



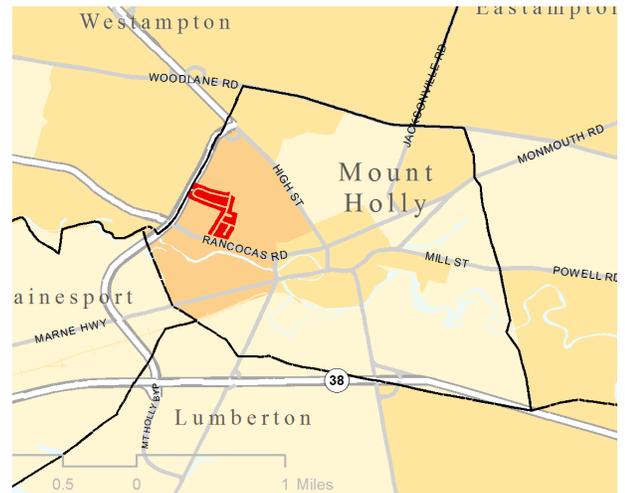
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# Mt. Holly Gardens: A Case Study of Redevelopment in New Jersey

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*The research and opinions expressed in this document are those of the author, Adam Steinberg. They do not necessarily reflect those of Reinvestment Fund, the Policy Solutions group or the American Council of Learned Societies.*

## Foreword

Across the United States, communities are struggling with the challenges associated with neighborhood decline. Practitioners and policymakers are beginning to realize that the task is oftentimes more difficult when the communities facing these challenges are in older suburban areas where: (a) poverty is an increasingly prevalent issue; and (b) the resources and expertise to manage issues associated with poverty and disinvestment that exists in cities are less prevalent.

Mount Holly Gardens (the “Gardens”) is a community within Mount Holly Township (Burlington County) in southern New Jersey, 20 miles from Center City Philadelphia. It was developed in the 1950s to house veterans and was initially managed by the Federal Housing Administration. Over time, as discussed in the chapters that follow, ownership of the Gardens went into private hands. There was a substantial shift in population demographics, physical deterioration, and ultimately, an effort to redevelop the neighborhood. The redevelopment of the Gardens, the accompanying fair housing lawsuit(s) and subsequent settlement are the subject of this report.

Chronicling the history of the Gardens redevelopment and legal actions was important for Reinvestment Fund for several reasons.

First, Reinvestment Fund is a community development financial institution whose mission is realized by using organized capital, people and data to address challenges in low-wealth communities. Cities and near suburbs are often the places where we work to understand those issues and invest to stabilize or redevelop communities.

Second, given our mission, it would be imprudent not to examine this controversy and learn from it—so that in the future, redevelopment efforts can support changing communities while limiting adverse consequences like those that occurred in Mount Holly.

Third, the Fair Housing Act protects people against actions that are intended to harm them because of their race, color, religion, sex, national origin, handicap or familial status. It also protects against acts that, although not intended to do harm, disproportionately impact protected groups (e.g., an African American neighborhood, persons with disabilities) without a legally sufficient justification. Actions that violate the Fair Housing Act are anathema to us, and where our interventions can address a fair housing issue, we are compelled to act.

As the Gardens lawsuit was accepted to the docket of the Supreme Court of the United States (SCOTUS) in 2013, TRF Development Partners (now known as ReBuild Metro), led by Sean Closkey, was called on to help craft a settlement and assemble funding to actualize the settlement. It is now building the replacement homes agreed upon in the settlement; 12 of the remaining 15 plaintiffs are now in their new Gardens homes. Plaintiff’s deaths and medical conditions caused five to no longer need replacement homes.

Snags have delayed the completion of all the homes and return of residents covered by the settlement. The parties have had to go back to a U.S. district judge to enforce certain contested aspects of the settlement, but progress is being made, and we expect the settlement to hold.

Not long after the settlement was signed and the case withdrawn from the SCOTUS docket, the Policy Solutions group at Reinvestment Fund decided that the Gardens provided an opportunity to study whether there is a way to revitalize a struggling community that does not cause unnecessary damage to the residents (personal, emotional, financial), to the local government (financial, reputational), or challenge the underpinnings of the nation's fair housing laws. There must be a better way to accomplish the revitalization of a troubled community, and a serious post-mortem on the Gardens controversy offered an opportunity to learn.

Using a variety of data sources—court pleadings and decisions, newspaper archives, minutes of council hearings, interviews and even a few New Jersey Open Public Records Act requests for information—we were able to piece together a comprehensive history of the Gardens controversy. Systematic interviews with numerous individuals who had experience and perspective on the issues proved incredibly important. Through those interviews we could see that, in general, those involved in the dispute shared a reasonably consistent set of views on the issues in the Gardens, regardless of their “side” in the controversy: the homes were obsolete; crime was elevated; absentee landlords renting to lower income and Section 8 tenants did not maintain properties to an acceptable standard; many Gardens residents were good people who felt a true sense of community that was threatened both by the conditions and the redevelopment. With so much in common, why did the solution go so badly?

Several things went wrong that need not have. For example, as we analyzed the qualitative data, it became reasonably clear that the Township had structured ways to accept public comment on plans for the Gardens, but the parties were not really listening to each other. It was a process that seemed to value form over substance. Additionally, regulatory systems were not working. For example, HUD regulations allow for adjustment of rents for units to account for size and location; tenants who violate the lease can be evicted; poorly maintained properties should not pass Housing Quality Standards inspections. But rents were not adjusted, and all agreed property management was a problem. Although we could get very limited data on crime for the Gardens (and OPRA requests were denied), most agreed it was an issue, to varying degrees. But by all accounts, crime is a problem that the Township did, for a while, effectively address by creating a Gardens substation. At some point, that successful effort was withdrawn, and crime appeared to reemerge as an issue.

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In the end, with so much agreement about the issues and disagreement about the solution, we were left wondering: How could this have worked out better?

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And so, feeling unheard and viewing the redevelopment effort as punitive, residents took to the courts. These court battles stretched over more than 10 years and cost all parties dearly. And while those battles were being fought, the situation—for all parties—deteriorated.

In the end, with so much agreement about the issues and disagreement about the solution, we were left wondering: How could this have worked out better?

Adam Steinberg concludes from his analysis that one solution could have been a “collective impact” process. He argues that an authentic process whereby the parties genuinely listened to each other, held each other accountable and joined in the solution could have obviated the long, drawn-out court battle. The foundational components of a collective impact process as articulated by Kania and Kramer (Stanford Social Innovation Review, Winter 2011) include: a common agenda; shared measurement systems; mutually reinforcing activities; continuous communication; a backbone support organization. These components may well have helped move from a consensus definition of the problem to a mutually supported resolution. While hindsight is certainly 20/20, balancing the many costs of the path taken against a collective impact process suggests that a better way may well have been possible—and could be possible in future redevelopment efforts.

Reinvestment Fund hopes that the learnings from this case study of a development that went so wrong can be instructive for future efforts. More stabilization and redevelopment efforts may end up in court—and it is good that we have a judicial process available for redress—but some may be able to avoid that unfortunate fate by taking the learnings here. It is our hope that future efforts result in positive outcomes for residents and governments that are truly motivated to stabilize and improve communities.

**Ira Goldstein**

*President, Policy Solutions*

*Reinvestment Fund*

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## Executive Summary

In the first decade of the 21<sup>st</sup> century, the small suburban municipality of Mount Holly, New Jersey, spent \$24 million turning a neighborhood into a barren field. *Mt. Holly Gardens: A Case Study of Redevelopment in New Jersey* explores why the Township decided to redevelop this neighborhood and why the redevelopment proved so costly and wasteful for the Township and its residents.

Using interviews with stakeholders, spatial analysis of area demographics, and textual analysis of court documents, Township meeting minutes, redevelopment plans, and media reports, this study finds that the redevelopment was driven by a belief—shared by most Township officials and many township residents—that the Mt. Holly Gardens neighborhood was irredeemably flawed, and that its residents would be better off being forced to move to new homes in other municipalities.

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For Gardens residents, the Gardens was a reasonably good place to live and one of the few places in suburban South Jersey where they could afford a home.

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However, opposition to the redevelopment was fierce, with many residents suing the Township in state and federal courts. They, too, had a belief about their neighborhood, but it was far different from the belief held by Township officials. For Gardens residents, the Gardens was a reasonably good place to live and one of the few places in suburban South Jersey where they could afford a home. Displacement, for them, would destroy their community and leave them in far worse living conditions.

The Township's inability or refusal to reconcile these two beliefs ensured that the conflict would end up in court. The court case, in turn, ensured that the Township would go deep into debt and that the redevelopment would still be incomplete after 15 years.

This study suggests that the Township need not have made these mistakes. Had it adopted collective impact decision-making, whereby a backbone organization brings together representatives of multiple stakeholders to address issues of common concern, the Township could have addressed the problems of the Gardens without displacing every family living there.

### The Redevelopment Narrative: What Happened and How It Happened

Mt. Holly Gardens was a small “pocket neighborhood” of 329 homes built by the Department of Defense in the 1950s for military families. But in the early 1970s, its new owner, a for-profit developer, convinced the Mount Holly Township Council to subdivide the neighborhood into individual lots, which the developer then sold one by one. Although some of these homes were purchased by residents, others were purchased by landlords. Slowly over the subsequent three decades, the neighborhood changed. Crime and overcrowding increased, and the neighborhood became poorer and majority minority. By 2000, the Gardens was 20 percent non-Hispanic white, 46 percent black, and 29 percent Hispanic—the highest concentration of minorities in the township.<sup>1</sup> Median household income was approximately \$21,000, about half the township median.<sup>2</sup>

To address the issues of crime and overcrowding, the Township Council voted in 2002 to redevelop the Gardens.<sup>3</sup> In response, several residents founded a nonprofit called Mt. Holly Gardens Citizens in Action Inc.,<sup>4</sup> which sued the Township in state court, alleging violations of New Jersey's antidiscrimination laws and redevelopment laws and procedures.<sup>5</sup> When the state trial court upheld the redevelopment in 2005, Citizens in Action appealed.<sup>6</sup> The New Jersey State Appellate Division affirmed the trial court decision, and the New Jersey Supreme Court declined to hear the case.<sup>7</sup> According to the New Jersey courts, Mount Holly had not violated any state laws or regulations. On May 27, 2008, Citizens in Action, not satisfied with the state court decision, sued the Township in federal court, claiming that the redevelopment violated their rights under the Fair Housing Act of 1968.

While Citizens in Action was suing the Township in federal court, the Township was adopting a carrot-and-stick approach to the remaining site residents.

For a carrot, the Township amended its redevelopment plan.<sup>8</sup> Under the amended plan, its developer, Keating, would construct 520 new homes, of which 56 would be affordable, and 11 of those 56 would be offered to existing Gardens residents.<sup>9</sup>

As for the stick, the Township quickened the pace of its demolitions of vacant homes, even when the homes in question were attached to homes that were still occupied.<sup>10</sup> Although these demolitions prompted some site residents to relocate, others refused to leave, so the case continued in federal court, albeit with fewer plaintiffs.



Source: WolfeNotes.com (<http://www.wolfenotes.com/2010/10/an-american-crime-bulldozing-the-gardens/>)

Eventually the case wound its way to the U.S. Supreme Court, which, on June 17, 2013, agreed to hear the case.<sup>11</sup> Oral arguments were scheduled for December 4. However, the voters of Mount Holly had elected a new slate of councilmembers who moved quickly to settle the case out of court. On November 13, 2013, the Township and Citizens in Action signed the settlement. Under the settlement, 16 of the remaining resident families would get replacement homes at almost no cost beyond the value of their existing homes. Two days later the U.S. Supreme Court dismissed the case.<sup>12</sup> However, as of July 2018, some of these families are still awaiting their new homes. Having gone deep into debt, the Township has been slow to secure the funds it needs to fulfill its terms under the settlement.<sup>13</sup>

### The Nonresidents' Narrative: Why They Redeveloped

By 2002, nonresidents had developed a narrative to justify the redevelopment of the Gardens. The Gardens, they said, was once a clean, well-maintained neighborhood of military families, but avaricious landlords took over much of the neighborhood starting in the 1970s, replacing those military families with very poor people of color who lacked the middle-class values of thrift, hard work, and pride in their homes. The neighborhood rapidly declined throughout the 1970s and 1980s. By the 1990s the Gardens was deeply troubled, beset by all sorts of disorder, ranging from litter to murder. Drug dealing was a particularly entrenched scourge for the neighborhood, and the drug trade, which was largely controlled by outsiders, created an oppressive spirit of lawlessness throughout the neighborhood.

Nonresidents agreed, however, that the Gardens was also home to good, decent, law-abiding residents, typically homeowners. These residents were lower income, minority, elderly, or some combination of the three.

Although these good people tried to take care of their homes, inside and out, they could never hope to sell their homes and use the money to move to a better neighborhood. The homes were woefully outdated, built to 1950s living standards, and thus almost impossible to sell in a 21<sup>st</sup> century housing market.

Furthermore, the many problems of the Gardens gave the neighborhood a terrible reputation, scaring off most potential homebuyers except for absentee landlords, who exacerbated the neighborhood's problems. Gardens homeowners, trapped in their investments, were afraid to venture outdoors and were the true victims of the neighborhood's decline; they were worthy of sympathy and assistance. These "good people" would benefit from redevelopment, because only then would they receive the relocation assistance they needed to move to better neighborhoods.

### The Gardens Residents' Narrative: Why They Sued

For residents who opposed the redevelopment, the Gardens was flawed but, on balance, a good place to live. People watched out for each other, homes were affordable, and the location was ideal, especially for the elderly and families with few if any automobiles. However, most Gardens residents were minority and low income, and the Township government, dominated by white, middle-class township residents, conspired to displace the community and demolish their homes.

First, these residents argued, the Township neglected the Gardens, denying the neighborhood the community policing that would have alleviated the neighborhood's biggest problem: crime. Its building inspectors did not enforce building codes, either out of incompetence or, perhaps, greed if they were being bribed by landlords.

Then the Township acquired vacant properties, which it allowed to decay, lowering property values and endangering the health and safety of Gardens residents.

Although the Council held several hearings about the redevelopment, the councilmembers never intended to use these hearings to empower the residents. Rather, the Council was merely following the letter—not the spirit—of the law, having already decided to redevelop the Gardens and deny residents affordable replacement housing. With the Council brazenly violating their rights as property owners, as citizens, and as human beings, and with the hearings accomplishing nothing, many site residents resorted to the only nonviolent tool they had left: the courts.

This narrative motivated many site residents to resist the redevelopment and join the court case. However, narratives alone do not win the battle. As the years progressed, some site residents died. Others gave up and moved. However, even 15 years after the first hearings about the redevelopment, this narrative sustains the remaining site residents as they wait for their replacement homes.

### The Road Not Taken: The Collective Impact Option

This confrontation was not preordained. Although site residents and the Council had very different explanations for the neighborhood’s decline, both sides agreed that there were legitimate quality-of-life issues worth addressing, and both sides blamed absentee landlords for many of these problems. Had the Council worked closely with site residents and other stakeholders to address these problems, both sides might have avoided the destructive confrontation that tore apart Mount Holly after 2000.

This close collaboration can take many forms. One such form is “collective impact” policymaking, whereby a backbone organization assembles important actors from different sectors to develop a common agenda and success metrics for addressing a specific problem.

Under collective impact, stakeholders from different sectors join forces to solve a specific social problem.<sup>14</sup> These stakeholders enter collective impact policymaking with an open mind and no clear idea about where it may take them. The goal is not to enforce any one stakeholder’s solution but rather to create a process where stakeholders learn from each other and benefit from the resulting feedback loop.<sup>15</sup> Once this process has been established, the stakeholders can turn their attention to identifying the best solutions for the challenges burdening a community.

If a municipality in 2018 faced the same challenges Mount Holly struggled with in the early 2000s, it could use collective impact policymaking to address those issues. But to succeed, the municipality’s mayor and council could not decide before the fact to redevelop a troubled neighborhood. It would instead have to identify and find funding for a backbone organization. Once launched, the backbone organization could assemble the representatives of multiple stakeholder organizations. These representatives could then identify a common agenda and work together, across sectors, to address a neighborhood’s problems.

When addressing problems in low-income, majority-minority neighborhoods, history suggests that the traditional planning process may end up causing more harm than good. Collective impact policymaking, although very process heavy, is not as time consuming, costly, or divisive as what happened in Mount Holly. This alone makes it worth a municipality’s time to consider collective impact before diving into the deep end of redevelopment.

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By declining to authentically integrate multiple stakeholders into the redevelopment process, Mount Holly increased the likelihood that the results for the site residents would be catastrophic. The redevelopment had an adverse and disproportionate effect on racial and ethnic minorities who were the predominant groups residing in the Gardens—members of communities that had already suffered from decades of discrimination in the South Jersey housing market. Except for the few plaintiffs who remained litigants all the way to the 2013 settlement, all residents, regardless of race or ethnicity, lost their homes in the Gardens. And all residents—including those who gained on-site replacement housing—lost the community that made the Gardens in many ways a good place to live.

The redevelopment proved catastrophic for the Township, too. Its reputation was damaged, its entire Council was voted out of office, and the Township was saddled by \$24 million in debt. The mostly vacant land of what was once Mt. Holly Gardens stands as a testament to the risks municipalities face when they attempt to redevelop their low-income, majority-minority neighborhoods without adequate input from the people they are purportedly trying to help.

# Chapter 1:

## A Narrative of Redevelopment and Displacement

# Chapter 1: A Narrative of Redevelopment and Displacement

## Introduction

Segregation of land use is the *raison d'être* of planning. From its inception as a modern discipline in the late 19<sup>th</sup> century, planners have endeavored to segregate human activity by land use, designating one area for industry, another for transportation, and still another for residential. Planners also segregate within these categories: heavy vs. light industry; arterial roads vs. collector roads; single-family homes vs. multifamily dwellings. Planners have long believed that by segregating land use, they help create a rational, efficient, and humane modern metropolis.<sup>16</sup>

Although no longer legal today, planners once segregated people in much the same way they segregated land use. Sometimes this was done explicitly, often when planners were required to do so by elected officials or government agencies. At other times, this segregation by race and class was done implicitly, as when planners barred the multifamily rental dwellings affordable to poor and minority households from new developments.<sup>17</sup>

We still live with the legacy of planning's segregation of people. Millions of Americans live in neighborhoods designed in previous decades for specific races and classes. Some of the most segregated metropolitan areas in America are not coincidentally the same metropolitan areas where 20<sup>th</sup> century planning left its most lasting mark: Philadelphia, New York, Chicago.<sup>18</sup>

What's more, although explicit segregation is now illegal, the tools planners used to implicitly segregate people are still in use today. Plans that limit or forbid mixed-income and mixed-use development, or that set minimum lot sizes for housing, ensure, by accident or by design, that lower-income and often minority households are still barred from many of the newest and most desirable communities.

Recognizing the ongoing damage caused by residential segregation, the federal government in 1968 enacted the Fair Housing Act, which sought to ban both explicit and implicit discrimination in housing. A narrow interpretation of the Fair Housing Act as banning *only* explicit discrimination renders it an imperfect tool to address segregation: The roots of segregation are often institutional or systemic, and there is not always evidence of intent to discriminate. However, banning implicit discrimination is easier said than done.

We can better understand the challenges faced by those who wish to use the Fair Housing Act to ban implicit discrimination by examining a small-scale redevelopment plan in Mount Holly, New Jersey, that ended up on the docket of the U.S. Supreme Court. Through this case study, we can also take a closer look at alternative routes Mount Holly Township could have taken when considering the redevelopment of the township's sole majority-minority, low-income community.

## The Roots of Blight Designation

Americans tend to think of the United States as a bastion of private property rights, a free-market antidote to the soft socialism of Europe and the hard communism of China (and, at one time, the Soviet Union).<sup>19</sup> Government in the United States, however, has the right to confiscate private property under many circumstances. The final clause of the Fifth Amendment to the federal Constitution states: "nor shall private property be taken for public use, without just compensation." In several decisions dating back to the 19<sup>th</sup> century, the U.S. Supreme Court has ruled that this clause empowers all levels of

government to seize private property if the government pays the owner of the property and uses the property for a public use.<sup>20</sup> What is a public use? According to the most recent Supreme Court ruling on the matter, *Kelo v. City of New London* (2005), the legislature has broad latitude to define “public use.”<sup>21</sup>

*Kelo* continues a long line of decisions reflecting the Supreme Court’s deference to elected officials in deciding when and how to use eminent domain—even in one of the most contentious areas of eminent domain, the transference of property from one private owner to another owner who can increase the market value of the land and thus tax revenues for the city.<sup>22</sup> As law professor and historian Wendell Pritchett notes, in the first half of the 20<sup>th</sup> century, this use of eminent domain became a commonly accepted way to strip property rights from one group and transfer them to a wealthier and more powerful group. Urban planners and policymakers created a word to describe and justify this transfer: blight.<sup>23</sup> When Mount Holly declared that its only majority-minority, low-income neighborhood was blighted, it was walking a well-trod path by which countless other municipalities had transferred property out of the hands of low-income, minority residents.

In practice, a municipal legislature designates a neighborhood as blighted and uses eminent domain to seize the property, evict the tenants, demolish the buildings, and sell the land to a private developer. For example, in the U.S. Supreme Court case *Berman v. Parker* (1954), the owner of a hardware store and the owner of a department store sued the federal government for including their non-blighted properties in its urban renewal plans for southwest Washington, D.C. The government<sup>24</sup> successfully argued that the blight in the neighborhood tainted the entire neighborhood and threatened surrounding properties, too, so it was for a public use under the Fifth Amendment for the government to clear the neighborhood and thus remove the spreading blight from the city.<sup>25</sup>

Typically, each state defines “public use” and “blighted” as it sees fit. In New Jersey, a township’s eminent domain power falls under the Eminent Domain Act of 1971. Under this act, a township must first submit its blight designation and redevelopment plan to the state for approval. It must also refrain from using eminent domain unless it fails to purchase the property through negotiation. Although New Jersey courts have struck down some instances of eminent domain, usually “the decision of the municipal authorities that an area is blighted comes to the courts ‘invested with a presumption of validity’ (*Levin v. Twp. Comm. Of Bridgewater*, 274 A.2d 1, 18 [N.J. 1971],”<sup>26</sup> even if the blighted neighborhood is low income and minority.<sup>27</sup> Because state courts are more likely than not to approve a blight designation, municipalities usually have little trouble negotiating a sale.<sup>28</sup>

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...local planning agencies don’t always listen or respond to the concerns of the residents whose neighborhood they’re trying to improve.

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Blight designation, it should be noted, is not always a detriment to the interests of low-income, minority communities. As sociologist Debbie Becher notes in her case studies of eminent domain in Philadelphia, low-income, minority communities often welcome the government’s use of eminent domain to confiscate derelict properties that negatively affect their quality of life and property values.<sup>29</sup> (The problem, she found, is that local planning agencies don’t always listen or respond to the concerns of the

residents whose neighborhood they're trying to improve.) Nonetheless, as Justice Clarence Thomas noted in his *Kelo* dissent (while also referencing Pritchett, see above), the people displaced through eminent domain are disproportionately minority and/or low income.

Regardless of the ongoing debate about the proper use of eminent domain, the judicial and legislative records give municipalities the latitude to redevelop low-income, minority neighborhoods like Mt. Holly Gardens.

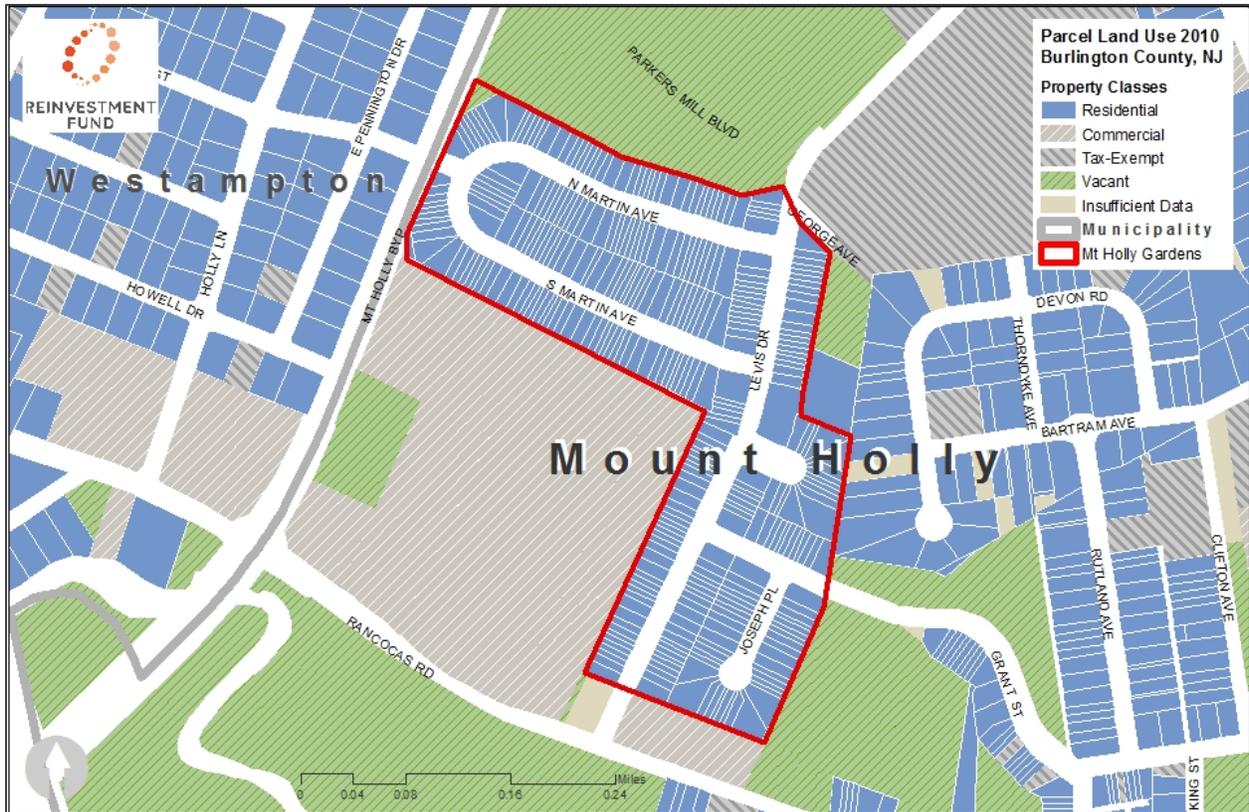
### The History of Mt. Holly Gardens

The end of World War II triggered a national housing crisis as millions of returning war veterans married and began looking for new homes. One solution, highly subsidized by the federal government through government-guaranteed home loans and highway construction, was suburbanization.<sup>30</sup> This massive movement of families out of the urban core and into surrounding rural districts transformed southern New Jersey into a prime example of post-War suburbanization.<sup>31</sup> Burlington County in South Jersey, for example, transformed from farmland into a mesh of commuter suburbs for Philadelphia office workers in barely a generation.<sup>32</sup>

These new homes, however, were out of reach for many low- and middle-income Americans, and this was of concern for the Department of Defense, which had two major military installations in South Jersey, Fort Dix and McGuire Air Force Base. Where would its service members and their families live? The federal government began subsidizing the construction of low-cost homes for these families in suburban pockets of Burlington County. One of these neighborhoods, Mt. Holly Gardens, was constructed in the late 1950s.<sup>33</sup>

At first, this collection of approximately 329 modest, two-story row houses had a good reputation. For its first 10 years, the Gardens was owned and managed by the Federal Housing Administration (FHA), which kept the neighborhood clean and safe.<sup>34</sup>

In the mid-1960s, however, the federal government sold the entire neighborhood to a new, for-profit landlord, which is when reports of the troubles began. The new landlord was not as assiduous in maintaining the properties as had been the FHA. Eventually the new landlord convinced the Township Council to subdivide the neighborhood. It then sold off the individual parcels, one by one. According to Kent Pipes, the owner of Salt & Light Company, Mount Holly's sole affordable housing developer, this new landlord hired Harry Fry, a local realtor, to find buyers for these homes. Fry told Pipes that he couldn't sell all these properties, so he purchased and rented about a third of the homes "just to keep them occupied and keep the sales going."<sup>35</sup> Eventually, other landlords purchased several additional homes, although none owned nearly as many as did Harry Fry.<sup>36</sup>

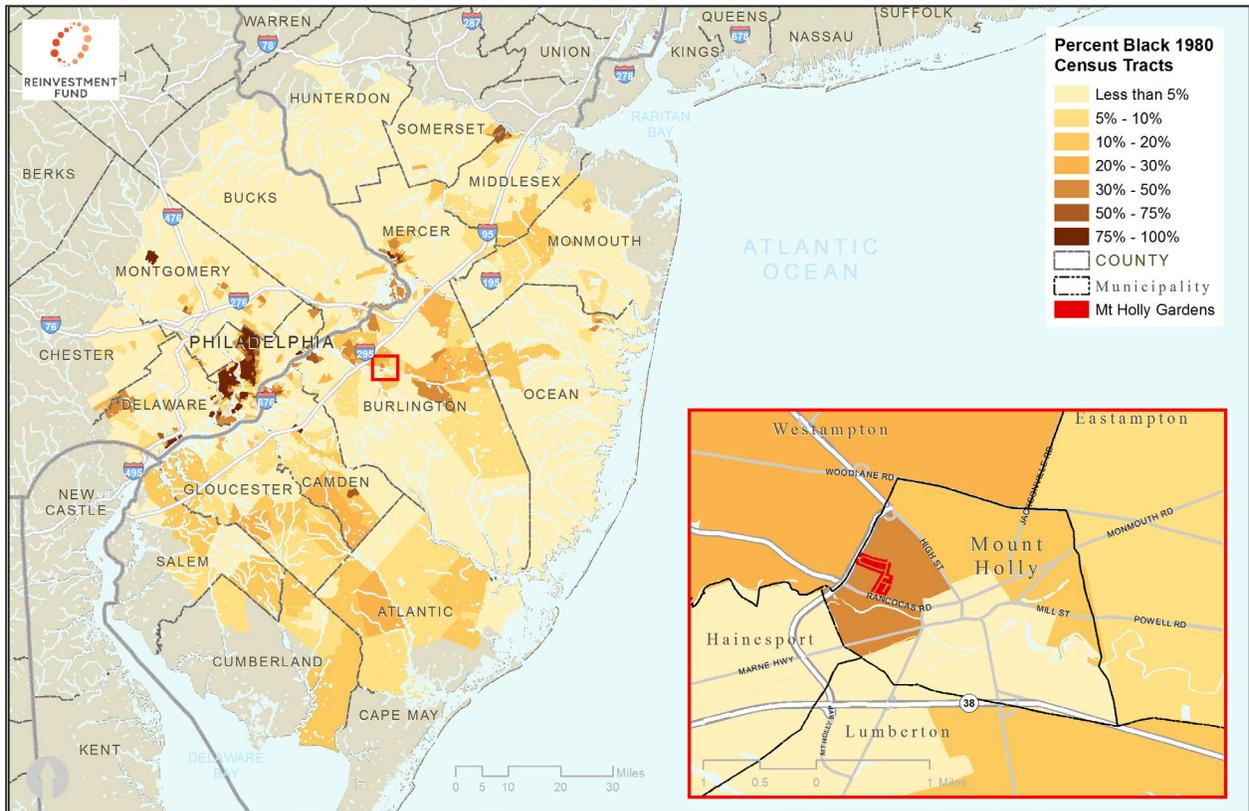
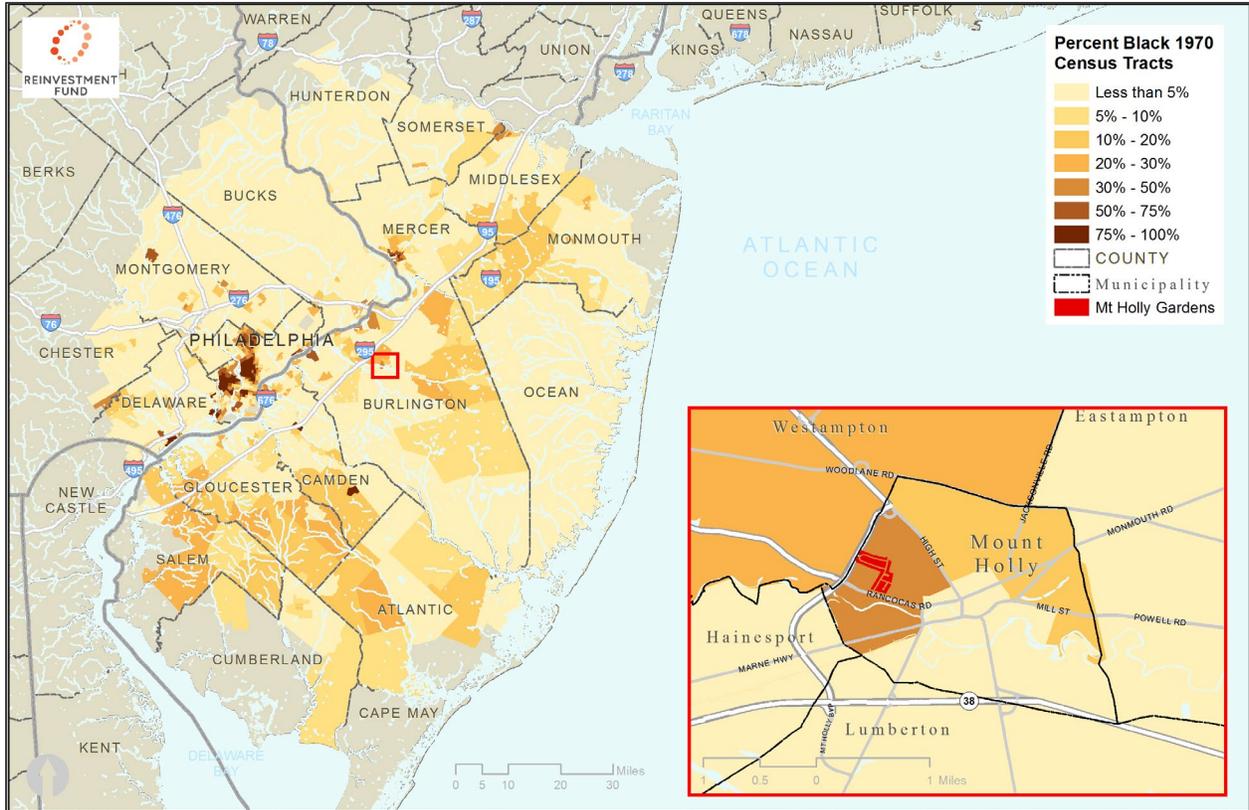


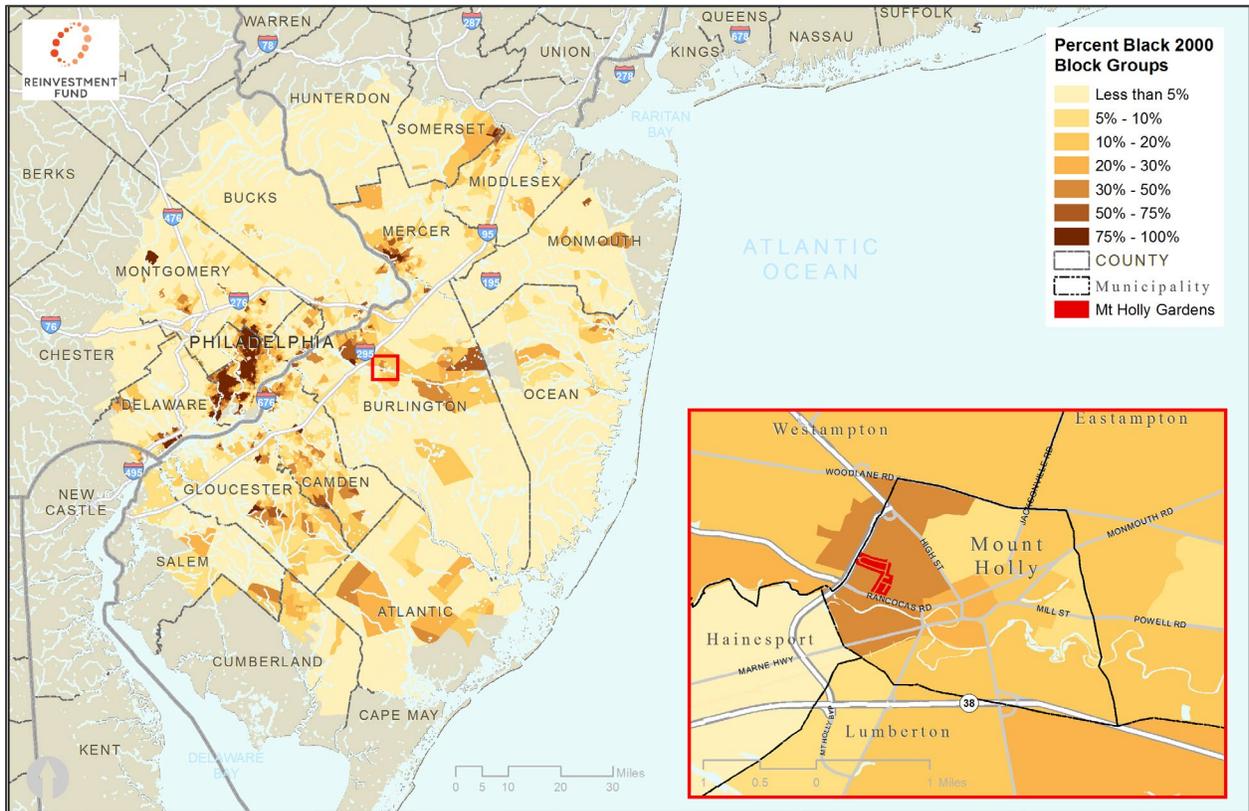
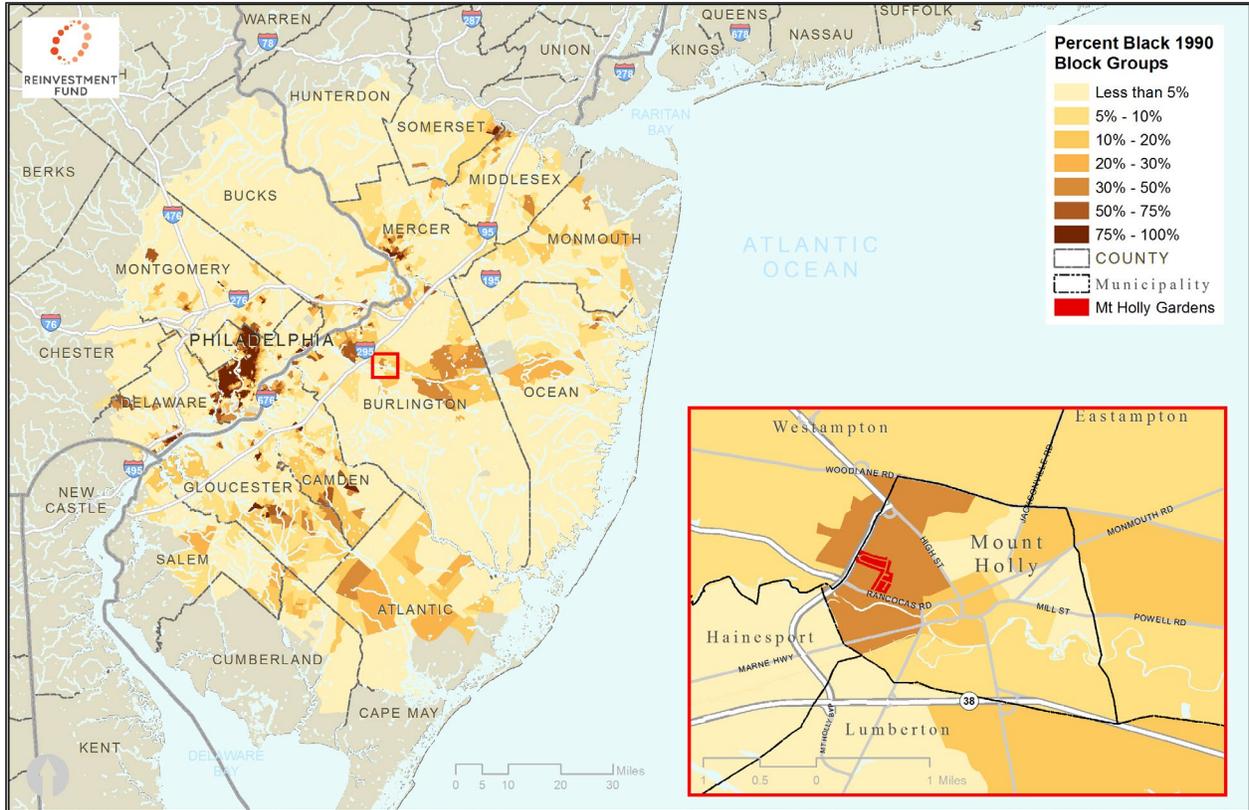
*The map above shows the relative density and size of Mt. Holly Gardens parcels compared to surrounding neighborhoods. Note that the Gardens neighborhood is largely isolated from other neighborhoods. It is separated from Westampton by the Mt. Holly Bypass and accessible to the next Mount Holly neighborhood only via Grant Street.*

By the 1990s many observers felt that Mt. Holly Gardens was in decline. Absentee landlords sometimes let their homes decay while renting them out to large numbers of low-income residents. The overcrowding and lack of adequate street parking prompted many homeowners to pave their backyards for parking, thus limiting proper drainage and triggering floods on rainy days. The alleys running behind the homes became popular with drug dealers and their customers, most of whom did not live in the Gardens.<sup>37</sup> The demographics of the neighborhood were changing too, as the Gardens became poorer and majority minority. By 2000, the Gardens was 20% non-Hispanic white, 46% black, and 29% Hispanic—the highest concentration of minorities in the township.<sup>38</sup> Median household income was approximately \$21,000, about half the township median.<sup>39</sup>

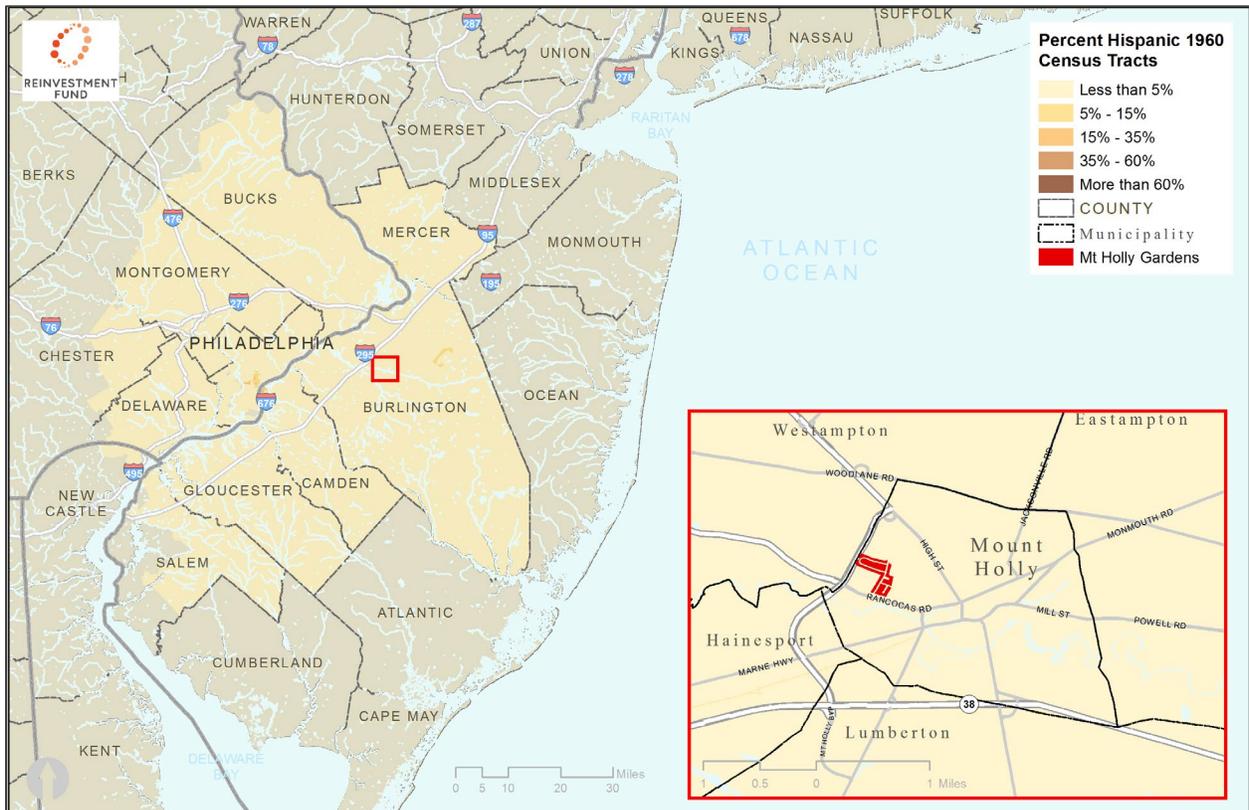
The following five maps show the relative density of African-Americans within a 50-mile radius of Mt. Holly Gardens in 1960, 1970, 1980, 1990, and 2000. The 50-mile radius was chosen because New Jersey's Relocation Assistance Act of 1971 requires municipalities to provide relocation assistance to displaced persons only if they move to a new home within 50 miles of their old home or elsewhere in-state. Thus, the 50-mile radius represents the most likely area where Gardens families would look for a new home. Throughout this era, most of the area remained less than 5% African-American, with high concentrations of African-Americans in the poorer neighborhoods of larger cities such as Philadelphia, Camden, Trenton, and New Brunswick, and around Fort Dix to the east of Mount Holly. The Gardens' census tract (and later block group) had the largest concentration of African-Americans in Mount Holly from 1970–2000. (County-based data in 1960 does not differentiate among non-white residents. All data courtesy of Minnesota Population Center. National Historical Geographic Information System: Version 11.0 [Database]. Minneapolis: University of Minnesota. 2016. <http://doi.org/10.18128/D050.V11.0.>)

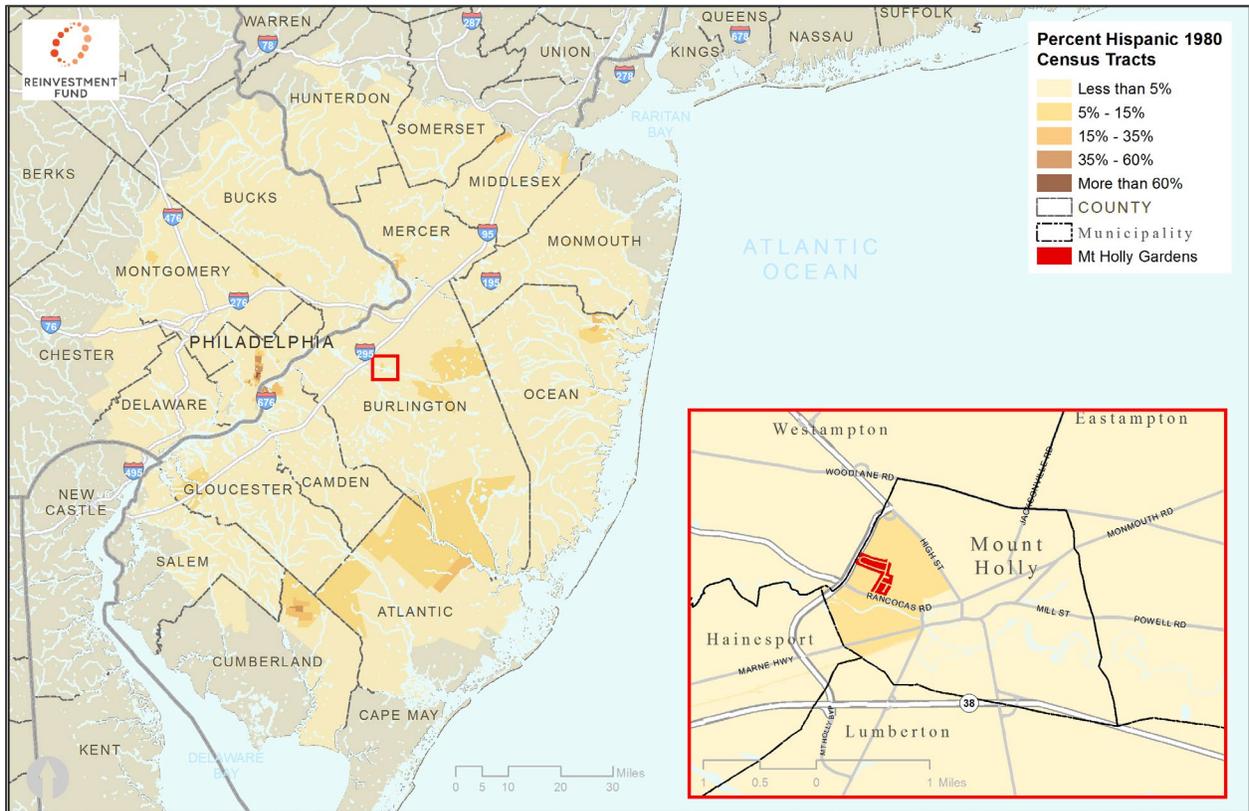


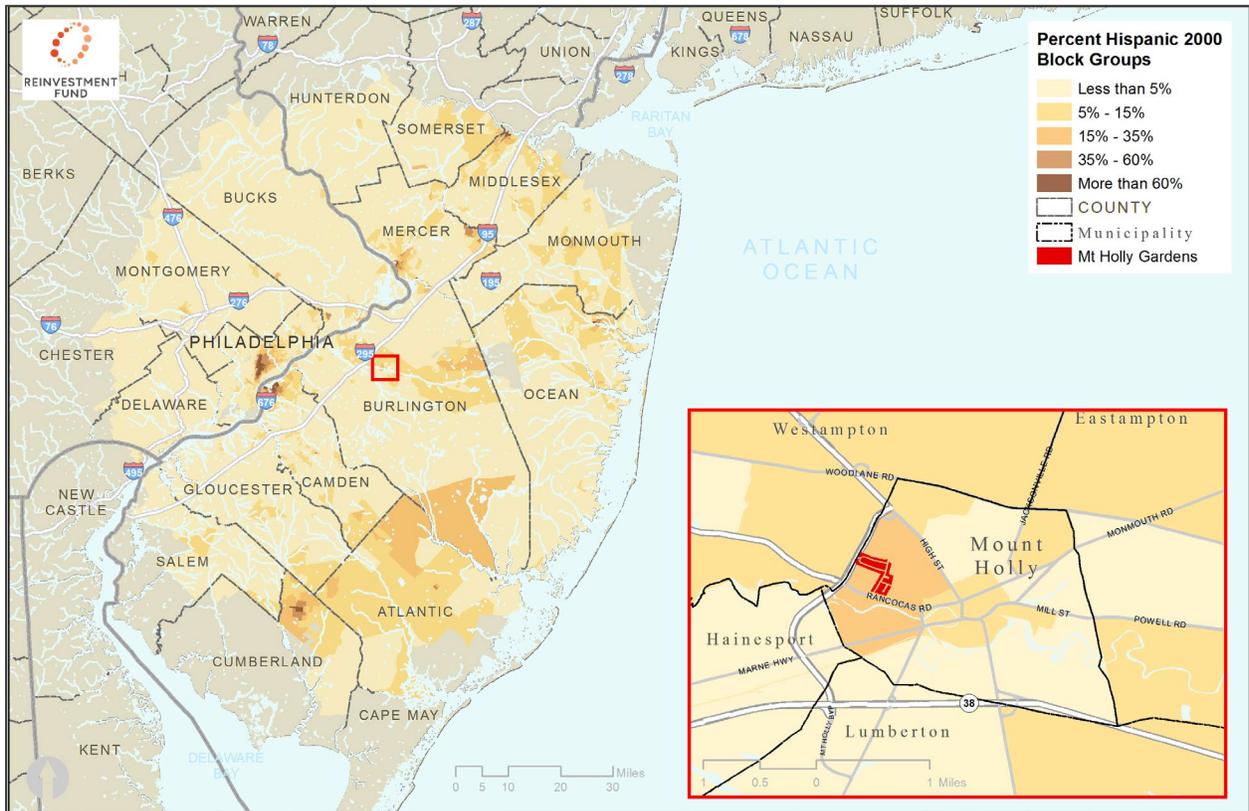




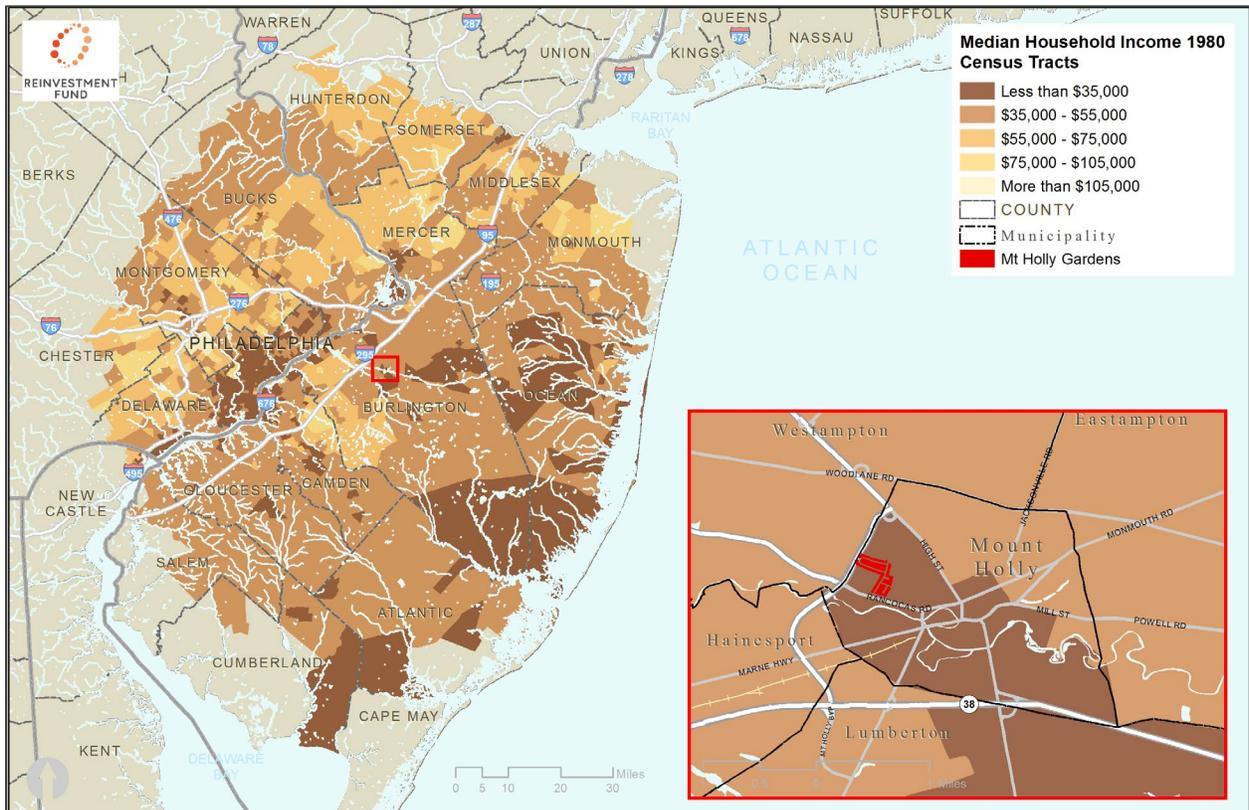
The following five maps show the relative density of Hispanics within a 50-mile radius of Mt. Holly Gardens in 1960, 1970, 1980, 1990, and 2000. Note that throughout this era, most of the area remained less than 5% Hispanic, with the highest concentrations of Hispanics in the poorer neighborhoods of larger cities such as Philadelphia, Camden, Trenton, and New Brunswick. Also note that the Gardens' census tract (and later block group) had the largest concentration of Hispanics in Mount Holly from 1970–2000. (Many rural census tracts had no data for 1960 and 1970 and are omitted from these maps. All data courtesy of Minnesota Population Center. National Historical Geographic Information System: Version 11.0 [Database]. Minneapolis: University of Minnesota. 2016. <http://doi.org/10.18128/D050.V11.0>.)

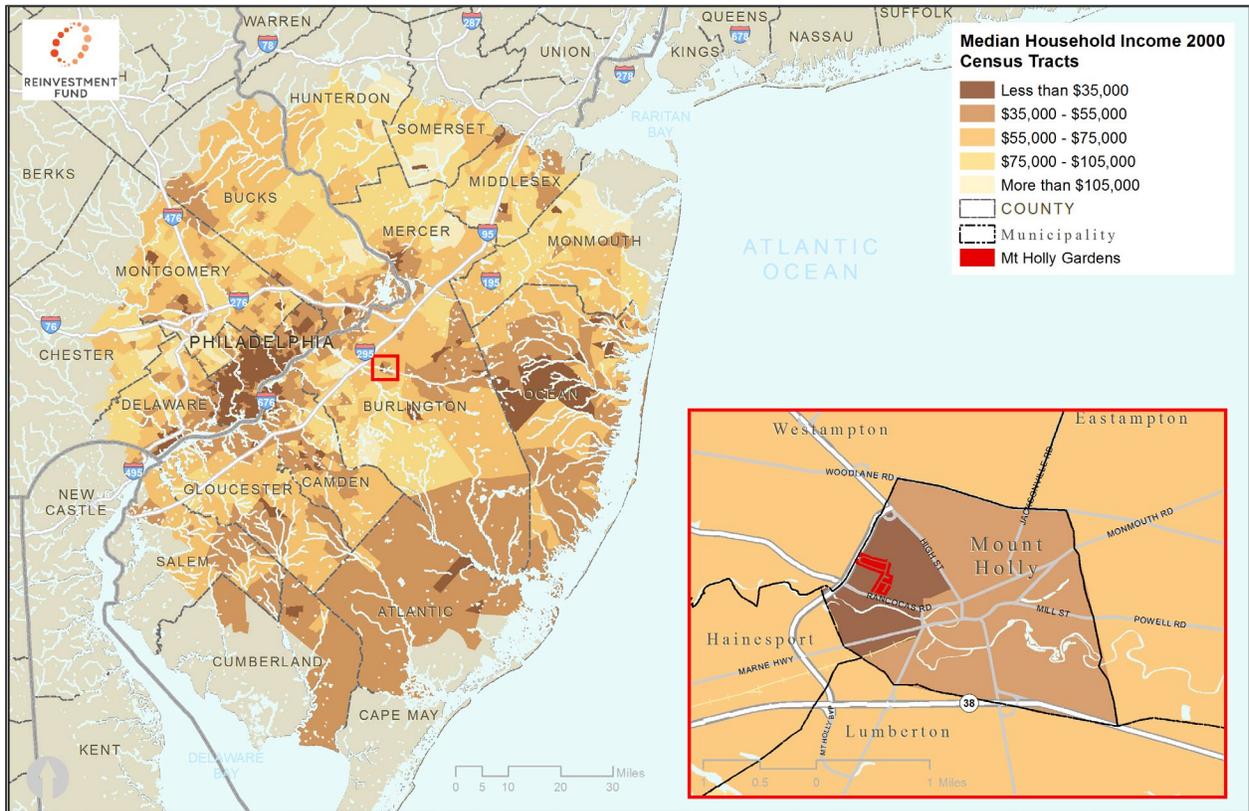
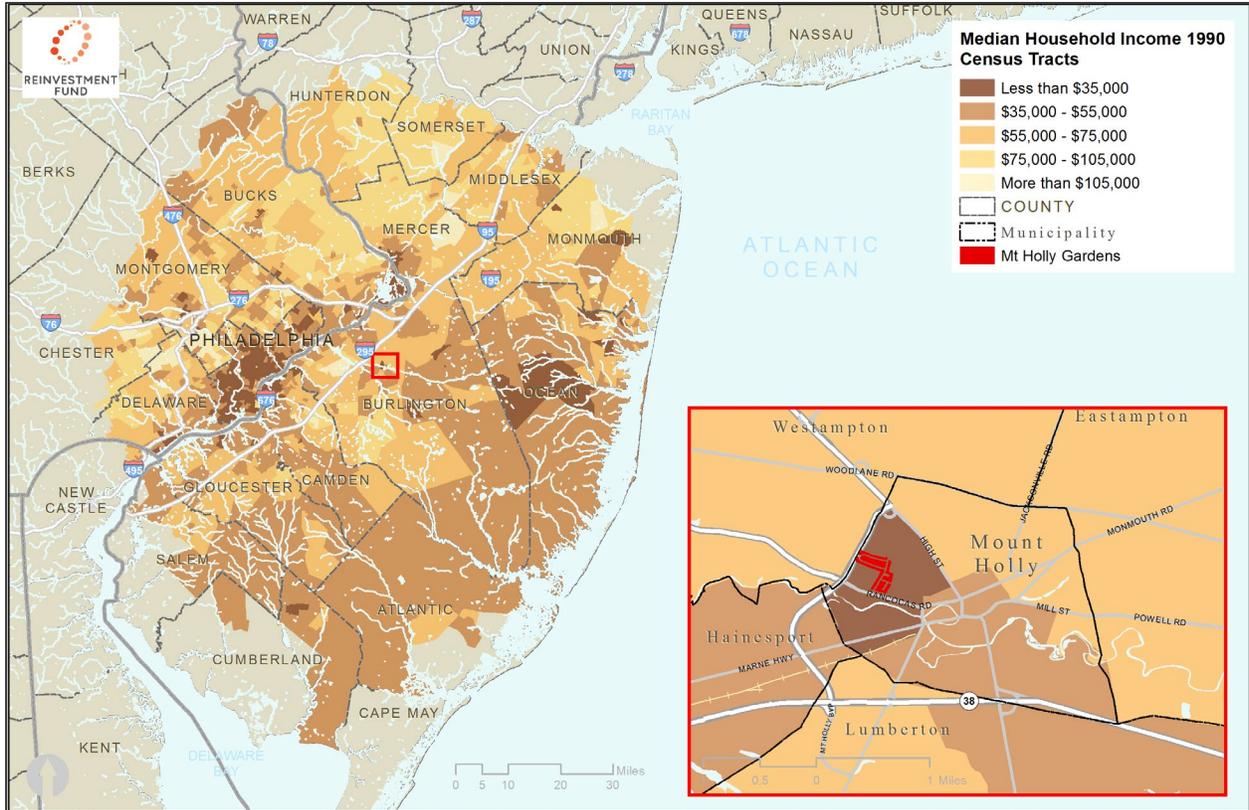






The following three maps show the median household income for census tracts within a 50-mile radius of Mt. Holly Gardens in 1980, 1990, and 2000. (Census tract median household income is not available for 1960 and 1970. Dollars inflation-adjusted to 2000 U.S. dollars.) Note that throughout this era the highest concentrations of low-income households are in and around Philadelphia and Trenton and in the more rural districts near the Atlantic coastline. The Gardens' census tract had the largest concentration of households in the lowest income bracket in Mount Holly in 1990 and 2000. (All data courtesy of Minnesota Population Center. National Historical Geographic Information System: Version 11.0 [Database]. Minneapolis: University of Minnesota. 2016. <http://doi.org/10.18128/D050.V11.0>.)





## A Failed Attempt to Save the Gardens

In the aftermath of Ronald Reagan's election to the presidency in 1980 and the accelerated rollback of federal welfare programs, progressive residents of Burlington County began to look at how they could put their progressive politics to good use in their own communities.<sup>40</sup> They began their search on Martin Luther King, Jr. Day.

Dr. King's birthday didn't become an official national holiday until 1986, but it had been celebrated in Mount Holly for many years prior by the Second Baptist Church, a predominantly African-American congregation on Washington Street. This church celebrated Dr. King's birthday with a breakfast followed by a march down the street to the AME Church, the township's other predominantly African-American church.<sup>41</sup> John Mengle, the superintendent of Mount Holly's schools, became the first superintendent in New Jersey to recognize the holiday by closing his schools for the day.<sup>42</sup> Mengle and the pastors of the two churches encouraged everyone, child and adult alike, to spend the day in prayer and public service.<sup>43</sup>

In the mid-1980s, a group of local progressives were inspired by this annual event to expand this public service to a yearlong endeavor. Representatives of the local Methodist, Roman Catholic, Lutheran, Presbyterian, Baptist, and AME churches, and of the Friends Meeting House, formed the Rancocas Valley Clergy Association (RVCA), which began looking for ways to effect positive change throughout Burlington County.<sup>44</sup>

One of these churches, the First Presbyterian Church, was already involved in housing. This church was in an older neighborhood of Mount Holly, surrounded by some of the township's most run-down housing. Much of this housing was occupied by low-income families. The church leaders considered moving to Eastampton, a wealthier community to the east, but instead decided to commit the church's resources to improving the housing in its current neighborhood. The congregation founded a nonprofit called Homes of Hope, and three members of the congregation took out second mortgages on their own homes so Homes of Hope could buy a house in the neighborhood. Volunteers rehabilitated the house and Homes of Hope rented the house to a low-income family, using the rental income to buy its next home. Eventually Homes of Hope owned 10 properties in or near Mount Holly, all of which it rented out as affordable low-income housing.<sup>45</sup>

Like Homes of Hope, the RVCA recognized a growing housing crisis in Burlington County.<sup>46</sup> Throughout the 1980s, as public services were slashed and suburbanization displaced more and more low-income families, the homeless population grew. By the mid-1980s, several people were living in cardboard shacks along Rancocas Creek, so the RVCA organized a sit-in at the Burlington County government building in Mount Holly, demanding that the county build a homeless shelter.<sup>47</sup> Some of the churches in the RVCA began inviting homeless people to spend the night in their church on a rotating basis, with each church in turn taking in the homeless.<sup>48</sup>

Members of the RVCA believed that the cause of the homeless problem was a lack of good, decent affordable housing in Burlington County. Homes of Hope pointed toward a solution. If the RVCA could replicate the Homes of Hope model on a wider basis, it could keep many more families from becoming homeless in the first place.

The RVCA quickly identified a neighborhood that could meet its needs: Mt. Holly Gardens. By the late 1980s, the Gardens had a high concentration of overcrowded, poorly maintained housing and a largely low-income population. Homes of Hope had turned 10 substandard homes into safe and affordable housing, but the Gardens had 329 homes. If all those homes could be converted into safe and affordable housing, the RVCA would go a long way toward solving the community's housing crisis.

In 1990, members of the RVCA founded a nonprofit modeled on Homes of Hope but dedicated to just the Gardens: Mount Holly 2000. As the name suggests, the goal was to turn the Gardens into a safe and affordable low-income neighborhood by decade's end.

On July 19, 1990, the founding members of Mount Holly 2000 filed their certificate of incorporation with the New Jersey Secretary of State. This document makes clear that, unlike Homes of Hope, Mount Holly 2000 would focus on enabling low-income homeownership; it would not be a landlord. Mount Holly 2000's primary purpose would be "to purchase, rehabilitate, resell and manage housing for low and moderate income persons..."<sup>49</sup> As its long-time executive director, Thomas Hand, later explained, the Gardens' problems were principally caused by "slum landlords" who neglected their homes and rented them to people with Section 8 vouchers. These tenants were bringing drugs and crime into the Gardens, he says, ruining the neighborhood for the "good, decent people" who had lived there for years.<sup>50</sup> This narrative was not unique to Hand. It was shared by most of the Mount Holly 2000 Board of Trustees. Even when Mount Holly 2000 was struggling to survive, its board refused to create a revenue stream by owning rentals.

[Board member] Ms. Brooks reiterated that she and [board member] Ms. Scott do not like the idea, that it would bring the stigma of landlordship upon the organization. Rental of housing outside the Gardens was discussed, and it was generally agreed that such a program would render Mt. Holly 2000 too much like other local non-profit housing providers in the public perception.<sup>51</sup>

Homeownership, Hand says, is the best tool to give people a stake in their community.<sup>52</sup> Mount Holly 2000's president, Joseph Jones, agrees, saying that homeowners take more responsibility for their homes and neighborhood.<sup>53</sup>

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To reverse the decline of the Gardens, Mount Holly 2000's founders believed that they needed a "critical mass" of homeownership.

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To reverse the decline of the Gardens, Mount Holly 2000's founders believed that they needed a "critical mass" of homeownership. In 1990, they estimated that a third of the homes in the Gardens were owner-occupied. Their goal was to transfer half of the rented homes to owner-occupancy, thus bringing the total share of owner-occupied homes to two-thirds. According to Larry Miller, a Mount Holly 2000 fundraiser, studies show that if two-thirds of homes are owner-occupied, violence declines. If owner-occupancy drops to one-third, violence rises. For Mount Holly 2000, dramatically increasing homeownership would save the Gardens.

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... the homes, although they had a very low appraised value, produced plenty of rental income for the landlords, and those landlords were unwilling to give up that revenue stream unless they were well compensated.

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Mount Holly 2000, however, quickly encountered two insurmountable problems. One, the homes were designed and built as rows of attached units. The best way to rehab these homes was to rehab an entire row, combining smaller units into more desirable and comfortable larger units. But the rental units were spread out throughout the Gardens, with a mix of rentals and owner-occupied units in almost every row of houses. Second, the landlords who owned these homes—especially Harry Fry, who owned the largest share of homes—were unwilling to sell at a price that Mount Holly 2000 could afford.<sup>54</sup> The problem, as Mount Holly 2000 quickly learned, was that the homes, although they had a very low appraised value, produced plenty of rental income for the landlords, and those landlords were unwilling to give up that revenue stream unless they were well compensated.

Protracted negotiations with landlords was but one of several obstacles. Applying for and receiving funding for the project—principally from the state’s Department of Community Affairs and from federal HOME funds controlled by the Burlington County Freeholders—took years.<sup>55</sup> (Although the Township wrote letters of support for these funding applications, it never appropriated its own funds to support Mt. Holly 2000, further limiting the nonprofit’s resources.) Once Mount Holly 2000 had these funds in 1995, there were other delays related to construction. According to the Board of Trustees’ meeting minutes for May 8, 1996:

Construction of first three units has been delayed due to bad weather, communication problems with Mount Holly Township Building Inspector Office, mix-up on windows order and the delay in the bidding process for a contractor. All problems which are not uncommon in the construction business.<sup>56</sup>

And once the rehabilitation was complete, there were delays in finding qualified low-income homebuyers willing to buy in the Gardens.<sup>57</sup>

Mount Holly 2000 could not overcome these obstacles fast enough to justify the administrative expenses associated with operating as a nonprofit housing developer. After eight years of hard work, Mount Holly 2000 had purchased, rehabilitated, and sold only 10 homes, two of which were created by combining smaller units. With administrative costs rising due to the length of the project, and with funders reluctant to fund additional rehabilitation until all 10 rehabbed homes were sold, the Board of Trustees decided to shut down Mount Holly 2000 in 1998.

A few weeks after Mount Holly 2000’s Board of Trustees held its last meeting, Democrat Jules Thiessen and Republican Brooke Tidswell were elected to the Mount Holly Township Council. Their goal: Redevelop the Gardens. As Tidswell later explained, Mount Holly 2000’s failure to rehabilitate more than 10 homes in eight years proved that nothing short of a full-scale redevelopment would end the problems of the Gardens.<sup>58</sup>

## The Redevelopment

By the end of the 1990s, it was clear to many observers that Mt. Holly Gardens was in trouble. The housing stock was decaying and becoming more overcrowded. Families desperate for affordable housing crammed into homes, leading to increased wear and tear on the homes as well as problems with parking and garbage collection for the entire neighborhood. Meanwhile, the crack cocaine epidemic followed many of these families into the Gardens. People in passing cars and trucks would pull into the alleys behind the Gardens' homes to buy their drugs. In one high-profile incident in 1998, a man stopped in the parking lot of the nearby Anna C. Heller School to buy drugs. When the drug dealers tried to rob him, he tried to flee but was run over and killed.<sup>59</sup>

MT. HOLLY TWP.  
TOTAL UCR STATS  
1996-2007



*The chart above, produced by the Mount Holly Police Department (MHPD), charts the Uniform Crime Reports (UCR) for the township from 1996 through 2007. It includes all property and violent crimes reported by the MHPD to the UCR. The sharp and sustained decline after 2002 coincides with the displacement of Gardens residents—especially renters, as owner-occupants were slower to sell than were landlords. Source: Nick Sodano.*

These were the conditions that Mount Holly 2000 wanted to reverse, but the end of Mount Holly 2000 served as proof to some township residents that this was a neighborhood that could not be saved. It was, in their eyes, no longer a neighborhood or a community but a slum.<sup>60</sup> The crime rate in the Gardens rose and fell throughout the 1990s but remained high enough to strain the Mount Holly Police Department's budget as the police kept responding to local calls for greater police protection.<sup>61</sup> The police had even purchased one of the homes in the Gardens for use as a police substation.<sup>62</sup> Drug dealers, however, merely relocated to other sections of the Gardens.<sup>63</sup> Although the increased police presence helped cut the crime rate by 2000, it was still much higher than in the rest of the township. Targeting the municipality's neighborhood most closely identified with crime would improve the township's overall public image and make it more attractive to investors, business owners, and

shoppers. It was time, the officials decided, to do something. What followed was 15 years of conflict between the Council and some of the residents of Mt. Holly Gardens, a conflict that eventually landed both parties on the docket of the U.S. Supreme Court.

In October 2002, four years after Mount Holly 2000 sold the last of its 10 rehabilitated Gardens homes, the Council passed a resolution designating the Gardens as blighted and in need of redevelopment.<sup>64</sup> In doing so, the Council was following a well-trod path. During the preceding decades, countless municipalities throughout the country had declared their low-income, majority-minority neighborhoods as blighted—and then transferred the neighborhood’s properties to a wealthier and often whiter class of owners. As U.S. Supreme Court Justice Clarence Thomas wrote in his dissent to the 2005 *Kelo* decision:

Urban renewal projects have long been associated with the displacement of blacks; in cities across the country, urban renewal came to be known as “Negro removal”.... Over 97 percent of the individuals forcibly removed from their homes by the “slum-clearance” project upheld by this Court in *Berman* were black. Regrettably, the predictable consequence of the Court’s decision [in *Kelo*] will be to exacerbate these effects.<sup>65</sup>

Under New Jersey law, the Council then had to submit a redevelopment plan to the NJ Department of Community Affairs (DCA) for approval. Early the next year, the DCA approved the Gardens Area Redevelopment Plan (GARP), as it was then called, and the Council passed an ordinance empowering the Township to purchase all the row houses in the Gardens (not just the rentals), demolish them all, and sell the cleared land to a private developer that would build 180 new market-rate housing units, 30 of which would be set aside for senior citizens.<sup>66</sup> Janice E. Talley, the planner hired by the Township to plan the Gardens’ redevelopment, included these 30 units in her redevelopment plan in response to pleas from neighborhood seniors. However, none of these units were set aside specifically for site residents.<sup>67</sup> As the plaintiffs later argued in court, the GARP would likely result in the transfer of property from lower-income, minority homeowners to whiter and wealthier homeowners.

Township officials were opposed to using eminent domain,<sup>68</sup> but everyone understood that state law empowered the Township to do so once the state approved the redevelopment plan.<sup>69</sup> With the threat of eminent domain hanging over their heads, most homeowners agreed to sell their properties to the Township as specified in the ordinance instituting the redevelopment. The Township moved forward, evicting rental tenants, shutting down the neighborhood’s community center and playground, and demolishing row houses it had acquired through voluntary sales. But not all neighborhood residents were willing to move. In October 2003, several residents founded a nonprofit called Mt. Holly Gardens Citizens in Action Inc.,<sup>70</sup> which sued the Township in state court, alleging violations of New Jersey’s antidiscrimination laws and redevelopment laws and procedures.<sup>71</sup>

The lawsuit didn’t stop the Township, but it did eventually prompt changes to the redevelopment plan. In December 2004, the Township acquired 11.4 acres of undeveloped land next to the Gardens, which it combined with the Gardens in a new West Rancocas Redevelopment Plan (WRRP).<sup>72</sup> Whereas GARP called for 180 new market-rate housing units, this plan called for 228 new units. And whereas GARP set aside only 30 units for senior citizens, WRRP set aside up to 22 units as non-age-restricted affordable housing. Perhaps most significantly for the remaining residents of the Gardens in 2004, WRRP also provided for the optional rehabilitation of some of the original Gardens homes and allowed for the residents of those rehabilitated units to be temporarily relocated in phases so that they could remain in

the neighborhood.<sup>73</sup> This revised plan tried to address some of the concerns raised by Gardens residents in discussions with Talley and the Township Council. Citizens in Action, however, maintained its lawsuit. When the state trial court upheld the blight designation in 2005, Citizens in Action appealed.<sup>74</sup>

As the appeal worked its way to New Jersey's top court, the Township continued acquiring and demolishing homes in the Gardens. It also began looking for a redeveloper for the newly demolished properties. In July 2005, it issued its request for proposals (RFP). Although the RFP stated that a redeveloper would be chosen partly based on "the degree to which the Redeveloper's redevelopment concept meets the Township's vision for the Project Site in the West Rancocas Redevelopment Plan,"<sup>75</sup> the instructions for the RFP added, "The [Township] will consider proposals, which deviate from the adopted Plan upon a showing of necessity for completion of a successful Redevelopment project."<sup>76</sup>

Mount Holly received only two proposals. One, from Keating Urban Partners, hewed closely to the WRRP. The other, from First Montgomery Group (FMG), deviated from the Plan by offering to substantially rehabilitate some of the Gardens housing "to serve as a residential resource for the remaining residents who may desire to remain in the Redevelopment Area."<sup>77</sup> Although the FMG bid offered to address many of the complaints site residents had about the redevelopment, the Township awarded the contract to Keating Urban Partners in February 2006. Keating, in turn, hired Triad Associates Inc. to oversee relocation of all site residents.<sup>78</sup>

Triad introduced yet another acronym into this story: WRAP, or the Workable Relocation Assistance Plan. When Triad filed its WRAP with the New Jersey Department of Community Affairs in September 2006, it became the official relocation plan for site residents—and a source of contention in Citizens in Action's eventual appeal to the federal courts. Under WRAP, property owners would get between \$27,000 and \$50,000 for their homes (depending on the number of bedrooms), in addition to \$15,000 for relocation costs (the maximum allowed under the New Jersey Relocation Assistance Act of 1972) and a \$20,000 no-interest loan toward a mortgage for a new property anywhere. Residents would not have to repay this new loan until they sold their new home. The total relocation package was worth up to \$85,000. Renters, meanwhile, qualified for \$7,500 in relocation assistance.<sup>79</sup>

Although WRAP offered to reimburse property owners for far more than the appraised values of the home,<sup>80</sup> the residents' lawyers noted in later court documents that hardly any homes in the county, let alone the township, cost just \$85,000. To many of the site residents, WRAP looked like the Township's way of forcing them out of sight and out of mind.

In 2007, the New Jersey State Appellate Division affirmed the trial court decision in favor of the Township, and the New Jersey Supreme Court declined to hear the case.<sup>81</sup> According to the New Jersey courts, Mount Holly had not violated any state laws or regulations. On May 27, 2008, Citizens in Action, not satisfied with the state court decision, sued the Township in federal court, claiming that the redevelopment violated their rights under the 1968 Fair Housing Act.

While Citizens in Action was suing the Township in federal court, the Township was adopting a carrot-and-stick approach to the remaining site residents.

For a carrot, the Township amended the WRRP.<sup>82</sup> Under the amended plan, Keating would construct 520 new homes, of which 56 would be affordable, and 11 of those 56 would be offered to existing Gardens residents.<sup>83</sup>



As for the stick, the Township quickened the pace of home demolition, even when the homes in question were attached to homes that were still occupied.<sup>84</sup> The Township maintained that it was demolishing these homes for the benefit of the remaining residents: The vacant homes were suffering from roof leaks, and the Township needed to demolish these homes to keep the mold from spreading into adjacent, occupied units.<sup>85</sup> From the point of view of the remaining occupants, however, the experience was startling: Court documents report their fear and anger as bulldozers demolished portions of the buildings they called home, and many of these occupants complained about the Township's inadequate attempts to waterproof the exposed sides of their homes.<sup>86</sup> Although these demolitions prompted some site residents to relocate, others refused to leave, so the case continued in federal court, albeit with fewer plaintiffs.

## The Fair Housing Act and Disparate Impact

While Dr. Martin Luther King, Jr. was being laid to rest in Atlanta in the spring of 1968, President Lyndon Johnson and members of Congress were finally pushing through the last major civil rights law of the 1960s: Title VIII of the Civil Rights Act of 1968, or the Fair Housing Act. Civil rights activists had long understood that housing segregation lay at the heart of many other forms of racial injustice, including segregated schools, concentrated pollution, and lack of access to jobs. Indeed, W.E.B. Du Bois wrote about the pernicious effects of housing discrimination as early as 1899 in *The Philadelphia Negro*, his study of Philadelphia's Seventh Ward. The problems facing African-Americans in northern cities like Philadelphia only worsened through the early decades of the 20<sup>th</sup> century as millions of southern African-Americans migrated to northern and western cities. "Initially, these blacks lived in areas with other poor ethnic groups," writes Robert G. Schwemm.

By the end of the 1920s, however, whites who controlled the housing industry had implemented a series of techniques (e.g., racial zoning, restrictive covenants, and discriminatory sales, rental, and financing practices) that confined the black population to certain specified areas. In the 1930s, these forms of institutionalized segregation were reinforced by federal policies that embraced racial discrimination in federally assisted housing....<sup>87</sup>

Although state and federal court decisions struck down many of these tools of enforced residential segregation, and although some states had enacted statewide fair housing laws, the problem of segregated housing was still severe enough in 1968 for the National Advisory Commission on Civil Disorders (aka, the Kerner Commission) to state that the country was "moving toward two societies, one black, one white—separate and unequal."<sup>88</sup>

Thousands of Negro Families have attained incomes, living standards, and cultural levels matching or surpassing those of whites who have "upgraded" themselves from distinctly ethnic neighborhoods. Yet most Negro families have remained within predominantly Negro neighborhoods, primarily because they have been effectively excluded from white residential areas.<sup>89</sup>

It was this report that propelled the U.S. Senate to finally overcome a filibuster of the fair housing bill, and it was the assassination of Dr. King and the ensuing riots that prompted the Rules Committee of the U.S. House of Representatives to quickly conclude hearings on the Senate version of the law and send it to the floor for a speedy vote.<sup>90</sup>

President Johnson signed the act into law on April 11, 1968. The law banned overt discrimination in the housing market, but it left to the Department of Housing and Urban Development and the courts the question of how to identify other, subtler forms of discrimination.

Legal scholars have a name for the legal standard the federal courts use to evaluate these cases: disparate impact.<sup>91</sup> Scholars describe overt discrimination as disparate *treatment*, and the plain language of the Fair Housing Act bans overt discrimination. Disparate *impact*, by contrast, does not require proof of discrimination. A court may deem an action—by government or not—illegal under the disparate impact standard if 1) the policy disproportionately harms a protected class (African-Americans, for example); and 2) the government doesn't have a compelling reason for the policy; or 3) the government has a compelling reason for the policy *but* there's another policy that would achieve the same goal without the disparate impact.<sup>92</sup>



Source: Warren K. Leffler, staff photographer, *U.S. News & World Report*

Disparate impact is not unique to the Fair Housing Act. It has long been a legal standard in court cases challenging an action under the 1964 Civil Rights Act and the 1965 Voting Rights Act. And the U.S. Courts of Appeals for all 11 of the 13 circuits that have considered the issue have accepted disparate impact under the Fair Housing Act.<sup>93</sup> Most legal scholars, civil rights activists, and government officials assumed that courts could use disparate impact to judge the legality of an action under the Fair Housing Act.<sup>94</sup> (In its 2015 decision, *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*, the U.S. Supreme Court finally ruled that disparate impact is indeed allowed under the Fair Housing Act, but with certain restrictions.)

The replacement of moderate Justice Sandra Day O'Connor with more conservative Justice Samuel Alito in 2005, however, tipped the balance of power on the court toward the conservative majority.<sup>95</sup> What's more, this conservative majority, in *Shelby County v. Holder* (2013), proved willing to upend civil rights jurisprudence when it overturned a key provision of the 1965 Voting Rights Act.<sup>96</sup> Some conservative legal activists and scholars had been unsuccessfully arguing against disparate impact since at least 1987, when *Huntington Branch NAACP v. Town of Huntington* became the first major federal court case about the issue, but now they had cause to wonder: Might *this* Supreme Court be willing to strike down the use of disparate impact under the Fair Housing Act? The Mt. Holly Gardens controversy offered the opportunity to see how the Supreme Court would rule.

## The Courts

When Citizens in Action sued the Township in federal court on May 27, 2008, claiming discrimination under the Fair Housing Act, U.S. District Judge Noel Hillman had a dilemma. The Act outlawed discrimination in housing, but this wasn't a clear-cut case of the Township openly trying to displace African-American and Hispanic residents *because* of their race or ethnicity. Instead, the judge had to decide, based on the merits of the case, if the Township engaged in a set of actions that discriminated disproportionately against the (majority) African-American and Hispanic population of Mt. Holly Gardens, albeit without intention.

Other federal judges had been grappling with this question for decades, and although different courts had applied different tests, the most commonly used test, and the one preferred by the Court of Appeals for the Third Circuit (whose jurisdiction includes New Jersey), is known as the burden-shifting test.<sup>97</sup> This test, which would be codified in regulation by the U.S. Department of Housing and Urban Development in 2013 and adopted by the U.S. Supreme Court in its *Inclusive Communities* decision in 2015, follows the following three steps:

First, the plaintiff has the initial burden of establishing a prima facie case of disparate impact. Second, if the plaintiff proves a prima facie case, the burden shifts to the defendant to prove that its challenged policy is "necessary to achieve a valid interest." Third, if the defendant satisfies this burden, then the plaintiff may still establish liability by proving that the defendant's interest could be served by a policy that has a less discriminatory effect.<sup>98</sup>

However, Judge Hillman ended the case before the lawyers could face a jury. Judge Hillman wrote that the plaintiffs had failed to prove that there had been any disparate impact to begin with. As Judge Hillman noted in his opinion, the white residents of the Gardens were being treated exactly as were the minority residents, and minorities were just as free to move into the redeveloped neighborhood as were whites. Although the redevelopment would reduce the amount of low-income housing in the Township, that alone, he wrote, is not illegal under the Fair Housing Act. As he noted in his decision, plaintiffs could not predict the racial composition of the redeveloped neighborhood's new residents. "... Plaintiffs have not demonstrated that the Township is preventing minorities from purchasing or moving into the new homes, or otherwise limiting the new residents to non-minorities," he wrote.<sup>99</sup>

Judge Hillman also rejected the plaintiff's expert testimony as to the demographics of Burlington County, where most minorities do not make enough money to afford the homes planned for the redeveloped Gardens. "These statistics hold little validity to show a disparate impact on the Township's minority population for several reasons," he wrote, including, among other reasons, "they do not account for minorities who will move into Mt. Holly Township from outside Burlington County," and "they do not account for a non-minority purchaser who rents to a minority."<sup>100</sup>

Judge Hillman went further, however, arguing that the plaintiffs had also failed to prove that there was no compelling government interest in redeveloping the Gardens, or that there was a better way for the Township to redevelop the Gardens.<sup>101</sup>

In other words, the plaintiffs' case had failed each of the three steps of the burden-shifting test.

The plaintiffs appealed Judge Hillman's decision to the Court of Appeals for the Third Circuit. There, and for the first time, they won: The Third Circuit reversed Judge Hillman and sent the case back to his

courtroom for a trial. In its opinion, the Third Circuit ruled that Judge Hillman should have accepted the statistical evidence offered by the plaintiffs as proof of disparate impact. Yes, white residents were also being displaced, but *statistically* it was minority Township residents who were most likely to lose their homes, and *statistically* it was unlikely that the residents of the redeveloped and wealthier neighborhood would be minorities. That, the Third Circuit wrote, demonstrates the disparate impact and passes the first part of the burden-shifting test.

The Third Circuit made clear that it didn't agree with Judge Hillman's reasoning:

We need not simply ask whether the White residents at the Gardens are *treated* the same as the minority residents at the Gardens. The logic behind the [Fair Housing Act] is more perceptive than that. It looks beyond such specious concepts of equality to determine whether a person is being deprived of his lawful rights because of his race. Rather, a disparate impact inquiry requires us to ask whether minorities are disproportionately *affected* by the redevelopment plan.<sup>102</sup>

The Third Circuit wasn't taking a legal leap of faith in making this argument. It was relying on decades of civil rights jurisprudence.<sup>103</sup>

The Township now had a choice: Take their chances with a trial in district court or appeal the Circuit Court's decision to the U.S. Supreme Court. They chose to appeal.

In its appeal, the Township asked the Supreme Court to decide: Does the Fair Housing Act allow for disparate impact claims?<sup>104</sup> The Supreme Court turns away most petitions,<sup>105</sup> but the Township had reason to believe that *this* Supreme Court would take up its invitation to rule on the legitimacy of disparate impact under the Act; less than a year earlier the Court had agreed to hear a similar case out of St. Paul, Minnesota. It took intervention by the Obama administration to convince the City of St. Paul to drop its appeal and thus deny the Court a chance to rule on the case.<sup>106</sup> Mount Holly presented the Court with another opportunity.

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... what had been a local planning issue became a case of national importance.

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On June 17, 2013, the Supreme Court agreed to hear the case.<sup>107</sup> Oral arguments were scheduled for December 4. With that, what had been a local planning issue became a case of national importance.<sup>108</sup> The Court soon received several amicus briefs arguing both sides of the issue.<sup>109</sup> On the side of disparate impact: the NAACP Legal Defense & Education Fund, the American Planning Association, the National Community Land Trust Network, the American Civil Liberties Union, several past and current government officials, and, at the invitation of the Court, the U.S. Solicitor General. Together, these briefs argued that disparate impact is legitimate under the Fair Housing Act because: 1) it is what Congress intended when it wrote and passed the Fair Housing Act in 1968; 2) it has been recognized as legitimate by every circuit court that had considered the issue; 3) the Department of Housing and Urban

Development had instituted regulations supporting disparate impact under the Fair Housing Act; and 4) the Fair Housing Act is less effective without disparate impact.

Several other briefs argued that the Fair Housing Act doesn't explicitly allow for disparate impact, so it is not a legitimate tool under the Act. Some of these briefs were submitted by conservative and libertarian organizations such as the Pacific Legal Foundation and the Institute for Justice. Joining them, however, were several organizations associated with the financial services industry, including the American Bankers Association and the American Financial Services Association.<sup>110</sup> The financial services industry was concerned about disparate impact in part because the Obama administration had aggressively pursued several financial firms under the Fair Housing Act, accusing them of discriminatory lending practices and winning large settlements from these firms.<sup>111</sup>

The case was short-lived, however. The voters of Mount Holly elected a new slate of councilmembers who moved quickly to settle the case out of court. On November 13, 2013, the Township and Citizens in Action signed the settlement. Two days later the U.S. Supreme Court dismissed the case.<sup>112</sup>

### The Settlement, and After

If civil court judges had to rule on each case before them, the civil court system might grind to a halt.<sup>113</sup> So as the case was being appealed to the U.S. Supreme Court, Judge Hillman's magistrate judge was working with both sides to settle the case out of court.

This settlement process was initiated by the township's solicitor, James Maley. Maley had been a persistent advocate for the township's redevelopment plan for years, but this didn't stop him from inviting Adam Gordon and Kevin Walsh of the Fair Share Housing Center to try to broker an agreement.<sup>114</sup> Gordon and Walsh had a reputation for being very knowledgeable and straightforward,<sup>115</sup> and they quickly earned the trust of all parties. By the summer of 2013, they were making good progress in working out the details of a settlement to the case.

Maley, however, was not a central figure in these settlement negotiations. The November 2012 municipal elections introduced a new, pro-settlement slate of councilmembers who replaced Maley with George Saponaro.<sup>116</sup> While Maley continued his appeal to the U.S. Supreme Court (he remained the lawyer of record for the Township despite losing his position as municipal solicitor), Saponaro settled into the exacting negotiations with the lawyers for Citizens in Action. These included delicate negotiations over property taxes, home mortgages, and the timing of the new construction, with lawyers for the plaintiffs pushing to make the move into their replacement homes as easy as possible while lawyers for the Township worked hard to protect the Township from an unaffordable settlement.

The final settlement terms were part of a natural progression through each of the redevelopment plans adopted after the blight designation, from no affordable housing to replacement housing for site residents. This table summarizes the differences in these plans and includes, for comparison, Mount Holly 2000's initial goal for the neighborhood.<sup>117</sup>

	<b>Mount Holly 2000 (1990–1998)</b>	<b>GARP (2003)</b>	<b>WRRP (2005)</b>	<b>WRRP Amended (2008)</b>	<b>Settlement (2013)</b>
<b><i>New Units</i></b>	None	180	228	520	520
<b><i>Rehab Units</i></b>	≈100	None	Unspecified and optional	None	None
<b><i>Units for the Elderly</i></b>	None	30	None	None	10 <sup>i</sup>
<b><i>Low-Income Units</i></b>	≈100	None	10% (≈23)	56	44 <sup>ii</sup>
<b><i>Site-Resident Units</i><sup>iii</sup></b>	Where possible	None	Rehabbed units only	11	20 <sup>iv</sup>

*i. These 10 single-story duplexes comply with ADA accessibility standards, but units are not age-restricted.*

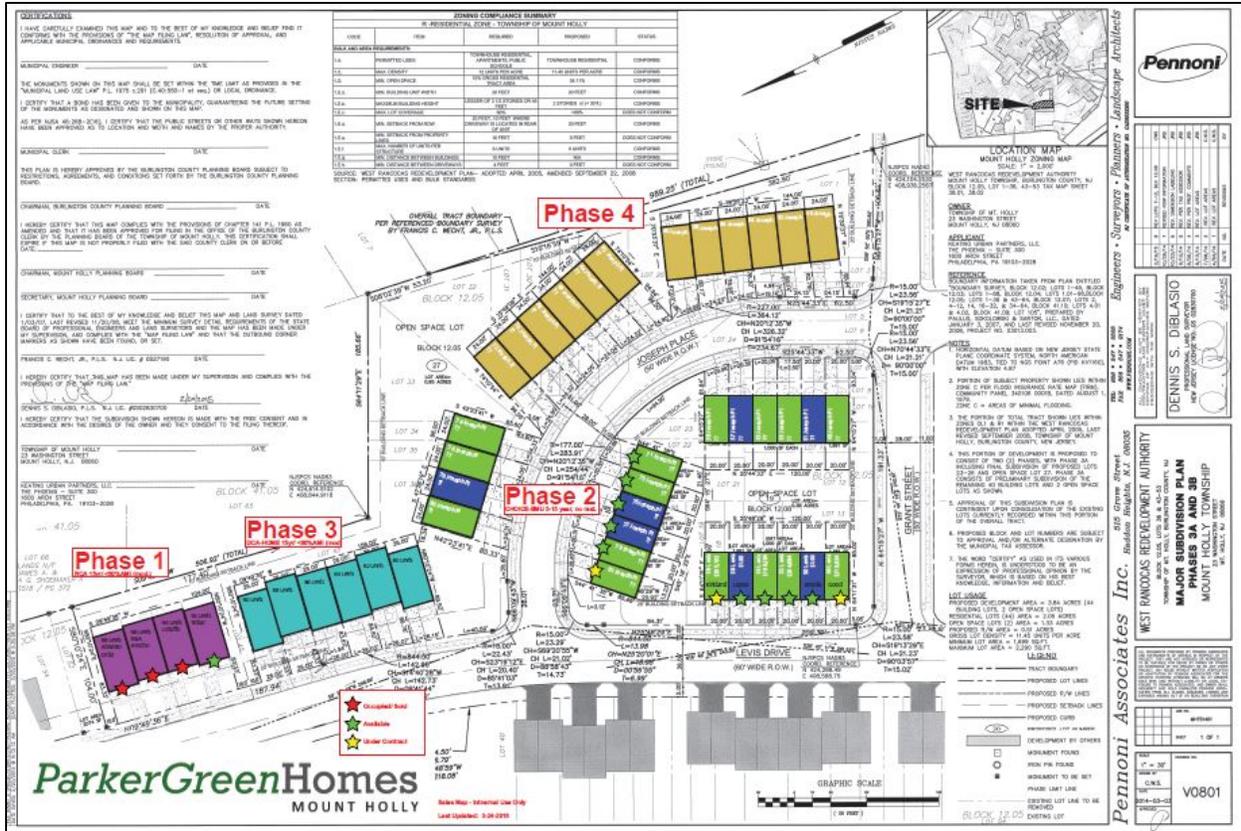
*ii. Only 10 of these units are truly low-income, although all 44 are subsidized.*

*iii. Unless otherwise noted, “site-resident units” are included in the “low-income units” total.*

*iv. Changed to 16 after the death of four litigants.*

The settlement also superseded Triad’s 2006 WRAP, with the Township setting aside \$691,000 to aid in the relocation of nine of the 10 litigants who did not desire new housing in the redeveloped Gardens. (The 10<sup>th</sup> litigant received a no-interest loan from the Township for the home she had purchased in a separate Mount Holly location.)

Because Keating, the Township’s developer, had limited experience financing the construction of affordable housing,<sup>118</sup> the parties to the settlement recruited TRF Development Partners,<sup>119</sup> a developer of affordable housing in the mid-Atlantic region. TRF Development Partners purchased the land for the 44 subsidized units for \$2.1 million and then contracted with Keating to construct the new housing.<sup>120</sup> It found funding for this development from three government programs: six homes will be built with funds from HOME, a Federal block grant supporting the creation of affordable housing (and administered locally by the New Jersey Department of Community Affairs); four homes will be built through a Regional Contribution Agreement (RCA), whereby a municipality avoids having to build state-mandated affordable housing within its boundaries by paying a nearby municipality to build affordable housing instead<sup>121</sup>; and the remaining 34 homes will be built with funds from CHOICE, the New Jersey Housing & Mortgage Finance Agency’s program of below-market-rate construction loans. The RCA and HOME homes will be restricted to low- and moderate-income buyers. The CHOICE homes will not be income-restricted, although 10 (later reduced to six) of them will be set aside for site residents who would purchase them for a nominal \$1 fee.<sup>122</sup>



The map above shows the 44 homes being constructed by Keating on land purchased by TRF Development Partners. The Phase 1 homes are the RCA homes. The Phase 3 homes are the HOME homes. The Phase 2 and 4 homes are the CHOICE homes. All Phase 1 and 3 homes, as well as the blue Phase 2 homes, are set aside for current site residents.

The settlement may not have seemed like an event with national repercussions. Twenty families would get new homes in a suburban housing development, and those families in turn would drop their lawsuit against the Township for redeveloping their neighborhood.<sup>123</sup>

But the response from U.S. Rep. Darrell Issa (R-CA) underscored the true import of the case.<sup>124</sup> Rep. Issa, Chairman of the House Governmental Oversight Committee, promptly sent a letter to TRF Development Partners demanding full disclosure of documentation that might prove a conspiracy to rob the U.S. Supreme Court of the opportunity to rule on the case.<sup>125</sup> As Rep. Issa wrote in his letter:

In 2012, days before oral argument in *Magner v. Gallagher*, then-Assistant Attorney General Thomas Perez orchestrated a *quid pro quo* with the City of St. Paul, Minnesota, to induce the City to withdraw its Supreme Court appeal.... In addition to manipulating the rule of law and pushing the bounds of justice, this *quid pro quo* prevented the Supreme Court from finally hearing and adjudicating an important and unclear area of the law.... In light of the Federal government's actions in scuttling the Supreme Court's review of *Magner*, and the potential use of government funds as part of a tentative settlement of *Mount Holly*, I request your assistance in better understanding the role of TRF Development Partners in the tentative agreement.

Rep. Issa here is referring to the *Magner* settlement, which denied the Supreme Court an opportunity to rule on the applicability of the disparate impact theory of discrimination under the Fair Housing Act.<sup>126</sup> (TRF Development Partners produced the requested documents and there was no further inquiry from Rep. Issa.<sup>127</sup>)

By the time the first three families moved into their new homes in July 2016,<sup>128</sup> however, the battle over disparate impact had come to an end. The U.S. Supreme Court finally got the chance to rule on the matter in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project Inc.* (2015), and, perhaps surprisingly in light of the very public battle over the *Mt. Holly* case, a majority of the Justices (Justices Kennedy, Ginsburg, Breyer, Sotomayor, and Kagan affirmed; Chief Justice Roberts and Justices Scalia, Thomas, and Alito dissented) ruled that disparate impact is indeed allowed under the Fair Housing Act, though with limits.<sup>129</sup>

Even at this late date, some Gardens families are still awaiting their new homes. Under the terms of the agreement, each site resident moving into a new home must find a bank willing to take over the outstanding mortgage on their (soon to be demolished) old home. Some site residents have failed to find this financing, and the Township has been slow to take over the mortgages, as it is required to do under the settlement.<sup>130</sup> As of July 2018 most of the other families are still waiting for construction to finish—and, in some cases, begin—on their replacement homes.<sup>131</sup>



*Exterior and interior of the replacement homes*

## Concluding Thoughts

This chapter only begins to describe the challenges planners face when revitalizing low-income and minority neighborhoods, or how municipal planners and officials can revitalize these neighborhoods without violating the letter or the spirit of the Fair Housing Act. Subsequent chapters will examine the narratives that residents and nonresidents told about the Gardens and alternatives to redevelopment for municipalities like Mount Holly.

# Chapter 2:

## The Nonresidents' Narrative

## Chapter 2: The Nonresidents' Narrative

Statistics alone do not explain social phenomena. Each actor in a phenomenon relies on a narrative to guide their actions. In this chapter, we examine the narrative adopted by nonresidents to justify their support of the redevelopment of Mt. Holly Gardens, even in the face of concerted opposition from Gardens residents. This narrative, developed by nonresidents over the course of many years, eventually inspired the Township Council to vote for redevelopment in 2003, and to maintain its support of redevelopment through increasingly costly delays and court cases. Only the election of new councilmembers in 2010 and 2012 led to a settlement that ended the conflict. Even in the face of mounting contrary evidence, key actors often hew to their guiding narrative, which is why it is so important that we understand not just the facts but also the narrative—what it is, and how it came to be.

This chapter explores the nonresidents' narrative in-depth, using interviews, court documents, Township Council minutes, internal correspondence, redevelopment studies, and media reports. Nonresidents comprise anyone with a stake in the Gardens who was not a resident of the Gardens, including councilmembers, lawyers for both sides in the case, activists who tried to help the Gardens, and residents of other Mount Holly neighborhoods. First, this chapter explores the themes that shaped the narrative. Then, we set out the narrative in full. This chapter concludes by describing how the redevelopment triggered a split among nonresidents, with some supporting and others opposing redevelopment. Both sides continued to use their shared narrative to justify their positions. The shared narrative was predisposed toward redevelopment, however, leaving nonresident opponents unable to formulate a compelling argument against redevelopment. The next chapter contrasts this narrative with the counternarrative developed by Gardens residents.

### Common Themes

When trying to make sense of the Gardens, three themes dominate the thinking of nonresidents: the physical layout of the Gardens, the things people did in the Gardens, and the people who lived in the Gardens. When nonresidents combined these three themes into a holistic narrative of neighborhood decline, they were making a cogent argument for redeveloping the Gardens.

### The Physical Layout of the Gardens

For many nonresidents, the physical layout of the Gardens was the root of all subsequent problems. The Gardens was designed by the Department of Defense for mid-20<sup>th</sup> century military families. They argue that although those families may have been willing to live in these spartan homes in 1960, only the poorest families would be willing to live in them in 2000. Because the Gardens could not be profitably upgraded to 21<sup>st</sup> century standards, demolition seemed the only reasonable response. Three design flaws stood out: small housing, alleys, and inadequate parking.

Although these older homes could have been rehabilitated with modern features, such as a first-floor half bath, they were too small to sell at a price high enough to compensate for the cost of these additions.<sup>132</sup> While combining units might have solved this problem, that was difficult because most vacant units were not adjacent to other vacant units.

The alleys were included in the initial design so that sanitation trucks could collect household garbage from behind the homes rather than curbside, but after the Mount Holly Bypass was expanded into the

Gardens around 1970, the alleys were no longer accessible to these trucks, requiring residents to take their trash to their front curb. The alleys subsequently became ideal marketplaces for drug dealers.

Further, inadequate street parking prompted some homeowners to pave their backyards for use as parking spaces. This exacerbated the neighborhood's well-documented problem with flooding during rainstorms.

Nonresidents used these physical issues to justify the demolition of the Gardens. If the design of the Gardens was irredeemably flawed, only demolition and redevelopment could provide marketable housing. Rehabilitating the homes was not enough, because the homes would still be too small and rehabilitation would not address the inadequate parking, poor drainage, and cramped alleys. Only by evicting all the families, tearing down their homes, and building new and modern homes from scratch could the Township hope to solve the problems of the Gardens.

### What People Did in the Gardens

When discussing human activity in the Gardens, nonresidents focused on crime, especially drug dealing, and exploitative practices by absentee landlords.

Most nonresidents identified crime as the most significant problem in the Gardens. The Gardens had been a safe place to live in and visit when it was owned and operated by the Federal Housing Administration (FHA), and when its residents were primarily or solely military families, but that began to change when the FHA sold the Gardens to an outside investor in the 1960s. Nonresidents reported that as the military families moved out, crime increased.

Although a chart created by the Mount Holly Police Department in 2007 shows the crime rate in Mount Holly Township declining after 2000, some nonresidents explain that this was because of the redevelopment rather than an argument against it. As former Councilmember Brooke Tidswell explains, the redevelopment was pushing out the "bad guys"—the very low-income renters of the houses that the Township acquired earliest. Those "bad guys" migrated to a few other locations in the Township, but because these were isolated sites, it was easier to police those sites than to police the entire Gardens.

When nonresidents discussed crime in the Gardens, they were usually referring to drug dealing and murders stemming from the drug trade.

Looming large in the murder category was the death of a truck driver under the wheels of his own truck. In this widely publicized 1998 case, the truck driver and a friend went to the school parking lot adjacent to the Gardens to purchase drugs. While his friend sat in the cab, the driver went to buy the drugs, but the deal went wrong. The friend panicked, tried to drive off, and inadvertently ran over the driver.<sup>133</sup> For nonresidents, this case represented everything wrong with the Gardens: outsiders entering a small residential neighborhood (in oversized vehicles, no less) to buy drugs, and deadly violence subsequently breaking out among the dealers and users. Such anecdotal evidence loomed large in an environment where the Mount Holly Police Department (MHPD) was not producing detailed, block-level (or even neighborhood-level) crime data that might have informed, or complicated, this part of the narrative.

For many nonresidents, absentee landlords were nearly as much the cause of the Gardens' decline as were criminals.

This narrative portrays the absentee landlord as an exploitative outsider who cared only about making money. With no stake in the community, these outsiders would buy the Gardens' old, outdated homes as investments and rent them to anyone willing to pay the rent on time. They would not spend money on maintenance. They did not care how their decaying properties affected the quality of life or home values for other Gardens residents or how their neglect affected the entire Township's reputation as it sought outside investment for its downtown shopping district.

Mount Holly 2000 Executive Director Thomas Hand was one of the nonresidents who discovered how little the absentee landlords cared for values other than profit. Under Hand's leadership, Mount Holly 2000 sought to buy and rehabilitate homes in the "slum areas" of the Gardens, where homes would "get bought up by landlords that are just in it for the money." Most Gardens homes were rented out by "slum landlords," he says, and he found it difficult to convince these landlords to sell their properties to Mount Holly 2000 because they were making "really good money, so why should they help [me] out?"<sup>134</sup>

In short, absentee landlords did not care about the future value of their properties so long as the monthly cash flow was sufficient. Additional investment in the property was therefore unnecessary, and the sale of their properties at market value was undesirable.

#### The People Who Lived in the Gardens

Nonresidents also identified some Gardens residents as the cause of the neighborhood's decline, although they were almost all careful to distinguish between the "good people" of the Gardens and those whose behavior they faulted.

Nonresidents often identified problem residents as being "transients" or "outsiders"—in other words, not "true" residents. Unfortunately for the Gardens, its central location and cheap housing attracted these transients, keeping them in the township when they might otherwise go elsewhere. Brooke Tidswell says that when criminals were released from the county jail, they would walk to the Gardens and find someone to give them a place to stay. These criminals would then commit crimes in the Gardens. Although they technically resided in the Gardens, they did not truly belong there.

Even when nonresidents conceded that criminals may be established residents of the Gardens, they took pains to describe them as "bad" and thus non-representative of the Gardens community. Former Township Solicitor George Saponaro says that the crime had nothing to do with the "good people" of the Gardens. The same few criminal defendants appeared in the county courthouse again and again—the implication being that the drug trade could be traced to just a few of the people living in the Gardens. Regardless of whether nonresidents described these problem people as transient, the Township's inability to root out this criminal element justified the neighborhood's demolition.

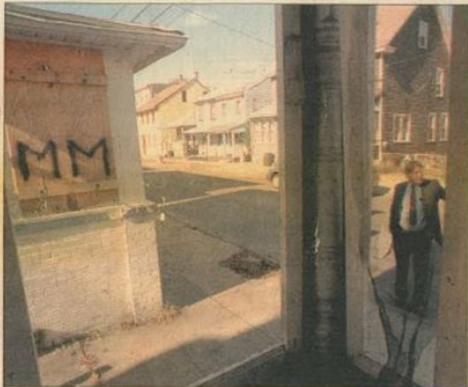
# Historic township fears quality of life crumbling

An increasing number of transients, illegal drug sales on the streets, the cutting up of stately old homes into apartments and a rash of For Sale signs have Mount Holly residents worried about the town's future.

By HAROLD T. NEDD  
Courier-Post Staff

**M**OUNT HOLLY — Change is coming to this old mill town, and residents of the four-block area at the core of that change feel worried, scared and trapped. About 150 houses are for sale in Mount Holly, many of them in the four-square block area bounded by Cherry Street, Mount Holly Avenue, Pine Street and Mill Street.

Not coincidentally, this is the location of the bulk of the homeless shelters, federally subsidized apartments, halfway houses and rooming houses that have proliferated in the county seat in recent years. About 170 of the town's 3,200



**'Potential':** Township officials say federally-subsidized housing units are the biggest headache for Mount Holly. But Mayor James Logan III believes the township can be rehabilitated.

By Art Stenhardt, Courier-Post

housing units fit into these categories, according to census data.

Many residents of these colonial homes on tree-lined streets say the influx of multiple-unit dwellings

— most often created by cutting up stately old homes — has changed the neighborhood.

The change the multiple housing brings is not for the better, according to

homeowners in this 2.9-square-mile community.

Owners of those single-family homes that have long populated this area

Please see MOUNT, Page 9A

Source: Nedd, H. (1996, November 17). "Historic township fears quality of life crumbling." *Courier-Post*, pp. 1A, 9A.

Nonresidents also identified *Section 8*, the federal Housing Choice Voucher Program, as a cause of the neighborhood's decline. Under this program, low-income households receive a voucher from the federal government. If they sign a lease for a home whose rent is more than 30% of their income, the federal government will pay the balance of the rent due, but only up to an area's fair market rent (FMR).

The U.S. Department of Housing and Urban Development (HUD) delegates management of the program to local housing authorities. The local housing authority is responsible for issuing these vouchers and inspecting the homes to ensure they meet HUD housing quality standards. For Mount Holly, the local housing authority until 2016 was the Burlington County Board of Social Services (BCBSS). Some nonresidents contend that the BCBSS' FMR was far higher than typical Gardens rents, giving absentee landlords a strong incentive to rent to Section 8 families. The landlords could then charge those families FMR, knowing that the federal government would pay them the balance due on rent beyond 30% of the family's income, even though that rent was much higher than typical for the Gardens. Section 8, these nonresidents contend, was therefore a windfall for the absentee landlords, who collected a larger rent than they would have otherwise collected.<sup>i</sup>

<sup>i</sup> This portion of the narrative does not reflect the nuances of the Section 8 program. According to 24 C.F.R. §982.507, *Rent to owner: Reasonable rent*, the BCBSS was empowered to reduce the amount of rent a landlord could charge if the area surrounding the home had lower rents than the rest of the county. Specifically, "The [public housing authority responsible for administering Section 8] must determine whether the rent to owner is a reasonable rent in comparison to rent for other comparable unassisted units. To make this determination, the PHA must consider: (1) The location, quality, size, unit type, and age of the contract unit; and (2) Any amenities, housing services, maintenance and utilities to be provided by the owner in accordance with the lease." Thus, if it is true that the BCBSS was overpaying for rent in the Gardens, it was not because it was required to do so by federal law, but rather because it was not exercising its right to lower the rent of Section 8 homes in the Gardens to reflect market realities in the Gardens.

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The Township could not stop absentee landlords from renting to Section 8 families, but it could use redevelopment to remove their homes from the rental market altogether.

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Several nonresidents said that the decline in the Gardens began not when the federal government sold the Gardens in the 1960s, but when it instituted Section 8 a few years later. For these nonresidents, the Section 8 families were typically very low-income people of color from other locales (e.g., Burlington City and Camden) who brought to the Gardens all the problems associated with concentrated very low-income neighborhoods. The Section 8 families, some nonresidents suggested, were more likely to damage their homes, litter, and, most potently, use and sell drugs. This was hearsay—nonresidents had no data about the number of Section 8 vouchers used in the Gardens, or the nature of the households who used these vouchers.<sup>135</sup> Nonetheless, it was a powerful part of the narrative, and yet another reason the Township voted to redevelop the Gardens: The Township could not stop absentee landlords from renting to Section 8 families, but it could use redevelopment to remove their homes from the rental market altogether.

Many nonresidents critiqued the Gardens for not fostering enough homeownership. Nonresidents reported that owner-occupants make better neighbors than renters. They take better care of their homes and yards. They are less likely to commit crimes or allow visitors or residents of their homes (e.g., children, cousins, friends) to commit crimes. They are also more likely to “put down roots” and thus commit to and invest in the community, nurturing the network of relationships among residents that improves the quality of life for everyone. Even Harry Fry, the Gardens’ largest landlord, made this argument, telling former School Superintendent John Mangle that his tenants were damaging his properties by, for example, yanking phones out of walls, and then calling him “constantly” for repairs.

This argument was most explicit among people involved with Mount Holly 2000, which sought to rehabilitate 100 rental units in the Gardens and sell them to qualified low-income owner-occupants. Mount Holly 2000’s commitment to homeownership was so complete, its board chose to disband the nonprofit rather than become a landlord. As its cash flow diminished and unpaid bills accumulated, Mount Holly 2000’s board met on July 9, 1997, to discuss, among other items, whether it should rent out some of its acquired properties. Doing so would have introduced a revenue stream that could have allowed Mount Holly 2000 to keep operating until it found more funds to acquire and rehabilitate additional Gardens homes. However, board members did not like the idea, saying that “it would bring the stigma of landlordship upon the organization.”<sup>136</sup> Mount Holly 2000s Executive Director Thomas Hand later explained:

Mount Holly 2000 had gotten a commitment for Phase II [i.e., rehabilitation of the next 10 homes], and I didn’t want to jeopardize those funds by switching from homeownership to rental housing. Funders wanted homeownership, and so did residents. I didn’t want to become another Harry Fry. It was not the goal. The goal was to give people who lived in the Gardens a stake in the community by making them homeowners—homeownership being the best tool for giving people a stake in their community.<sup>137</sup>

One of the most commonly used phrases in nonresidents' discussions about the Gardens was "good people."

Councilmember Tidswell, for example, publicly sympathized with the good people of the Gardens at the August 11, 2003, Township Council meeting:

I truly believe with my heart and soul [that the] good people who live in the Gardens deserve a better quality of life. Moreover the children of the Mount Holly Gardens deserve to be brought up in a neighborhood free of crime, free of drug dealers and drugs, dilapidated homes on all sides. ... Replacement of existing housing with brand new 21<sup>st</sup> century, affordable homes is the only reasonable [solution to the] long standing problems facing the good people in this troubled neighborhood. ... This is not an end of the neighborhood but the beginning of a neighborhood.<sup>138</sup>

His goal was not to destroy the Gardens, he implies, but rather to re-create it for and with only good people.

The "good people" of the Gardens were residents who, unlike the absentee landlords, took care of their homes, tended to their neighbors, and disapproved of the crime in their neighborhood. Unlike the Gardens' "bad apples," they were worthy of empathy and support. Although no nonresident explicitly stated that homeowners were "good people" and renters were not, their statements in support of the "good people of the Gardens" echo what proponents of homeownership had to say about homeowners in general.

### The Common Narrative

By combining these themes, nonresidents developed a narrative that explained the Gardens. The Gardens was once a clean, well-maintained neighborhood of military families, but avaricious landlords, taking advantage of ineptly managed federal government policies, took over much of the neighborhood starting in the 1970s, replacing those military families with very poor people of color who lacked the middle-class values of thrift, hard work, and pride in their homes. The neighborhood rapidly declined throughout the 1970s and 1980s.

By 1990 the Gardens was deeply troubled, beset by all sorts of disorder, ranging from litter to murder. Drug dealing was a particularly entrenched scourge for the neighborhood, and the drug trade, which was largely controlled by outsiders, created an oppressive spirit of lawlessness throughout the neighborhood.

The Gardens, however, was also home to good, decent, law-abiding residents, typically homeowners. These residents were lower-income, minority, elderly, or some combination of the three. Although these good people tried to take care of their homes, inside and out, they could never hope to sell their homes and use the money to move to a better neighborhood. The homes were woefully outdated, built to 1950s living standards, and thus almost impossible to sell in a 21<sup>st</sup> century housing market. Furthermore, the many problems of the Gardens gave the neighborhood a terrible reputation, scaring off most potential homebuyers except for absentee landlords who exacerbated the neighborhood's problems. These homeowners, trapped in their investments, afraid to venture outdoors, were the true victims of the neighborhood's decline and were worthy of sympathy and assistance.

By 2000, many nonresidents felt that attempts to improve life in the Gardens had failed. According to this narrative, the poor design of the Gardens impeded the Mount Holly Police Department's ability to properly police this neighborhood. Mount Holly 2000 did not find enough funding to achieve the two-thirds ownership rate it believed was a prerequisite for an improved quality of life. The failure of the government and nonprofit sectors convinced many that only a for-profit, developer-led solution would succeed in solving the problems of the Gardens. The Township Council's decision to pursue for-profit redevelopment, however, split nonresidents into two opposing camps.

### The Split Between Proponents and Opponents of Redevelopment

Once the Township Council began to move toward redeveloping the Gardens after 2000, nonresidents split between those who supported and those who opposed redevelopment. Both sides continued to use their shared narrative of neighborhood decline to justify their positions, but because this narrative was predisposed to justify redevelopment, opponents found it difficult to argue against the redevelopment.

For redevelopment proponents, redevelopment was the *only* solution to the problems posed by the Gardens. These proponents rejected "doing nothing"; rehabilitation and community policing, they said, had failed. They were convinced that Gardens residents, despite their vocal opposition, would ultimately benefit from redevelopment. What's more, New Jersey's Local Redevelopment and Housing Law seemed expressly designed to address the problems in the Gardens. Section 40A:12A-5 lists the conditions under which an area may be deemed in need of redevelopment. For nonresidents, Condition C seemed to describe the Gardens:

Areas with buildings or improvements which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, are detrimental to the safety, health, morals, or welfare of the community.

Nonresidents might well have asked: If the dilapidation, obsolescence, overcrowding, and faulty arrangement or design are detrimental to the safety, health, morals, and welfare of the community, didn't the Township have not just a right but a responsibility to redevelop this neighborhood?

Several Gardens residents had a different perspective and fought the redevelopment. Proponents of redevelopment developed explanations for this opposition. Planner Janice E. Talley's explanation is that no one likes change, except for planners. "Your average person [i.e., someone who is not a professional planner] feels very uncomfortable with" the uncertainty brought about by change. Talley, like other planners, likes to be part of "the now" and not "the then," she says. "Being able to affect how people live and make it better gives me a lot of satisfaction."<sup>139</sup> As we will see in the next chapter, Gardens residents wanted many changes in the Gardens too. It was not change *per se* they opposed but rather the type of change represented by redevelopment.

Some nonresidents felt that emotions (rather than reason) explained neighborhood opposition. Gerald "Jerry" Velazquez, who, as president and CEO of Triad, was responsible for relocating site residents, says that when people's feelings are hurt, they are never going to feel that they got what they deserved. Velazquez saw his role as the voice of reason who, by remaining calm and persevering, would win over site residents:

Triad had individual meetings and group meetings. These were contentious meetings. It didn't matter that a unit was in deplorable conditions—it's their home, it's what they know. Nobody wants to leave, nobody wants to move. I explained what relocation meant, and many people responded by yelling and calling me a bad person. This is typical with these discussions. It doesn't matter where they live or what situation they're in—nobody wants to move. But as you work through the process, people begin to understand the benefits of relocation—[better schools, a chance to buy a house]—so I kept working on them until I got them to move past “over my dead body.”<sup>140</sup>

However, Velazquez says he was unable to overcome what he describes as the unusually emotional situation in Mount Holly because the conflict had been building for so long before he arrived to implement a Workable Relocation Assistance Plan.

Some nonresidents criticized the redevelopment plans and advocated for the residents. These opponents relied on the same narrative adopted by proponents, but they interpreted that narrative to justify preserving, not demolishing, the Gardens. Nonresident opponents of redevelopment argued that redevelopment would destroy the community that the good people of the Gardens had made for themselves.

Amateur documentarian Larry Miller says that the more he learned about the Gardens, the more impressed he was by the sense of community there. It was not “just a bunch of people living in the same place,” he says. “It was like a village in the city.” Miller says that because low-income people have certain needs, they reach out to their neighbors more often than do people of higher incomes. For example, in the Gardens a working single mother would find an older woman to watch her children after school until she got home from work. These social connections are what made the Gardens a community, and he thought it was an outrage that the Township wanted to destroy the community that enabled these connections. “There was a community that was good and that was worth saving,” he says.<sup>141</sup>

Other nonresidents shared Miller's view. Doris Pulone, a local Quaker activist and RVCA member, describes the Gardens as a “very caring community” of “nice” homes, inside and out.<sup>142</sup> At Township Council meetings about the redevelopment, she warned the Council that they were breaking up a community of residents who needed each other. Nick Sodano, who worked with Larry Miller on the Gardens documentary, says, “A lot of people didn't understand the Gardens at all. All they knew about was the crime.” The documentary, he says, was their way of educating the rest of the Township about the community that lived in the Gardens.<sup>143</sup>

Opponents of redevelopment had to explain the Township's continued support of redevelopment despite community opposition. Many opponents blamed racism or classism for the Township's implacable pursuit of redevelopment. This explanation would help lay the groundwork for the residents' decision to sue the Township in federal court for violating their rights under the 1968 Fair Housing Act.

Despite this nonresident-held counternarrative rooted in discrimination, opponents of redevelopment were unable to convince the Township Council or a majority of township voters that there were better ways to address the problems in the Gardens. The site residents' lawyers argued that the redevelopment was unfair and illegal, but they offered no alternative plans (nor was that their job). The New Jersey Public Advocate's office hoped to use the Gardens case to galvanize support in Trenton, the state capital, for a revision of the state Relocation Act that would require greater payouts to displaced

homeowners (although not necessarily renters), but that would come too late to help the residents of the Gardens.<sup>144</sup> No opponent advocated for the creation of nonprofit-owned affordable rental housing that could replace or at least compete with the lower-quality rental housing offered by absentee landlords in the Gardens.

In the end, with two-thirds of the Gardens' homes renter-occupied, and with no one offering a "feasible and buildable" plan to replace or at least improve that affordable rental stock, it was easy for the Council to conclude that the problems of the Gardens would likely persist until and unless it voted to redevelop the neighborhood.

# Chapter 3:

## The Residents' Narrative

## Chapter 3: The Residents' Narrative

When the Mount Holly Township Council held public hearings about the proposed redevelopment starting in 2002, councilmembers used their shared narrative of neighborhood decline to justify the demolition of the Gardens and its replacement with privately built, owner-occupied, middle-income housing. At these hearings, councilmembers revisited the themes discussed in Chapter 2. They stated that the Gardens' poor design, disruptive activities, and undesirable residents were damaging not just the Township's finances and reputation, but also the quality of life for the "good" residents of the Gardens. Redevelopment, they argued, was the only solution, and one from which Gardens residents would benefit thanks to the state-mandated relocation assistance package.

The Township had reason to believe that most Gardens residents shared this narrative, and not just because so many nonresidents found this narrative self-evident. According to the Neighborhood Issues Analysis prepared for the Township in 2000:

The majority of the residents would prefer to live in a new house. Thirty-five (35) percent of the residents prefer to move to a new house in a new neighborhood and thirty-three (33) percent prefer to live in a new home within the Gardens, for a combined sixty-eight (68) percent. Only thirty-seven (37) percent of the residents prefer to completely renovate their existing home.

Another way to read these survey results, however, is that roughly two-thirds of Gardens residents wanted to stay in the Gardens, either in rehabilitated homes or new homes.<sup>ii</sup> Even those who wanted to move didn't necessarily want to leave Mount Holly. As the Township moved forward with redevelopment, it faced increasingly fierce opposition from many Gardens residents, first in public hearings, then in the press, and eventually in court.

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... residents told a story of a good neighborhood under siege and of a mixed-race, low-income community uniting to protect its rights.

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Gardens residents were so fierce in their opposition because they had their own competing narrative. Unlike so many nonresidents, these Gardens residents told a story of a good neighborhood under siege and of a mixed-race, low-income community uniting to protect its rights. Although they were ultimately unsuccessful in preserving the Gardens, the perseverance of several site residents ensured that at least some of them would be granted affordable replacement homes in the rebuilt Gardens. To the end, this narrative, which reframed the "good" people of the Gardens as aggrieved citizens uniting to protect their rights, sustained the remaining holdouts as they navigated life in a nearly leveled landscape.

The remainder of this chapter explores the themes of this narrative and then describes the narrative in full.

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<sup>ii</sup> The math in the original document is faulty:  $35+33+37 = 105\%$ . Thus, it is not clear if the percentage of people who wanted to remain in the Gardens was 65% or 70%.

## The Gardens Is a Good Place to Live

Whereas many nonresidents described the Gardens as being almost irredeemably damaged, residents articulated the many benefits of living in the Gardens.

Of prime importance for children and elderly residents, the neighborhood was within walking distance of the local supermarket and public schools, and—unusual for a suburb—there was adequate public transit. For working adults, the Gardens had the added benefit of being close to work. A shorter commute gave these adults more time to tend to their children and elderly neighbors.

The Gardens was also home to a community of people who watched out for each other, making it a particularly attractive place for single parents. One of those single parents describes how the location and community of the Gardens helped him be a better parent:

Miss Brooks ... would also watch my children. She'd be like, "Your kids are out back and they're playing with some bad boys." I'd have to go over there and find out what was going on, keep an eye on them. She was very helpful for me to keep an eye on my children when I was at work or something. ... I had a babysitter for the longest time until [my children] were 13 and 14, [and] they didn't want to go to the babysitter [any more], but Miss Brooks, Lonnie, and Melina would watch over them from a distance, they were my eye contacts, watching them. ... And my oldest daughter, she would call me at work sometimes if there was something they needed help with, and I'd run home and straighten things out and go back to work.<sup>145</sup>

## Crime in the Gardens Is Getting Better

Although no resident described the Gardens as an ideal place to live, many of them discounted the biggest problem described by nonresidents, arguing instead that crime was not as bad as outsiders said it was, and that it was getting better. Several residents said they had never been a victim of crime, or at least not violent crime, while in the Gardens.

Site resident Santos Cruz, when asked if he ever worried about his children being victims of crime, responded:

Nah. Never ever. I raised them all there. I'm still there. ... I never had a problem, nobody broke [in]. ... You know what they once took? Just once. And I know it was some young kids. I used to always have sodas. They took a six pack of soda. I guess they were thirsty and figured Mr. Cruz is not gonna mind if we drink 'em. That was the only thing ever in the whole years that I [lived] there, 27 years.<sup>146</sup>

When residents conceded that some crime happened in the Gardens, they sometimes discounted it by arguing that crime happens everywhere and is often worse in other locations. At the May 23, 2003, Council meeting, resident Marlene Tobar noted that crime in the Gardens was not nearly as bad as what she witnessed in her previous neighborhood in New York City's South Bronx.<sup>147</sup> At the August 11, 2003, meeting, resident Dagmar Merrill argued that the Mount Holly neighborhood around Monroe Street also had a crime problem, implying that it was unfair to characterize the Gardens as uniquely crime-ridden.<sup>148</sup>

Sometimes, residents would discount the crime in the Gardens by arguing that the problem had improved in the years leading up to the redevelopment, so it was no longer a valid reason to redevelop the Gardens.

### Many of the Problems Are the Township's Fault

Many residents blamed the government of Mount Holly for exacerbating the neighborhood's problems. These residents faulted the Township for its inadequate policing of the Gardens, its ownership of many vacant and poorly maintained properties, and damages caused to occupied homes by the demolition of adjacent vacant homes.

For many residents, crime was worse than it needed to be. The Mount Holly Police Department (MHPD), they argued, was not doing a good enough job policing their neighborhood. The decline in the crime rate during the few months that the MHPD operated a substation in the neighborhood proved to them that innovative community policing could reduce crime.

The many vacant, Township-owned properties was another cause of complaint for Gardens residents. At the public hearings about the redevelopment, residents Carlos Rodriguez and Rebecca Gonzalez separately described these homes as lowering their property values. By allowing these houses to decay, they argued, the Township was harming the entire neighborhood. Resident Eugene Barnes went further at the September 23, 2002, Council meeting, noting that government inspectors visit these poorly maintained, boarded-up homes, but "nothing is done," suggesting that building inspectors were conspiring to see the Gardens fail.<sup>149</sup> At the May 23, 2003, Council meeting, resident Cervantes Amparo said that the "township housing inspector was pocketing money and how can they be sure the Council is not like that?"<sup>150</sup> For these residents, the Township's building inspectors were at best incompetent and at worst corrupt.



Source: *Huffington Post* ([https://www.huffingtonpost.com/2012/08/01/new-jersey-development-mount-holly-gardens\\_n\\_1723746.html](https://www.huffingtonpost.com/2012/08/01/new-jersey-development-mount-holly-gardens_n_1723746.html))

As the Township began demolishing these vacant properties, the remaining residents had another reason to fault the Township for the neighborhood's problems. These vacant properties were often adjacent to still-occupied homes, and some of those homes' residents complained of serious damage that was caused by these demolitions.

Resident Santos Cruz describes these damages:

The steps kinda separated ... the internal steps going up. The roof has damages. And who's gonna spend \$10,000 on a house that you know is not gonna be there? So you're forced to live in a different way. Miss Nancy's house, they have tarps on the roof. On North Martin. You go to their house, you'll see the tarps on it and everything. We paid for our house. We're still paying. People got mortgages, we're paying. The insurance won't cover that because it wasn't an accident.<sup>151</sup>

Although the Council defended the demolitions as a necessary precaution to protect the remaining site residents from mold and vermin, many site residents perceived them as yet another way that the Township, far from trying to save the Gardens, was actively and perhaps intentionally harming it. Indeed, several residents suggested that the Township was demolishing homes primarily to harass the remaining site residents and compel them to sell their homes.

### Redevelopment Harms Site Residents

Regardless of the problems in the Gardens, some residents argued, redevelopment would be worse. Several residents spoke in detail about how the redevelopment process was harming them by disrupting their lives or forcing them to make repairs that would not improve the resale value of their homes.

Residents also complained about the size of their relocation package. If the Township was going to force them to move, then the Township owed them enough money to buy another home in or near Mount Holly. After all, Mount Holly was their home; it's where they had put down roots, raised children, attended church, made friends, and watched out for neighbors. For those who were employed, it was also close to where they worked. The only way Gardens residents would be able to find another home in or near Mount Holly was by going deeper into debt by taking out a mortgage. And even if they wanted a mortgage, many of these families would not qualify for one, or they wouldn't qualify for a large enough mortgage to buy a home nearby.

Older residents were especially overwhelmed by displacement. Not only would they likely fail to qualify for another mortgage, they'd also suffer from the stress of starting over in a strange community far from the friends they had in the Gardens. Speaking 14 years later, a younger resident describes these older neighbors:

They didn't want to move because a lot of them had their homes already paid off and they're not going to get into a mortgage. They're already retired, they're over 60 years old. Miss Wright was 91 years old. It's just not easy for these people—it's like uprooting a tree that's been planted for so many years, trying to plant it somewhere else. It's going to die.<sup>152</sup>



Source: *Affordable Housing Institute: David Smith's Blog* (<http://affordablehousinginstitute.org/blogs/us/wp-content/uploads/mount-holly-demolition-on-the-way.jpg>)

This last quote points to the deeper distress felt by many residents in the years after the blight designation. For these residents, redevelopment was not just an inconvenience—it was frightening. No one knew if or when the Township would invoke its right to use eminent domain to take these homes by force. No one knew if or when heavy construction equipment would roll up their street to demolish their neighbor's attached house, with unknown consequences for the physical integrity of their own home. And the most vulnerable site residents were frightened by the possibility that displacement would leave them poorer and more vulnerable than before. Some residents even spoke of their battle against the Township in terms of life and death: multiple interviewees suggested that the death of a neighbor was caused by the stress and uncertainty of living in an area designated for redevelopment.

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### The Township as Antagonist

As residents tried and failed to convince the Council to delay or abandon redevelopment, or at least to provide affordable replacement housing in the Gardens, they developed a narrative for why their pleas seemed to be unheeded. For some residents, the explanation was that the Township had decided to be rid of them, no matter what, and that the Council's claim to care about the "good people" of the Gardens was not true. From their perspective, if there were bad people in Mount Holly, they were on the Council, not in the Gardens.

The core problem, some residents believed, was that the Township was bigoted against the poor or minorities. Residents believed that the all-white Council disdained the poorer, minority population of the Gardens and wished to replace them with middle-class white homeowners like themselves. Several speakers at public hearings accused councilmembers of this prejudice. Years later, Gardens resident James Potter went further: “The Gardens had the largest concentration of African Americans, Hispanics, and other minorities, so we also viewed [the redevelopment] as ethnic cleansing.”<sup>153</sup>

Residents concluded that once the Township had decided to evict the low-income, mixed-race community living in the Gardens, it conspired to justify the destruction of the Gardens by withholding resources. At the May 27, 2003, Council meeting, resident Barbara Hightower “discussed that she knows that the Township is letting their properties go to disrepair so that the area looks bad for the press and helps the Township take down the residents’ homes.”<sup>154</sup> At the November 10, 2003, Council meeting, Carlos Rodriguez suggested that the Township was neglecting these vacant properties because they lowered the assessed value of still-occupied Gardens homes it hoped to one day purchase.<sup>155</sup> Years later, resident Santos Cruz suggested that the MHPD let the crime fester before conducting high-profile raids because that would give the Gardens a bad reputation that would justify redevelopment:

I know policemen are very busy, but, if you see something going on, it’s the “broken window theory” that they did in New York, which worked well. But we didn’t follow it because what they wanted to do was—they wanted this that’s happening to happen. So what they did was they sat, took pictures, did this, I mean for like, three or four months at a time, and then had a big raid, put it in the paper, state police, you know it was a show. Broken window theory—when you see the windows being broken, you get it right there, no more windows get broken. People know there’s a liability for broken windows. But if you leave it, there’s not gonna be a window left. Every window is gonna be broken.<sup>156</sup>

## Residents Deserve Better

Residents and nonresidents agreed that the “good” people of the Gardens deserved better than what they had, but many residents went further, arguing that they also deserved better than what the redevelopment process was giving them.

Some residents demanded greater say over the redevelopment process. Only then, they argued, could they ensure that the redevelopment process would meet their needs. For these residents, it appeared that the communications fostered by the Council were nothing more than a formality, a legal requirement under state law that was not going to change anything for the residents of the Gardens. Because the Council had already decided to pursue redevelopment, the hearings were a process without meaning. These communications did not give residents power, or even influence.

Several resident homeowners argued that the Council was abusing the Township’s eminent domain power by seizing property for private redevelopment. Although the Township did not use eminent domain to seize any of the homes, the threat of eminent domain haunted every interaction between the Township and the homeowners who did not want to sell, and the claim that the local government was violating their rights as property owners reinforced the narrative that the property owners, at least, deserved better treatment from the Council.

Many residents said that the Township was not treating Gardens residents with the respect they deserved as citizens. Resident Vivian Brooks was quoted in the *Philadelphia Inquirer* as saying that she

wanted “officials to give the Gardens the same services—and respect—as every other neighborhood in town.”<sup>157</sup> Brooks and other residents explained that they felt disrespected by a Council that was only pretending to listen to their complaints, having already decided to redevelop the Gardens no matter what the residents said. In doing so, the Council had violated a bond between governed and government.

As citizens whose rights had been violated by their elected officials, many residents felt they had not just a right but a duty to sue the Township. It was their last line of nonviolent resistance to injustice. Years later, Santos Cruz explained:

Before we were the United States, we were just colonies.... They were getting taxed and not getting represented. [The British authorities] didn't care what we said. What did [the colonists] do? They had a revolt, threw the tea, did this, did that. Had [Gardens residents] gone that route, we would have been just what they said we were. We were criminals, this and that, because ... what our forefathers did could have been construed as a criminal act. Taking the tea and throwing it in the harbor, right? If we had done that, we'd have been criminals! We are all law-abiding citizens, so we went by the only recourse the law left us.<sup>158</sup>

### The Common Narrative

Based on the Council minutes, interviews, and newspaper articles referenced above, the residents' narrative becomes apparent.

For residents who opposed the redevelopment, the Gardens was flawed but, on balance, a good place to live. People watched out for each other, homes were affordable, and the location was ideal, especially for the elderly and families with few if any automobiles. However, most Gardens residents were minority and low income, and the Township government, dominated by white, middle-class Township residents, conspired to displace the community and demolish their homes.

First the Township neglected the Gardens, denying the neighborhood the community policing that would (and for a while did) alleviate the neighborhood's biggest problem: crime. Its building inspectors did not enforce building codes, either out of incompetence or, perhaps, greed if they were being bribed by landlords.

Then the Township acquired vacant properties, which it allowed to decay, lowering property values and endangering the health and safety of Gardens residents.

Although the Council held several hearings about the redevelopment, councilmembers never intended to use these hearings to empower residents. Rather, the Council was merely following the letter—not the spirit—of the law, having already decided to redevelop the Gardens and deny residents affordable replacement housing. With the Council brazenly violating their rights as property owners, as citizens, and as human beings, and with the hearings accomplishing nothing, many site residents resorted to the only nonviolent tool they had left: the courts.

This narrative motivated many site residents to resist the redevelopment and join the court case. However, narratives alone do not win the battle. As the years progressed, some site residents died. Others gave up and moved. But even now, 15 years after the first hearings about the redevelopment, this narrative sustains the remaining site residents as they wait for their replacement homes.

**Chapter 4:**  
The Road Not Taken:  
Collective Impact

## Chapter 4: The Road Not Taken: Collective Impact

In 2003, the Mount Holly Township Council voted to redevelop Mt. Holly Gardens. It made this decision with little input from Gardens residents. Many residents opposed this redevelopment and responded through confrontation. Although confrontation in public hearings, the press, and the courts did not save this community, it did impose a high cost on the Township.

This confrontation was not preordained. Although site residents and the Council had very different explanations for the neighborhood's decline, both sides agreed that there were legitimate quality-of-life issues worth addressing, and both sides blamed absentee landlords for many of these problems. Had the Council worked closely with site residents and other stakeholders to address these problems, both sides might have avoided the destructive confrontation that tore apart Mount Holly after 2000.

Although those involved in the Mt. Holly Gardens dispute did not have the benefit of our hindsight, municipalities today can avoid similarly costly confrontations—in terms of people and dollars—by embracing “collective impact” policymaking, whereby a backbone organization assembles important actors from different sectors to develop a common agenda and success metrics for addressing a specific problem.

Drawing on the previous three chapters, this chapter describes the damage caused by the Council's redevelopment plan, identifies areas of common interest between the Council and site residents, describes collective impact policymaking, and suggests how municipalities like Mount Holly can use collective impact to address the issues Mount Holly faced in the early 2000s.

### Damage Done

When the Council decided to redevelop the Gardens, it seemed to be including residents in the planning process. Gardens residents were surveyed twice, first by the Township's hired planner, Janice E. Talley, and later by Triad, the Keating subcontractor responsible for filing and implementing the Workable Relocation Assistance Plan. The Township also held several public hearings about the redevelopment in 2002 and 2003, giving Gardens residents an opportunity to express their concerns about the redevelopment plan. In a few instances, the Council attempted to address those concerns, for example by offering to hire a therapist who could counsel Gardens children upset about the redevelopment.

However, as Gardens residents repeatedly noted in these hearings, they were excluded from the decision-making process. The Council, it seemed, had already decided to redevelop the Gardens as early as 2000, when it hired THP Inc., a private planning firm, to draft the first redevelopment plan for the neighborhood—long before it held its first public hearing on the issue. The Council used these hearings not to discuss what to do about the Gardens, but rather to explain why they were redeveloping the Gardens, and how redevelopment would ultimately benefit the site residents. The Council addressed the concerns of Gardens residents only when doing so did not impede redevelopment.

The results for site residents were catastrophic. The redevelopment arguably had an adverse and disproportionate effect on racial and ethnic minorities who were the predominant groups residing in the Gardens—members of communities that had already suffered from decades of discrimination in the South Jersey housing market. Except for the few plaintiffs who remained litigants all the way to the 2013 settlement, all residents, regardless of race or ethnicity, lost their homes in the Gardens. And all

residents—including those who gained on-site replacement housing—lost the community that made the Gardens in many ways a good place to live.

By then, site residents had suffered for over a decade as the Township acquired, neglected, and then demolished their neighbors' homes, depressing their property values and disrupting their quality of life. They had struggled for years in Council hearings, the press, and the courts as they fought to save their homes. They lived in constant fear, never certain if or when the Township would invoke its right to use eminent domain to seize their homes by force. And they watched as one by one their neighbors and friends either gave up and moved away or died, leaving a dwindling number of residents to continue the fight on their own.

The redevelopment proved catastrophic for the Township, too. Its reputation was damaged. The *Huffington Post* described the case as “New Jersey town rips up working-class neighborhood for private developers” (8/1/2012). *MSNBC* described the redevelopment as “Bulldozing homes and civil rights” (11/5/2013). And when the *Philadelphia Inquirer* described delays in constructing replacement homes for plaintiffs, it titled its article, “At 97, her housing dream fades” (2/8/2016). Even when media was more sympathetic to the Township’s position, they quoted site residents and their lawyer making the case that the Township was abusing their rights. This media coverage painted a negative picture of a township that had ironically pursued redevelopment in part to improve its public image.

Meanwhile, the township’s entire Council was voted out of office. When Brooke Tidswell and Jules Thiessen, the two councilmembers who spearheaded the redevelopment, were up for reelection in 2010, they came in 4<sup>th</sup> and 5<sup>th</sup> place in what the *Philadelphia Inquirer* described as a “stunning outcome.”<sup>159</sup> The remaining three councilmembers who voted for redevelopment were voted out at the next election in 2012.

Thanks to this redevelopment, the Township is also saddled by debt. By the end of 2010, the Township had paid \$6.6 million for the properties in the Gardens, but no replacement housing had yet been built—and thus no new taxes were forthcoming from the neighborhood.<sup>160</sup> By 2012, Mount Holly Township had paid Keating \$1.2 million, “largely as reimbursement for the demolitions and relocations,”<sup>161</sup> and the Township was \$18 million in debt, “with annual debt service payments at about \$1.1 million.”<sup>162</sup> By 2017 the Township was \$24 million in debt<sup>163</sup> and, except for the section with the replacement housing, the redevelopment of the Gardens has not yet begun as of spring 2018.

What is more, to encourage the construction of the market-rate housing on the undeveloped land to the north of the Gardens, land that was added to the redevelopment plan in 2005, the Township granted the developer there, Ryan Homes, a five-year tax exemption and abatement on all the neighborhood’s new properties, further starving the Township of real estate tax revenues that could have enabled it to more rapidly pay off this debt.

This disappointing outcome need not have happened. There was common ground between the two sides, and if the Township had focused on that common ground, it might have accomplished much good, and at a much lower cost.

## Common Ground

Court cases are about conflict, and the *Mt. Holly* case was no different. In their arguments before the court and their subsequent appeals, both sides in the case presented starkly different views of what was happening in the Gardens. But precisely because a court is a venue for adjudicating conflict, a focus on the court case may distract from the common ground shared by both sides. Despite their differences, the Township and the site residents agreed that the Gardens was not trouble-free. Had they focused on this common ground, they could have addressed many of their concerns without resorting to the courts. The two sides were most in alignment when discussing quality-of-life issues and problems associated with absentee landlords.

Both Gardens residents and the Council were concerned with the quality of life in the Gardens. Drug dealing, litter, noise, and auto traffic—all interrelated problems—troubled the Gardens residents, who wanted to live in a safe and comfortable neighborhood. Some site residents described having to rely on neighbors to keep an eye on their children lest they get in trouble with the criminal elements in the neighborhood. Others describe the noise of people yelling in the street late into the night or the constant flow of cars as people drove through the neighborhood to buy drugs. These site residents were not usually critical of their neighborhood, and none of them wanted to leave, but they agreed that the quality of life in the Gardens could have been much better.

Councilmembers were also concerned about the quality of life in the Gardens, although for different reasons. The Township had been trying for several years to redevelop its business district, which had suffered from disinvestment and competition with more modern shopping malls elsewhere in the county. In 1995, the State of New Jersey approved Mount Holly's application to become home to an Urban Enterprise Zone (UEZ). This zone included the business district (but not the Gardens). "This is a program adopted by the NJ State Legislature to create jobs, leverage new investment, and revitalize selected communities.... A portion of the sales tax revenues generated in the UEZ is dedicated to economic development projects in the zone."<sup>164</sup>

But this investment would do no good if the Township had a reputation for antisocial behavior—not just crime but also any rowdy behavior. Such a reputation would scare off potential shoppers for its revitalized business district. The Council needed to address the quality-of-life issues in the Gardens if it was to improve the Township's reputation and attract the shoppers it needed.

Gardens residents and the Council were also concerned with the absentee landlords operating in the Gardens. (This paper defines an absentee landlord as someone who owned two or more properties in the Gardens and whose primary residence was not in Mount Holly.) As of January 1, 2001, 38 homes were owned by one absentee landlord: Harry Fry. All other absentee landlords owned six or fewer homes each. Altogether, the Gardens' 16 absentee landlords owned 89 (27%) of the 329 Mt. Holly Gardens properties subsequently redeveloped by the Township.

Both sides blamed these landlords for overcrowding and poorly maintaining their homes, and some interview subjects from both inside and outside the Gardens argued that most of the crime in the neighborhood emanated from homes owned by absentee landlords, who, they argued, didn't care if they were renting to criminals so long as the tenants paid their rent. Indeed, site residents, stakeholders in Mount Holly 2000, and councilmembers all identified absentee landlords as being the root cause of the neighborhood's quality-of-life problems, although each came up with a different solution for the problem—targeted government intervention, expanded homeownership, and redevelopment, respectively.

## Addressing the Affordable Housing Crisis in Burlington County

Both these issues—quality of life and absentee landlords—are strongly connected with another issue: the lack of decent affordable housing in Burlington County. If “good people” were suffering in the Gardens due to quality-of-life issues compounded by negligent and exploitative absentee landlords, it was because there were so few other affordable homes for rent or sale in the county. The Council’s initial refusal to include affordable replacement housing for site residents compounded conflict between residents and nonresidents. The Council, however, had the opportunity to include affordable housing, had it been so inclined. Indeed, it was encouraged to do so by both the state and county governments.

*The Redevelopment Handbook: A Guide to Rebuilding New Jersey’s Communities*—written by two planners, Stan Slachetka and David G. Roberts, for the New Jersey Department of Community Affairs and the American Planning Association New Jersey Chapter—warned municipalities that “minimizing relocation costs requires planning and forethought. Municipalities should consider providing opportunities for relocation in either the redevelopment-plan area or in subsequent phases of the redevelopment plan or in previously constructed redevelopment projects. Some municipalities also may consider smaller-scale projects that avoid significant relocation.”<sup>165</sup>

These goals were not beyond the reach of municipalities in Burlington County, whose Department of Economic Development wrote in its *Five Year Consolidated Plan 2000-2004*, “Burlington County’s dedicated and productive community of non-profit housing developers have created well over 400 permanent affordable housing units that provide excellent examples of successful housing and physical improvements to the community.”<sup>166</sup> The plan goes on to describe an example of what this might look like:

Affordable housing advocacy works hand in hand with production as the developers form boards of trustees, which include low-income people and advisory committees and representatives of the business community, meet with town councils to obtain municipal support for housing and sponsor community workshops and presentations to promote their activities.<sup>167</sup>

If the Mount Holly Township Council had been serious about building upon the common ground shared by residents and nonresidents, it would have incorporated affordable replacement housing for site residents into its request for proposals (RFP). At the very least, it could have accepted a bid from a developer willing and able to build affordable replacement housing for some of the site residents.

As it turns out, just such a bid exists. First Montgomery Group (FMG), a local developer with ample experience in Mount Holly, having already “transformed the Village Square in Mount Holly from a vacant [blighted area] to an award winning residential development,”<sup>168</sup> was the only bidder besides Keating. Significantly, FMG had an ongoing relationship with Saint Joseph’s Carpenter Society (SJCS) of Camden, New Jersey, and SJCS joined its bid to provide “key services around the relocation needs of remaining residents of Mount Holly Gardens.”<sup>169</sup> According to their bid, FMG would substantially rehabilitate some of the Gardens housing “to serve as a residential resource for the remaining residents who may desire to remain in the Redevelopment Area.”<sup>170</sup>

The FMG bid offered to turn some of these rehabilitated units into affordable housing, and in marked contrast with Mount Holly 2000, which aimed to replace renter households in the Gardens with homeowners, FMG offered to make some of these affordable units rentals. “FMG and SJCS recognize that all the families relocating from Mount Holly Garden [sic] may not best be served by owning their

own homes. Due to age or specific situations of the individuals, some may best be suited for a rental replacement unit.”<sup>171</sup> Those residents moving into rehabilitated owner-occupied units, meanwhile, would receive counseling and education from SJCS “to better prepare them for the challenges of homeownership.”<sup>172</sup> This affordable housing, renter- and owner-occupied, could be subsidized through “the Low Income Housing Tax Credit (LIHTC) Program as well as other subsidy programs available from the New Jersey Housing and Mortgage Finance Agency (NJHMFA).”<sup>173</sup>

Although this bid left it to the Township to decide how many units would be rehabilitated, it at least recognized the right of some site residents to return to their old neighborhood, and the unique challenges they faced in a housing market generally hostile to minority and low-income households.

FMG deviated from the RFP by including rehabilitated housing for site residents, but this itself was not grounds for rejection, per the RFP: “If the conceptual plan does not conform to the Redevelopment Plan, Redevelopers must indicate the justifications for the proposed change to the Redevelopment Plan. The [Township] will consider proposals, which deviate from the adopted Plan upon a showing of necessity for completion of a successful Redevelopment project.”<sup>174</sup> It is not self-evident why the Township rejected FMG’s bid unless, as alleged by the Gardens residents, its goal was to rid the Gardens of all rental and subsidized housing, and all the families who might live in such housing.

The existence of this bid, which did so much to address the concerns raised in the county’s *Five Year Consolidated Plan* and *The Redevelopment Handbook*, shows that the capacity did exist to “fix” the Gardens without destroying it. But the Township, wed to its narrative of irreversible neighborhood decline, was incapable of incorporating other narratives into its decision-making, or of heeding the advice of planning professionals and state and county government officials. The result was disastrous for almost everyone involved.

### Collective Impact, Defined

It is too late for Mount Holly to pursue this strategy, but municipalities today facing similar problems may find their way to a less destructive solution if they embrace a more holistic policymaking endeavor that considers the perspectives and goals of all stakeholders. Some people call this collaborative planning or comprehensive community planning. Although this study adopts “collective impact” to describe this type of planning, there are many successful case studies that predate the coinage of this term in 2011.

The theory behind collective impact is that “large-scale social change comes from better cross-sector coordination rather than from the isolated intervention of individual organizations.”<sup>175</sup> Under collective impact, stakeholders from different sectors join forces to solve a specific social problem.<sup>176</sup> These stakeholders enter collective impact policymaking with an open mind and no clear idea about where it may take them. The goal is not to enforce any one stakeholder’s solution but rather to create a process where stakeholders learn from each other and benefit from the resulting feedback loop.<sup>177</sup> Once this process has been established, the stakeholders can turn their attention to identifying the best solutions for the challenges burdening a community.

Proponents of collective impact identify five conditions for its success: a common agenda, shared measurement systems, mutually reinforcing activities, continuous communication, and a backbone support organization.<sup>178</sup> Of these five conditions, the most important—and the one that does the most to elevate collective impact above mere collaboration—is the backbone support organization, which can

be a municipal government, a nonprofit, a for-profit—any organization willing and able to take on the multiyear dedication needed to transform collective impact into a transformative planning process.<sup>179</sup>

## Collective Impact and Neighborhood Revitalization

“Collective impact” was coined only in 2011, but conceptually it has deep roots in several foundation-led comprehensive community initiatives (CCIs) beginning in the 1990s. The success of these CCIs suggests that collective impact policymaking can succeed when applied to low-income, majority-minority neighborhoods like Mt. Holly Gardens.

One of the first and most expansive CCIs was the Surdna Foundation’s Comprehensive Community Revitalization Program (CCRP) in New York City’s South Bronx. From 1992–1998, Surdna invested \$10 million in six (later just four) community development corporations (CDCs) in the South Bronx as they worked to revitalize their respective neighborhoods.<sup>180</sup> Surdna was disappointed by the results of its previous investments in CDCs. Its staff suspected that the problem was too narrow an agenda: Each CDC focused on only one problem at a time. CCRP, by contrast, was designed to holistically address health care, economic development, employment, and quality-of-life issues all at once. CCRP’s focus on grass-roots agenda setting, process over product, and measurable results points toward collective impact, with Surdna acting as the backbone organization that provides technical advice and investment.

Participants in the CCRP are particularly proud of their Quality of Life Plans, which, in its partial focus on the built environment, most resembles the work that needed to be done in the Gardens:

The CDC plans... created a road map for revitalization that the CDCs continue to pursue even today. The community action they called for has helped bring residents together and strengthened the social fabric of their buildings and blocks. Moreover, the goals set forth in the plans inspired each of the communities to go far beyond the initial efforts they made in 1992 and to develop a full range of quality of life improvements. These include both physical improvements and improvements in the number and quality of human service programs for their residents.<sup>181</sup>

Several other CCIs quickly developed in CCRP’s wake. The Annie E. Casey Foundation’s Rebuilding Communities Initiative (RCI) was a seven-year collaboration between the foundation and community-based organizations in five target cities. It was Casey’s first “experiment with a ‘bottom-up’ strategy for improving the lives of children and families by changing the conditions of the neighborhoods in which they lived.”<sup>182</sup> The RCI ran from 1993 to 2001 and improved the quality of life in all five of its target cities.<sup>183</sup> Most relevant to the Gardens, the Boston RCI resulted in “resident-guided physical revitalization planning and a new community facility.”<sup>184</sup>

In Philadelphia, the Pew Charitable Trusts provided \$4.5 million from 1996–2001 for the Targeted Neighborhood Initiative. “TNI was intended to support the efforts of four CDCs to achieve significant, visible change in housing and physical conditions in neighborhoods hard-hit by decades of economic and social disinvestment. ... TNI enabled its participating CDCs to build nearly 500 units of affordable housing in their target areas ... [and] undertake repairs in scores of owner-occupied homes.”<sup>185</sup>

In Baltimore’s Sandtown-Winchester neighborhood, Enterprise Community Partners funded the 10-year Neighborhood Transformation Initiative (NTI) to address problems related to the built environment, health, and education.<sup>186</sup> A recent study found that this NTI has resulted in a large increase in homeownership in the neighborhood, from 22.9% in 1990 to 42.1% at the end of the 2000s.<sup>187</sup>

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If these initiatives could improve the physical environment and quality of life in these very troubled big-city neighborhoods, then a similar initiative could certainly make a difference in a small, suburban neighborhood of just 329 homes.

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In Memphis, Tennessee, a 20-person steering committee of senior leaders from across the public, private for-profit, and private nonprofit sectors oversees Memphis Fast Forward, whose goal is to make “Memphis one of the most successful economic centers in the southern United States.”

In its first five years, Memphis Fast Forward helped reduce violent and property crimes by 26% and 32% respectively and create more than 14,000 new jobs.<sup>188</sup> Committee members meet monthly to share insights and coordinate their initiatives. Although Memphis Fast Forward predates coinage of “collective impact” by several years, it later adopted the term to describe its endeavors.<sup>189</sup>

These five case studies show what can be accomplished when a backbone organization invests its resources in grass-roots agenda setting, collaboration among stakeholders, comprehensive revitalization plans, and measurable results. The target neighborhoods dwarf Mt. Holly Gardens in area, population, and the depth of their problems. If these initiatives could improve the physical environment and quality of life in these very troubled big-city neighborhoods, then a similar initiative could certainly make a difference in a small, suburban neighborhood of just 329 homes.

There are critiques of collective impact. It is time-consuming and costly. Its focus on process over product means that nobody knows where the process will take them. The traditional planning process can seem much “cleaner” and more straightforward.

But when we compare the costs of collective impact to the costs of redeveloping the Gardens, collective impact’s costs no longer seem so onerous. The CCRP in the South Bronx ran for six years and cost \$10 million—money that was funneled into four CDCs to develop and implement comprehensive revitalization plans. The RCI lasted seven years in five target cities and cost \$15 million—money that was spent on capacity-building and attracting outside investment for housing.<sup>190</sup> The TNI in Philadelphia lasted five years and cost \$4.5 million. As mentioned earlier, this funding nearly doubled the percentage of homeowners in the target area. Although the NTI in Sandtown-Winchester, Baltimore, which lasted 10 years, cost an impressive \$70 million, half of which was earmarked for housing, this money was raised “from more than 65 public and private sources.”<sup>191</sup>

By contrast, the redevelopment of Mt. Holly Gardens—a neighborhood a fraction of the size of the South Bronx or Sandtown-Winchester—has lasted 15 years and counting and cost the Township \$24 million. This amount excludes real estate tax revenue lost during the redevelopment, when most of the land was vacant and Township-owned; real estate tax revenue lost due to the tax abatement for many of the new homes; additional costs yet to be expended for roads and sewers; unknown costs of increased insurance coverage for Township;<sup>192</sup> and the incalculable social costs of dismantling a community and dispersing its residents throughout the region.

When addressing problems in low-income, majority-minority neighborhoods, history suggests that the traditional planning process may end up causing more harm than good. Collective impact policymaking is not as time-consuming, costly, or divisive as what happened in Mount Holly. This alone makes it worth a municipality’s time to consider collective impact before diving into the deep end of redevelopment.

## Collective Impact in Mount Holly Township

Although “collective impact” had not yet been coined when the Mount Holly Township Council voted to redevelop the Gardens in 2002, there were plenty of examples of similar urban revitalization initiatives for Mount Holly to draw upon had it been so inclined. What if it had done so? What would collective impact have looked like in Mount Holly in the early 2000s? There is no way to know for certain, but based on this study’s interviews with stakeholders, archival research at Mount Holly’s City Hall, and analysis of court documents related to the state and federal cases, we can draw some conclusions about what might have transpired had the Council opted for a decision-making process that would subsequently be called collective impact.

Researchers identify five conditions for success of collective impact: “a common agenda, shared measurement systems, mutually reinforcing activities, continuous communication, and backbone support organizations.”<sup>193</sup>

The first and most important step is to designate a backbone support organization. Such an organization would need funding, and numerous foundations were already funding such organizations in other cities. Mount Holly’s first step would have been to apply for funding from one of these foundations, preferably one with deep roots in the mid-Atlantic region. Two logical options were the Pew Charitable Trusts (which, as we’ve seen, had just funded the Targeted Neighborhood Initiative in Philadelphia) and the Baltimore-based Annie E. Casey Foundation (which had just funded the Rebuilding Communities Initiative in five cities). If foundation funding to create a backbone organization was not forthcoming, the Council could have designated a local unit of government, perhaps the Township’s Planning Board, to be the backbone organization, but only after carefully vetting the Board’s leadership to ensure that it was committed to the inclusive spirit of collective-impact policymaking.

Next, the backbone organization would have assembled a wide array of stakeholders to identify a common agenda for the Gardens. Under collective impact, this group of stakeholders should include representatives of government, the for-profit sector, and the nonprofit sector.

Governmental stakeholders would have included the township manager, at least one member of the Township Council, and representatives of the township agencies whose actions most affected the Gardens: the Mount Holly Police Department (responsible for policing the Gardens); Economic Development (invested in the success of the downtown shopping district); Public Works (responsible for garbage collection); and Planning and Zoning (responsible for any changes to zoning rules for the Gardens). A representative from the Burlington County Board of Social Services (responsible for administering the Housing Choice Voucher program) would also have been included.

From the for-profit sector, the group of stakeholders would have included a representative landlord operating in the Gardens and a representative from the local downtown business community.

From the nonprofit sector, it would have included a representative from one of Burlington County’s CDCs, and a representative of the RVCA, preferably one who had been involved with the (by then defunct) Mount Holly 2000.

Finally, the group would have included Gardens residents, both homeowners and renters. The success of the neighborhood revitalization strategies described above suggests that when lower-income residents are empowered at the very start of the decision-making process, their communities will be less likely to suffer from unjust and inequitable outcomes.

Together, these stakeholders would identify a common agenda for the Gardens. We can deduce what this agenda would look like by examining the results of the interviews and archival research discussed earlier in this study. We know from this data that a wide array of stakeholders agreed that the two biggest problems for the Gardens were quality-of-life issues, especially related to the drug trade, and neglectful (if not outright exploitative) absentee landlords. We also know from the greater socioeconomic context of this redevelopment that both of these issues were exacerbated by the affordable housing crisis in Burlington County, a crisis that disproportionately affected African-Americans and Latinos. Thus, we can surmise that a common agenda would address the quality-of-life issues; decrease the damage done by absentee landlords; and improve the quantity and quality of affordable homes.

The backbone organization could have used a combination of shared measurement systems and mutually reinforcing activities to address the quality-of-life issues without resorting to redevelopment. First, the Mount Holly Police Department (MHPD) could have identified crime “hot spots” and targeted its policing just to those homes and blocks. The MHPD could have also instituted a curfew and quiet zones. Had it adopted clear metrics for tracking crimes throughout Mount Holly by street address, it could have quickly judged which of these interventions were most successful in reducing crime in the Gardens.

The Public Works Department could have cleared trash and litter more frequently, especially from the yards of vacant homes, and used a count of violations to measure the success of its interventions.

The Township Council could have voted to limit auto access to the Gardens through street closures and barriers. This would have undermined the viability of the drug trade in the neighborhood, which depended on non-resident customers. Again, by using metrics, the MHPD could have ascertained the success of this intervention by tracking the number of drug-related arrests in the Gardens, and how many of those arrests were of suspects who had arrived in the Gardens by car.

A combination of shared measurement systems and mutually reinforcing activities could have also addressed the problems caused by absentee landlords while preserving their ownership of Gardens properties. With help from the Township’s Buildings Department and the Burlington County Board of Social Services (BCBSS), the Township could have targeted neglectful absentee landlords by enforcing building codes and, when the landlord was renting to a family with a Housing Choice Voucher, HUD regulations. Code violations could have again been used to track the efficacy of these interventions. (The BCBSS could also have altered the fair market rent for Gardens homes to reflect the lower rents in the Gardens, thus ensuring that exploitative landlords could not take advantage of the HCV program.) Where appropriate, the Council could have helped a CDC buy and manage properties associated with crime. One such CDC, the Salt & Light Company, already owned several homes in the Gardens.

The common agenda, however, would likely have evolved as metrics identified which interventions were most successful. For that reason, the backbone organization would have ensured continuous communication among all stakeholders. The group of stakeholders from different sectors would have remained in continuous communication through repeated meetings until the quality-of-life issues and the problems of absentee landlords had been measurably reduced.

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...had the Township decided to pursue redevelopment nonetheless, it could have embraced the spirit of collective impact...

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These interventions would not have increased the number of decent affordable housing units in the County, but it would have improved the quality of those affordable units that did exist in Mount Holly, rather than exacerbating the affordable housing crisis by demolishing 329 of the few homes affordable to low-income families. And, as noted earlier, had the Township decided to pursue redevelopment nonetheless, it could have embraced the spirit of collective impact by taking seriously the concerns of site residents and accepting the FMG bid, which at least offered a chance for some of them to remain in affordable homes in Mount Holly.

### A Future for Collective Impact

In 1969, the *Journal of the American Institute of Planners* published Sherry Arnstein's seminal article, "A ladder of citizen participation." In her article, Arnstein drafted a progressive typology of citizen participation in planning:

1. Manipulation: Get citizens to agree; persuade through lies
2. Therapy: Treat poverty as mental illness; teach citizens to come to terms with their status
3. Informing: Talk, but don't listen, to citizens
4. Consultation: Talk and listen
5. Placation: Add token citizen representation to decision-making bodies; try to co-opt community leaders
6. Partnership: Citizens and power holders negotiate power sharing
7. Delegated power: Citizens control parts of plans
8. Citizen control: Citizens in total power<sup>194</sup>

Arnstein was writing at the peak of the post-War Urban Renewal regime, when hundreds of thousands of Americans—disproportionately low-income and minority—were being evicted from their homes so that their neighborhoods could be demolished and put to a "higher and better use."<sup>195</sup> This use was often for people with more money and whiter skin: middle-income housing projects, office projects, elevated freeways to the suburbs, and arts districts like Lincoln Center.<sup>196</sup>

In her article, Arnstein identified the tools by which planners excluded these displaced persons from the decision-making process, and she urged these planners to adopt more inclusive decision-making strategies (i.e., to move to higher rungs on her ladder of participation).

In response to articles like Arnstein's and the activism of low-income and minority communities, planners moved away from such explicitly exclusionary redevelopment strategies. In many cities, new governmental structures were instituted to ensure that site residents had at least some say in the redevelopment process. In New York City's Lower East Side, locals, through their Community Board (established in 1975), were able to ensure that one leftover urban renewal scheme, the Seward Park Urban Renewal Area, would include far more replacement affordable housing for displaced site residents than would likely have been allowed when the project was first proposed in the 1960s.<sup>197</sup>

Meanwhile, since the 1970s several foundations have funded ever more sophisticated urban interventions designed to empower locals to take control of their own neighborhoods. They have provided funds for training, technical assistance, housing construction, and workforce development. They have introduced metrics for measuring the success of different interventions, and they have taught other communities how to adopt the most successful of these strategies. Collective impact is the culmination of this movement, a structure upon which community activists, professional planners, and municipal officials can address the problems of low-income and minority neighborhoods without destroying them.

But these new governmental structures and interventions are often absent in smaller suburban communities like Mount Holly, which until recently have had few opportunities to redevelop neighborhoods. This is changing. Poverty is growing faster in the suburbs than in the cities,<sup>198</sup> and more and more suburbs are faced, often for the first time, with the need to address problems associated with low-income, often majority-minority neighborhoods. The Township Council of Mount Holly, having no experience in this area, reverted to the same exclusionary strategies Arnstein identified 50 years ago. It treated the redevelopment process as its opportunity to inform site residents of what would happen to them; councilmembers talked but did not listen. The result was little different, albeit on a smaller scale, than what happened in large urban neighborhoods from the 1940s to the 1970s.

However, because of disparate impact and the Fair Housing Act, residents of these suburban neighborhoods may be in a position to challenge these redevelopment schemes in court; they can turn redevelopment believed to be discriminatory into a costly experience for suburban municipalities, as Mount Holly learned. Collective impact, then, is not merely a progressive thing to do, nor simply the right thing to do. It is the tool by which suburban municipalities can avoid making destructive and costly mistakes.

Most big American cities have transitioned from planning that focuses on segregating land uses and people to planning that integrates multiple perspectives and communities. That process is certainly incomplete, but it has saved America's large cities from repeating the worst of the mistakes they made in the mid-20th century. It is not too late for suburbs to learn from these mistakes. The story of Mt. Holly Gardens is a stark warning for suburban America as it struggles to craft revitalization efforts that are effective *and* equitable.

# ENDNOTES

## Endnotes

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- <sup>1</sup> Mt. Holly Gardens is smaller than a census tract, but according to Social Explorer (<http://www.socialexplorer.com>), the census tract that includes Mt. Holly Gardens was 39% black and 14% Hispanic in 1990, and 40% black and 15% “persons of Spanish origins” in 1980. These numbers suggest that the Gardens maintained its racial and ethnic makeup for much of the last third of the 20<sup>th</sup> century.
- <sup>2</sup> De Poto, T. (2012, October 21). “Mount Holly and a citizens’ group may be headed to nation’s top court.” *Newark Star-Ledger*.
- <sup>3</sup> United States Supreme Court. (2012). *Brief amicus curiae of Eagle Forum Education & Legal Defense Fund, Inc., in support of petitioner, Township of Mount Holly et al. v. Mt. Holly Gardens Citizens in Action, Inc., et al.*; New Jersey Department of the Public Advocate. (2008). *Evicted from the American Dream: The Redevelopment of Mount Holly Gardens*.
- <sup>4</sup> New Jersey Department of the Public Advocate. (2008). *Evicted from the American Dream: The Redevelopment of Mount Holly Gardens*.
- <sup>5</sup> United States Court of Appeals, Third Circuit. (2011). *Mt. Holly Gardens Citizens in Action, Inc., v. Twp. of Mount Holly*, 658 F.3d 375.
- <sup>6</sup> New Jersey Department of the Public Advocate. (2008). *Evicted from the American Dream: The Redevelopment of Mount Holly Gardens*.
- <sup>7</sup> Ibid.
- <sup>8</sup> This redevelopment plan, as well as the previous two plans, entailed “extensive public comment, testimony, and written objections,” as the trial court judge noted in his opinion. In other words, none of the plans was created in a political vacuum. Each reflected input from township residents, including residents of the Gardens, so it is likely that the changes in the second and third plans reflect the concerns raised by residents.
- <sup>9</sup> Schneider, V. (2014). “In defense of disparate impact: Urban redevelopment and the Supreme Court’s recent interest in the Fair Housing Act.” *Missouri Law Review*, 79, p. 539.
- <sup>10</sup> Wang, D. (2012, August 1). “New Jersey town rips up working-class neighborhood for private developers.” *The Huffington Post*.
- <sup>11</sup> Ibid.
- <sup>12</sup> Serwer, A. (2013, November 14). “Mount Holly settlement spares Fair Housing Act—for now.” *MSNBC*.
- <sup>13</sup> *Settlement Agreement Resolving Litigation in the Matter of Mt. Holly Gardens Citizens in Action, Inc., et al v. Township of Mt. Holly, et al., Case No. 1:08-cv-02584-NLH-JS* (section 4.16.3).
- <sup>14</sup> Kania, J. & Kramer, M. (2011, Winter). Collective impact. *Stanford Social Innovation Review*, p. 36.
- <sup>15</sup> Kania, J. & Kramer, M. (2013). Embracing emergence: How collective impact addresses complexity. *Stanford Social Innovation Review*, pp. 1-7.
- <sup>16</sup> For an overview of planning history’s focus on segregating land uses—and of attempts by recent planning theorists to change this focus—see Lock, D. (2003). “Planning for sustainable communities” (pp. 49-64) in P. Neal, ed., *Urban Villages and the Making of Communities*, Spon Press: London. For a late 20<sup>th</sup> century defense of the segregation of land uses in planning, see Jacobs, A. & Appleyard, D. (1987). “Toward an urban design manifesto.” *Journal of the American Institute of Planning*, p. 53.
- <sup>17</sup> Sugrue, T. (2005). *The origins of the urban crisis: Race and inequality in postwar Detroit*, rev ed. Princeton University Press: Princeton, NJ.
- <sup>18</sup> Metropolitan Planning Council, *The cost of segregation*. <https://www.metroplanning.org/index.html>.
- <sup>19</sup> For two opposing views on the role of private property rights in American society, see Christman, J. (1994). *The Myth of Property: Toward an Egalitarian Theory of Ownership*. Oxford University Press: New York; and Friedman, M. (2002). *Capitalism and Freedom: Fortieth Anniversary Edition*. Chicago: University of Chicago Press.
- <sup>20</sup> See, for example, *Chicago, Burlington & Quincy Railroad v. City of Chicago* (1897) and *Clark v. Nash* (1905).
- <sup>21</sup> “Just as we decline to second-guess the City’s considered judgments about the efficacy of its development plan, we also decline to second-guess the City’s determinations as to what lands it needs to acquire in order to effectuate the project.” *Susette Kelo, et al., Petitioners v. City of New London, Connecticut, et al.* (2005, June 23).

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<sup>22</sup> “This Court’s authority, however, extends only to determining whether the City’s proposed condemnations are for a ‘public use’ within the meaning of the Fifth Amendment to the Federal Constitution. Because over a century of our case law interpreting that provision dictates an affirmative answer to that question, we may not grant petitioners the relief that they seek.” *Susette Kelo, et al., Petitioners v. City of New London, Connecticut, et al.* (2005, June 23).

<sup>23</sup> Pritchett, W. (2003). “The ‘public menace’ of blight: Urban renewal and the private uses of eminent domain.” *Yale Law & Policy Review*, 21, pp. 1-52.

<sup>24</sup> Washington, DC, did not win home rule until 1973, so this redevelopment plan was conducted by the federal government, but the decision applied to all levels of government.

<sup>25</sup> Pritchett, W. (2003). “The ‘public menace’ of blight: Urban renewal and the private uses of eminent domain.” *Yale Law & Policy Review*, 21, pp. 1-52.

<sup>26</sup> Chen, R. K. (2010). “Gallenthin v. Kaur: A comparative analysis of how the New Jersey and New York courts approach judicial review of the exercise of eminent domain for redevelopment.” *Fordham Urban Law Journal*, 38, 987.

<sup>27</sup> The New Jersey Supreme Court curtailed this deference in its 2007 *Gallenthin Realty Development, Inc. v. Borough of Paulsboro* decision, under which “an agency determination of blight must be supported by ‘substantial evidence,’ such that the agency must satisfy a vigorous threshold evidentiary requirement, not merely supported by ‘the net opinion of an expert,’ before being entitled deference.” (Chen, R. K. [2010]. “Gallenthin v. Kaur: A comparative analysis of how the New Jersey and New York courts approach judicial review of the exercise of eminent domain for redevelopment.” *Fordham Urban Law Journal*, 38, p. 989.) However, just five months after handing down its *Gallenthin* decision, the same New Jersey Supreme Court rejected the site residents’ appeal of the state trial court decision in the *Mt. Holly* case, suggesting that the Township’s redevelopment plan satisfied this “vigorous threshold evidentiary requirement.”

<sup>28</sup> See Chen, R. K. (2010). “Gallenthin v. Kaur: A comparative analysis of how the New Jersey and New York courts approach judicial review of the exercise of eminent domain for redevelopment.” *Fordham Urban Law Journal*, 38, 987; and Pritchett, W. (2003). “The ‘public menace’ of blight: Urban renewal and the private uses of eminent domain.” *Yale Law & Policy Review*, 21, pp. 1-52.

<sup>29</sup> Becher, D. (2014). *Private property and public power: Eminent domain in Philadelphia*. Oxford University Press: New York.

<sup>30</sup> For more on this topic, see: Dreier, P., Mollenkopf, J., & Swanstrom, T. (2004). “The roads not taken: How government policies promote economic segregation and suburban sprawl.” In *Place Matters: Metropolitcs for the Twenty-first Century* (pp. 103-151). Lawrence, KS: University Press of Kansas; Beauregard, R. (2003). *Voices of Decline: The Postwar Fate of U.S. Cities* (2<sup>nd</sup> Ed.). New York: Routledge; Teaford, J. (1990). *The Rough Road to Renaissance: Urban Revitalization in America, 1940-1985*. Baltimore: Johns Hopkins University Press; Jackson, K. (1985). *The Crabgrass Frontier: The Suburbanization of the United States*. New York: Oxford University Press.

<sup>31</sup> A careful read of *Historical Statistics of the United States: Colonial Times to 1970, Part I: Bicentennial Edition* (Bureau of the Census, 1975), shows many examples of this transformation between 1940 and 1970. For example, the number of farmers in New Jersey declined from 143,000 in 1940 to 50,000 in 1970 (p. 458) and the number of farms declined from 26,000 in 1940 to 8,000 in 1970 (p. 459). The average acreage per farm, by contrast, rose from 73 to 122 in the same period (p. 461), indicating that the agricultural sector in New Jersey was becoming more corporate and industrialized, with many small, labor-intensive farms being replaced by large, industrialized concerns. Meanwhile, 200,700 people moved into New Jersey between 1940 and 1950, and another 409,900 in between 1950 and 1960 (p. 93). According to the 1970 U.S. Census, the state was 88.9% urban and just 11.1% rural.

<sup>32</sup> According to the 1960 and 1970 U.S. censuses, the population of Burlington Country grew by 65.2% between 1950 and 1960, and 43.9% between 1960 and 1970.

<sup>33</sup> New Jersey Department of the Public Advocate. (2008). *Evicted from the American Dream: The Redevelopment of Mount Holly Gardens*, p. 4.

<sup>34</sup> New Jersey Department of the Public Advocate. (2008). *Evicted from the American Dream: The Redevelopment of Mount Holly Gardens*, p. 5.

<sup>35</sup> Interview with Kent Pipes, 1/31/17. Sales and rental records are not available from the 1960s, so the author was unable to confirm this account.

<sup>36</sup> *Ibid.*, p. 5.

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<sup>37</sup> Ibid., p. 5, as well as Serwer, A. (2013, November 5). “Bulldozing homes and civil rights in Mount Holly, NJ.” *MSNBC*, and United States Supreme Court. (2012, June 11). *Petition for a Writ of Certiorari, Township of Mount Holly et al. v. Mt. Holly Gardens Citizens in Action, Inc., et al.*

<sup>38</sup> Mt. Holly Gardens is smaller than a census tract, but according to the Social Explorer website (<http://www.socialexplorer.com>), the census tract that includes Mt. Holly Gardens was 39% black and 14% Hispanic in 1990, and 40% black and 15% “persons of Spanish origins” in 1980. These numbers suggest that the Gardens maintained its racial and ethnic makeup for much of the last third of the 20<sup>th</sup> century.

<sup>39</sup> De Poto, T. (2012, October 21). “Mount Holly and a citizens’ group may be headed to nation’s top court.” *Newark Star-Ledger*.

<sup>40</sup> Interview with Larry Miller, 2/23/17.

<sup>41</sup> Interview with Doris Pulone, 3/4/17.

<sup>42</sup> Interview with John Mengle, 3/9/17.

<sup>43</sup> Interviews with Doris Pulone, 3/4/17, and John Mengle, 3/9/17.

<sup>44</sup> Interview with Doris Pulone, 3/4/17, and Nick Sodano, 2/16/17.

<sup>45</sup> Interview with Larry Miller, 2/23/17.

<sup>46</sup> Philadelphia Inquirer. (1988, April 12). “Clergy urge affordable housing in Mount Holly.” Two months after this meeting, on May 18, 1988, the Clergy Association voted unanimously “to authenticate housing as a [sic] integral concern for our clergy association on an on-going basis.” Memo from Kent Pipes to Colleagues in Ministry, 5/19/88.

<sup>47</sup> Interviews with Wes Kennedy, 2/7/17, and Phil Olson, 3/14/17.

<sup>48</sup> Interview with Doris Pulone, 3/4/17.

<sup>49</sup> Certificate of Incorporation, Mount Holly 2000, July 19, 1990, collection of Joseph Jones.

<sup>50</sup> Interview with Thomas Hand, 4/18/17.

<sup>51</sup> Minutes, Board of Trustees, Mount Holly 2000, 7/9/97, collection of Joseph Jones.

<sup>52</sup> Interview with Thomas Hand, 4/18/17.

<sup>53</sup> Interview with Joseph Jones, 3/13/17.

<sup>54</sup> Interview with Thomas Hand, 4/18/17.

<sup>55</sup> Funding approval letters in collection of Joseph Jones. Specifically:

- January 21, 1994, from Stephanie R. Bush, Acting Commissioner, NJDCA, to Joseph L. Jones, President, Mount Holly 2000, Inc., approval “to receive an award of \$50,000 from the New Jersey Department of Community Affairs. This HOME – Community Housing Development Organizations award will provide funds for pre-development activities for the Mt. Holly Garden [sic] project.”
- August 11, 1994, from Harriet Derman, Commissioner, State of New Jersey, Department of Community Affairs, to Lawrence C. Blair, CHC, Consultant to Mt. Holly 2000, Inc., informing him that she has “approved your Balanced Housing Grant request in the amount of \$211,000 for Mt. Holly Gardens.”
- August 25, 1994, from Margaret G. Huchet, Administrator, Balanced Housing Program, State of New Jersey, Department of Community Affairs; to Silverius Galvan, U.S. Department of Housing and Urban Development; confirming that the DCA has approved an award of Balanced Housing Program funds of \$188,600 to Mount Holly Township on behalf of the Mount Holly Gardens project. “The funds will assist the developer, Mt. Holly 2000, Inc., to substantially rehabilitate 10 apartments [sic] for rent to low income families in the Mt. Holly Gardens neighborhood.”
- December 7, 1994, from Andrew Cuomo, Assistant Secretary for Community Planning and Development at HUD, to Kent Pipes, Board Member, Mt. Holly 2000, Inc.; informing Mt. Holly 2000 that it “has been selected for funding in the amount of \$75,000 through the John Heinz Neighborhood Development Program.”
- April 24, 1995, from Harriet Derman, Commissioner, State of New Jersey, Department of Community Affairs (DCA), to Joseph L. Jones, President, Mount Holly 2000, Inc., announcing award of \$32,000 from DCA as a HOME – Community Housing Development Organization Operations Program award to “provide funds for administrative expenses in conjunction with the Mount Holly Gardens project.”

<sup>56</sup> Board of Trustees of \_\_\_\_\_ meeting minutes, 5/8/96.

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- <sup>57</sup> Interview with Thomas Hand, 4/18/17.
- <sup>58</sup> Interview with Brooke Tidswell, 4/18/17.
- <sup>59</sup> Mathis, M. (2002, November 13). "Trucker death." *Burlington County Times*, p. 7A; Balona, D.M. (1998, October 23). "Arrest is made in man's death; police say the victim, found in a school parking lot, was involved in a drug deal. A second suspect is being sought." *The Philadelphia Inquirer*, p. B01.
- <sup>60</sup> Interview with Brooke Tidswell, 4/18/17.
- <sup>61</sup> Ibid.
- <sup>62</sup> Interview with Kent Pipes, 1/13/17.
- <sup>63</sup> Interview with Arch Liston, 3/29/17.
- <sup>64</sup> United States Supreme Court. (2012). *Brief amicus curiae of Eagle Forum Education & Legal Defense Fund, Inc., in support of petitioner, Township of Mount Holly et al. v. Mt. Holly Gardens Citizens in Action, Inc., et al.*; New Jersey Department of the Public Advocate. (2008). *Evicted from the American Dream: The Redevelopment of Mount Holly Gardens*.
- <sup>65</sup> 545 U.S. No. 04-108, *Susette Kelo, et al., Petitioners v. City of New London, Connecticut, et al., Justice Thomas Dissenting* (2005), pp. 18-19.
- <sup>66</sup> United States Court of Appeals, Third Circuit. (2011). *Mt. Holly Gardens Citizens in Action, Inc., v. Twp. of Mount Holly*, 658 F.3d 375.
- <sup>67</sup> Interview with Janice E. Talley, 3/6/17.
- <sup>68</sup> Interview with Brooke Tidswell, 4/18/17.
- <sup>69</sup> United States Supreme Court. (2012, September 11). *Brief in opposition for Mt. Holly Gardens Respondents, Township of Mount Holly et al. v. Mt. Holly Gardens Citizens in Action, Inc., et al.*
- <sup>70</sup> New Jersey Department of the Public Advocate. (2008). *Evicted from the American Dream: The Redevelopment of Mount Holly Gardens*.
- <sup>71</sup> United States Court of Appeals, Third Circuit. (2011). *Mt. Holly Gardens Citizens in Action, Inc., v. Twp. of Mount Holly*, 658 F.3d 375.
- <sup>72</sup> United States Supreme Court. (2012, June 11). *Petition for a Writ of Certiorari, Township of Mount Holly et al. v. Mt. Holly Gardens Citizens in Action, Inc., et al.*
- <sup>73</sup> United States Court of Appeals, Third Circuit. (2011). *Mt. Holly Gardens Citizens in Action, Inc., v. Twp. of Mount Holly*, 658 F.3d 375.
- <sup>74</sup> New Jersey Department of the Public Advocate. (2008). *Evicted from the American Dream: The Redevelopment of Mount Holly Gardens*.
- <sup>75</sup> Mount Holly Township. (July 2005). *West Rancocas Redevelopment Area: Request for Proposal*. Mount Holly, NJ.
- <sup>76</sup> Mount Holly Township. (n.d.). *RFP instructions*. Mount Holly, NJ.
- <sup>77</sup> Ibid.
- <sup>78</sup> United States Court of Appeals, Third Circuit. (2011). *Mt. Holly Gardens Citizens in Action, Inc., v. Twp. of Mount Holly*, 658 F.3d 375.
- <sup>79</sup> De Poto, T. (2012, October 21). "Mount Holly and a citizens' group may be headed to nation's top court." *Newark Star-Ledger*.
- <sup>80</sup> Interview with Brooke Tidswell, 4/18/17.
- <sup>81</sup> New Jersey Department of the Public Advocate. (2008). *Evicted from the American Dream: The Redevelopment of Mount Holly Gardens*.
- <sup>82</sup> This redevelopment plan, as well as the previous two plans, entailed "extensive public comment, testimony, and written objections," as the trial court judge noted in his opinion. In other words, none of the plans were created in a political vacuum. Each reflected input from township residents, including residents of the Gardens, so it is likely that the changes in the second and third plans reflect the concerns raised by residents.
- <sup>83</sup> Schneider, V. (2014). "In defense of disparate impact: Urban redevelopment and the Supreme Court's recent interest in the Fair Housing Act." *Missouri Law Review*, 79, p. 539.
- <sup>84</sup> Wang, D. (2012, August 1). "New Jersey town rips up working-class neighborhood for private developers." *The Huffington Post*.
- <sup>85</sup> Interview with Brooke Tidswell, 4/19/17.
- <sup>86</sup> Borkoski, K. (2013, December 10). "Mount Holly Gardens and the Court." *SCOTUSblog*.
- <sup>87</sup> Schwemm, R. (2008-2016). *Housing Discrimination: Law and Litigation*. New York: Thomson Reuters, pp. 2-3. New York: Thomson Reuters.

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- <sup>88</sup> *The Kerner Report: The 1968 Report of the National Advisory Commission on Civil Disorders*, p. 1.
- <sup>89</sup> *The Kerner Report: The 1968 Report of the National Advisory Commission on Civil Disorders*, p. 244.
- <sup>90</sup> Schwemm, R. (2008-2016). *Housing Discrimination: Law and Litigation*. New York: Thomson Reuters, pp. 5-2, 5-3, and 5-4.
- <sup>91</sup> Johnson, O. C. (2014). "Agency roots of disparate impact." *The Harvard Civil Rights-Civil Liberties Law Review*, 49, 125.
- <sup>92</sup> Not all the Circuit Courts designed their disparate impact test the same way, but a regulation issued by the federal Department of Housing and Urban Development in 2013 made this "shifting burden" test the standard across all Circuits.
- <sup>93</sup> United States Supreme Court. (2013, May 17). *Brief for the United States as Amicus Curiae, Township of Mount Holly et al. v. Mt. Holly Gardens Citizens in Action, Inc., et al.*
- <sup>94</sup> Schneider, V. (2014). "In defense of disparate impact: Urban redevelopment and the Supreme Court's recent interest in the Fair Housing Act." *Missouri Law Review*, 79, p. 539.
- <sup>95</sup> Bailey, M. (2012, August). *Measuring court preferences, 1950 – 2011: Agendas, polarity and heterogeneity*. Georgetown University: Washington, DC.
- <sup>96</sup> Supreme Court of the United States. (2013, June 25). *Shelby County, Alabama, Petitioner v. Eric H. Holder, Jr., Attorney General, et al.* (No. 12-96).
- <sup>97</sup> Seicshnaydre, S. E. (2013). "Is disparate impact having any impact; an appellate analysis of forty years of disparate impact claims under the fair housing act." *American University Law Review*, 63, 357.
- <sup>98</sup> Schwemm, R. & Bradford, C. (2016). "Proving disparate impact in fair housing cases after *Inclusive Communities*." *Law Faculty Scholarly Articles*, 19, p. 685-770.
- <sup>99</sup> United States District Court for the District of New Jersey (2011). *Mt. Holly Gardens Citizens in Action, Inc., v. Twp. of Mount Holly*, Civil Action No. 08-2584 (NLH)(JS), p. 45a.
- <sup>100</sup> United States District Court for the District of New Jersey. (2011). *Mt. Holly Gardens Citizens in Action, Inc., v. Twp. of Mount Holly*, Civil Action No. 08-2584 (NLH)(JS), p. 46a.
- <sup>101</sup> United States District Court for the District of New Jersey. (2011). *Mt. Holly Gardens Citizens in Action, Inc., v. Twp. of Mount Holly*, Civil Action No. 08-2584 (NLH)(JS).
- <sup>102</sup> United States Court of Appeals, Third Circuit. (2011). *Mt. Holly Gardens Citizens in Action, Inc., v. Twp. of Mount Holly*, 658 F.3d 375.
- <sup>103</sup> Even some opponents of disparate impact concede as much. See United States Supreme Court. (2012). *Brief of amici curiae National Leased Housing Association, National Multi Housing Council, National Apartment Association and New Jersey Apartment Association in support of petitioners, Township of Mount Holly et al. v. Mt. Holly Gardens Citizens in Action, Inc., et al.*
- <sup>104</sup> United States Supreme Court. (2012, June 11). *Petition for a Writ of Certiorari, Township of Mount Holly et al. v. Mt. Holly Gardens Citizens in Action, Inc., et al.*
- <sup>105</sup> De Poto, T. (2012, October 21). "Mount Holly and a citizens' group may be headed to nation's top court." *Newark Star-Ledger*.
- <sup>106</sup> The Associated Press. (2013, June 17). "U.S. Supreme Court to hear N.J. housing discrimination case."
- <sup>107</sup> *Ibid.*
- <sup>108</sup> Wolf, R. (2013, September 8). "Housing discrimination case puts high court on hot seat." *USA Today*.
- <sup>109</sup> For a full list of amici briefs filed in this case, see <http://www.scotusblog.com/case-files/cases/mount-holly-v-mt-holly-gardens-citizens-in-action-inc/>.
- <sup>110</sup> Mlynski, C. (2013, September 4). "MBA submits brief as Supreme Court takes up disparate impact." *HousingWire*.
- <sup>111</sup> Prior, J. (2015, June 25). SCOTUS upholds Obama legal tactic in fair housing cases. *Politico*.
- <sup>112</sup> Serwer, A. (2013, November 14). "Mount Holly settlement spares Fair Housing Act—for now." *MSNBC*.
- <sup>113</sup> Interview with Richard Evert, 3/13/17.
- <sup>114</sup> Interview with Olga Pomar, 12/20/16.
- <sup>115</sup> Interview with George Saponaro, 1/27/17.
- <sup>116</sup> Interviews with Olga Pomar, 12/20/16; and George Saponaro, 1/27/17.
- <sup>117</sup> GARP figures from United States Court of Appeals, Third Circuit. (2011). *Mt. Holly Gardens Citizens in Action, Inc., v. Twp. of Mount Holly*, 658 F.3<sup>rd</sup> 375; WRRP figures from New Jersey Department of the Public Advocate. (2008). *Evicted from the American Dream: The Redevelopment of Mount Holly Gardens*; WRRP Amended figures

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from Schneider, V. (2014). "In defense of disparate impact: Urban redevelopment and the Supreme Court's recent interest in the Fair Housing Act." *Missouri Law Review*, 79, 539; Settlement figures from *Settlement Agreement Resolving Litigation in the Matter of Mt. Holly Gardens Citizens in Action, Inc., et al v. Township of Mt. Holly, et al., Case No. 1:08-cv-02584-NLH-JS* (Collection of Reinvestment Fund).

<sup>118</sup> Interview with Jeff Morris, Development Partners, 10/12/16.

<sup>119</sup> In 2018, TRF Development Partners changed its name to ReBuild Metro.

<sup>120</sup> DiFolco, R. & Saponaro, G. (2015, July 4). "COMMENTARY: Mount Holly a model for fair housing." *Cherry Hill Courier-Post*.

<sup>121</sup> Although New Jersey banned any further RCAs in 2008, Mt. Holly still had unused funds from an earlier RCA as of 2013.

<sup>122</sup> *Redevelopment Agreement for a Portion of the West Rancocas Redevelopment Area by and Between Township of Mount Holly as Redevelopment Entity and TRF Development Partners, Inc.*, November 13, 2013 (Collection of Reinvestment Fund); and email communication with TRF Development Partners President Sean Closkey, 10/19/16.

<sup>123</sup> *Ibid.*

<sup>124</sup> Kendall, D. (2013, October 29). "Profiles in cowardice: Conservatives, eminent domain and civil rights in the Mount Holly case." *Constitutional Accountability Center Text & History Blog.*; Shesol, J. (2013, December 4). "The Court's contempt for Congress." *The New Yorker*.

<sup>125</sup> Issa, D. (2013, November 12). Letter to Donald Hinkle-Brown. Collection of Reinvestment Fund.

<sup>126</sup> Eastland, T. (2013, May 27). "Thomas Perez makes a deal." *The Weekly Standard*.

<sup>127</sup> Interview with Ira Goldstein and Sean Closkey, August 8, 2016.

<sup>128</sup> Hefler, J. (2016, July 14). "Mount Holly residents get new homes after decade-long discrimination fight." *Philly.com*.

<sup>129</sup> Hancock, P. & Glass, A. (2015). "Symposium: The Supreme Court recognizes but limits disparate impact in its Fair Housing Act decision." *SCOTUSblog*.

<sup>130</sup> *Settlement Agreement Resolving Litigation in the Matter of Mt. Holly Gardens Citizens in Action, Inc., et al v. Township of Mt. Holly, et al., Case No. 1:08-cv-02584-NLH-JS* (section 4.16.3).

<sup>131</sup> Hefler, J. (2018, July 2). "Nine new houses sit empty in Mount Holly. Here's why." *The Philadelphia Inquirer*.

<sup>132</sup> According to New Jersey's MOD-IV property sales data for Burlington County, a 1-bedroom home in the Gardens measured 625-square-feet, a 2-bedroom measured either 960-square-feet or 992-square-feet, and a 3-bedroom measured 1,200-square-feet.

<sup>133</sup> See Balona, D.M. (1998, October 24). "Judge sets \$300,000 bonds for suspects; Two are accused in a Texas man's death. The victim was run over by a tractor-trailer." *The Philadelphia Inquirer*, pg. B01; and Levy, M. (2000, June 29). "Willingboro man guilty of robbing Texas trucker; Jurors were unable to decide whether Walter Houston had caused the death of Roy Dale Nelson, who was crushed by the big rig." *The Philadelphia Inquirer*, pg. B01.

<sup>134</sup> Interview with Thomas Hand, 4/18/17.

<sup>135</sup> Although a 1989 Acquisition and Development Plan stated that there were 50 Section 8 voucher holders living among the Gardens' 379 units (p. 24), subsequent redevelopment plans and neighborhood assessments failed to count the number of Section 8 voucher holders, let alone define their relationship with quality-of-life issues or crime.

<sup>136</sup> Mt. Holly 2000 Board of Directors meeting minutes (1991-1998), archives of Mt. Holly 2000 (Joseph Jones).

<sup>137</sup> Interview with Thomas Hand, 4/18/17.

<sup>138</sup> *Minutes for the Regular Meeting of Township Council, August 11, 2003*, archives of the Township of Mount Holly.

<sup>139</sup> Interview with Janice Talley, 3/6/17.

<sup>140</sup> Interview with Gerald Velazquez, 5/23/17.

<sup>141</sup> Interview with Larry Miller, 2/23/17.

<sup>142</sup> Interview with Doris Pulone, 3/4/17.

<sup>143</sup> Interview with Nick Sodano, 2/17/17.

<sup>144</sup> Interview with Ronald Chen, 2/14/17.

<sup>145</sup> Anonymous interview, 6/3/17.

<sup>146</sup> Interview with Santos Cruz, 6/3/17.

<sup>147</sup> *Minutes for the Regular Meeting of Township Council, May 23, 2003*, archives of the Township of Mount Holly.

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- <sup>148</sup> *Minutes for the Regular Meeting of Township Council, August 11, 2003*, archives of the Township of Mount Holly.
- <sup>149</sup> *Minutes for the Regular Meeting of Township Council, September 23, 2002*, archives of the Township of Mount Holly.
- <sup>150</sup> *Minutes for the Regular Meeting of Township Council, May 23, 2003*, archives of the Township of Mount Holly.
- <sup>151</sup> Interview with Santos Cruz interview, 6/3/17.
- <sup>152</sup> Anonymous interview, 6/3/17.
- <sup>153</sup> Interview with James Potter interview, 6/3/17.
- <sup>154</sup> *Minutes for the Regular Meeting of Township Council, May 27, 2003*, archives of the Township of Mount Holly.
- <sup>155</sup> *Minutes for the Regular Meeting of Township Council, November 10, 2003*, archives of the Township of Mount Holly.
- <sup>156</sup> Interview with Santos Cruz, 6/3/17.
- <sup>157</sup> Kinney, M. (2003, October 26). "People losing out to neighborhood." *The Philadelphia Inquirer*, p. B01.
- <sup>158</sup> Interview with Santos Cruz, 6/3/17.
- <sup>159</sup> Rao, M. (2010, May 12). "Challengers oust two Mount Holly incumbents." *The Philadelphia Inquirer*, p. B01.
- <sup>160</sup> "Muni Notes," Mount Holly Township archives.
- <sup>161</sup> Wang, D. (2012, August 1). "New Jersey town rips up working-class neighborhood for private developers." *The Huffington Post*.
- <sup>162</sup> Krebs, R. (2012, April 11). "Tie vote stymies project." *Burlington County Times*, p. A3.
- <sup>163</sup> According to former councilmember Brooke Tidswell, \$24 million was the Township's bond limit, and the entire redevelopment—including legal fees—ended up costing almost exactly that much (interview, 4/18/17).
- <sup>164</sup> *Mt. Holly Township 2000 Master Plan*, p. 53.
- <sup>165</sup> Slachetka, S. & Roberts, D. (2003). *The Redevelopment Handbook: A Guide to Rebuilding New Jersey's Communities* (revised 2011). New Jersey Department of Community Affairs and the American Planning Association New Jersey Chapter, p. 207.
- <sup>166</sup> *Five Year Consolidated Plan 2000 – 2004*, Burlington County, New Jersey, Department of Economic Development, p. 150.
- <sup>167</sup> *Ibid.*
- <sup>168</sup> First Montgomery Group. (2005). *First Montgomery Group Proposal for West Rancocas Redevelopment Area*. Marlton, NJ.
- <sup>169</sup> *Ibid.*
- <sup>170</sup> *Ibid.*
- <sup>171</sup> *Ibid.*
- <sup>172</sup> *Ibid.*
- <sup>173</sup> *Ibid.*
- <sup>174</sup> Mount Holly Township. (n.d.). *RFP instructions*. Mount Holly, NJ.
- <sup>175</sup> Kania, J. & Kramer, M. (2011, Winter). "Collective impact." *Stanford Social Innovation Review*, p. 38
- <sup>176</sup> Kania, J. & Kramer, M. (2011, Winter). "Collective impact." *Stanford Social Innovation Review*, p. 36
- <sup>177</sup> Kania, J. & Kramer, M. (2013). "Embracing emergence: How collective impact addresses complexity." *Stanford Social Innovation Review*, pp. 1-7
- <sup>178</sup> Kania, J. & Kramer, M. (2011, Winter). "Collective impact." *Stanford Social Innovation Review*, p. 39
- <sup>179</sup> Foundations can help by funding these backbone organizations. See Turner, S., Merchant, K., Kania, J., & Martin, E. (2012). *Understanding the Value of Backbone Organizations in Collective Impact: Part 1*. The Greater Cincinnati Foundation (GCF). In many circumstances, several funders must work together to fund the backbone organization. See Janson, N. (2016, June). *It Takes a Village – But the Village Needs a Vision: The Role of the "Quarterback" Organization in Comprehensive Community Development With Case Studies From Chelsea, MA, Los Angeles, CA, and the Rural Midwest*. NeighborWorks America.
- <sup>180</sup> Miller, A. & Burns, T. (2006). *Going Comprehensive: Anatomy of an Initiative that Worked: CCRP in the South Bronx*. OMG Center for Collaborative Learning: Philadelphia.
- <sup>181</sup> Miller, A. & Burns, T. (2006). *Going Comprehensive: Anatomy of an Initiative that Worked: CCRP in the South Bronx*. OMG Center for Collaborative Learning: Philadelphia, p. 44
- <sup>182</sup> Miller, A. & Burns, T. (2006). *Going Comprehensive: Anatomy of an Initiative that Worked: CCRP in the South Bronx*. OMG Center for Collaborative Learning: Philadelphia, p. 72

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- <sup>183</sup> Annie E. Casey Foundation. (2002). *Learning from the Journey: Reflections on the Rebuilding Communities Initiative*. Annie E. Casey Foundation: Baltimore.
- <sup>184</sup> Miller, A. & Burns, T. (2006). *Going Comprehensive: Anatomy of an Initiative that Worked: CCRP in the South Bronx*. OMG Center for Collaborative Learning: Philadelphia, p. 73.
- <sup>185</sup> Miller, A. & Burns, T. (2006). *Going Comprehensive: Anatomy of an Initiative that Worked: CCRP in the South Bronx* (pp. 73-74). OMG Center for Collaborative Learning: Philadelphia, pp. 73-74.
- <sup>186</sup> Brown, P., Butler, B. & Hamilton, R. (2001). *The Sandtown-Winchester Neighborhood Transformation Initiative: Lessons Learned About Community Building and Implementation*. The Enterprise Foundation: Washington, DC.
- <sup>187</sup> Rosenblatt, P. & DeLuca, St. (2015). "What happened in Sandtown-Winchester? Understanding the impacts of a comprehensive community initiative." *Urban Affairs Review*, 53, 463-494.
- <sup>188</sup> Hanleybrown, F., Kania, J. & Kramer, M. (2012). "Channeling change: Making collective impact work." *Stanford Social Innovation Review*, p. 8.
- <sup>189</sup> *Collective Impact Case Study: Memphis Fast Forward*, FSG. <https://www.fsg.org/publications/memphis-fast-forward>
- <sup>190</sup> Abt Associates. (2004). *Review of neighborhood revitalization initiatives*. Prepared by J. Turnham & J. Bonjorni, p. 6.
- <sup>191</sup> Brown, P., Butler, B. & Hamilton, R. (2001). *The Sandtown-Winchester Neighborhood Transformation Initiative: Lessons Learned About Community Building and Implementation*. The Enterprise Foundation: Washington, DC.
- <sup>191</sup> Rosenblatt, P. & DeLuca, St. (2015). What happened in Sandtown-Winchester? Understanding the impacts of a comprehensive community initiative. *Urban Affairs Review*, 53, p. 30.
- <sup>192</sup> Interview with George Saponaro, 1/27/17.
- <sup>193</sup> Kania, J. & Kramer, M. (2011, Winter). Collective impact. *Stanford Social Innovation Review*, p. 39.
- <sup>194</sup> Arnstein, S. (1969). "A ladder of citizen participation. *Journal of the American Institute of Planners*, 8, pp.216-224.
- <sup>195</sup> In NYC alone, 250,000 people were displaced just for highways. Caro, R. (1975). *The Power Broker: Robert Moses and the Fall of New York*. Vintage Books: New York, p. 19.
- <sup>196</sup> Zipp, S. (2010). *Manhattan Projects: The Rise and Fall of Urban Renewal in Cold War New York*. Oxford University Press: New York.
- <sup>197</sup> "The nine-site project will include 2 Million sf of commercial, retail, community and residential programming, including 50% permanently affordable housing units" (<http://www.shoparc.com/projects/essex-crossing/>). The public housing project initially planned for the Seward Park Urban Renewal Area (SPURA) was not designed for site residents. However, the deal to finally develop the land in 2013 "gave the displaced tenants priority for the affordable units if they could prove they once lived there." Scotto, M. (2018, January 31). "Decades after City forced them out, LES tenants begin to return home." *NY1 News*.
- <sup>198</sup> Kneebone, E. & Berube, A. (2014). *Confronting Suburban Poverty in America*. Brookings Institution Press: Washington.

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