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Cover Page Footnote

I would like to thank Dr. Maggie McCandless for her assistance in the paper writing process, as well as Anna Morris for her assistance with proofreading and GIS.

The Legacy of Racially Restrictive Covenants in Upper Arlington, Ohio

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ABSTRACT

Racially restrictive covenants were written into property deeds in the early 1900s as a method of preventing people of color from moving into white communities. Although such covenants were deemed unenforceable by the Supreme Court in 1948, the practice of racially restricting homeownership has not ended in communities where such covenants were previously used. This paper utilizes Upper Arlington, Ohio as a case study for how white communities have maintained their identities into the present day. This includes discussion of the Northwest Arlington Association, local real estate practices, the projected racial attitudes of longstanding white residents, and the community's treatment of people of color. The paper also preliminarily explores how these practices affect the lives of the community's nonwhite residents and their sense of belonging in the community. Further exploration into Upper Arlington's real estate industry is recommended.

KEYWORDS: racially restrictive covenants, racial housing discrimination, racial steering

INTRODUCTION

In the majority of US suburbs, at least one in five residents is a person of color, a distinct change from the whitewashed suburban dream of the 1950s (Cohen, 2018). Still, certain communities maintain a greater semblance of their original racial homogeneity in comparison to others. Upper Arlington, a suburb located within Columbus, Ohio, is estimated to have a populace that is over 87% white (United States Census Bureau, 2021). While the suburb has diversified over time, Upper Arlington has largely maintained its identity as an upper-middle-class white community in the face of urbanization and white flight (Sweeney & Hanlon, 2017).

Scholars such as Rose (2022) trace the withstanding desire to maintain white communities to the practice of writing racially restrictive housing covenants into the property deeds of homes. The enforcement of these covenants, which were utilized in Upper Arlington, was prohibited by the Supreme Court in 1948. However, it is well documented that practices of racially restricting home buying have persist in white

communities, albeit through less explicit means (McGregor, 2005; Rose, 2022). If the government would no longer protect white communities from the perceived threats of integration, white communities "would take matters into their own hands" if they wanted to maintain their community's whiteness (Rose, 2022, 242).

To examine the ways whiteness has been maintained in suburban communities we should look at communities that have maintained a greater semblance of their original white homogeneity in comparison to others, such as Upper Arlington, Ohio. When examining Upper Arlington a clear desire to maintain upper-middle-class white identity can be observed. This paper examines the alternative methods used in Upper Arlington to maintain a white community following the banning of racially restrictive covenants. These methods are, the institution of the Northwest Arlington Association, local real estate practices, racial attitudes of longstanding white residents, and the community's treatment of people

of color. The impact of these methods on the lives of nonwhite residents is preliminarily explored, particularly the ways they have resulted in a sense of unbelonging and alienation from the community.

DATA & METHODS

This paper was originally drafted for Dr. Maggie McCandless's Sociology 454: Social Inequality and Stratification course in fulfillment of the University of Louisville's "Cumulative Undergraduate experience" requirement. Students were to write a research paper discussing an inequity found in their community. I chose the topic of racially restrictive covenants and their lasting impacts because I wanted to bring to light the ways racism persists in my community today. While many white people from Upper Arlington are at least partially aware of the city's more explicitly racist past, many refuse to see the ways racism is still prevalent in our community. They seemingly believe that our city's white identity is maintained through coincidence, rather than systemic practices and behaviors. White ignorance towards these practices and behaviors is what allows them to continue, which makes openly

discussing them critically important.

I first engaged in a literature review of research on racially restrictive covenants, modern race-based housing discrimination in the U.S., and the effects of these forms of racism on people of color. I also did research into Upper Arlington's specific history with race-based housing discrimination by utilizing the Upper Arlington Historical Society and research by Sweeney & Hanlon. I then examined modern methods of preserving housing discrimination alongside the experiences of Upper Arlington residents to see what methods were most relevant to their lives. This information was gathered through personal communication, archival research and analysis of social media posts made by both people of color and white residents in the community. Based on my research, I found four primary ways Upper Arlington has maintained a white identity beyond the usage of racially restrictive covenants. These methods are the Northwest Arlington Association, local real estate practices, racial attitudes of longstanding residents, and the community's poor treatment of people of color.

FINDINGS

Racially Restrictive Covenants

Founded in 1917, Upper Arlington was originally marketed as "The Country Club District," which "suggests an uncomfortable degree of exclusivity" (Upper Arlington Historical Society, n.d, section 1.1). The suburb strived to be an "elite bedroom community," an escape from city living for elite wealthy citizens (Sweeney & Hanlon, 2017, p. 241). This marketing is distinctly racialized, with the underlying implications being that the elite are white and that the city life that needs to be escaped is

that of close contact with racial and ethnic minorities, a settlement pattern known as "white flight" (Krysan, 2002; Rose, 2022; Wurdock, 1981).

In order to develop its elite white identity, Upper Arlington, like many other U.S. suburbs, wrote racially restrictive covenants into the property deeds of its newly built homes. (Upper Arlington Historical Society, n.d). These racially restrictive covenants "were agreements between buyers and sellers of property, which took the form of an appendix or article in the deed not to sell, rent, or lease property to minority groups" (Jones-Correa, 2000, p. 544). This practice first began in Upper Arlington in 1926, less than ten years after the suburb's founding (Upper Arlington Historical Society, n.d). The use of such an explicitly racist practice so early in the community's history is evidence that Upper Arlington residents strived to create a racially homogenous community from its origins. However, the community's methods for maintaining its racial makeup have changed over time as certain methods have become legally obstructed through federal legislation and local court decisions.

Alternative Methods of Maintaining White Communities

In 1948, the Supreme Court "prohibited the judicial enforcement of racially restrictive covenants" in its *Shelley v. Kraemer* ruling (Schaffer, 2022, p. 361). But the practice of denying housing to people of color did not end in 1948, rather "the decline of blatant discrimination of the past has revealed pervasive institutional racism" (Pearce, 1978). Suburban real estate developers found new methods to deny ownership to people of color and white residents still expressed their desires for all white communities (Rose, 2022). Upper Arlington has maintained

its white identity into the modern day through the formation of the Northwest Arlington Association, the discriminatory practices of its local real estate industry, the projection of racist attitudes by longstanding residents, and the community's treatment of people of color.

The Northwest Arlington

Association. The Northwest Arlington Association continued racially restrictive housing practices for over twenty years after *Shelley v. Kraemer* and is a significant example of continued housing discrimination in Upper Arlington. The Northwest Arlington Association, founded only two months after the *Shelley v. Kraemer* decision, "retained the right to approve or decline any potential property sale for lots under its jurisdiction using the buyer's identity as a basis for its decision" (Upper Arlington Historical Society, n.d., section 3). In order to purchase a home under the jurisdiction of the Northwest Arlington Association, the buyer had to apply for membership with the Association and the seller had to submit paperwork disclosing the identity of the buyer (Upper Arlington Historical Society, n.d.). By either accepting or denying buyers' applications for membership, the Association had full control over who was able to purchase homes in the area.

Although the Association's requirements did not explicitly bar people of color from applying for membership, the *Ashley, et.al. v. Northwest Arlington Association* Franklin County Common Pleas case indicates that this is what occurred in practice. In 1970, Alfred Ashley was denied membership with the Northwest Arlington Association, which he believed was due to his identity as a Black man (Upper Arlington Historical Society, n.d.). This event resulted in the *Ashley*

case, in which the court decided that the Association was participating in racial discrimination and ordered its dissolution in 1971 (Upper Arlington Historical Society, n.d.).

With the *Ashley* case in mind, it is well within reason to conclude that restricting the sale of property to people of color was a primary goal of the Northwest Arlington Association's membership requirement. The Association's founding only two months after the enforcement of racially restrictive covenants became illegal adds credibility to this argument. In all likelihood, the Association was founded explicitly as a new means of preventing the sale of property to people of color in certain areas of Upper Arlington. Even if this was not the primary intention, this is what occurred in practice, as evidenced by the *Ashley* case.

The dissolution of the Northwest Arlington Association came three years after the passing of the Fair Housing Act (1968). Cohen (2018) explains how the Act "places the onus of [its] enforcement on the federal government" rather than on those being discriminated against, greatly expanding people of color's ability to resist discriminatory housing practices (p. 44). In the case of Upper Arlington, it is likely that the Fair Housing Act aided in the *Ashley* case's ability to bring down the Northwest Arlington Association by providing the plaintiff with stable grounds for legal action. The Act's ability to provide people of color with a means of challenging discrimination is a reason Cohen (2018) argues that the Fair Housing Act is the driving force behind the racial diversification of American suburbs. However, despite its success, the Act did not end racial discrimination in housing but instead forced "discriminatory practices that were once openly sanctioned by the federal government

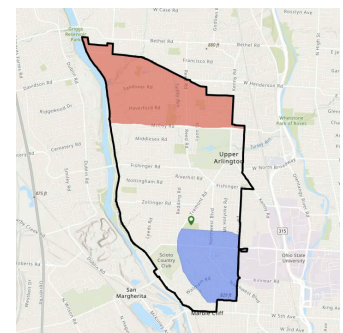
[to] be carried out behind a veil of secrecy" (Cohen, 2018, p. 49). Scholars have primarily identified such discrimination as occurring within local institutions, particularly within the practices of real estate boards (Jones-Correa, 2000).

Local Real Estate Practices. Jones-Correa (2000) explains that practices like racially restrictive covenants "would not have been able to sustain themselves if not for the backing of local institutions like real estate boards" (p. 563). The real estate boards, Jones-Correa (2000) argues, play a primary role in the institutionalization of housing segregation and the discriminatory practices which uphold it into the present day. A study by Westchester Residential Opportunities investigated 25 real estate agencies selected from "overwhelmingly white communities" in New York (McGregor, 2005, p. 6). The investigation found that 48% of these real estate agencies participated in racially discriminatory practices such as refusing to show non-white clients certain properties, steering them away from particular areas, and generally engaging with them less than white clients (McGregor, 2005). The Westchester Residential Opportunities study demonstrates how real estate agencies and their realtors carry out racial discrimination in housing through the "veil of secrecy" that Cohen (2018) discusses (p. 49). No investigation similar to the one conducted by Westchester Residential Opportunities has been carried out in Upper Arlington, however, my personal communication with an anonymous Latina resident documents that similar practices have occurred in Upper Arlington.

Roughly ten years ago my informant and her husband began looking for homes in the Columbus, Ohio area. When driving through Upper Arlington, she says she fell in love with the houses in the southern part of the suburb, the area where the community was first founded. The couple decided to look for homes in

in this area due to their character, the close proximity to the schools, and the beauty of the community's neighborhoods and parks. After interviewing three realtors from the area, they chose one who they felt knew the area and school systems the best, as the realtor herself lived in the specific area they wanted to move into. When they began looking at houses, the couple requested to see homes between Northam Park and King Avenue. When the realtor began taking the couple to see homes, she ignored this request and instead took the couple to homes north of McCoy Road.

Figure 1 Informant's Desired Area vs Area Shown



Note: Informant's desired area marked in blue. Area where she was shown homes marked in red. Green marker marks Northam Park.

Overall, my informant says that she was shown about a hundred homes, but was only shown five or six in the area south of Northam Park that she and her husband had requested. When the realtor did finally show the couple houses in the area south of Northam Park, my informant notes that the realtor consistently acted as if those homes were disgusting and undesirable and made disparaging comments in an attempt to convince the couple not to pick those houses. When my informant saw these houses with her white husband, these comments

would be general statements like “you will not like it here” (Anonymous, personal communication, November 1, 2022). When she went without her husband the realtor got more specific, telling her directly “people of color never live in this area” and “[y]ou will not find friends here, you will not find many people here who are like you” (Anonymous, personal communication, November 1, 2022).

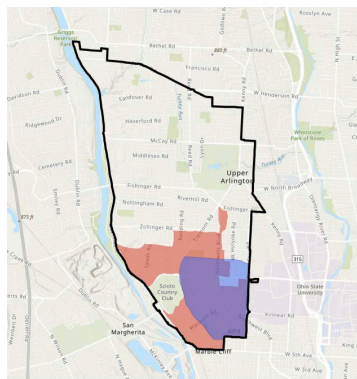
While what happened to my informant may appear to be an act of individual racism by her realtor, the realtor's behavior is actually categorized as an institutional practice known as racial steering (Pearce, 1978). Racial steering, which Jones-Correa (2000) refers to as a “cousin” of racially restrictive covenants (p. 561), is considered to be institutional as it is found to be used consistently across communities and is supported by the policies of real estate boards (Pearce, 1978). Since racial steering is often viewed as an individual practice, rather than an institutional one, it is difficult to combat and is not considered illegal despite producing the same effects as racially restrictive covenants.

Despite the racial steering she experienced, my informant remained confident that she would become a part of the community. She and her husband eventually settled for a house in the north end of the suburb. While she said she is happy with her decision she does think it would have been better for her children if they had grown up closer to the schools in larger, more communal neighborhoods, like the ones found south of Northam Park. Ultimately, she felt that being pushed to live further north by the realtor prevented her from having the community experience she desired. The practices and comments of this realtor demonstrate a concerted effort to steer

the couple away from the area south of Northam Park. My informant's specific mention of Northam Park as a boundary for her desired area is particularly relevant to the discussion of racially restrictive covenants as the Upper Arlington Historical Society directly reports that such covenants were “found mostly in properties lying south of Northam Road” (n.d., summary).

Figure 2

Informant's Desired Area vs Upper Arlington Boundaries Prior to 1948



Note: Informant's desired area in blue. Upper Arlington's approximate boundaries in 1948 in red (City of Upper Arlington (Ohio), 2008). Overlap indicated in purple

While racially restrictive covenants are no longer legal, the realtor's refusal to show my informant houses in the exact area they were utilized informally continues their power to prevent people of color from living in these areas. It is vital to understand that this issue is more prevalent than the attitudes of this one specific realtor. Due to racial steering being an institutional practice and the uniquely white racial makeup of Upper Arlington, it is likely that the racial steering experienced by my informant is prevalent in the Upper Arlington real estate industry (Pearce, 1978).

Racial Attitudes of Longstanding

Residents. Perhaps the most aggressive resistance to racial diversification comes from a group called UA Golden Pride, which formed during the period of increased racial justice protesting in the summer of 2020. The group originated on Facebook but has supposedly moved offline, and its current status is not known to the general public. Very little insight into the goings on of the group exists, however, a photo album of over 100 screenshots from the original Facebook group, compiled by Walters (2020), is publicly posted to Facebook in an album titled “Pride Before the Fall”.

Many of the screenshots in “Pride Before the Fall” involve residents discussing their fears that Upper Arlington will be or already is being taken over. The depiction of who or what is taking over is vague but distinctly racialized through references to the Black Lives Matter movement and a clear disdain for racial justice initiatives (Walters, 2020). These comments are relevant to the discussion of racially restrictive housing practices for two reasons. The first is that these fears of being taken over indicate an attitude that Upper Arlington's identity as an elite white community needs to be protected and maintained. This sort of ideology stems from the racist belief that “any influx of minority members, especially African Americans, [causes] property values to drop in a white neighborhood” (Rose, 2022, p. 242). Rose (2022) explains that “[r]acial covenants helped to naturalize and rigidify” this narrative as they instilled a “belie[f] that [white Americans] were entitled to live in all-white communities and that their homes retained value because the communities were all white” (p. 242).

The second point of relevance stems from one particular UA Golden Pride member, Paula Koontz Gilmour. Koontz Gilmour is a luxury realtor for a large real estate agency in the Upper Arlington area (Keller Williams, n.d.). Koontz Gilmour's membership of the UA Golden Pride group demonstrates a direct linkage between the desire to keep Upper Arlington a white community and the real estate industry in Upper Arlington. Although Koontz Gilmour's affiliation with UA Golden Pride is not hard proof that she or any other Upper Arlington realtor participates in racially discriminatory practices, the linkage is another reason a study similar to the Westchester Residential Opportunities investigation should be heavily considered in Upper Arlington.

Community Treatment of People of Color. Resistance to people of color living in Upper Arlington goes beyond comments posted to Facebook, manifesting in the way people of color are treated day-to-day in the community. My informant told stories of being treated as if she outsider upon moving to Upper Arlington. She says that many of the people of color she knows feel like they cannot participate in community events like PTA meetings. She herself mentions avoiding doing certain things "because [she's] not willing to stay quiet" in the way she finds residents of color are often expected to (Anonymous personal communication, November 1, 2022). She finds that when she does speak up in community meetings, people roll their eyes and are dismissive of her ideas. She describes one instance where, when participating in a prom planning meeting, she gave her input on how to keep students at the event longer. In respon-

-se, a resident who boasted a family history of living in Upper Arlington told her "that's not the way we do it here" (Anonymous, personal communication, November 1, 2022). This instance, among others she describes, shows that the opinions of those who can claim a family history of living in Upper Arlington are valued over those who have no such history to claim.

"People always give you the pedigree," she says, describing how Upper Arlington residents will often qualify their contributions in meetings by referencing how long their family has lived in the suburb (Anonymous, personal communication, November 1, 2022). The practice of emphasizing family history as a precursor for contributions in community meetings gives less value to the voices of nonwhite residents since they are significantly less likely to have a family history due to the historical use of racially restrictive covenants. As a result, the community's white identity is maintained into the present day by placing less value on the voices of nonwhite residents, leaving residents of color to feel voiceless on community matters. My informant's discussion of how she and other nonwhite residents avoid participating in certain community events shows how this practice creates a sense of unbelonging that impacts their integration into the community.

The idea that people of color do not belong in Upper Arlington can also be explicitly found in more direct interactions between white and nonwhite residents. Such interactions are documented by an Instagram account called @dearuaschools. From June 20th, 2020 to July 31st, 2020, Dear UA Schools (2020a) posted anonymously submitted stories detailing instances of discrimination experienced by students and staff members of the Upper Arlington

School District. In the accounts 350 + posts, a theme emerges of students of color being treated as if they don't belong in Upper Arlington (Dear UA Schools, 2020a). One alumnus wrote, "Upper Arlington does not welcome people they deem to be 'outsiders'", and implied that their nonwhite identity is what labeled them as an outsider during the time they lived in the community (Dear UA Schools, 2020b). Other posts provide examples of students of color being positioned as outsiders due to their racial identities, including multiple descriptions of white parents telling their children not to play with students of color and students of color being told to go back to their country or being threatened with deportation, regardless of their actual citizenship status (Dear UA Schools, 2020a).

The treatment of people of color as if they don't belong in the community is a lasting legacy of racially restrictive covenants. Schaffer (2022) explains, "[racially restrictive] covenants manifested the racial preferences of a community long into the future" (p. 363). The longstanding white residents of Upper Arlington cling to the idea that their communities are better off maintaining their elite white identity at the expense of their nonwhite neighbors. This is discreetly projected into the community through an emphasis on family legacy and in more overt forms of mistreatment and discrimination such as threatening deportation. Overall the message is clear: a disturbing number of Upper Arlington residents declare, "People of color do not belong here."

CONCLUSION

Upper Arlington, Ohio has diversified significantly less in comparison to other US suburbs

(Cohen, 2018). This is a lasting legacy of racially restrictive covenants, which legally insured an exclusively white community. When this practice was outlawed as a result of *Shelley v. Kraemer*, new methods of maintaining white communities arose (Rose, 2022). Upper Arlington's white identity has been maintained throughout the community's history through the Northwest Arlington Association, the racist practices of local real estate agencies, the racist attitudes of longstanding residents, and the community's treatment of people of color as if they don't belong in the community. The suburb's founding goal of being a community for white elites is still alive and well through these means. This has been detrimental to the people of color who do live in Upper Arlington by creating a sense of ostracization from the community.

An investigation into the practices of Upper Arlington real estate agencies is highly recommended, as it could further expose reason for Upper Arlington's relative lack of diversification in comparison to the majority of America's suburbs. Maybe one day the racial makeup of Upper Arlington will shift. My informant says that she "can see the change coming," even though she doubts it will happen in her time (Anonymous, personal communication, November 1, 2022). She hopes that her children will eventually find their way back to Upper Arlington after college and that perhaps things will be better for them and their children. "I think those from [UA Golden Pride] are probably worried," she says (Anonymous, personal communication, November 1, 2022). "I hope they are" (Anonymous, personal communication, November 1, 2022).

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