation: The Rising Cost for Americans* 70-71 (James H. Carr & Nandinee K. Kutty, eds., 2008) ("By far the greatest effect of the Home Owners Loan Corporation rating system [that undervalued loans to racially mixed neighborhoods in the city] came from its influence on the underwriting practices

of the Federal Housing Administration (FHA) and the Veterans Administration (VA) during the 1940s and 1950s. The FHA loan program was created by the National Housing Act in 1937, and the VA program was authorized by the Servicemen's Readjustment Act of 1944 (Jackson 1985). These loan programs together completely reshaped the residential housing market of the United States and pumped millions of dollars into the housing industry during the postwar era. Loans made by the FHA and VA were a major impetus for the rapid suburbanization of the United States after 1945.”).

²⁵ *Id.*

²⁶ Tracey Giang, et al., *Closing the Grocery Gap in Under-served Communities: The Creation of the Pennsylvania Fresh Food Financing Initiative*, 14(3) J Pub. Health Mgmt. Prac. 272, 272 (2008).

²⁷ Douglas S. Massey, *Origins of Economic Disparities: The Historical Role of Housing Segregation in Segregation: The Rising Cost for Americans* 68 (James H. Carr & Nandinee K. Kutty, eds., 2008) (“Although racially restrictive covenants were declared unenforceable by the Supreme Court in 1948, a comprehensive study by Helper (1969) of real estate policies in the 1950s revealed a pervasive pattern and practice of discrimination against blacks in most American cities. In a survey of real estate agents in Chicago, Helper found that 80 percent of agents refused to sell blacks property in white neighborhoods, and 68 percent refused to rent them such property. Moreover, among those agents who did sell or rent to blacks, half said they would do so only under restrictive conditions, such as when a significant number of blacks had already entered the area. Another survey of Chicago’s real estate agents, conducted by Molotch (1972) in the mid-1960s, found that only 29 percent of agents were willing to rent to blacks unconditionally (regardless of local market conditions or racial compositions), and half of these open-minded agents were themselves black.”); *See also, Id.* at 70. (“As late as 1970, examiners for the Federal Home Loan Bank Board were redlining zip code areas that showed any signs of racial change”) (citations omitted).

²⁸ *Id.* at 67 (“Whereas a typical northern black resident was likely to live in a neighborhood dominated by whites in 1930, by 1970 the situation had completely reversed. Now blacks in all northern cities were more likely to live

with other blacks than with whites, and in four cities the average black person lived in a neighborhood that was over 80 percent black.”).

²⁹ *Id.* at 63 (“While only one-third of U.S. metropolitan residents were suburban dwellers in 1940, by 1970 suburbanites constituted a majority within metropolitan America.”).

³⁰ Elizabeth Eisenhauer, *State University of New York at Buffalo, In Poor Health: Supermarket Redlining and Urban Nutrition*, 53 *GeoJournal*, 125, 128 (2001) (“Although by 1984 store openings exceeded closings nationally, though the 1980s cities experienced a net loss of supermarkets.”) (citations omitted).

³¹ U.S. Dep’t of Agric., *Access to Affordable and Nutritious Food: Measuring and Understanding Food Deserts and Their Consequences: Report to Congress*, 32 (2009), <http://www.ers.usda.gov/publications/ap/ap036/ap036.pdf>.

(“Time spent traveling to the grocery store was greater in low-income areas with low-access (areas located more than one mile from a grocery store). The average time spent traveling to the grocery store for those who lived in these areas, 19.5 minutes, was significantly greater than the average time spent traveling to the grocery store for ...those in higher income areas [located more than one mile from a grocery store, which was 15.5 minutes on average]”)

³² The Brookings Institution Metropolitan Policy Program, *From Poverty, Opportunity: Putting the Market to Work for Lower Income Families*, 48 (2006) http://www.brookings.edu/~media/Files/rc/reports/2006/07poverty_fel-lowes/20060718_PovOp.pdf (Grocery stores are smaller and more expensive in lower income neighborhoods than in higher income neighborhoods. Though this does not necessarily mean that all lower income families pay those higher prices, it does mean that lower income families often have to commute to other neighborhoods to get to cheaper food, which adds to the total costs of food shopping.”); *Id.* at 5-6 (“Access to only small grocery stores results in higher prices for lower income shoppers. In particular, over 67 percent of the same food products in [the study’s] sample of 132 different products [were found to be] more expensive in small grocery stores than in larger grocery stores.”).

³³ *Id.* at 5-6 (“The average grocery store in [the study’s sample] of 2,384 lower income neighborhoods is 2.5

times smaller than the average grocery stores in a higher income neighborhood.”).

³⁴ *Id.* (“Access to only small grocery stores results in higher prices for lower income shoppers. In particular, over 67 percent of the same food products in [the study’s] sample of 132 different products [were found to be] more expensive in small grocery stores than in larger grocery stores.”).

³⁵ Nicole I. Larson, et. al., *Neighborhood Environments Disparities in Access to Healthy Foods in the U.S.*, 36 *Am. J. Prev. Med.* 74, 76 (2009), available at <http://www.ncbi.nlm.nih.gov/pubmed/18977112> (“Several studies utilizing in-store observations have shown greater availability and higher quality of fresh produce, low-fat dairy products and snacks, lean meats and high fiber bread in predominantly white areas than in nonwhite areas.”); *Id.* at 75 (Supermarkets, as compared to other food stores, tend to offer the greatest variety of high quality products at the lowest cost. In contrast, convenience stores sell mostly prepared, high calorie foods and little fresh produce, at higher prices.).

³⁶ *Id.* (The majority of [studies looking at associations between neighborhood access to food stores and dietary intake of healthy foods] suggest that neighborhood residents with better access to supermarkets and other retail stores that provide access to healthful food products tend to have healthier food intakes.”).

³⁷ Daniel Block and Joanne Kouba, *A Comparison of the Availability and Affordability of a Market Basket in Two Communities in the Chicago Area*, 9(7) *Pub. Health Nutrition*, 837, 838 (2006) (“Sugars, oils, refined grains and foods with longer shelf-life tend to be lower in cost and higher in energy. Nutrition educators often encourage consumption of less energy-dense foods, such as raw vegetables.”); Steven Cummins and Sally Macintyre, *Food Environments and Obesity-Neighborhood or Nation?*, 35 *Int’l J. Epidemiology*, 100, 100 (2006) (“Grocery stores in black neighborhoods are also less likely to stock healthy food items or healthier versions of standard foods (e.g. low-fat, low-salt).); *Id.* (Lesser allocation of shelf-space in community grocery stores to ‘healthier’ (low-fat and high-[fiber]) products has been associated with lower consumption of such foods among local residents.”).

³⁸ Nicole I. Larson, Mary T. Story, et. al., *Neighborhood*

Environments Disparities in Access to Healthy Foods in the U.S., 36 *Am. J. Prev. Med.* 74, 75 (2009) available at, <http://www.ncbi.nlm.nih.gov/pubmed/18977112>. (“Despite some inconsistencies [among studies], several studies have shown that better access to a supermarket is related to reduced risk for obesity, whereas greater access to convenience stores is related to increased risk for obesity.”).

³⁹ Katherine M. Flegal, Margaret D. Carroll, Cynthia L. Ogden, *Prevalence and Trends in Obesity Among US Adults, 1999-2008*, 303(3) *J. Am. Med. Ass’n*, 235, 240-1 (January 20, 2010) available at, <http://jama.ama-assn.org/content/303/3/235.full> (“Obesity is a risk factor for a variety of chronic conditions including diabetes, hypertension, high cholesterol, stroke, heart disease, certain cancers, and arthritis.” Trends in the prevalence of diseases associated with obesity do not necessarily parallel the trends in obesity. Sometimes this is because of advances in the treatment of some diseases associated with obesity.).

⁴⁰ *Id.* (“Enhanced efforts to provide environmental interventions [i.e. public policy approaches designed to improve fruit and vegetable consumption] may lead to improved health and to future decreases in the prevalence of obesity.”); Sarah Treuhaft & Allison Karpyn, *Policy Link & The Food Trust, The Grocery Gap: Who Has Access to Healthy Food and Why It Matters* 8 (2010), <http://www.policylink.org/atf/cf/%7B97C6D565-BB43-406D-A6D5-ECA3BBF35AF0%7D/FINALGroceryGap.pdf> (“Researchers find that residents who live near supermarkets or in areas where food markets selling fresh produce... outnumber food stores that generally do not... have lower rates of diet-related diseases than their counterparts in neighborhoods lacking food access.”).

⁴¹ Nat’l Food Mgmt. Inst., Univ. of Miss., *Mealtime Memo for Childcare* 1 (2001) (Studies have found that “under nutrition and the resulting negative effects on brain development during pregnancy and the first two years of life may be permanent and irreversible.”); Michal Ponza, et al., *Nutrient Intakes and Food Choices of Infants and Toddlers Participating in WIC*, 104 *J Am Diet Ass’n*, S71, S71 (2004) (Pregnancy, infancy, and early childhood are periods of rapid physiological growth and development. Insufficient nutrition during these critical growth and development periods places infants and children at risk of

impaired emotion and cognitive development and adverse health outcomes.”).

⁴² Nat’l Food Mgmt. Inst., Univ. of Miss., Mealtime Memo for Childcare 1 (2001) (“Poorly nourished children have more problems fighting infections.”).

⁴³ Jane Sundius & Molly Farneth, Open Society Institute-Baltimore, Missing School: The Epidemic of School Absence 5-6 (2008) (“[Though] a large part of the truancy problem [in Baltimore] is [due to] students choos[ing] not to attend school...in at least as many cases, [truancy is caused by] the profound spillover effects of poverty, not personal choice, [for example,] [f]amilies without healthcare or adequate nutrition have children who miss more school due to poor health...”); Michelle D. Florence, Mark Asbridge, Paul J. Veugelers, *Diet Quality and Academic Performance*, 78(4) J. School Health, 209, 213-4 (2008) (“[A Canadian study found that there is an] independent association between overall diet quality and academic performance among grade 5 students in Nova Scotia, Canada...[and that children] from socioeconomically disadvantaged backgrounds are more likely to have poor diets and poor academic performance resulting in lower levels of educational attainment and poor health outcomes.”).

⁴⁴ Elizabeth Eisenhauer, *In Poor Health: Supermarket Redlining and Urban Nutrition*, 53 GeoJournal 125, 129 (2001) (“The departure of a supermarket from a poor neighborhood contributes to its decline in obvious ways - by reducing access to food and eliminating jobs - and in less visible ways - by becoming a symbol of the neighborhood’s distress and failure, as well as a signal of the withdrawal of the ‘outside world’ from the community’s affairs.”); Michal Porter, Orson Watson, et. al, Initiative for a Competitive Inner City, *The Changing Models of Inner City Grocery Retailing* 7 (2002), http://www.icic.org/ee_uploads/publications/TheChangingModels-02-July.pdf. (“Strong supermarkets provide...physical rehabilitation and blight reduction, jobs for local residents, and catalysts for further retail and other commercial development.”).

⁴⁵ See, Sarah Treuhaft & Allison Karpyn, Policy Link & The Food Trust, *The Grocery Gap: Who Has Access to Healthy Food and Why It Matters* 11 (2010), <http://www.policylink.org/atf/cf/%7B97C6D565-BB43-406D-A6D5-ECA3BBF35AF0%7D/FINALGroceryGap.pdf> (Compiling a

bibliography of studies examining food access “and its implications conducted in the United States over 20 years); Robin A. Mckinnon, Jill Reedy, et al., *Measures of the Food Environment A Compilation of the Literature, 1990-2007*, 36(4S) Am. J. Prev. Med. S124 (2009) (Compiling studies looking at community level food environment).

⁴⁶ *News and Information*, P’ship for a Healthy Am. (Apr. 9, 2012, 5:35 PM) <http://www.ahealthieramerica.org/#!/news-and-information> (First Lady Michelle Obama is an honorary chair of the Partnership for a Healthy America, which aims to solve the problem of childhood obesity. It acknowledges that lower income minority communities are among those that have significantly less access to supermarkets compared to wealthier areas.).

⁴⁷ *Food Desert Locator*, U.S. Dep’t of Agric, <http://www.ers.usda.gov/Data/FoodDesert/about.html> (last visited on 4/5/2012).

⁴⁸ In contrast to the studies cited above, a recent national study found that minorities do not have less access to large supermarkets than non-minorities. This study, however, used data jointly considering urban, suburban and rural populations and did not account for differences between urban, suburban and rural populations, such as vehicle ownership, likely to influence accessibility of a supermarket. A national study by the government found that “low-access to supermarkets is most heavily influenced by characteristics of neighborhood and household socioeconomic environments, such as income inequality, racial segregation, transportation infrastructure, housing vacancies, household deprivation, and rurality.” U.S. Dep’t of Agric., *Access to Affordable and Nutritious Food: Measuring and Understanding Food Deserts and Their Consequences* 47 (2009), <http://www.ers.usda.gov/publications/ap/ap036/ap036.pdf>. A drawback of the national study finding equal access between different urban populations was that it defined urban dwellers to include those living in cities and in metropolitan areas of cities. Because it grouped suburban populations and city populations together, the average distance of a supermarket from a poor urban dweller’s neighborhood or a minority urban dweller’s neighborhood was not discernible from the study.

⁴⁹ The names of persons in this report have been changed to maintain their privacy.

- ⁵⁰ The Changing Face of Anacostia: Public Housing and Urban Renewal, <http://xroads.virginia.edu/~cap/anacostia/public.html>.
- ⁵¹ See, Historic Anacostia Block Association, <http://www.habadc.org/history.htm> (last visited on Apr. 23, 2012).
- ⁵² See, <http://xroads.virginia.edu/~CAP/ANACOSTIA/govt.html>.
- ⁵³ *Food Desert Locator*, U.S. Dep't of Agric., <http://www.ers.usda.gov/Data/FoodDesert/about.html> (last visited on 4/5/2012).
- ⁵⁴ DC Hunger, Facts on Hunger in DC, <http://www.dchunger.org/about/facts.html> (last visited on Apr. 23, 2012).
- ⁵⁵ <http://www.sfphe.org/elements/18-elements/food/58-retail-food-availability-survey>
- ⁵⁶ City-Data.com, 11201 Zip Code Detailed Profile, <http://www.city-dta.com/zips/11201.html> (last visited Nov. 17, 2011).
- ⁵⁷ U.S. Census Bureau, Census 2000, American Fact Finder, Zip Code Tabulation 11201, Census 2000 Demographic Profile Highlights, http://factfinder.census.gov/servlet/SAFFacts?_event=Search&_zip=11201 (last visited Nov. 17, 2011).
- ⁵⁸ *Id.*
- ⁵⁹ *Id.*
- ⁶⁰ U.S. Census Bureau, Census 2000, American Fact Finder, Zip Code Tabulation 11201, Census 2000 Demographic Profile Highlights, http://factfinder.census.gov/servlet/SAFFacts?_event=Search&_zip=11201 (last visited Nov. 17, 2011).
- ⁶¹ *Id.*
- ⁶² City-Data.com, 11201 Zip Code Detailed Profile, <http://www.city-dta.com/zips/11201.html> (last visited Nov. 17, 2011).
- ⁶³ *Id.*
- ⁶⁴ *Id.*
- ⁶⁵ AECOM, *NYC Full Service Grocery Store Analysis*, Prepared for NYC Department of Health and Mental Hygiene (May 2010), http://www.nyc.gov/html/misc/pdf/nyc_store_analysis.pdf.
- ⁶⁶ Daniel Bush, *Brooklyn's Food Desert* (noting that Brooklyn residents comment that they travel to Brooklyn Heights and other neighborhoods because "supermarkets in low-income communities oftentimes don't have enough specialty items") http://www.urbanjustice.org/pdf/press/greenpoint_21dec09.pdf (Dec. 21, 2009).
- ⁶⁷ See, N.Y. City Dep't of City Planning, *Going to Market: New York City's Neighborhood Grocery Store and Supermarket Shortage* (noting that Bedford Stuyvesant is listed among the neighborhoods with the highest need for full-line supermarkets and grocery stores). <http://www.nyc.gov/html/dcp/html/supermarket/index.shtml>.
- ⁶⁸ R. Graham, L. Kaufman, Z. Novoa & A. Karpati, N.Y. Dep't of Health & Mental Hygiene, *Eating In, Eating Out, Eating Well: Access to Healthy Food in North and Central Brooklyn 1* (2006) <http://www.nyc.gov/html/doh/downloads/pdf/dpho/dpho-brooklyn-report2006.pdf>.
- ⁶⁹ *Id.*
- ⁷⁰ *Id.* at 2.
- ⁷¹ Girmay Zahilay, *Bedford-Stuyvesant Community Food Assessment*, Community Partnerships, City Harvest, 3 (2009-2010) <http://www.cityharvest.org/media/pdf/bedstuyexecsumfinal.pdf>.
- ⁷² City Harvest, *Bedford-Stuyvesant Community Food Assessment Executive Summary 3* <http://www.cityharvest.org/media/pdf/bedstuyexecsumfinal.pdf>.
- ⁷³ City-Data.com, 11212 Zip Code Detailed Profile, <http://www.city-data.com/zips/11212.html>.
- ⁷⁴ U.S. Census Bureau, Zip Code Tabulation 11212, City-Data.com, 11212 Zip Code Detailed Profile, <http://www.city-data.com/zips/11212.html>.
- ⁷⁵ *Id.*
- ⁷⁶ City-Data.com, 11212 Zip Code Detailed Profile, City-Data.com, 11212 Zip Code Detailed Profile, <http://www.city-data.com/zips/11212.html>.
- ⁷⁷ *Id.*
- ⁷⁸ U.S. Census Bureau, Zip Code Tabulation 11212, City-Data.com, 11212 Zip Code Detailed Profile, <http://www.city-data.com/zips/11212.html>.
- ⁷⁹ *Id.*
- ⁸⁰ *Id.*
- ⁸¹ Mari Gallagher, Mari Gallagher Research & Consulting Group, *Good Food Examining the Impact of Food Deserts on Public Health In Chicago 8* (2006), http://www.marigallagher.com/site_media/dynamic/project_files/Chicago_Food_Desert_Report.pdf.
- ⁸² *Id.* at 16-18.
- ⁸³ *Id.*
- ⁸⁴ *Id.* at 6.
- ⁸⁵ *Id.* at 9.

⁸⁶ *Id.* at 16.

⁸⁷ Arnold R. Hirsch, *Making the Second Ghetto: Race and Housing in Chicago 1940-1960* at 3 (1983).

⁸⁸ *Id.* at 4.

⁸⁹ *Corrigan v. Buckley*, 271 U.S. 323, 323 (1926).

⁹⁰ Allen R. Kemp, *The History Behind Hansberry v. Lee*, 20 U.C. Davis L. Rev. 481, 483-4 (1986-1987).

⁹¹ *Id.*

⁹² Arnold R. Hirsch, *Making the Second Ghetto: Race and Housing in Chicago 1940-1960* at 3 (1983).

⁹³ Allen R. Kemp, *The History Behind Hansberry v. Lee*, 20 U.C. Davis L. Rev. 481, 484 (1986-1987).

⁹⁴ Arnold R. Hirsch, *Making the Second Ghetto: Race and Housing in Chicago 1940-1960* at 36 (1983).

⁹⁵ *Id.* at 101.

⁹⁶ *Id.* at 112-113.

⁹⁷ *Id.* at 125-126.

⁹⁸ *Id.* at 253.

⁹⁹ *Id.* at 218.

¹⁰⁰ *Id.* at 241.

¹⁰¹ Elizabeth Eisenhauer, *In Poor Health: Supermarket Redlining and Urban Nutrition*, 53 *GeoJournal* 125, 127 (2001).

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ Harold Mayer, *Patterns and Recent Trends of Chicago's Outlying Business Centers*, 18(1) *J. Land & Pub. Util. Econ.* Feb. 1942 at 1,12 ("The blighted and near blighted areas are rapidly becoming depopulated. The result is that most of the business properties areas have suffered a decline in value far greater than that for the city as a whole. This, together with the importance of the nearby central business district, explains the small number of major commercial sub centers in the blighted and near-blighted areas.").

¹⁰⁵ *See, Id.*; Elizabeth Eisenhauer, *In Poor Health: Supermarket Redlining and Urban Nutrition*, 53 *GeoJournal* 125, 127 (2001).

¹⁰⁶ Daniel Block and Joanne Kouba, *A Comparison of the Availability and Affordability of a Market Basket in Two Communities in the Chicago Area*, 9 (7) *Pub. Health Nutrition* 837, 838(2006).

¹⁰⁷ *Id.*

¹⁰⁸ *Id.* at 840.

¹⁰⁹ *Id.* at 838.

¹¹⁰ Daniel Block and Joanne Kouba, *A Comparison of the Availability and Affordability of a Market Basket in Two Communities in the Chicago Area*, 9 (7) *Pub. Health Nutrition* 837, 838(2006).

¹¹¹ *Id.* at 839-840.

¹¹² *Id.* at 840, 843.

¹¹³ *Id.* at 839-840.

¹¹⁴ *Id.* at 840, 843.

¹¹⁵ *Id.* at 840.

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ *Id.* at 844.

¹²¹ *Neighborhoods of the City of Los Angeles Population and Race*, Los Angeles Almanac, <http://www.laalmanac.com/population/po24la.htm> (Last visited April 23, 2012).

¹²² *Id.*

¹²³ *Id.*

¹²⁴ Scott Kurashige, *The Shifting Grounds of Race: Black and Japanese Americans in The Making of Multiethnic Los Angeles* 18-19 (2010).

¹²⁵ Martin Wachs, *Autos, Transit, and the Sprawl of Los Angeles: The 1920s*, 50 (3) *J. Am. Plan. Ass'n* 297, 298 (1984).

¹²⁶ *Id.*

¹²⁷ Lawrence B. De Graaf, *The City of Black Angels: Emergence of the Los Angeles Ghetto, 1890-1930*, 39(3) *Pac. Hist. Rev.* 323, 331 (1970).

¹²⁸ *Id.* at 328-9.

¹²⁹ *Id.* at 334.

¹³⁰ Scott Kurashige, *The Shifting Grounds of Race: Black and Japanese Americans in The Making of Multiethnic Los Angeles* (2010).

¹³¹ Lawrence B. De Graaf, *The City of Black Angels: Emergence of the Los Angeles Ghetto, 1890-1930*, 39(3) *Pac. Hist. Rev.* 323, 329 (1970)

¹³² Lawrence B. De Graaf, *The City of Black Angels: Emergence of the Los Angeles Ghetto, 1890-1930*, 39(3) *Pac. Hist. Rev.* 323, 341-2 (1970).

¹³³ *Id.* at 337.

¹³⁴ *Id.* at 338; *Title Guarantee & Trust Co. v. Garratt*, 183

P.470 (Cal. Ct. App. 1919).

¹³⁵ *Corrigan v. Buckley*, 271 U.S. 323, 323 (1926).

¹³⁶ Scott Kurashige, *The Shifting Grounds of Race: Black and Japanese Americans in The Making of Multiethnic Los Angeles* 29 (2010).

¹³⁷ *Id.*

¹³⁸ *Id.* at 32.

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.* at 26.

¹⁴² *Id.*

¹⁴³ Lawrence B. De Graaf, *The City of Black Angels: Emergence of the Los Angeles Ghetto, 1890-1930*, 39(3) *Pac. Hist. Rev.* 323, 346 (1970).

¹⁴⁴ *Id.* at 351.

¹⁴⁵ *Id.*

¹⁴⁶ Reginald Chapple, *From Central Avenue to Leimart Park The Shifting Center of Black Los Angeles*, in *Black Los Angeles: American Dreams and Racial Realities* 60,64-5 (Darnell M. Hunt, Ana-Christina Ramon, 2010).

¹⁴⁷ *Id.*

¹⁴⁸ Lawrence B. De Graaf, *The City of Black Angels: Emergence of the Los Angeles Ghetto, 1890-1930*, 39(3) *Pac. Hist. Rev.* 323, 352 (1970).

¹⁴⁹ Reginald Chapple, *From Central Avenue to Leimart Park The Shifting Center of Black Los Angeles*, in *Black Los Angeles: American Dreams and Racial Realities* 62 (Darnell M. Hunt, Ana-Christina Ramon, 2010).

¹⁵⁰ Amanda Shaffer, *L.A.'s Grocery Gap: The Need for a New Food Policy and Approach to Market Development* 34 (2002).

¹⁵¹ *Id.*

¹⁵² *Id.*

¹⁵³ *Id.* at 33-34.

¹⁵⁴ *Id.*

¹⁵⁵ Scott Kurashige, *The Shifting Grounds of Race: Black and Japanese Americans in The Making of Multiethnic Los Angeles* 238 (2010).

¹⁵⁶ *Id.* at 268.

¹⁵⁷ *Id.*

¹⁵⁸ *Id.* at 238.

¹⁵⁹ *Id.* at 233-4.

¹⁶⁰ *Id.*

¹⁶¹ *Id.* at 261.

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ *Id.* 268-269.

¹⁶⁶ *Id.* at 269.

¹⁶⁷ *Id.*

¹⁶⁸ *Id.*

¹⁶⁹ *Id.* at 273.

¹⁷⁰ *Id.* at 274.

¹⁷¹ Assemb. Spec. Comm. on the Los Angeles Crisis, *To Rebuild is Not Enough: Final Report and Recommendations of the Assembly Special Committee on the Los Angeles Crisis*, Spec. Comm. 1992-0445-A, Reg. Sess. (1992), available at <http://www.usc.edu/libraries/archives/cityin-stress/reb/i.htm> (select "The Causes of the Urban Unrest").

¹⁷² *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

¹⁷⁶ *Id.*

¹⁷⁷ *Id.*

¹⁷⁸ Annie Park, Nancy Watson, Lark Galloway-Gilliam, *Community Health Councils and Coalition for Health and Justice*, *South Los Angeles Health Equity Score Card* 53 (2008).

¹⁷⁹ *Neighborhoods of the City of Los Angeles Population and Race*, *Los Angeles Almanac*, <http://www.laalmanac.com/population/po24la.htm> (Last visited April 23, 2012) (Look at West Los Angeles and Westwood combined).

¹⁸⁰ David c. Sloane, et al., *Improving the Nutritional Resource Environment for Healthy Living Through Community-based Participatory Research*, 18 *J Gen. Intern Med.* 568, 574 (2003).

¹⁸¹ See, Amanda Shaffer, *L.A.'s Grocery Gap: The Need for a New Food Policy and Approach to Market Development* 20 (2002) (The proliferation of fast food restaurants and the lack of chain grocery stores within South L.A. is correlated with the adverse health statistics of the area).

¹⁸² Annie Park, Nancy Watson, Lark Galloway-Gilliam, *Community Health Councils and Coalition for Health and Justice*, *South Los Angeles Health Equity Score Card* 53 (2008) (refer to table).

¹⁸³ *Id.* at 17.

¹⁸⁴ *Id.*

¹⁸⁵ *Id.* at 18.

¹⁸⁶ *Id.* at 18-19.

¹⁸⁷ *Id.* at 17.

¹⁸⁸ Kimberly Morland, Steve Wing, and Ana Diez Roux, *The Contextual Effect of the Local Food Environment on Residents' Diets: The Atherosclerosis Risk in Communities Study*, 92 (11) *Am. J. Pub. Health* 1761, 1762 (2002); Philip B. Gorelick, Ralph L. Sacco, Don B. Smith, *Prevention of a First Stroke A Review of Guidelines and a Multidisciplinary Consensus Statement From the National Stroke Association*, 281(12) *JAMA* 1112, 1112 (1999).

¹⁸⁹ Annie Park, Nancy Watson, Lark Galloway-Gilliam, Community Health Councils and Coalition for Health and Justice, *South Los Angeles Health Equity Score Card* 19 (2008).

¹⁹⁰ *Id.* at 17-18.

¹⁹¹ Carol R. Horowitz, et. al, *Barriers to Buying Healthy Foods for People with Diabetes: Evidence of Environmental Disparities*, 94 (9) *Am. J. Pub. Health* 1554, 1554 [comparing access to foods healthy foods such as fruits, vegetables and whole grains between New York's Upper East side, a predominantly white community, and East Harlem, a predominantly minority community, researchers found that "East Harlem residents were more likely than Upper East Side residents to have stores on their block that did not stock recommended foods and less likely to have stores that stocked recommended foods."]; Daniel Block and Joanne Kouba, *A Comparison of the Availability and Affordability of a Market Basket in Two Communities in the Chicago Area*, 9 (7) *Pub. Health Nutrition* 837, 837 (2006) [finding that fresh produce is less available in Austin, a predominantly African American neighborhood in Chicago, as compared to Oak Park, a predominantly white neighborhood in Chicago.]; David c. Sloane, et al., *Improving the Nutritional Resource Environment for Healthy Living Through Community-based Participatory Research*, 18 *J Gen. Intern Med.* 568, 574 (2003) [finding that residents of South Los Angeles are less likely to have access to "items that health advocates are encouraging Americans to adopt in their diets, such as low fat or skim milk, low-fat or nonfat cheese, soy milk, tofu, whole grain pasta, and a greater variety of fruits and vegetables [relative to those living in West Los Angeles]."].

¹⁹² John A. Powell, *A Tribute to Professor John O. Calmore: Structural Racism: Building Upon the Insights of John*

Calmore, 86 *N.C. L. Rev.* 791, 796 (2008) [stating that structural racism shifts our attention from the single, intra-institutional setting to inter-institutional arrangements and interactions."].

¹⁹³ *Id.*

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ *Id.* at 798 ("A central tenet of dynamic systems theory is that the structure of a system gives rise to its behavior. From a structural racism perspective, structures matter. However, studies have shown that people have a strong tendency to attribute behavior to dispositional factors a phenomenon known as fundamental attribution error. Our dominant models of racism suffer from this error. A structural model of racism hopes to overcome this deficiency by emphasizing the structural relationships that produce racialized outcomes.").

¹⁹⁷ James H. Carr and Nandinee K. Kutty, *The New Imperative for Equality, in Segregation: The Rising Cost for Americans* 40, 67 (James H. Carr & Nandinee K. Kutty, eds., 2008).

¹⁹⁸ David R. Williams, and Chiquita Collins, *Racial Residential Segregation: A Fundamental Cause of Racial Disparities in Health*, 116 *Pub. Health Rep.* 404, 405 (2001).

¹⁹⁹ John R. Logan, *Ethnic Diversity Grows, Neighborhood Integration Lags Behind*, *Am. Comm. Proj.*, http://www.prrac.org/projects/fair_housing_commission/chicago/logan.pdf [Last visited on Apr. 24, 2012] [See Table, Hispanic dissimilarity index relative to whites].

²⁰⁰ Chanjin Chung, Samuel Myers, *Do the Poor Pay More for Food? An Analysis of Grocery Store Availability and Food Price Disparities*, 33(2) *J. Consumer Aff.*, 276, 276-296 (1999) [analyzing the price of food sold in inner city and suburban communities within Minneapolis and St. Paul, the study found that "Chain store prices [were] lower than those in convenience or small grocery stores [except for certain fruits, fresh produce, and powdered baby formula]]; Additionally the study found that "substantial differences exist[ed] in the availability of commodities. Every commodity examined in this study is less available in the inner city than in the suburbs.); Daniel Block and Joanne Kouba, *A Comparison of the Availability and Affordability of a Market Basket in Two Communities in the Chicago Area*, 9 (7) *Pub. Health Nutrition* 837, 837 (2006) [Finding

that “[s]upermarkets had the best selection [of goods]. Prices were lowest at discount supermarkets. Prices of packaged items were higher at independent stores than at chain supermarkets.”); *But see*, Chanjin Chung, Samuel Myers, *Do the Poor Pay More for Food? An Analysis of Grocery Store Availability and Food Price Disparities*, 33(2) J. Consumer Aff., 276, 276-296 (1999) (“It is not apparent... that poor people pay higher prices because they live in the city per se. Rather, it appears they pay higher prices because they shop at convenience stores or smaller grocers, where prices tend to be higher.”); Daniel Block and Joanne Kouba, *A Comparison of the Availability and Affordability of a Market Basket in Two Communities in the Chicago Area*, 9 (7) Pub. Health Nutrition 837, 837 (2006) (Finding that “[s]upermarkets had the best selection [of goods]. Prices were lowest at discount supermarkets. Prices of packaged items were higher at independent stores than at chain supermarkets.”).

²⁰¹ *Id.*

²⁰² Carol R. Horowitz, et. al, *Barriers to Buying Healthy Foods for People with Diabetes: Evidence of Environmental Disparities*, 94 (9) Am. J. Pub. Health 1554, 1554 (In a study comparing access to foods healthy foods such as fruits, vegetables and whole grains between New York’s Upper East side, a predominantly white community, and East Harlem, a predominantly minority community, researchers found that “East Harlem residents were more likely than Upper East Side residents to have stores on their block that did not stock recommended foods and less likely to have stores that stocked recommended foods.”); Daniel Block and Joanne Kouba, *A Comparison of the Availability and Affordability of a Market Basket in Two Communities in the Chicago Area*, 9 (7) Pub. Health Nutrition 837, 837 (2006) (finding that fresh produce is less available in Austin, a predominantly African American neighborhood in Chicago, as compared to Oak Park, a predominantly white neighborhood in Chicago.); David c. Sloane, Allison L. Diamont, LaVonna B. Lewis, et al., *Improving the Nutritional Resource Environment for Healthy Living Through Community-based Participatory Research*, 18 J Gen. Intern Med. 568, 574 (2003) (finding that residents of South Los Angeles are less likely to have access to “items that health advocates are encouraging Americans

to adopt in their diets, such as low fat or skim milk, low-fat or nonfat cheese, soy milk, tofu, whole grain pasta, and a greater variety of fruits and vegetables [relative to those living in West Los Angeles].”).

²⁰³ Douglas S. Massey, *Origins of Economic Disparities: The Historical Role of Housing Segregation*, in Segregation: The Rising Cost for Americans 39, 69 (James H. Carr & Nandinee K. Kutty, eds., 2008).

²⁰⁴ *Id.*

²⁰⁵ *Id.* at 70-71.

²⁰⁶ James H. Carr and Nandinee K. Kutty, *The New Imperative for Equality*, in Segregation: The Rising Cost for Americans 40, 8-9 (James H. Carr & Nandinee K. Kutty, eds., 2008).

²⁰⁷ Douglas S. Massey, *Origins of Economic Disparities: The Historical Role of Housing Segregation*, in Segregation: The Rising Cost for Americans 39, 71 (James H. Carr & Nandinee K. Kutty, eds., 2008).

²⁰⁸ *Id.* at 70 (“As late as 1970, examiners for the Federal Home Loan Bank Board were redlining zip code areas that showed any signs of racial change.”).

²⁰⁹ *Id.* at 71.

²¹⁰ *Id.* at 72-73.

²¹¹ Alexander von Hoffman, *A Study in Contradictions: The Origins and Legacy of the Housing Act of 1949*, 11(2) Housing Pol’y Debate 299, 303 (2000) (“Urban experts and leaders decried the phenomenon of ‘urban blight,’ the economic decline of an area, which presaged further decline into slum conditions. If the loss of tax revenues from spreading blight and slums continued, reasoned urban leaders, it would threaten the economic survival of America’s cities.”); Douglas S. Massey, *Origins of Economic Disparities: The Historical Role of Housing Segregation*, in Segregation: The Rising Cost for Americans 39, 73 (James H. Carr & Nandinee K. Kutty, eds., 2008) (whites associated with a variety of elite institutions, including universities, hospitals, libraries, foundations, businesses, were often tied physically to the city by large capital investments, spatially immobile facilities, and long standing traditions. Faced with a steady decline in the physical stock of the city and the progressive encroachment of the black ghetto, these powerful interest turned to the federal government for relief. They received it from Congress in

the form of the Housing Acts of 1949 and 1954.).

²¹² Douglas S. Massey, *Origins of Economic Disparities: The Historical Role of Housing Segregation*, in *Segregation: The Rising Cost for Americans* 39, 73 (James H. Carr & Nandinee K. Kutty, eds., 2008) (“[Congress] provided federal funds to local authorities [through the Housing Acts of 1949 and 1954] to acquire slum properties, assemble them into large parcels, clear them of existing structures, and prepare them for redevelopment.”).

²¹³ Arnold R. Hirsch, *Searching for a “Sound Negro Policy”: A Racial Agenda for the Housing Acts of 1949 and 1954*, 11(2) *Housing Pol’y Debate* 393, 414 (2000) (“The 266 slums sites already selected for the Title III public housing program projected the displacement of 55,778 families, three out of four were African American. Similarly 53 title I slum project areas slated the removal of 41, 630 inner city families; African Americans comprised 85 percent of those displaced.”); Douglas S. Massey, *Origins of Economic Disparities: The Historical Role of Housing Segregation*, in *Segregation: The Rising Cost for Americans* 39, 73 (James H. Carr & Nandinee K. Kutty, eds., 2008) (“black neighborhoods adjacent to white areas were torn down and converted to other uses...”).

²¹⁴ Douglas S. Massey, *Origins of Economic Disparities: The Historical Role of Housing Segregation*, in *Segregation: The Rising Cost for Americans* 39, 73 (James H. Carr & Nandinee K. Kutty, eds., 2008).

²¹⁵ *Id.*

²¹⁶ J.A. Stoloff, US Dep’t of Hous. and Urban Dev., *A brief History of Public Housing*, http://reengageinc.org/research/brief_history_public_housing.pdf (Last visited on Apr. 24, 2012) (Racial segregation in public housing perpetuated by site selection strategies, was the norm and reflected the larger patterns of residential segregation in the U.S....The racial segregation of housing projects was often a deliberate decision on the part of the local housing authorities.”).

²¹⁷ Arnold R. Hirsch, *Searching for a “Sound Negro Policy”: A Racial Agenda for the Housing Acts of 1949 and 1954*, 11(2) *Housing Pol’y Debate* 393, 431 (2000).

²¹⁸ Catherin L. Ross & Nancey Green Leigh, *Planning, Urban Revitalization, and the Inner City: An Exploration of Structural Racism*, 14(3) *J. Plan. Literature* 367, 372 (2000) (“As early as 1908, state governments allowed cities to

regulate the physical details of any buildings within city limits. The U.S. Supreme Court upheld that zoning power in its rulings on *Hadacheck v. Sebastian*, 239 U.S. 394 (1915) and *Village of Euclid v. Ambler Realty Corporation*, 272 U.S. 365 (1926)).

²¹⁹ *Id.*

²²⁰ *Id.*

²²¹ *Buchanan v. Warley*, 245 U.S. 60, 60 (1917).

²²² Catherin L. Ross & Nancey Green Leigh, *Planning, Urban Revitalization, and the Inner City: An Exploration of Structural Racism*, 14(3) *J. Plan. Literature* 367, 372 (2000)

²²³ *Id.*

²²⁴ *Id.* at 373.

²²⁵ *Id.*

²²⁶ *Metropolitan Housing Development Corporation vs. Arlington Heights*, 558 U.S. 1283, 1283 (1977).

²²⁷ Catherin L. Ross & Nancey Green Leigh, *Planning, Urban Revitalization, and the Inner City: An Exploration of Structural Racism*, 14(3) *J. Plan. Literature* 367, 373 (2000)

²²⁸ *Metropolitan Housing Development Corporation vs. Arlington Heights*, 558 U.S. 1283, 1283 (1977).

²²⁹ Catherin L. Ross & Nancey Green Leigh, *Planning, Urban Revitalization, and the Inner City: An Exploration of Structural Racism*, 14(3) *J. Plan. Literature* 367, 373 (2000).

²³⁰ James H. Carr and Nandinee K. Kutty, *The New Imperative for Equality*, in *Segregation: The Rising Cost for Americans* 40, 68 (James H. Carr & Nandinee K. Kutty, eds., 2008).

²³¹ Douglas S. Massey, *Residential Segregation and Neighborhood Conditions*, in *America Becoming: Racial Trends and Their Consequences*, Volume 1 at 391, 413 (Neil J. Smelser, William Julius Wilson, et al. 2001).

²³² *Id.*

²³³ *Id.* at 417-418.

²³⁴ *Id.* at 418-419.

²³⁵ David R. Williams, and Chiquita Collins, *Racial Residential Segregation: A Fundamental Cause of Racial Disparities in Health*, 116 *Pub. Health Rep.* 404, (2001) (Reviewing relevant studies to note that residential segregation is a primary source of the health disparities between African Americans and the rest of the population; residential segregation means less access good schools, less access to jobs, less access to medical facilities, less access to recreational facilities that promote exercise, greater

proximity to ecological toxins, less access to healthy foods, among other contributing factors.).

²³⁶ Nicole I. Larson, et. al., *Neighborhood Environments Disparities in Access to Healthy Foods in the U.S.*, 36 *Am. J. Prev. Med.* 74, 76 (2009), available at <http://www.ncbi.nlm.nih.gov/pubmed/18977112> (“Several studies utilizing in-store observations have shown greater availability and higher quality of fresh produce, low-fat dairy products and snacks, lean meats and high fiber bread in predominantly white areas than in nonwhite areas.”); *Id.* at 75 (Supermarkets, as compared to other food stores, tend to offer the greatest variety of high quality products at the lowest cost. In contrast, convenience stores sell mostly prepared, high calorie foods and little fresh produce, at higher prices.).

²³⁷ See, *Id.*

²³⁸ Ronald Cotterill & Andrew W. Franklin, *Food Marketing Policy Center University of Connecticut, The Urban Grocery Store Gap* 14 (1995) (Analyzing the availability of supermarkets for neighborhoods with high levels of public assistance recipients in 21 of the largest U.S. cities, the study finds that an urban grocery gap exists).

²³⁹ Lisa M. Powell, et al., *Food Store Availability and Neighborhood Characteristics in the United States*, 44 *Preventive Med.* 189, 189 (2007).

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²⁴² Kameshwari Pothukuchi, *Attracting Supermarkets to Inner-City Neighborhoods: Economic Development Outside the Box*, 19(3) *Econ. Dev. Q.*, 232, 234 (2005) (“Findings demonstrate that suburbs were attractive to chains for both their markets and locations.”).

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²⁴⁵ Cmty. Dev. Project Staff, *Supermarket Access in Cambridge A Report to Cambridge City Council Community Development Department at Executive Summary - page 2* (1994) (A study looking to attract supermarkets to low-income neighborhoods found that “the standard supermarket [is]...at a minimum [40,000 sq. ft.]”).

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²⁵⁰ *Id.* at 5.

²⁵¹ Kameshwari Pothukuchi, *Attracting Supermarkets to Inner-City Neighborhoods: Economic Development Outside the Box*, 19(3) *Econ. Dev. Q.*, 232, 234 (2005).

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²⁵⁵ Kameshwari Pothukuchi, *Attracting Supermarkets to Inner-City Neighborhoods: Economic Development Outside the Box*, 19(3) *Econ. Dev. Q.*, 232, 234 (2005) (“Sales per customer continued to be lower in urban locations, making operations more labor intensive, and therefore, less productive.”).

²⁵⁶ See, *Id.*

²⁵⁷ Michael E. Porter, *New Strategies for Inner City Economic Development*, 11 (1) *Econ. Dev. Q.*, Feb.1997, reprinted in *Harvard Business Review* May-June 2005 at 56, 62.

²⁵⁸ *Id.* at 63.

²⁵⁹ *Id.*

²⁶⁰ *Id.*

²⁶¹ *Id.*

²⁶² *Id.*

²⁶³ Michael Porter, *New Strategies for Inner City Development*, Vol. 11 (1) *Econ. Dev. Q.* Feb. 1997 at 11, 20.

²⁶⁴ *Id.* (finding that extra insurance and security costs may be routed in either perception or reality, but are costs that businesses face nonetheless.).

²⁶⁵ Michael Porter, *New Strategies for Inner City Development*, Vol. 11 (1) *Econ. Dev. Q.* Feb. 1997 at 11, 23.

²⁶⁶ New York City Department of City Planning, *Food Retail Expansion to Support Health, FRESH Food Stores Approved*, <http://www.nyc.gov/html/dcp/html/fresh/index.shtml>.

²⁶⁷ *Food Retail Expansion to Support Health, FRESH Food Stores Approved*, *supra* note 47.

²⁶⁸ Michele Ver Ploeg, *Access to Affordable, Nutritious Food is Limited in “Food Deserts,”* 8(1) *Amber Waves* March 2010, at 3-4.

²⁶⁹ *Id.*

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²⁷³ *Id.*

²⁷⁴ *Id.*

²⁷⁵ *Id.*

²⁷⁶ Cynthia L. Ogden, et al, *Prevalence of Overweight and Obesity in the United States, 1999-2004*, 295 *JAMA* 1539,

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²⁷⁷ Nat'l Cntr. for Chronic Disease Prevention and Health Promotion, *Obesity: Halting the Epidemic by Making Health Easier*, Cntr. for Disease Control, http://www.cdc.gov/chronicdisease/resources/publications/aag/pdf/2010/AAG_Obesity_2010_Web_508.pdf. (Last visited on Apr. 25, 2012).

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²⁸² U.S. Dep't of Agric., *Access to Affordable and Nutritious Food: Measuring and Understanding Food Deserts and Their Consequences* 53 (2009).

²⁸³ *Id.* at 54.

²⁸⁴ Helen Lee, *The Role of Local Food Availability in Explaining Obesity Risk Among School-aged Children*, 74 *Soc. Sci. & Med.* 1193, 1193 (2012).

²⁸⁵ *Id.* at 1195 ("As with all longitudinal surveys, there is notable sample attrition, which is an important qualifier to the results....Compared to children who were in the kindergarten wave but lost to follow up, children who remained in the kindergarten-fifth grade panel were more likely to be white, older at kindergarten entry age, live in rural residence, come from a dual parent family, live in a household with fewer children, and have mothers with slightly higher educational levels...").

²⁸⁶ *Id.* at 1194.

²⁸⁷ *Id.* at 1194 (indicating that "walking or canvassing surveys of neighborhoods are perhaps the most accurate source of pinpointing and verifying location.").

²⁸⁸ *Id.* at 1199 (See Table 3).

²⁸⁹ *Id.*

²⁹⁰ Patrick Bajari and Matthew Kahn, *Why Do Blacks Live in the Cities and Whites Live in the Suburbs?* 1 (2001) (Over 75% of households in the United States live in metropolitan areas. While the average middle class white household lives in the suburbs, the average middle class African-American household lives in the center city.)

²⁹¹ Phillip R. Kaufman, James M. MacDonald, Steve M. Lutz, et al., U.S. Dep't of Agric., *Do the Poor Pay More for Food? Item Selection and Price Differences Affect Low Income Household Food Costs at i* (1997).

²⁹² *Id.*

²⁹³ *Id.*

²⁹⁴ *Id.* at 10 (Studies used a healthy eating index (HEI) to assess diet quality. The healthy eating index is a 10 component index on a 100 point scale. The first five components of the HEI measures whether a diet conforms to the food guide pyramid recommendation. The next five assess intakes of fat, cholesterol, saturated fat and sodium. A score of 80 implies a good diet, a score of 51 to 80 implies a diet that needs improvement and a score of less than fifty one implies a diet that is "poor. "African Americans were found to have the lowest HIE but "scores for Latinos and Asians were no different from those for whites.").

²⁹⁵ Chanjin Chung, Samuel Myers, *Do the Poor Pay More for Food? An Analysis of Grocery Store Availability and Food Price Disparities*, 33(2) *J. Consumer Aff.*, 276, 276-296 (1999) (Analyzing the price of food sold in inner city and suburban communities within Minneapolis and St. Paul, the study found that "Chain store prices [were] lower than those in convenience or small grocery stores [except for certain fruits, fresh produce, and powdered baby formula]); Additionally the study found that "substantial differences exist[ed] in the availability of commodities. Every commodity examined in this study is less available in the inner city than in the suburbs.); Daniel Block and Joanne Kouba, *A Comparison of the Availability and Affordability of a Market Basket in Two Communities in the Chicago Area*, 9 (7) *Pub. Health Nutrition* 837, 837 (2006) (Finding that "[s]upermarkets had the best selection [of goods]. Prices were lowest at discount supermarkets. Prices of packaged items were higher at independent stores than at chain supermarkets.").

²⁹⁶ Chanjin Chung, Samuel Myers, *Do the Poor Pay More for Food? An Analysis of Grocery Store Availability and Food Price Disparities*, 33(2) J. Consumer Aff., 276, 276-296 (1999) (“It is not apparent...that poor people pay higher prices because they live in the city per se. Rather, it appears they pay higher prices because they shop at convenience stores or smaller grocers, where prices tend to be higher.”); Daniel Block and Joanne Kouba, *A Comparison of the Availability and Affordability of a Market Basket in Two Communities in the Chicago Area*, 9 (7) Pub. Health Nutrition 837, 837 (2006) (Finding that “[s]upermarkets had the best selection [of goods]. Prices were lowest at discount supermarkets. Prices of packaged items were higher at independent stores than at chain supermarkets.”).

²⁹⁷ Phillip R. Kaufman, James M. MacDonald, Steve M. Lutz, et al., U.S. Dep’t of Agric., *Do the Poor Pay More for Food? Item Selection and Price Differences Affect Low Income Household Food Costs at iii* (1997) (“Prices for food items vary with store size, with small stores charging an average of 10 percent more than supermarkets. Supermarkets can charge lower prices because of their “economies of size” and by offering store label and generic items.”).

²⁹⁸ Chanjin Chung, Samuel Myers, *Do the Poor Pay More for Food? An Analysis of Grocery Store Availability and Food Price Disparities*, 33(2) J. Consumer Aff., 276, 276-296 (1999).

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Policy and Approach to Market Development 12 (2002) (finding that “zip codes with a white majority experience the greatest number of supermarkets per person: 3.17 times as many supermarkets as populations with an African-American majority; 1.09 times as many supermarkets as populations with an Asian majority; 1.69 times as many supermarkets as populations with a Latino majority”); J. Smith, & N. Hurst, *Grocery Closings Hit Detroit Hard: City shoppers’ Choices Dwindle as Last Big Chain Leaves*, The Detroit News, July 5, 2007, <http://www.kendalto.com/DetroitNewsOnlinePrinter-friendlyarticlepage.htm>; Dana Conroy & Shana McDavis-Conway, Food Research and Action Center, *Healthy Food, Healthy Communities: An Assessment and Scorecard of Community Food Security In the District of Columbia*, 5 (2006), <http://www.dchunger.org/pdf/healthfoodcomm.pdf>, (“Due to unequal distribution, not every resident has the advantage of a supermarket in his or her neighborhood. While Wards 2, & 3 in the Northwestern part of the City have twelve supermarkets-or one store for every 11,881 residents-Wards 1, 4, 5, 7, and 8 do not have adequate numbers of stores for their land and population size. For example, only two chain supermarkets operate east of the river in Wards 7 & 8-an area with over 140,000.”).

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