



COMMISSION FOR RACIAL JUSTICE AND EQUALITY HOUSING AND GENTRIFICATION SUBCOMMITTEE

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INTRODUCTION

Lexington neighborhoods have historically been ignored through disinvestment, disparate housing policies, and segregation patterns that feed into mechanisms that contribute to gentrification. The story of Main Street Baptist Church is a clear example of how that has happened.

Main Street Baptist Church is a historically black church nestled between the Mary Todd Lincoln House and the now demolished Jefferson Street viaduct. The roots of Main Street Baptist Church start with a former slave and the church's original deed dated August 20, 1863 contains the recorded name of Abraham Lincoln, the 16th President of the United States. The church has had both a strong physical and spiritual foundation in downtown Lexington for over 150 years. This church continues to attract worshippers of all ages and has a very large, active congregation.

Twenty-five years ago, the Van Buren Warehouse, an adjoining property to Main Street Baptist Church, became available to purchase. The Van Buren Warehouse was in a highly dilapidated state, but the church was still interested in purchasing the property for future use and expansion. Church leaders approached the owners of the Van Buren Warehouse, expressed their interest in the property and presented an offer to buy with plans to tear down the property. The owners of the warehouse property quoted the church an exorbitant price, so Main Street Baptist Church leaders opted against the purchase of the property. Around the same time, the Mayor of Lexington, Scotty Baesler, indicated to church leaders that the city wanted the property to be utilized for the first Civic Center project. Church leadership expressed their concerns to Mayor Baesler regarding adequate parking for the congregation. Mayor Baesler stated that there would be plenty of parking available and the church could just utilize the parking lot of the Civic Center. For the past 25 years plus, the congregation has utilized the parking lot of Civic Center/Rupp Arena for their parking needs. According to church leader, Elder Wayne Cornelius, "The church has made it a point that with every new mayor elected, they would work out a similar parking arrangement."

During the administration of Mayor Jim Gray, the city of Lexington began planning and negotiating for the expansion of the Civic Center. The expansion of the Civic Center would be a \$50 million dollar project with significant impact on not only Lexington's economy, but would also include a significant physical change to the surrounding area, with Main Street Baptist Church being near the epicenter. With such a significant project on the horizon with lasting consequences to the immediate vicinity, it seems a natural conclusion that the opinions of church leadership would be critical to the decision-making process. No one reached out to Main Street Baptist Church. According to Elder Cornelius, "The church found out about the project during the bidding phase of the Civic Center project." It was also at this point the church discovered that hundreds of their promised parking spaces would be consumed by the new project. In addition,

city officials told church leadership that parking would be given, but “no firm plans about parking ever materialized.” Currently, the church has ownership and control of only 15 parking spaces located behind the church. The Civic Center expansion project will essentially eliminate most of the parking utilized for church services and events. No consideration was given to Main Street Baptist Church.

In November of 2017, the city of Lexington worked out a deal with the state to swap some land to take out the Jefferson Street viaduct. In addition, it was announced that the Town Branch Commons park project would consist of a viaduct entrance for park use. Ironically, the viaduct entrance of the Town Branch Commons is located between two parcels of property owned by Main Street Baptist Church (Main Street Main House and Main Street Chapel). Main Street Baptist Church approached the city about purchasing the land that previously held the viaduct, but was told no. The church also approached the city with an offer of a land swap; but were told by officials that plan was “unwise.”

In the interim, while Town Branch Commons is being created, city officials wanted to keep the viaduct land as a green space. The church approached the city and expressed the need for additional parking, so the city eventually agreed not to create green space, but to make a parking lot that the church can utilize. However, once this space is part of Town Branch Commons, it will no longer serve as a parking lot, but will be green space.

According to Elder Cornelius, the church has had many meetings over the years about parking, but no solution has been reached. Main Street Baptist Church feels that many times during the process, officials have been dismissive of their parking concerns (for example, they were told at one point it was too early in the planning stages to be discussed). The parking situation can be very detrimental to the church, causing many congregants to worship elsewhere and not attracting new people to the church. The church estimates that they need about 200 spots for church services and activities throughout the week.

Historically, the church is the original owner of the land in question. Many years ago, the land was seized by the railroad. When the railroad determined that they no longer needed the land, it was transferred to the Civic Center project. When Mayor Baesler was told by the church about the Civic Center land belonging to the church, he said that he wouldn’t know anything about that because that was before his time.

Main Street Baptist Church feels that they have been historically overlooked and pushed aside. They feel that many major decisions have been made regarding the land around them (land that was originally theirs) and officials are not considering their needs as a congregation in making decisions. They feel that they have not been treated like equals and according to Elder Cornelius, “It’s like they are just going to make the

decisions and we'll just have to live with it." They feel they have not been respected in the matter and that the city is choking the church.

Main Street Baptist Church's historical fight for a seat at the table to discuss changes that directly affect their vital ministry is a microcosm of decisions and changes occurring in our neighborhoods across the city. As it is with city officials ignoring the concerns of Main Street Baptist Church, it is with many issues related to housing and gentrification.

GENTRIFICATION BACKGROUND

Gentrification is often described as the visible process of neighborhood transformation where, highly educated individuals (usually white) from a higher socio-economic status move into marginalized communities, usually occupied by poor or working-class communities, often minorities. According to Loretta Lees in her 2008 book, *Gentrification*, this visible process is undergirded by four key elements:

1. The reinvestment of capital.
2. The social upgrading by locale by incoming high-income groups.
3. Landscape change.
4. Direct or indirect displacement of low-income groups.

The planned changes that occur in these neighborhoods by individuals and businesses are usually at odds with the interests of the long-term residents. The rising costs of living and a community culture shift can make things very difficult to those who have called a community home for a long time. The unfortunate results consist of the expelling of people of color and minority-owned businesses. On the other hand, people have argued that gentrification brings much needed investment and improvement into long-neglected areas. These conflicting viewpoints highlight the complexity of gentrification.

Housing advocates who are familiar with the issue of gentrification know that individuals who live in gentrifying neighborhoods in Lexington and across the country live in areas targeted by unfair housing policies as far back as World War II. During the postwar economic boom, many middle-class residents moved to suburban areas located on the outskirts of cities. The suburban areas provided the advantages of urban environments without the disadvantages of living in close proximity to others and were incentivized by New Deal federal mortgage policies. To assist and encourage whites to move into suburbs, real estate brokers practiced blockbusting. Blockbusting occurred when black families were encouraged to pay a premium to move into particular urban neighborhoods so that white families would sell their houses at a low price and move out to the suburbs. After this process was complete, the new majority-African American communities were historically denied the capital needed to invest in improvements to their neighborhoods through another practice called redlining. Redlining is the

systematic denial of various services by federal, state and local governments, essentially blocking off certain neighborhoods from receiving benefits such as home loans and insurance. These factors combined to reduce opportunities in many urban areas. As a result, the low cost of moving into these neighborhoods make them prime locations for aggressive reinvestment.

As a neighborhood gentrifies, the economic opportunity that it represents increases. More people move into the area to take advantage of those opportunities and the desirability of that area increases even more. Developers begin to tear down old housing to build new. Old shops, restaurants, and other neighborhood features may be driven out by storefronts that cater to new residents. Long term residents themselves may be forced to leave. Rising costs of living and a changing landscape for jobs means the benefits gentrification brings to an area are often distributed unequally.

Lexington is not immune to the issue of gentrification. For example, Lexington's East End is an area that experienced segregation after the Civil War, by both race and class (Eblen, Feb. 13, 2017). This area, like much of the country, suffered economically after World War II, leaving landlords with few options from which to choose to maintain properties (Eblen). Ultimately, the lack of investments in places like the East End deteriorates these areas over time, making them ripe for gentrification.

TASK OF HOUSING AND GENTRIFICATION SUB-COMMITTEE

1. Identify both the systemic and systematic practices of racism which has fostered structural inequalities, challenges and deficiencies in Lexington-Fayette County.
2. Assess the historic marginalization of African Americans in the community.
3. Recommend and advocate the systemic changes that will protect and promote racial opportunity, diversity, equity, and unity.

HISTORY OF SUBCOMMITTEE MEETINGS

A. How many meetings were held?

The Housing and Gentrification subcommittee of Mayor Linda Gorton's Commission for Racial Justice & Equality met on six occasions:

- Friday, July 10 (10:30 am - Noon)
- Thursday, July 16 (6:30 - 8:00 pm)
- Thursday, July 23 (6:30 - 8:00 pm)
- Friday, July 31 (10:30 am - Noon)
- Thursday, August 6 (6:30 pm - 8:00 pm)
- Friday, August 14 (10:30 am - Noon)

The subcommittee's Co-Chairs, Shayla Lynch and Ray Sexton, also participated in the Tuesday, August 4, Virtual Town Hall Meeting from 6:30 – 8:00 pm.

B. How would you describe the discussions?

The subcommittee members' rapport with and respect for one another generated open, vigorous discussion. All members contributed. None dominated. Each added pertinent information, insight, and perspective from their various backgrounds. Discussions were marked by respectful disagreement as well as hearty affirmation. Probing questions were asked. Recommendations were proffered with conviction tempered by humility. Laughter seasoned the meetings. Pushback was invited and received, thereby making the final recommendations a truly cooperative effort. The vigor by which members prepared for and participated in meetings and the willingness with which each did over-and-above research and reflection between meetings evidenced the shared recognition that all were joined in important work in a critical time that can contribute to a more just and equitable Lexington.

C. Did your work involve interviews, surveys, and guest presenters?

During the course of our meetings, we had seven guest presenters. Their presentations ranged from five to fifteen minutes followed by time for questions from the subcommittee members. Our guests included:

- Angela Green - Hampton Georgetown Street Neighborhood Association
- Michelle Davis - St. Martin's Village Neighborhood resident
- Byron Mitchell - Lexington Community Land Trust/Grinder Solutions
- P. G. Peeples - Lexington Urban League
- Elijah Harkless - West End community resident
- Janet Beard - Mortgage Loan Officer at WesBanco Bank, Inc.
- Renita Rosa - PNC Community Developing Division, Louisville

We utilized a survey designed by the Lexington Housing Justice Collective. The survey invited respondents "to share their experiences and recommendations for action related to racism in housing, gentrification, and housing injustice in Lexington."

The survey was distributed online and in hard copy through the following channels:

- Subcommittee members Rachel Childress and Russ Barclay distributed it through their Lexington Habitat for Humanity and Lexington Community Land Trust networks.
- Subcommittee members Revs. Laurie Brock and David Shirey reached out to black clergy colleagues and asked them to inform their congregations and networks of the survey.
- Subcommittee member Robert Hodge disseminated the survey in his East End neighborhood.

- Co-Chair Ray Sexton provided each subcommittee member a list of Neighborhood Association Presidents throughout Lexington. Subcommittee members informed their subset of Presidents about the survey and invited responses.
- Co-Chair Shayla Lynch posted the survey on the city’s Commission web page.

Subcommittee members Rachel Childress and Harding Dowell formatted 84 online responses. An additional six hard copy responses were received by Vice-Chair Ray Sexton.

The subcommittee reviewed chat postings during the YouTube broadcasts of the subcommittee meetings.

The subcommittee received and reviewed correspondence from community residents Linda DeRosett, Drew Bowling, Billie Mallory, Gregory Butler, Elizabeth Farmer, the Lexington Housing Justice Collective (re. mass evictions), and Justin Kirchner, MPA (Director of Homeownership at Lexington Community Land Trust).

Subcommittee Vice-Chair ay Sexton interviewed Elder Wayne Cornelius from Main Street Baptist Church.

II. Documents Reviewed

A. What reports, data, policies, and procedures did you request?

The subcommittee sought numerous documents from a variety of sources to inform our deliberations including:

- A record of the deliberations, reports, and recommendations of the Task Force on Neighborhoods in Transition (TFNT). The TFNT was established by Vice Mayor Steve Kay in May, 2018, with the following charge: *To identify ways to protect vulnerable residents from the consequences of neighborhood redevelopment and transformation, especially displacement, with an emphasis on preserving the history and the culture of communities.* The subcommittee received a link to the TFNT’s work: <https://www.lexingtonky.gov/task-force-neighborhoods-transition>.^{[L]_{SEP}}
- Numerous documents pertaining to Code Enforcement:
 - Detailed records of cases categorized by Council District and Inspector (citations and violations).
 - “Comprehensive Review of Code Enforcement” report presented to the Planning and Public Safety Committee on May 26, 2020.^{[L]_{SEP}}
 - 311 Complaints by District (Four Year Review).
 - Monthly Activity Summary Report (2015).
 - Comprehensive Violation Library.

- List of Code Inspectors.
- “Equitable Development as a Tool to Advance Racial Equity”: a report published by the Government Alliance on Race and Equity, a national network of governments working to achieve racial equity and advance opportunities for all.
- PolicyLink 2016 Housing Justice Agenda.
- Residential Sales Statistics (YTD - June 2020) Lexington Bluegrass Association of Realtors.
- Mayor’s Affordable Housing Trust Fund Commission Funding Presentation (June 25, 2008).
- District of Columbia Tenant Bill of Rights.
- Data on back-rent and potential evictions from Art Crosby, Lexington Fair Housing Council.
- Overview of Systemic Racism in Lexington Housing (Lexington Fair Housing Council).
- Zoning Ordinance:
<https://drive.google.com/file/d/0B0aBvWAKyfxaV180bm1fdjIVY1U/view>.
- Code of Ordinances, Chapter 12 (Housing):
https://library.municode.com/ky/lexington-fayette_county/codes/code_of_ordinances?nodeId=COOR_CH12HO_ARTIIPUNU.
- Mapping a Segregated City:
<https://drive.google.com/file/d/0B0pxZP26bfQNUHJEQ0xBaDdITFk/view>.
- Analysis of Impediments to Fair Housing Choice:
[https://www.lexingtonky.gov/sites/default/files/2016-09/17-Analysis%20of%20Impediments%20Dra .pdf](https://www.lexingtonky.gov/sites/default/files/2016-09/17-Analysis%20of%20Impediments%20Dra.pdf).
- Fayette County Housing Demand Study (2017): <https://fayettealliance.com/wp-content/uploads/2020/01/Fayette- Housing-Demand-Study-Full-Report.pdf>.
- Zoning Map provided by Chris Woodall, LFUCG Planning
<https://documentcloud.adobe.com/link/track?uri=urn:aaid:scds:US:f4a14448-18c0-44a9-868d-103514f53c27>.

B. What did you glean from these sources?

The multiplicity of sources the subcommittee consulted:

- Provided hard data (statistics, maps, and tables) that confirmed and added understanding to anecdotal stories shared by our guests and YouTube contributors.
- Sharpened our growing consensus on the critical issues contributing to gentrification and lack of affordable housing for which we developed recommendations.
- Offered examples of how other cities and municipalities are addressing gentrification and affordable housing issues.

- Enriched the subcommittee’s pool of ideas by adding the recommendations of at-risk neighborhood residents and other civic-minded citizens, organizations, and leaders who are grappling with housing inequality and injustice in Lexington.
- Educated us about complex legislation and resources (i.e., Community Reinvestment Act, Opportunity Zones, Purchase Development Rights).

C. How helpful were these documents?

The resources we received from beyond our subcommittee balanced and complemented the personal (stories by presenters) with the analytical (data). Since our recommendations are based on real stories backed by statistics, we are confident they will address the fears, anxieties and losses testified to by our displaced and at-risk neighbors and contribute to more just and equitable housing for Lexingtonians, particularly the most vulnerable.

D. Was there any information you requested that was not available?

All requests for information, statistics, and documents from LFUCG officials as well as other civic organizations were met with prompt, helpful responses. Requests that could not be answered by one individual were referred to the appropriate individual in another department. The expeditious responses to our inquiries are to be commended given the less-than-optimal working environment mandated by COVID isolation.

TOP THREE RECOMMENDATIONS

Recommendation #1: The city must create an Office of the Housing Advocate, by ordinance and with permanent funding, to centralize and provide oversight of the full spectrum of housing needs in our community. The office’s responsibilities would include implementing housing related programs, advocating on behalf of community members, disseminating information and coordinating with LFUCG departments and other partners.

Immediate Action by Mayor: Establish a small task force to study, design and implement this office.

Council: Yes

Budget: Yes

State Legislation: No

Federal Legislation: No

Background/Rationale:

Who do we want to feel welcomed in our community? If we do not act intentionally for housing to be safe/affordable and accessible to all without discrimination, our failure to

act will limit our population to affluent, primarily white, residents. Essentially barring low income households, service workers and senior citizens from our community will continue to significantly damage our community culture and economic stability.

There are multiple LFUCG programs and offices which deal with safe/affordable housing in some form. Those programs/divisions include: Grants and Special Programs (repair program, Affordable Housing Fund, federal housing grants such as HOME and CDBG); Social Services, Planning, Zoning, Code Enforcement, Public Safety (Sheriff and Police), Vacant and Blighted Property, Infill and Redevelopment, Land Bank. In addition to LFUCG, there are numerous non-profit organizations who focus on safe/affordable housing (e.g., Urban League, Housing Authority, Lexington Community Land Trust, Lexington Habitat for Humanity, REACH, CVC) and for-profit developers.

The activities of these assorted organizations must be coordinated in a systematic way which enables a concentrated focus on broader and long-term impacts on our community. Affirming our community's goal of ensuring our residents have access to safe/affordable housing, we support the creation of a centralized and comprehensive effort to bring all parties in closer coordination. To do otherwise, leaves our most vulnerable population in unacceptable housing.

A community wide housing office with the intent to ensure fairness, provide structure, reduce duplication of effort and leverage limited resources must be created and funded by LFUCG but could be part of local government or contracted out to a third party.

Specific Recommendations:

A. Through this office the city should permanently allot increased funding to meet individual housing needs, including increasing and maintaining existing affordable housing stock.

- i. Create a program to provide funding to neighborhood associations to remedy housing needs of neighborhood residents. This funding would be governed and distributed by the neighborhood associations directly to its residents in need.
- ii. House and administer LFUCG programs such as the Housing Rehab and Emergency Home Repair programs and the Affordable Housing Fund. This office may also administer or partner with HOME, CDBG, Neighborhood Action Grants, etc.

B. This office should be a resource for housing information, employing housing advocates/navigators who will assist citizens in identifying and accessing resources and help citizens with housing issues, such as: eviction, foreclosure, code violation and risk of having their property tax liens sold to third parties.

- i. Encourage local banks to invest and intentionally communicate with residents and businesses about resources that are available in their community, including the Community Reinvestment Act.
- ii. Develop and distribute a housing resource which includes all housing-related services that LFUCG provides (i.e., foreclosure, code violations, zoning, property tax and liens, etc.) and information from other housing partners and work with the Fayette County Neighborhood Council to make the resource available to the community.
- iii. Create a housing help hotline that will be staffed by the housing advocates/navigators that will specifically provide aid to renters and homeowners in need.

C. This office should Establish a Tenant’s Bill of Rights.

- i. Suggested areas of consideration include, but are not limited to:
 - a. Written leases with copies provided to the tenant.
 - b. Limits on security deposits.
 - c. Notification to tenants of potential sale of the property.
 - d. Right of first refusal to purchase the property for long-term tenants.
 - e. Require a receipt for payment.
 - f. Maintenance of the building and grounds.
 - g. No discrimination or retaliation.
- ii. Adoption of the Uniform Residential Landlord and Tenant Act in part or in full should be considered.
- iii. Obstacles include the Landlord and Tenant Act, which prevents LFUCG from adding any requirements to landlords.

D. This office should monitor housing and neighborhood trends.

- i. This office must, at a minimum, coordinate closely with the Divisions of Planning, Zoning and Code Enforcement.

Recommendation #2: Changes must be implemented in the Division of Code Enforcement.

Immediate Action by Mayor: Yes

Council: Yes

Budget: Yes

State Legislation: No

Federal Legislation: No

First and foremost, Lexington's housing code needs to be rewritten to focus more on health and safety and less on aesthetics and revenue for the city.

Lexington's current housing code is largely based on the International Property Maintenance Code, created in 1998 with the following purposes: *This code is founded on principles intended to establish provisions consistent with the scope of a property maintenance code that adequately protects public health, safety and welfare; provisions that do not unnecessarily increase construction costs; provisions that do not restrict the use of new materials, products or methods of construction; and provisions that do not give preferential treatment to particular types or classes of materials, products or methods of construction.*

While the intention may be to create protections for public health, safety, and welfare, the reality is that the current Code unnecessarily and disproportionately impacts neighborhoods with residents who are black and people of color. The Code also does not adequately provide protections for the health, safety, and opportunity for flourishing for neighborhoods and their residents. Instead, it has too often become a tool that allows developers and predatory parties to displace lower-income groups and transform the social identity of these neighborhoods.

Our recommendation is that the Housing Code of the City of Lexington be re-imagined into a Code Agency that places the health, well-being, and protection of residents (especially the most vulnerable) and neighborhoods as its mission. This Agency would work with residents and neighborhoods in a resource and relationship approach to create and sustain flourishing communities rather than a punitive financial tactic.

A key area of revisioning centers on the operational flow of the Code Enforcement (CE) process to create protections for tenants and discourage "weaponization" of complaints by gentrifying developers or other predatory parties. We have heard heartbreaking accounts of victimized citizens who have been pushed to financial ruin and emotional distress by abuses of the CE system. One particularly unsettling pattern is the number of Lexington homeowners who cannot locate a person to help them resolve their issue, but instead, are given multiple people and offices to contact, rarely finding help or assistance. This is unacceptable and undermines the entire purpose of a Code to create healthy and safe neighborhoods.

Inasmuch as the operations of Code Enforcement must be reconsidered, the city must amend the policy structure that undergirds the entire system. The local code, and the model code on which it is based, are relics of an explicitly racist and classist approach to planning and maintenance. The code is, in the vast majority, focused on aesthetics and not safety. It perpetuates an attitude, enforced as law and carrying financial consequences, that there is only one way for a city to look. The simplest solution would

be to retire the entire department and reallocate those funds and city jobs to rental protection and housing assistance, recommendations found elsewhere in this report.

Should Code Enforcement be deemed a necessary part of city government (a question that itself must be asked), then its policy structure must be changed in the following ways:

- A. End Nuisance Violations.** They are explicitly aesthetic and enforce a narrow set of arbitrary standards. The code can easily be manipulated to antagonize “non-standard” landscapes (tall grasses) and to prey on residents who may need assistance, not punishment.
- B. End Sidewalk Violations.** The sidewalk is a “public way,” and its maintenance should be a city responsibility. The city already offers substantial reimbursements for repair; to include additional steps is wasting government resources and opens the code up to abuse by predatory contractors (who may anonymously make complaints then reap the benefits of a government subsidy for repairs, just as one potential example).
- C. Re-write Chapter 12 of the Code of Ordinances.** The local code, and the model code (2015 International Property Maintenance Code) from which it stems, are overly broad and subject to abuse and misinterpretation. In other places, it is so extensive that virtually any property in Lexington could be cited for multiple violations. The city must convene a review panel of residents, including architects, contractors, homeowners, landscape professionals, and public health professionals, to make amendments to Chapter 12.
- D. Suspend all non-safety related reviews and freeze any fines until changes are implemented.** The Code Enforcement department has become a tool of gentrifying forces in Lexington. It has allowed itself to become irretrievably corrupted and cannot continue to operate as an organ of oppression. It must suspend response to all complaints except those that exhibit a clear and immediate threat to resident safety or tenant protection. Those safety requirements include, but are not limited to:
 - i. Provision of running water in a residence.
 - ii. Provision of functioning sewer in a residence.
 - iii. Provision of heating and ventilation in a residence.
 - iv. Violations of the Americans with Disabilities Act (ADA) in rental properties.
 - v. Provision of adequate lighting in a residence or shared space (corridor, parking lot, laundry facility) in a rental property.
 - vi. Provision of electricity service in a rental property, provided the tenant is not in violation of Kentucky Utilities or other such utilities’ terms.
 - vii. If gas service is provided, that such service is safely installed and operating (no leaks).

viii. Elimination of pests, including rodents, insects and other vertebrate and invertebrate pests.

E. Assign regular investigators for a neighborhood, with a priority that these investigators work with residents to solve the issue or problem rather than immediately cite them for a violation. All investigators should be equipped with resources to allow them to establish relationships within a neighborhood - contacts with social workers, records for issues with certain homes, etc. Often homeowners may not be aware of the issue or may not be in a position to correct an issue (an elderly resident who can no longer mow their lawn, but is overwhelmed at how to get assistance). We recommend that the Code Enforcement Agency re-imagine itself as a resource for residents and tenants, designed to reach solutions and correct issues that endanger rather than penalize and impose fines that more often than not cause more problems.

F. End anonymous complaints for Code Violations. While we realize that several citizens have expressed concerns about retaliation to tenants who report a code violation, the reality is that a landlord who receives a violation likely knows who reported it and there are protections against retaliatory evictions. Anonymous complaints allow for a system ripe for abuses from unscrupulous developers to report a home or homes. Residents are then cited, with fines accumulating because of the lack of any clear and concise system of help or resolution, creating a clear path for a developer to purchase the property.

G. Tenants Bill of Rights. The previously referred to Tenant's Bill of Rights should guide the Housing Code of the City of Lexington. Again, the Housing Code should be a tool to ensure health, safety, and protection of tenants and residents and a tool that invites neighborhoods to flourish. This Tenants Bill of Rights should also make the penalties for landlords and developers significant to ensure that they, too, prioritize the health and safety of those who live in the properties they lease and sell.

Recommendation #3: The city must put in place mechanisms to keep housing affordable.

Immediate Action by Mayor: Yes

Council: Yes

Budget: Yes

State Legislation: No

Federal Legislation: No

It is possible to stem the tide of gentrification while creating more housing opportunity for all Lexingtonians. It requires a holistic re-thinking of the purpose and effect of local zoning ordinances. Historically, zoning has restricted uses and density to artificially separate citizens by race, class, and income. The result is a city defined by pockets of high poverty and high affluence alike, and very few racially or economically integrated neighborhoods. To rectify decades of intentional segregation, Lexington must take an actively anti-racist approach to its land use policy, with a goal of integrated, walkable, transit-accessible neighborhoods for all residents.

Zoning policies must be re-written to allow for greater density, supply, and affordability in mind. Supporting housing-related policies and budgets must be re-allocated to protect existing affordability and expand low-and-middle-income housing across the city to prevent further isolation and segregation of our less-affluent neighbors.

Recommended policy improvements include:

- A. Convert all existing R-1 (A-T) zones to R-3.** Doing so does not prohibit single-family housing, but allows for greater density by-right in a manner still consistent with the historical urban structure of Lexington.ⁱ (requires UCC approval)
- B. Adjust zoning requirements that discourage density and affordability.** Adjustments should be structured as incentives for affordable development. These include (requires UCC approval):
 - i. Reduce parking minimums.
 - ii. Increase floor-to-area ratio (FAR).
 - iii. Reduce lot-size minimums.
 - iv. Reduce building size minimums.
 - v. Increase lot-coverage maximums.
- C. Add requirements that consider disparate impact in the process for creating new H-1 overlay districts.** H-1 districts that restrict access and affordability should be rejected. Existing H-1 districts must be given a path for removal if neighborhoods choose. (requires UCC approval)
- D. Waive permitting fees for all affordable housing projects and work with local utilities to remove service initiation fees and to defray infrastructure costs.** (Department-level policy)
- E. Consider expansions of the Urban Service Boundary specifically for affordable housing, mixed-income, mixed-use, walkable, transit-accessible development.** Such expansions should be structured as public-private partnerships to mandate affordability and incentivize small business creation. (requires UCC approval)

- F. Create permanently affordable housing through the Community Land Trust model.** This will help ensure neighborhoods maintain community control over the land through the democratically inherent processes and the community representation aspects of the CLT model. Investing in affordable housing through the permanently affordable CLT model will ensure that the city has a robust affordable housing stock that meets the housing aspirations for households today and in the future. Reference the Executive Summary and Recommendations of “Social Justice Mitigation in Transportation Project” paper authored by Pam Clay-Young and Doug Kreis.
- G. Investigate the re-allocation of funds currently dedicated to Purchase of Development Rights to the Affordable Housing Fund.** (UCC budget process)
- H. Remove the Affordable Housing Fund from the current place in the city’s budget and create an Affordable Housing Trust Fund with new and dedicated revenue streams, e.g. from property taxes (as is done with FCPS, Lextran, and LexPubLib).** (requires public referendum)

SUBSEQUENT RECOMMENDATIONS

Recommendation #4: The city must allot a portion of the COVID-19 funding towards eviction prevention initiatives.

Immediate Action by Mayor: Yes

Council: Yes

Budget: Yes

State Legislation: No

Federal Legislation: No

Due to the Covid-19 pandemic and Governor Beshear’s Executive Order, placing a moratorium on evictions for non-payment ending soon, this subcommittee recommends LFUCG direct COVID-19 (CARES) funding and effort towards residential assistance and eviction prevention initiatives to prevent mass displacement of vulnerable residents in Lexington, especially in gentrifying neighborhoods.

Recommendation #5: The city must financially invest in gentrifying neighborhoods and neighborhoods that are at risk of gentrifying where disinvestment and displacement has occurred and is occurring.

Action by Mayor: Yes

Council: Yes

Budget: Yes

State Legislation: Unknown at this time

Federal Legislation: No

Lexington has a history of progressive land use planning practices. It created the country's first urban service boundary in 1958, establishing a clear demarcation between "rural" and "urban" areas in the city which cemented in place a regional commitment to rural land preservation *and* smart urban growth. Between 1997 and 2000 a series of events aimed to more comprehensively preserve farmland and contain urban development culminated in the Purchase of Development Rights (PDR) Program, and included city, state, and federal investments in rural preservation, including a state bill enabling tax levies to support rural preservation, planning and zoning amendments to create 40-acre lot size minimums, millions of dollars in state money to leverage grants, investment of tobacco buyout funds, issuance of millions of dollars in city bonds, and federal matching dollars. To date, over 277 farms have benefited from the PDR program, and over 30,000 acres in Lexington have been preserved, representing millions of dollars. Furthermore, the expenditure of public funds for rural land preservation is itself racialized.

The PDR program is grounded in a 1999 Rural Service Area Land Management Plan (RSALMP) and a 2000 city ordinance (4-2000). Public discourse surrounding those two documents in the late 1990s, as well as the language contained within them indicated that the PDR program was intended to -- in fact *must* -- go hand-in-hand with investment in areas *within* the service boundary; the talk was of smart growth, infill development, small area plans, and neighborhood development. Rural preservation and smart urban growth are two sides of the same coin. The importance of that fact is captured in the RSALMP and Comprehensive Plan statement that rural preservation must "dovetail with the goals, policies, and provisions" of greater community planning efforts. Further evidence is found in the Governing Rural Land Management Board mandate of participation by representatives from the realtors' association, the home builders' association the chamber of commerce, historic preservation advocates, and the neighborhood council. The region's most prominent and vocal NGO dedicated to rural land preservation, the Fayette Alliance, also has argued for the crucial importance of investment inside the service boundary to relieve pressure on rural lands.

With a few exceptions, and those largely benefitting upper middle-class homeowners (e.g. historic preservation), the promise of investment in the urban core remains unfulfilled. The city should match their historical commitment to funding rural land preservation (through taxes, legislation, grants, bonding capacity) in those Lexington neighborhoods identified as vulnerable in the November 2019 Draft Map report to the Neighborhoods in Transition Task Force. That investment should include recommendations elsewhere in this document to fund affordable housing and grants and loans to minority owned businesses.

The City should investigate, and possibly take advantage of, spatial planning and fiscal tools for addressing the multiple problems of Lexington neighborhoods, and especially those threatened by gentrification and affordable housing crises. These might include

- A. Opportunity Zones** (OZ) are part of a federal incentive linked to the 2017 Tax Cuts and Job Opportunities Act directed to spur investment in undercapitalized communities. They are designated sites where investors can offset capital gains by taking advantage of three tax incentive programs. There is a danger that such investment may actually incentivize rather than check gentrification, given that it is a market driven model and that the investment must result in “substantial improvement” to properties. The Tax Policy Center of the Urban Institute has found minimal focus on disinvested communities to date. However, the program is new, it may be able to work in concert with other programs, and it is administered locally by designated banks. At least one successful OZ project linked to a Habitat for Humanity Project in Charlottesville has been identified, and it might serve as model for Lexington.
- B.** The federal **Community Reinvestment Act** (CRA; 1977) was created in part to counteract the segregation exacerbated by 20th century redlining (i.e. refusal to grant and or back loans in urban areas generally associated with people of color). The CRA is meant to incentivize banks to make loans in low income areas of the city. Banks are rewarded with a “score” that is part of their assessment for other fiscal and financial opportunities. Criticisms of the CRA include the fact that it only applies to banks (i.e. not credit unions and other lending institutions). A bank’s CRA performance is public record and can be accessed through an online database (<https://www.ffiec.gov/craratings/>). The city might identify local banks with a good CRA track record to determine if there is opportunity for partnerships. There may be incentives the city might bring to the table to support CRA focus on vulnerable neighborhoods with benefits to a broad based neighborhood revitalization that does not displace current residents or business owners.
- C.** The idea of an **Equity Overlay District** (EOD) is new, and was most recently considered by the city of Austin, Texas. An EOD would work as any overlay district in planning practice; in effect bringing a separate set of specific rules and opportunities to a designated area of the city: in this case those neighborhoods identified as vulnerable. It might be noted that to date Lexington has often used its historic preservation overlay designation to not only act in the interests of preservation, but also to discourage other activities (e.g. big box student housing). In this case the overlay district might serve as an “umbrella” designation for a range of activities and programs focused on

the neighborhood: from tax breaks, to merging with CRA and OZ, to alternative code practices, to consulting with neighborhood councils, to protecting existing multi-family housing from redevelopment pressures. The EOD is new enough that the city might direct the Division of Planning to investigate its feasibility (as the planners will best understand the synthetic possibilities of the concept and its application).

- D.** In recent years there is a growing awareness and understanding about the correlation between public investment projects and gentrification that leads to displacement. Public infrastructure investments into transit systems, schools, parks, and roads can increase housing costs which speeds up the process of displacement for lower-income households. Without efforts to minimize or mitigate negative impacts, Lexington neighborhoods vulnerable to displacement are ripened for gentrification by the City's infrastructure investment. This risk is heightened in or approximate to neighborhoods which have experienced a persistent, geo-specific pattern of disinvestment for an extended period of time.

To protect neighborhoods vulnerable to displacement, the Housing and Gentrification Subcommittee makes the following recommendations when the city is funding and benefiting from infrastructure improvement projects:

1. The city must conduct a **Community Equity Assessment** prior to the infrastructure planning phase to inform project goals that seek to avoid, minimize or mitigate the disparate impact and displacement of vulnerable populations.
2. The city must include in the infrastructure project costs required to support the avoidance, minimization, or mitigation efforts to **maintain cultural cohesion and to create affordable housing**.
 - a. The Subcommittee offers the city's Newtown Pike Extension Project as an example of a local infrastructure project that sought to mitigate the negative impacts on the Davis Bottoms Neighborhood. Pursuant to Executive Order 12898 (1994, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations."), the Newtown Pike Extension Project included funding to redevelop the Davis Bottoms neighborhood to meet the Environmental Justice commitments of environmental mitigation, rebuilding the neighborhood park, and creating

permanently affordable housing through the Lexington Community Land Trust.

3. The city must provide **incentive funding** to create opportunities for new minority-owned businesses and to sustain existing minority-owned businesses.
4. The Division of Planning must execute **small area plans** for neighborhoods in priority areas that will experience a direct impact from major local investment
5. The city must require private developers to set aside portions of developments for affordable housing by advocating for **state low-income tax credits, local low-income tax credits, or inclusionary zoning.**

(References: "Gentrification, Displacement, and the Role of Public Investment" by panel of authors from University of California Berkley and University of California Los Angeles; "Newtown Pike Extension Project Record of Decision")

Recommendation #6: The city should implement a program encouraging minority business inclusion in the gentrifying neighborhoods in the city.

Action by Mayor: Yes

Council: Yes

Budget: Possibly

State Legislation: No

Federal Legislation: No

In an effort to stabilize gentrifying neighborhoods and provide opportunities to small minority businesses that provide needed services to those neighborhoods. This subcommittee recommends LFUCG implement programs or initiatives that encourage minority business inclusion in gentrifying neighborhoods.

We recommend LFUCG encourage local banks to invest and intentionally communicate with residents and businesses about available resources.

The city, banks and non-profits should collaborate to establish a guiding framework similar to "Placebuilder" that helps guide opportunities for partnership and investment. One example: the city should create and leverage opportunities to create down payment assistance programs with banks on the merits of their CRA ratings.

Recommendation #7: The city must issue an official statement regarding gentrification, displacement, and affordable housing and launch an education campaign regarding the history of housing in Lexington.

Action by Mayor: Yes

Council: Yes

Budget: Possibly

State Legislation: No

Federal Legislation: No

Because gentrification is complicated, it is recommended that the city provide an official statement regarding gentrification. Neighborhoods, such as the East End, are historically, politically and privately disinvested. However, once investors begin to purchase property and the promise of new businesses and economic growth are present, it is then that we witness local governments investing millions of dollars to a once ignored area.

Gentrification may bring revitalization that excludes existing residents from the benefits of a revitalizing neighborhood, economic growth, and the greater availability of services that come with increased investments. Therefore it is recommended that the city provide anti-displacement strategies, such as programs to prevent evictions caused by rising property taxes in these areas for senior citizens and persons who have lived in their property for ten or more years.

Local government should also provide a strategy to keep housing affordable, such as inclusionary zoning which includes affordable units, workforce development programs, quality education and equitable housing development grants. Or, perhaps there could be a tax incentive for landlords or investors who offer housing below fair market value for rent or purchase.

Overall, the city should provide statements regarding gentrification of neighborhoods that have a large percentage of people of color and any proposals that should be implemented to make these transitions less invasive and threatening. It is also highly recommended that anti-displacement and affordable housing alternatives are explored to offer residents, who have longevity in a neighborhood, the opportunity to stay in their homes and enjoy the benefits new revitalization have to offer.

The city should financially partner with other entities such as Lexington Community Land Trust, the Lexington Fair Housing Council and the Lexington Human Rights Commission for an educational film screening on the history of housing practices and community discussion. Furthermore, the city must hold regular community input

sessions to receive continuous feedback regarding housing, gentrification and affordability in Lexington.

Recommendation #8: The city must implement actions to curb predatory investors.

Action by Mayor: Possibly

Council: Yes

Budget: Possibly

State Legislation: No

Federal Legislation: No

The situation is far too common. Individuals, who are usually minority, and have no interest in selling their homes are repeatedly contacted by over-zealous investors, asking them to consider selling. On August 3, 2020, the Housing and Gentrification subcommittee received a response to the gentrification survey, specifically the question regarding the opinion on whether or not they lived in a neighborhood that they would consider to be "gentrifying." This respondent, who identifies as a 63 year old black female from the West End of Lexington, affirmatively stated that she believed her neighborhood was in fact, a gentrifying neighborhood. This individual's reasoning as to why her neighborhood is gentrifying was "people always calling or sending letters through the mail about would you like to sell your home."

In a previous meeting of the TFNT, Chris Ford, Commissioner of Social Services with the Lexington-Fayette Urban County Government and task force member, indicated he has also experienced this issue. Commissioner Ford previously testified about not only receiving many mailers asking him to consider selling his home, but also getting calls on his personal cell phone from investors inquiring about his property and his interest to sell. This was not a publicized cell phone number.

House flipping is a big business. We have at least two major cable networks whose programming is predominantly devoted to flipping homes. The lure is buying a distressed property with as little capital as possible, rehabbing with a modest budget and seeking a maximum profit, often to the detriment of the long-standing residents of the neighborhood. In addition, several seminars are held in Lexington throughout the year by nationally known, real estate experts on how to make a fortune in the house flipping industry. These seminars are known to share the predatory tactics that investors utilize throughout the country to leverage individuals to sell their homes to "motivated" investors.

According to ATTOM Data Solutions, in 2018, house flipping in the United States hit a six-year high with over 48,000 homes across the country rehabbed. Despite the six-

year high the previous year, 2019 saw a 62% increase over that amount. Overall, house flipping accounted for 7.2% of all house sales in the United States. The average gross profit of a “flipped” house was \$60,000 and an average of 39% return of initial investment. Moreover, 85 of the 138 metropolitan areas analyzed posted a year-over-year increase in the number of homes purchased for rehabbing purposes.

The topic of predatory investors was a frequent discussion of the Housing and Gentrification Sub-Committee. Predatory investing not only destroys the cultural fabric of the neighborhoods, but totally changes the character of the neighborhoods. By pricing long-term residents out of the neighborhoods, predatory investing works to increase property values and tax assessments making once affordable homes, unaffordable.

Specific Recommendations:

A. Create an educational campaign for vulnerable neighborhoods.

The city should team with local non-profits, financial institutions and other local agencies who are experts in the subject matter to create a city-wide educational campaign for vulnerable neighborhoods. The educational campaign should focus on the issue of predatory investing, how to recognize the tactics and how to avoid the pitfalls associated with predatory investors converging on certain neighborhoods and people. This educational campaign should consist of brochures and if feasible, an advertising component to thoroughly educate individuals about this issue.

B. Counter-measures to mailers sent by predatory investors.

The city should have counter-measures in place should residents in vulnerable neighborhoods receive mailers sent to them by predatory investors. Residents should be educated on how to recognize such mailers, have a method to report such mailers either through a hotline or website (Housing Advocate Office) and be sent educational materials on how to combat future attempts.

Recommendation #9: We recommend that the work and function of this subcommittee continue to not only see each recommendation through to fruition, but to continue to provide a laser focus on housing issues that impact African-Americans living in Lexington.

Action by Mayor: Yes

Council: Yes

Budget: No

State Legislation: No

Federal Legislation: No

It is the recommendation of this subcommittee that the work to remedy and eradicate housing disparities faced by African-Americans in Lexington and the dismantling of racist systemic and systematic housing practices continues after the submission of this report for the following reasons:

- A. The Housing and Gentrification Subcommittee believes that there must be continued monitoring of the implementation of each recommendation in this report so that there is consistency and accountability though individuals in elected positions may change.
- B. Because of the very short timeframe in which the Housing and Gentrification Subcommittee was given to do its work, there were many related housing issues that went unaddressed.
- C. The Housing and Gentrification Subcommittee acknowledges that racism and discriminatory housing practices mutate and change over time. We believe that there must be a consistent, unbiased working group that will partner with city leaders to keep these important issues at the forefront and work in tandem to address, remedy and rectify.

In conclusion it is our recommendation that the Housing and Gentrification Subcommittee of the Mayor’s Commission for Racial Justice and Equality be allowed to continue on after the submission of the full report.

CONCLUSION

“...it is hard to argue that housing is not a fundamental human need. Decent, affordable housing should be a basic right for everybody in this country. The reason is simple: without stable shelter, everything else falls apart.”

— Matthew Desmond, *Evicted: Poverty and Profit in the American City*

Mayor Gorton, this document is a call to action. Mayor Gorton, this document is an indictment. Mayor Gorton, this document is a brief picture of what African-Americans living in Lexington, Kentucky have faced, are currently facing, and will continue to face unless your administration acts with all deliberate speed. African-Americans are facing unjust evictions every day in Lexington. Every day African-Americans in Lexington are being harassed by predatory investors who want to purchase and flip their homes. African-Americans in Lexington struggle to find safe, affordable housing options. Mayor Gorton, what will you do to eradicate the harm?

The Housing and Gentrification Subcommittee acknowledges that due to the timeframe we were given, we were unable to address all housing issues faced by African-Americans living in Lexington. In addition to our previously-listed recommendations we would like to draw the Mayor’s attention to the following areas of opportunity for

positive change that were lifted up by the public through our community engagement survey and via email feedback:

1. Homelessness, including youth homelessness.
2. Local Fair Housing ordinance expansion; the addition of Source of Income as an additional protected class.
3. Increased homeownership opportunities.
4. Housing issues faced by immigrant and refugee communities.

The Housing and Gentrification Subcommittee would like to thank the Commission Co-Chairs, Roszaly Akins and Dr. Gerald Smith for their leadership and guidance. The Housing and Gentrification Subcommittee would also like to thank Mayor Gorton for her commitment to the issues uplifted in this document and for making available city resources for us to complete our work. We would further like to thank all of our guest speakers for their insightful presentations and to the public for their comments, feedback and input. Additionally, we would like to thank the Task Force on Neighborhoods In Transition for document-sharing; it is our hope that the Task Force on Neighborhoods in Transition will continue its work and will consider and utilize our recommendations when proposing policies to city leaders for implementation. Lastly, the Housing and Gentrification Subcommittee would like to thank Mr. Eric Howard, our staff liaison, whose dedication and efficiency was unmatched.

Historically African-American neighborhoods in Lexington have been communities full of history, culture, and unique experiences. Gentrification unchecked erases and refuses to preserve the cultural histories that birthed these neighborhoods. It is upon us to correct this governmentally-sponsored wrong.
