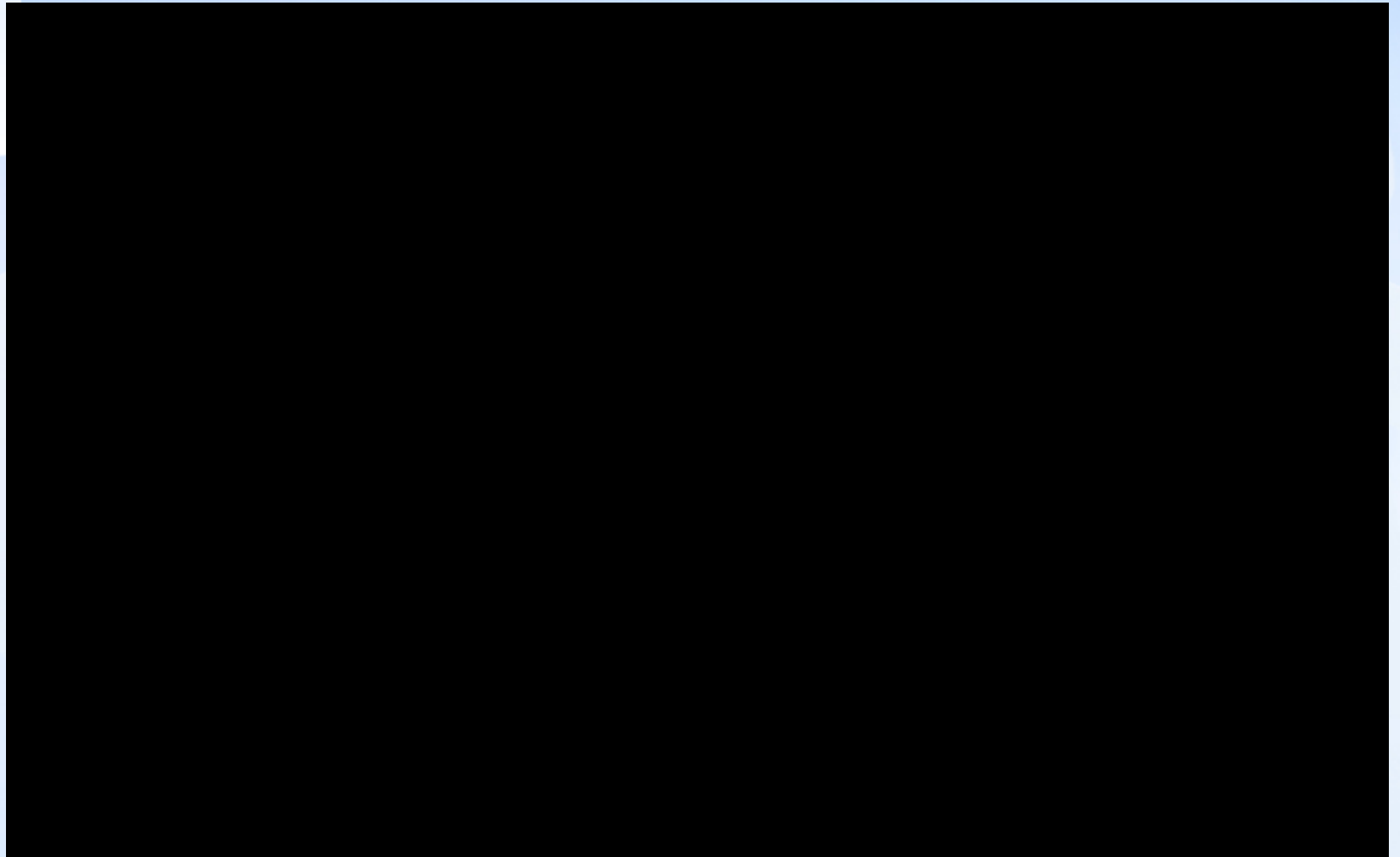


# Overview of/Historical Perspective of Fair Housing Law and AFFH



# American Dream



The American Dream is that dream of a land in which life should be better and richer and fuller for everyone, with opportunity for each according to ability or achievement. ...

It is not a dream of motor cars and high wages merely, but a dream of social order **in which each man and each woman shall be able to attain to the fullest stature of which they are innately capable, and be recognized by others for what they are,** regardless of the fortuitous circumstances of birth or position.”

James Truslow Adams

# Dred Scott



- Scott v. Sandford was a United States Supreme Court case in 1857 that ruled that people of African descent, whether or not they were slaves, could never be citizens of the United States, and that Congress had no authority to prohibit slavery in federal territories.

# An End to Dred Scott



- The parts of the Dred Scott decision dealing with the citizenship and rights of African-Americans were explicitly overturned by the Thirteenth and Fourteenth Amendments to the Constitution

# 13<sup>th</sup> Amendment-1865



**Section 1.** *Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.*

# The 14<sup>th</sup> Amendment



All persons **born or naturalized** in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.



# Civil Rights Act of 1866

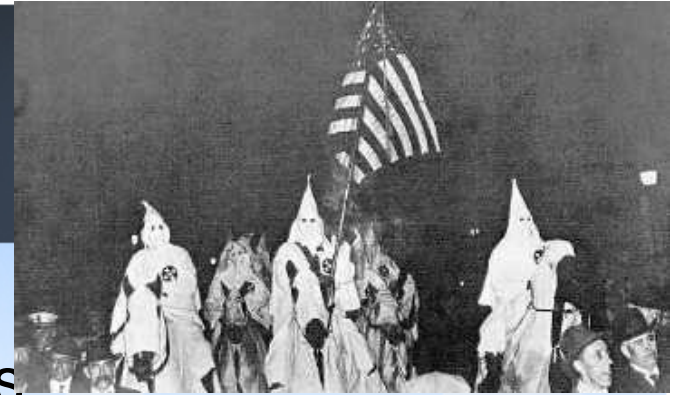


- Passed over a presidential veto on 9 April 1866, the law declared all persons born in the United States to be citizens, except for unassimilated Native Americans, and defined and protected citizens' civil rights. The law was part of Congress's attempt to reconstruct the union and eradicate slavery after the Civil War.



# Segregation

- ◆ After the Civil War enslaved Blacks Irish and Chinese indentured servants were freed
- ◆ The 13<sup>th</sup> , 14<sup>th</sup> , and 15<sup>th</sup> Amendments freed slaves and indentured servants giving them equal rights
- ◆ After reconstruction the south enacts Jim Crow Laws to separate Whites and Blacks
- ◆ 1896 Supreme Court Decision of Plessy v. Ferguson protected segregation by saying separate but equal was o.k.





# Southern Homestead Act 1866



- Attempted to solve the problem of buying land by selling land at low prices so that southerners could buy it.
- Primary beneficiaries were freedmen
- Repealed in 1876
- Land was either still too expensive or whites would not sell to blacks even if they had the money

# Homestead Act of 1862



- Requirements
  - head of household
  - at least 21 years of age
  - settlers (newly arrived immigrants, farmers w/o own land in the east, single women and former slaves)
  - had to live on the land and build a home
  - make improvements
  - farm for 5 years before they were eligible to “prove up”
    - » Repealed in 1976
    - » The last settlor took advantage of the Act in 1986



- The **Federal Housing Administration** (FHA) is a United States government agency created as part of the National Housing Act of 1934. The goals of this organization are: to improve housing standards and conditions; to provide an adequate home financing system through insurance of mortgage loans; and to stabilize the mortgage market.

From Wikipedia, the free encyclopedia

# Section 203 (b)



- Government regulations were changed to Fit the FHA, but the FHA loans were not available to everyone.
- The FHA used the HOLC system as a basis for developing criteria to select which loans it would insure.

Yale Law Journal-The Creation  
of Homeownership, 2005

# Home Owners' Loan Corporation (HOLC),



- **Home Owners' Loan Corporation (HOLC)**, former U.S. government agency established in 1933 to help stabilize real estate that had depreciated during the depression and to refinance the urban mortgage debt. It granted long-term mortgage loans to some 1 million homeowners facing loss of their property. The HOLC ceased its lending activities in June, 1936, by the terms of the Home Owners' Loan Act.

•The Columbia Encyclopedia, Sixth Edition. Copyright © 2001-05 Columbia University Press.

# HOLC Ratings



- HOLC rated every urban and suburban neighborhood in America as “A” “B” “C” “D” quality, color coding maps of every metropolitan area (“D,” or lowest quality, was colored red-the origin of “redlining”).
- Quality ratings were based on age and type of housing stock, and the racial composition of the neighborhood.

# The alphabet breakdown



- “A” neighborhoods had to be “homogeneous”- meaning “American business and professional men”-and “American”- meaning white and often native born.
- Predominantly black neighborhoods received a “D” grade.
  - Yale Law Journal-The Creation of Homeownership, 2005

# Redlining



- **Redlining** is the practice of denying or increasing the cost of services, such as banking, insurance or even supermarkets to residents in certain, often racially determined areas. The most devastating form of redlining, and the most common use of the term, refers to mortgage discrimination.

**From Wikipedia, the free encyclopedia**



# Federal Policy



- For the past 80 years, the federal government has supported and furthered residential segregation

# Racial Discrimination



- Government policies encouraged and promoted racial and class-based housing segregation
- By endorsing racial discrimination in real estate and banking
- By promoting Individual prejudice and feelings of comfort/discomfort

Detroit, Michigan, 1942



# Causes and Perpetuation of Disparities



- Historical factors.
  - Slavery
  - Jim Crow
  - de jure segregation
  - Redlining
  - The New Deal
- Present day factors. Disparities in:
  - Wealth
  - Housing
  - Public education
  - Healthcare
  - Crime & criminal justice

# Model for Disparate Outcomes



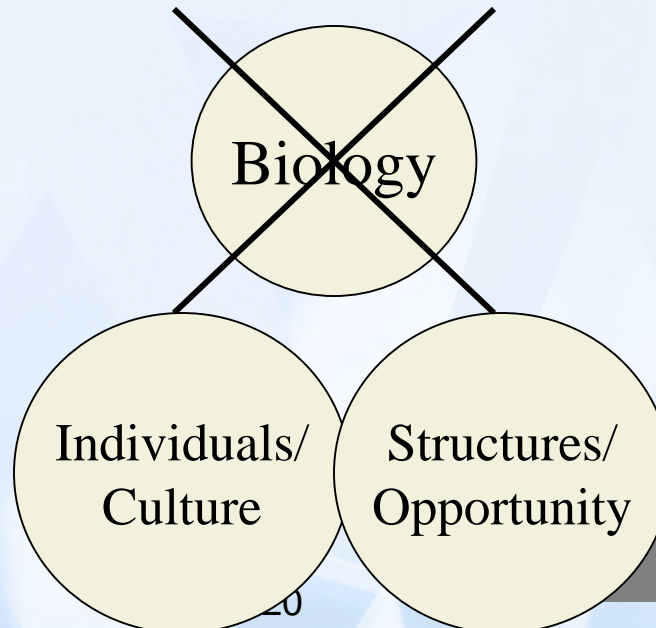
Historically

Biased  
Structures



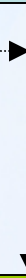
Disparate  
Outcomes

**What is occurring here to  
replicate the outcomes today?**



Today

De Jure  
Neutral  
Structures



Disparate  
Outcomes

# This Results in the Systematic



- Loss of businesses: grocery stores, banks, etc
- Loss of political power: environmental discrimination (waste processing facilities and chemical plants)
- Lower property values: deteriorating buildings and unsavory facilities (jails)
- Loss of medical facilities and clinics
- Loss of revenue for public schools



Massey, Douglas S. 1990. "American Apartheid: Segregation and the Making of the Underclass. American Journal of Sociology 96(2): 329-357

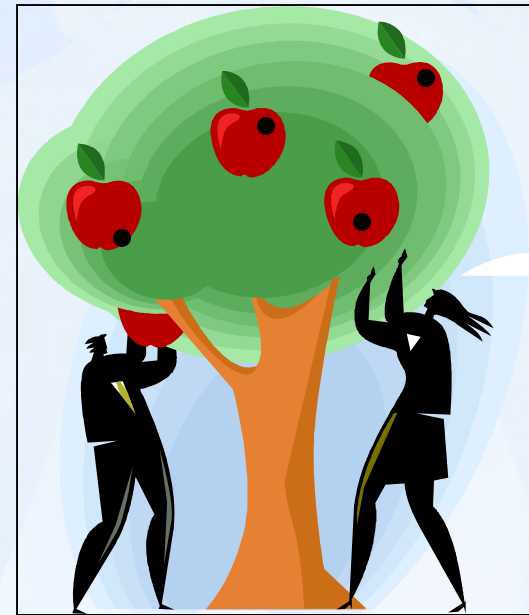
Sequence of 4 photographs taken by Camilo José Vergara of  
Fern Street in N. Camden, NJ  
Clockwise from top left 1979, 1988, 1997, 2004.



# Attribution of Disparities



- We tend to attribute disparities to “bad apples”
  - Defective culture
  - Individual faults
  - Personal Racism
- As opposed to “diseased tree”
  - Structures
  - Institutions
  - Cumulative causation



## Reality versus “The American Dream”



- Unresolved tensions between the public ideal (equal opportunity) and reality (disparities)
- Membership in society is based on a class and race-based social hierarchy
- People in poverty cannot fully exercise their freedoms
- Public institutions do not reflect their constituents

[www.KirwanInstitute.org](http://www.KirwanInstitute.org)



# Why We Need to Affirmatively Further Fair Housing



The duty to affirmatively further fair housing can play a critical role in the creation of many social, political, and organizational structures that influence the distribution of opportunities.

Access to sustainable inclusive communities free of discrimination impacts all aspects of our lives.

# Neighborhoods



Provide and determine:

- education
- recreational facilities
- insurance rates
- employment
- transportation
- safety
- health



# Systems Thinking



- From a systems perspective, causation is cumulative and mutual.
  - Outcomes are caused by many actors' and institutions' actions and inactions over time and across domains.
  - Outcomes are the result of causes that accumulate over time and across domains.

[www.KirwanInstitute.org](http://www.KirwanInstitute.org)

# Cumulative and Mutual: Cycle of Segregation



**School  
Segregation**

**Lower  
Educational  
Outcomes for  
Urban  
School  
Districts**



**Neighborhood  
(Housing)  
Segregation**

**Increased  
Flight  
of Affluent  
Families from  
Urban Areas**

# Thompson v. HUD

## Remedial Phase Expert Report



- The remedy must be goal-driven and adaptive to the dynamic nature of the housing market.
- The remedy must connect subsidized housing recipients to areas of opportunity.
- The remedy must require HUD to utilize a variety of tools available, including vouchers and new housing production.

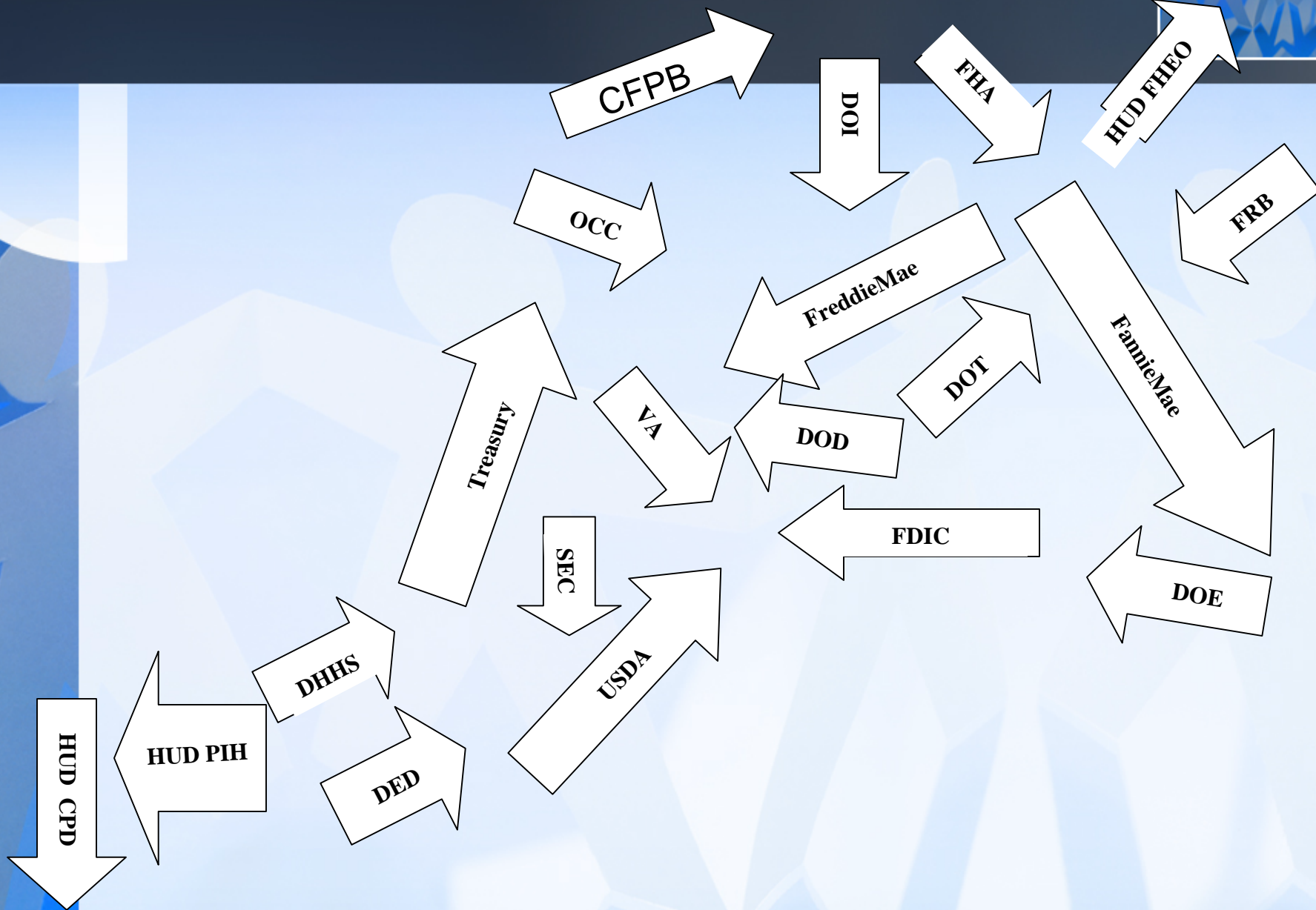
[www.KirwanInstitute.org](http://www.KirwanInstitute.org)

# The Web of Housing Challenges



[www.KirwanInstitute.org](http://www.KirwanInstitute.org)

# The AFFH Seeks to Move from ...



# Agencies Working as a Team to AFFH Coordination



DOI                      DEd                      DOD

   DOE                      DOJ                      HUD CPD

   DOT                      FreddieMac                      CFPB                      HUD FHEO

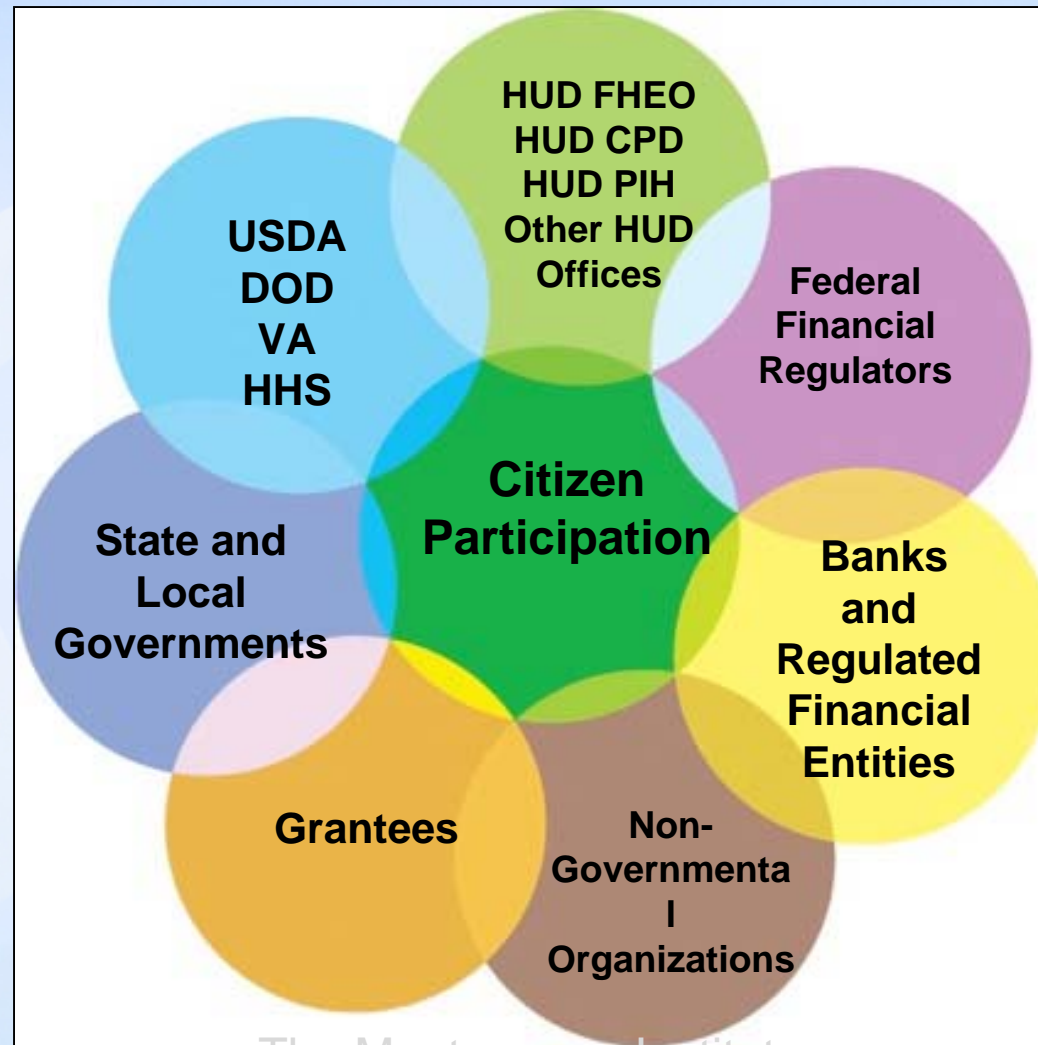
   SEC                      USDA                      HUD PIH

Treasury                      HHS                      FannieMae                      FHA

   FRB                      VA



# Sustainable Inclusive Communities Free of Discrimination



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