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SUPREME COURT UPHOLDS KEY TOOL IN FIGHTING HOUSING DISCRIMINATION

(LOS ANGELES) – The Housing Rights Center (HRC) applauds the United States Supreme Court’s ruling today in which it confirmed that it is illegal to enforce policies that have a disproportionately adverse effect on members of a protected class, even if those policies appear to be facially neutral. While intentional housing discrimination clearly violates the federal Fair Housing Act (FHA), the U.S. Supreme Court issued its decision in *Texas Department of Housing and Community Affairs v. The Inclusive Communities Project*, on whether the FHA also covers unjustified disparate impact discrimination. In a 5-4 ruling, the Court held that the FHA allows for disparate impact claims. The majority of the court upheld the theory that housing and lending policies that have a disparate impact on a protected group of people can be equally and illegally discriminatory.

The FHA prohibits discrimination against individuals based on their race, national origin, color, religion, sex, familial status, and disability. In California, the law also protects against housing discrimination based on one’s marital status, source of income, sexual orientation, and gender identity/expression. While many people know that it’s illegal to refuse to rent or sell property to someone because of their race or other personal characteristics, there are less obvious ways that a housing provider or lender can interfere with an individual’s right to live in the housing or neighborhood they desire and can afford.

Disparate impact discrimination is a less obvious type of discrimination. It occurs when a policy or practice, while not discriminatory on its face, results in a discriminatory effect when it’s enforced. Under the FHA, housing providers and lenders are prohibited from enforcing practices that have a disparate impact on a protected class, regardless of whether it was the intent of the housing provider to discriminate. The disparate-impact theory of liability has been used to fight housing discrimination for over forty years, and has withstood two prior federal court cases challenging its legitimacy.

The disparate impact theory has been used to retrieve hundreds of millions of dollars in fair lending settlements from Bank of America, Wells Fargo, and other financial companies who were found to be enforcing policies that disproportionately targeted African-American, Latino and women homebuyers. It has been widely alleged that the actions of these lenders in part, not only led to the second worst financial crisis of US history in 2008, but stripped precious wealth, resources, and assets from working-class families. The disparate impact theory has been instrumental in holding banking institutions accountable for the devastating, long term, and broad ranging effects that predatory lending practices had on many Americans.

On a smaller but no less potent level, fair housing agencies such as HRC have used the disparate-impact theory to protect tenants from being evicted or denied housing due to seemingly neutral rental policies. Say a landlord, for example, adopts a rental policy stipulating that all prospective tenants must have full-time employment in order to rent an apartment. Although this policy may not seem discriminatory, the policy effectively denies housing to financially qualified

seniors receiving social security or retirement, or people with disabilities, including disabled veterans, who receive disability benefits as their primary income.

In a disparate impact case filed by HRC, a pregnant woman seeking housing was told by her would-be landlord that she could rent the apartment, but she would be evicted after giving birth. Her landlord had a rental policy that limited occupancy to one person in a studio apartment, despite the studio having sufficient square footage to safely accommodate a higher occupancy limit. In this case, the California Department of Fair Employment and Housing (DFEH) ruled that the landlord's overly restrictive occupancy limit had a disparate impact on families with children, a federally protected class, because they were the group most likely to be adversely affected by such a policy.

Without the use of the disparate impact discrimination theory, fair housing agencies wouldn't have the ability to address the many forms of subtle yet blatant housing discrimination that American's face every day in the housing market.

In the Texas case before the Supreme Court, the Texas Department of Housing and Community Affairs (TDHCA), the state housing authority, is being sued by Inclusive Communities Project (ICP), a nonprofit agency that promotes racial integration in Dallas, for disproportionately allocating low-income housing developments in minority neighborhoods, and denying the credits to build similar low-income housing developments in white neighborhoods. ICP contends that over the span of a decade, TDHCA willfully continued the practice of allocating low-income buildings in minority neighborhoods without a legitimate business reason to do so, which resulted in a concentration of low-income housing in minority neighborhoods. ICP argued that this perpetuated racial segregation in Dallas, since the state's low-income buildings would primarily be occupied by minority tenants. TDHCA was unable to prove to the district courts that no less discriminatory alternatives existed, therefore the case was pushed to the US Supreme Court for further ruling. In June 2015, the US Supreme Court ruled in favor of ICP and upheld the validity of the disparate impact theory under the FHA.

HRC and civil-rights groups across the nation commend the US Supreme Court for its favorable and fair determination. However, it is a sobering reality that American communities today are still deeply segregated by race. While this month's court ruling is a victory for fair housing, it is just one step towards ensuring equal access to housing for all, and fostering more integrated communities. Fostering inclusive, prosperous communities is critical to our nation's success, and HRC will continue to assist residents, communities, and cities in fighting housing discrimination.

Individuals who believe they are victims of housing discrimination or who have questions about the fair housing laws may contact HRC for more information at 1-800-477-5977 (voice) or 213-201-0867 (TTY).

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*The Southern California Housing Rights Center is a non-profit organization established in 1968 to actively support and promote equal opportunity and freedom of residence to all persons without regard to their race, color, religion, gender, sexual orientation, national origin, familial status, disability, marital status, ancestry, age, source of income, or other characteristics protected by law. The Center engages in activities – including outreach/education, investigation/testing and legal advocacy – to identify barriers to fair housing in the Los Angeles and Ventura Counties and to help counteract and eliminate discriminatory housing practices. **For more information, please visit www.housingrightscenter.org or call 1-800-477-5977 or 213-201-0867 (TTY).***