COMMUNITY PREFERENCE POLICY IN NEW YORK CITY

Exploring *Winfield v. the City of New York* and community preference in New York's affordable housing lotteries from a housing policy perspective.

CITIZENS HOUSING AND PLANNING COUNCIL
SEPTEMBER 16TH, 2019

EXECUTIVE SUMMARY

In New York City, gaining access to an affordable apartment is literally "winning the lottery." For decades, this system has been subject to the City's "community preference" policy, which sets aside 50 percent of the units in each affordable housing development for residents of the local Community District. The policy has been characterized by its critics as contributing to residential segregation, including by plaintiffs in a recent lawsuit and in media coverage of that case. Proponents of the policy argue that it helps to prevent displacement of low-income households from neighborhoods with rising housing costs, allowing them to benefit from new services and amenities as they arrive.

In this white paper, CHPC explores Community preference and supporting documents to the lawsuit opposing it from a housing policy perspective, rather than a legal one. It assesses the methodology of two reports and frames the policy questions raised. The paper then turns to next steps in the research and discussion that will be needed for New York to evolve its understanding of displacement and segregation issues in housing, and the information that those will require. Finally, CHPC urges the City to make available

KEY CONCLUSIONS

1. The ongoing lawsuit and recent studies around the City's community preference policy touch on some of the thorniest housing policy problems facing New York today. However, the narrow focus of the lawsuit itself and the limited scope of the studies written to support it fail to adequately address the legitimate and nuanced conflict that exists between several worthy policy goals.

2. The Beveridge reports, commissioned by plaintiffs to support their claims, employ flawed methodology and draw inaccurate and misleading conclusions.

3. To facilitate a nuanced, productive debate around housing policy that is grounded in research and facts, the City must release its housing lottery data, with limits in place to ensure participant privacy.

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[1]   "Affordable housing" is used here and throughout this paper to mean rental housing that is financed at least in part by government subsidy, in exchange for a share of units being rented out at below-market rates, to households at or below the income levels at which those rents are affordable at a 30 percent rent-to-income ratio.

anonymized housing lottery data, which would provide fundamental insight into how the needs of low-income New Yorkers are met by the City's affordable housing and enable meaningful progress to be made around these critical policy issues.

The policy issues at stake are of housing mobility versus housing stability; of improving underserved neighborhoods versus enabling mobility into neighborhoods highly sought after; of integration versus gentrification. Fighting segregation and preventing displacement are both worthy and important policy goals. Many New Yorkers want to challenge racism in their neighborhoods, yet the city's ethnic enclaves are a source of livelihood and pride. Should the ongoing transformations in historically African-American neighborhoods, such as Harlem and Bed-Stuy, be applauded as "integration?" Can a colorblind policy that delinks race and ethnicity from housing opportunity achieve equity moving forward, when the legacy of segregation persists? These are nuanced and sometimes painful discussions, and there will always be differences of opinion over the means and methods to achieve complex, sometimes conflicting goals.

THE COMMUNITY PREFERENCE LAWSUIT

The community preference policy applying to New York City's affordable housing lotteries is the subject of an ongoing lawsuit: *Winfield v. City of New York*. Plaintiffs claim that the policy has a racially discriminatory impact which serves to perpetuate racial segregation.

Community Preference reserves 50 percent of units in affordable housing developments for residents of the local Community District.[3]

Like most cities in the U.S., New York is highly segregated as the result of decades of discriminatory real estate practices, lending patterns, and land use and housing policies, which prevented people of color from moving into predominately White neighborhoods. *Winfield* plaintiffs assert that the community preference policy continues this legacy, by depriving low-income New Yorkers of color from access to affordable housing in higher opportunity areas (i.e. Whiter areas). Plaintiffs argue that it is unfair to give some applicants an advantage on the basis of already living in the neighborhood, when others never had the freedom of choice to live there.[4]

HOUSING MOBILITY AND STABILITY

Residents should be able to stay in or move between neighborhoods, based on their needs and desires. A key component of achieving this goal is reducing barriers to housing mobility for groups that have historically been deprived of it. Many communities of color in New York still reside in concentration in underserved areas, as the long-lasting result of segregation policy and practices. The City has recently expanded its efforts to dismantle these patterns and their harmful effects. For example, the Department of Housing Preservation and Development's (HPD) ongoing Where We Live initiative has engaged a wide range of stakeholders in helping the City to better understand and tackle these issues.

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[2] *Winfield v. City of N.Y.*, No. 15 CV 5236-LTS-KHP (S.D.N.Y. Feb. 12, 2018)

[3] Depending on where lottery housing is located, there are occasional exceptions to how the community preference area is defined; for example, a lottery for multiple affordable housing developments which span across two different Community Districts may provide preference to existing residents of both districts.

[4] *Winfield*; Hart, Catherine. "Community Preference in New York City." *Seton Hall L. Rev.* 47 (2017): 881-913.

However, the legacy of segregation today not only threatens mobility for households of color, but also constrains the choice of these same households to remain in their neighborhoods. Discriminatory policies and practices set into place patterns which helped to perpetuate low real estate values in underserved neighborhoods of color for decades. In recent years, as the costs of housing and land citywide have risen, the relative affordability of these areas has made them increasingly attractive to new residents and developers. Many households that have suffered other impacts of segregation are now under the strain of rapidly rising housing costs in their neighborhoods, brought on by surging local development.

Policies aiming to increase housing choice and tackle the impacts of segregation must weigh increasing housing mobility against ensuring household and community stability. Enabling household mobility into neighborhoods with better services, amenities, and access to opportunity is a key policy objective. Yet policies must also combat displacement, which today is perceived by many as the paramount threat. Displacement jeopardizes the well-being of individual households, as well as the integrity of communities that spent decades building up local social and economic networks while neighborhood investment, infrastructure, and services were scarce. The balance between these goals is delicate, nuanced, and complex.

COMMUNITY PREFERENCE IN NEW YORK CITY

New York City's community preference policy emerged from concerns about displacement that persist today. In the late 1980s, the Koch administration was striving to revitalize the city by stimulating new development in disinvested neighborhoods, many of which were occupied by low-income communities of color and suffering from years of unmet infrastructure and service needs. As new development arose, communities demanded policy measures that would help keep them intact. Community Preference was one such tool enacted by the City in response; the policy has remained in effect since 1988.[5]

There has been considerable media coverage of *Winfield* since it began, speculating the pros and cons of Community Preference. The City continues to defend the policy, arguing that it is a critical tool to prevent displacement in neighborhoods that have been targeted for increased affordable housing development.[6] There is little to no evidence showing that Community Preference prevents displacement, and the policy's overall impacts are not clear.[7] This is largely due to the fact that the City does not make lottery data public, due to stated privacy concerns.

[5] Hart, *Community Preference*; Cestero, Rafael. "An Inclusionary Tool Created by Low-Income Communities for Low-Income Communities." In *The Dream Revisited – Discussion 17: Community Preferences and Fair Housing*, NYU Furman Center, https://furmancenter.org/research/iri/discussions/community-preferences-and-fair-housing.

[6] Seringer-Smith, Ethan. "Community preference lawsuit at center of affordable housing segregation debates." *The Gotham Gazette*, n.d. https://www.gothamgazette.com/?id=6838:community-preference-lawsuit-at-center-of-affordable-housing-segregation-debates.

[7] Edward Goetz produced an Expert Report for Winfield in February 2019 which argued, on defendant's behalf, that Community Preference prevents displacement. It is unclear if this report was made public. Beveridge wrote a rebuttal to the Goetz report that is publicly available online.

THE BEVERIDGE & SISKIN IMPACT STUDIES

At the outset of *Winfield*, there was little evidence supporting the claims about Community Preference on either side. As a result, a major component of the proceeding has been the production of statistical evidence to substantiate these claims. At least six "Expert Reports" have been written to this end, in a back-and-forth process between the two sides.

This paper discusses the two most recent Expert Reports, including what is the most in-depth study produced on the plaintiff side to date, and the City's rebuttal to it. The first of these was issued in April 2019 by Andrew Beveridge, whom plaintiffs have commissioned for data analysis on several occasions. Beveridge's study used the same methodology as his prior reports and drew similar conclusions, criticizing Community Preference. The rebuttal was prepared by Bernard Siskin and issued on the City's behalf in June. Siskin described flaws in Beveridge's methodology, which he claimed invalidated Beveridge's conclusions, as well as his own analysis of the data, which used alternative methods and drew opposing results. Each study analyzed the same set of lottery data, including the applications, applicants, and lotteries pertaining to 10,245 affordable housing units awarded between 2012 and 2018.

Summary of Studies[11]

Beveridge was tasked to determine whether Community Preference has a disparate impact on the ability of one or more racial group(s) to compete for affordable housing in the City's lottery system, and if those impacts perpetuate segregation, more than would exist in the policy's absence. Beveridge concludes that Community Preference works to both these ends, and further claims that the policy:

- Provides the dominant racial/ethnic group in a lottery's Community District with an advantage in competing for housing, at the expense of the ability of other groups to compete;
- Provides the greatest overall benefit to Whites, at the expense of non-Whites.

Siskin's rebuttal includes a detailed assessment of several flaws identified in Beveridge's methodology, which he argues render Beveridge's conclusions invalid. The report further describes Siskin's analysis of the data, which used an alternative methodology. Siskin concludes that Community Preference:

- Does not give any one racial/ethnic group an advantage over others in the ability to compete for lottery housing;
- Does not have any meaningful impacts on segregation.

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[8]   Andrew Beveridge is a Professor of Sociology at Queens College and at the CUNY Graduate Center. His areas of concentration are in statistical, quantitative, and spatial analysis of demographic and social science data. Beveridge is the co-founder and CEO of Social Explorer, Inc., as well as a demographic consultant for *The New York Times.* He holds a Ph.D. in Sociology and B.A. in Economics from Yale University.

[9]   Bernard Siskin is the Director of specialty consulting firm BLDS, LLC. He has authored numerous books, articles, and other publications on statistical methodology and statistical analysis to produce evidence in legal proceedings, particularly evidence of discrimination. He has also performed such analysis for entities including the U.S. Justice Department and the Federal Bureau of Investigation. Siskin was previously the Department of Statistics Chairman at Temple University.

[10]   Expert Report of Andrew A. Beveridge, *Winfield v. City of New York*, 15 CV 5236-LTS-KHP, p. 6, available at http://www.antibiaslaw.com/sites/default/files/Bev2019.pdf.

[11]   Beveridge, *Expert Report*; Expert Report of Bernard R. Siskin, *Winfield v. City of New York*, 15 CV 5236-LTS-KHP, available at https://int.nyt.com/data/documenthelper/1412-siskin-nyc-housing-report/70a77899cc711249d6d3/optimized/full.pdf.

CHPC Assessment of Studies

Shortly after these two studies were written, Beveridge's Expert Reports were released to the public for the first time.[12] Their findings received significant media coverage, most of which criticized Community Preference and the City in response.[13] CHPC undertook a rigorous, independent examination of the Beveridge and Siskin reports, to better understand each study's methodology and to gain clarity around their opposing claims.

CHPC finds Beveridge's methodology of analysis and reporting to be fundamentally flawed. Beveridge follows a model of logic which conflates benefit from Community Preference (i.e., award of a set-aside unit based on preference status) with mere eligibility to benefit from it (i.e., current residence in the local Community District). As a result, Beveridge's disparate impact analyses measure the incorrect variables to determine if the policy is racially disparate in impact. The errors in Beveridge's logic also lead him to misinterpret analysis results and to use inaccurate and misleading terminology to discuss them. Many of the results which Beveridge interprets and describes to indicate disparate impact are, in fact, logical results of any randomized lottery system designed for universal treatment of its participants.[14]

CHPC further finds invalid Beveridge's analysis of the impacts of Community Preference on segregation patterns. The indicators employed are incompatible with one another, as they aggregate data across different geographies. Beveridge fails to establish a relationship between the variables.

Siskin's rebuttal analyses employ a combination of methods for greater internal validity, including simulation experiments to replicate the randomized sequencing aspect of the lottery application process. CHPC assessed Siskin's conclusions to be firmly supported by the results of his analyses and in acknowledgement of his methodological limitations.

See the attached Supplementary Note for a more detailed description of CHPC's assessment.

Limitations of Studies

The usefulness of either of these reports for advancing policy discussions is highly limited, due to the restrictive legal framework in which they were produced. Each author was tasked with producing results that would legally substantiate a pre-determined, "yes" or "no" answer to highly specific claims. From a research standpoint, any analysis seeking to achieve a specific outcome, rather than to objectively explore the data, is inherently problematic for reasons clearly demonstrated by Beveridge's faulty methodology. Moreover, the narrow scope of each author's assignment prevented him from determining which questions around the *Winfield* debate would be most useful to answer, and the questions the authors were tasked with do not address the scope, complexity, or nuance of the policy issues at hand.

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[12]   ECF No. 753, *Winfield v. City of New York*, 15 CV 5236-LTS-KHP (S.D.N.Y. 2019), available at http://www.antibiaslaw.com/sites/default/files/Unsealing.pdf.

[13]   See for example: Goodman, David J. "What the City Didn't Want the Public to Know: Its Policy Deepens Segregation." *The New York Times*, July 16th, 2019. https://www.nytimes.com/2019/07/16/nyregion/segregation-nyc-affordable-housing.html.

[14]   The analysis outcomes do not speak to any conclusions about Community Preference, due to the improper methodology employed, which failed to isolate the impact of the policy from that of the overall application process.

NEXT STEPS FOR RESEARCH AND DISCUSSION

Good public policy strives to strike the right balance between competing goals. The balance between the need for household mobility and household and community stability is delicate and in constant flux. There is a clear need to dismantle the harmful impacts of segregation so that all residents can benefit from housing mobility; yet doing so should not come at the expense of displacing long-time, low-income residents and communities of color who wish to remain in their changing neighborhoods, and to benefit from new amenities and services as they arrive.

The community preference policy provides the same benefit to any lottery applicant that is a resident of the local Community District, regardless of the socioeconomic traits of either applicant or district. Yet not all applicants come from the same level of opportunity, and many have been impacted by past discriminatory policies. Can a colorblind policy ensure that all residents have greater access to housing choice and opportunity moving forward, when the effects of segregation are still present? Are there measures to meaningfully reduce this tension while maintaining compliance with federal Fair Housing laws?

These are some of the thorniest and most complex issues facing New York's housing policy today. Any solution must reconcile several worthy policy goals, and there will always be conflict of opinion around the best measures and means for doing so. It is possible that Community Preference – or Community Preference in its current form – is not part of the solution that New York is looking for. Yet the policy is one of many components within the complex system through which the City's affordable housing is created and allocated. The reevaluation of any aspect of that system would need to begin with a deeper understanding of its impacts. Without additional information about how the City's affordable housing is meeting the needs of low-income New Yorkers, it is impossible to accurately assess the role of an individual policy in this dynamic.

DATA NEEDS FOR FURTHER ANALYSIS

Although the Beveridge and Siskin reports are limited in their usefulness for policy debate, they and the *Winfield* case emphasize the need for more clarity around the impacts of policies and highlight the potential of lottery data.

Policies should be evaluated, and their impacts measured, to ensure that they are working as intended and meeting their goals. The City's housing needs and challenges are constantly changing, and it is a reasonable and worthy effort to reevaluate how long-standing policies fit into today's context. However, any such assessment must be preceded by and grounded in independent research and analysis of the appropriate data and information. Because the City did not have an established process for periodic disclosure and independent analysis of housing lottery data, *Winfield* has been a costly exercise in negotiating and producing data sets for plaintiffs, only to result in their flawed and misleading analysis.

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[15]   See §3 "Costs and Burdens of Discovery Conducted Thus Far," *Winfield v. City of New York*, No. 15-cv-5236 (LTS) (KHP), Decision (S.D.N.Y. March 29, 2018), available at: https://casetext.com/case/winfield-v-city-of-ny-6.

CHPC urges the City to explore options to release housing lottery data, with limits in place to ensure participant privacy, so that it may be objectively analyzed for policy purposes. The most compelling aspects of the Beveridge and Siskin reports are their appendices, which provide a glimpse into the wealth of potential the data holds. The data in Appendix F of Siskin's report clearly indicates that African American and Hispanic New Yorkers are *most* served by the City's affordable housing. Table 1 supports this point, by comparing the number and share of unit awardees in each racial/ethnic group to the distribution of those groups among households citywide, and among households with incomes that make them eligible to compete in housing lotteries.

This crucial insight highlights the dearth of information around the impacts of the City's affordable housing and emphasizes the potential for objective analysis of lottery data, to provide fundamental insight into the housing needs and preferences of New Yorkers and how they are met by the City's affordable housing. With the right limits in place, lottery data could serve as a tremendous resource in developing deeper understanding of the impacts of current policies, advancing meaningful debate around critical housing policy issues, and crafting policy reform to better meet housing needs and goals.

Table 1   *Comparison of Primary Household Race/Ethnicity - Households Awarded Lottery Units (2012-2018),* Households in NYC (2017),** and Households in NYC w/ Incomes of 40 - 100% AMI (2017)***

Householder Race/Ethnicity	# of Awardees w/ Known Race	% of Awardees w/ Known Race	NYC Total Households	NYC Households w/ Lottery Elig. Income
White NH	1,119	12%	41%	34%
Black NH	3,382	36%	21%	24%
Hispanic	3,675	39%	25%	27%
Asian	676	7%	12%	14%
Multi/Other	616	7%	1%	1%
Total	9,468	100%	100%	100%

*   Awardee household data is drawn from Appendix F of Siskin's Expert Report (2019).

** Citywide household data is derived from CHPC analysis of the 2017 NYC Housing and Vacancy Survey (HVS). "Lottery Eligible Income" is defined as 40 to 100 percent of 2017 NYC Area Median Income (AMI), adjusted for household size. "NYC Households w/ Lottery Eligible Income" excludes households which reported no income or income loss, or which chose not to report their income.

SUPPLEMENTARY NOTE

This note is a supplement to CHPC's white paper, Community Preference Policy in New York City. *It includes more detailed descriptions of the 2019 Expert Reports written by Andrew Beveridge and Bernard Siskin as supporting documents to* Winfield v. City of New York, *and of CHPC's critique of the methodology of the Beveridge report.*

CITIZENS HOUSING AND PLANNING COUNCIL
SEPTEMBER 16TH, 2019

I.   SUMMARY

Andrew Beveridge produced a report in April 2019 for plaintiffs in *Winfield v. City of New York*, in which he concluded that New York City's community preference policy benefits certain racial groups(s) at the expense of others and perpetuates segregation.

Bernard Siskin produced a rebuttal to Beveridge's report in June 2019 on behalf of the City of New York, which included a detailed critique of Beveridge's methodology and description of Siskin's own analyses of the data. Siskin found the community preference policy to have neither disparate impact on racial groups citywide, nor meaningful effects on segregation.

CHPC analyzed each report to better understand their diverging conclusions. CHPC found fundamental flaws in Beveridge's methodology of analysis and reporting which suggest that the majority of his conclusions are invalid.

II.   SUMMARY OF BEVERIDGE STUDIES[1]

Beveridge was tasked by plaintiffs of a pending lawsuit, *Winfield v. the City of New York*, with determining: if the Community Preference policy (CP) has discriminatory effects on the ability of one or more racial group(s) to compete for housing in the City's affordable housing lotteries, and if it perpetuates more racial segregation than would exist in the policy's absence.

A.   Beveridge's Data and Methodology

The data set comprised of 7.2 million applications and 700,000 unique household applicants to 168 affordable housing lotteries, as well as the 10,245 housing units awarded through these lotteries between October 2012 and July 2018.[2] Each unit, applicant, application, and lottery was identified by the Community District (CD) in which it was located. CDs and their corresponding data points were classified into seven "CD Typologies," which were defined by their dominant racial/ethnic group (White, Black, Asian, or Hispanic).[3]

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[1]   Beveridge has produced four Expert Reports for *Winfield* plaintiffs since 2015. For the two of these concerned with whether Community Preference has a racially disparate impact and/or perpetuates segregation, Beveridge used a consistent methodology. The studies drew similar conclusions criticizing Community Preference which are described here and throughout this paper. However, the data set and specific analyses discussed in this paper consist of only those described in Beveridge's April 1, 2019 report. The other two reports produced by Beveridge for *Winfield* include his rebuttal to Edward Goetz' Expert Report and an Appendix describing his data and methodology.

[2]   Excluded from the data set were lotteries for affordable housing developments which included either 100 percent Community Preference units or less than three lottery units.

[3]   For simplicity, "racial group" and "race" are used as proxies for "racial/ethnic group" and "race/ethnicity" throughout this Note.

The sub-sets of applications underneath each CD Typology were further split into "CP beneficiaries" and "non-beneficiaries." "CP beneficiaries" represented applications submitted to lotteries from inside their respective CDs. Applications originating from outside the CD, yet from within New York City, were considered "non-beneficiaries."[4]

B.   Beveridge's Disparate Impact Analyses

The odds of being awarded a lottery unit were calculated and compared for each CD Typology's CP beneficiary applications, versus its non-beneficiary applications. CP beneficiaries were found to have higher odds of being awarded a unit than non-beneficiaries.

Disparate racial impact tests were conducted at three different stages in the application process. At each stage, and within each CD Typology, the racial distribution of CP beneficiary applications was compared to that of non-beneficiary applications. Across Typologies, the dominant racial group accounted for the highest share of beneficiaries. In other words, a Typology's dominant group always benefited the most from CP. Non-dominant groups in the Typology suffered a disadvantage as a result.

To understand if some groups benefit from CP more than others, Beveridge calculated and compared the "relative advantage" enjoyed by each group over others in the Typology(s) in which it was dominant. Whites in White-dominated CDs experienced the greatest level of relative advantage over other groups.

C.   Beveridge's Segregation Analyses

The segregation analysis comprised of a side-by-side comparison of:

1. New York City's Dissimilarity and Isolation Indices, from 1980 – 2017;[4]
2. Maps showing the citywide distribution of Whites, Blacks, Hispanics, and Asians;
3. Maps showing the city's CD boundaries.

The analysis found that New York City remains highly segregated, and that specific racial groups are highly concentrated in many of the city's CDs.

D.   Beveridge's Housing Choice Analysis

Beveridge noted that most lottery participants applied to housing lotteries in CDs other than those they currently lived in. Only a small share of participants limited their applications to lotteries for housing inside their current CDs. Beveridge concluded from these findings that, contrary to popular opinion, low-income households would not prefer to keep living in their current neighborhoods.

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[4]   Housing lottery applications may be assigned one or more preferences, of which Community Preference is one type. All New York City residents are given a general preference over non-city residents. Applicants may also be assigned a preference if they have mobility, hearing, and/or vision impairments, or if they work for the City of New York. Disability Preference takes precedent over Community Preference in the prioritization of applications to consider. Thus, a CD resident may be prioritized based on their disability status rather than on their local residency. To control for this overlap, Beveridge deducted from the total "CP beneficiary units" all units that were awarded to households with both Disability and Community Preference. Beveridge then designated a randomized set of awardees, equal in proportion to the share of Community Preference applicants that also had Disability Preference, as "non-beneficiaries."

[5]   These Indices are widely accepted measures of racial segregation. The Dissimilarity Index examines the evenness by which two groups are distributed across a neighborhood, as compared to their distribution across the city. The Isolation Index measures the extent to which minority groups in an area lack exposure to other groups.

E.   Beveridge's Conclusions

Beveridge concluded the following:

1. The community preference policy has discriminatory impacts, which benefit certain racial group(s) at the expense of others.
2. Although every racial group is helped in some parts of the city and hurt in others, the policy overall benefits Whites the most.
3. Community Preference perpetuates segregation by preventing integration.
4. Low- and moderate-income households would not prefer to continue living in their current neighborhoods.

III.   CRITIQUE OF BEVERIDGE STUDY

There are fundamental flaws in Beveridge's methodology and reporting which render many of his findings and conclusions invalid.

A.   Beveridge uses inconsistent and inaccurate definitions of "CP benefit."

The term "CP Beneficiary" is used consistently throughout the report to mean both:

- Applications that were awarded a CP unit; and
- Applications that would be eligible for a preference unit because they were submitted from within the local CD.

The term is first used to describe applications that were awarded units, making it easy to misinterpret its meaning in subsequent sections, when its definition has changed. Moreover, the interchangeable use of the term allows for conflation of benefiting from preference with merely being eligible to benefit. Beveridge's reasoning behind the double-usage is two-fold:

1. Applications submitted from within the lottery CD have higher odds of being awarded a unit than applications from outside it;
2. Therefore, any such application enjoys the benefit of "access to higher odds," as provided by CP.

However, an application's "access to higher odds" of winning a unit can only be attributed to CP when comparing applications from inside the CD to those from outside it. Differences in the degree to which various racial groups benefit from "access to higher odds" are determined by the racial makeup of the application pool (e.g. if there are more Asian applications competing for CP units, it is more likely that a CP unit will be awarded to an Asian household). CP does not affect who applies to which lotteries. Using "CP beneficiary" to discuss racial disparities among applications from inside the CD inaccurately attributes those differences to CP and is therefore confusing and misleading.

B.   Beveridge analyzes applications at the wrong stages of the application process.

Beveridge does not isolate the impact of CP from that of the lottery application process overall or its other components, leading him to make inaccurate and spurious claims.

Beveridge first examines all submitted applications. Next, he examines those applications which, upon submission, were determined to meet the initial household size and income requirements of at least one available unit. Both of these steps occur before applications are assigned any preference status. In other words, applications at these stages have not been impacted in any way by CP. Therefore, Beveridge's attribution of trends in the racial distribution of applications at these stages to CP is incorrect.

The final set of tests compares submitted applications to applications that were awarded units. Awarded applications have completed the application process and thus have been impacted by CP. However, there are several other stages of the application process that occur between the assignment of preference status and the awarding of units, in which many additional factors impact whether or not an application receives an award. Beveridge incorrectly attributes disparities between the racial distribution of submitted and awarded applications to the impacts of CP alone.

C. Beveridge analyzes applications already grouped by CD race.

The "CD Typology" sub-universes of applications are already grouped based on the similar racial makeup of their associated CDs. Analyzing applications at the CD Typology level guarantees that the dominant race in each Typology will benefit the most from the "access to higher odds" provided by CP. For example, consider the following finding:

"…in the Majority White Typology, only 0.86 percent of African-American applicant households were CP beneficiary applicants. In contrast, 6.81 percent of White applicant households were CP beneficiary applicants. The White percentage is 691.86 percent relatively larger." [6]

Beveridge concludes from this finding that, in White-dominated CDs, Whites receive nearly 700 percent more benefit from CP than Blacks. Yet as discussed, "CP beneficiary" in this context really means "an application submitted to a lottery from within the local CD." A more accurate description might read:

"Of the Black households that applied to housing lotteries in the city's mostly White CDs, only 0.86 percent of applicants already lived in those districts. In contrast, 6.81 percent of White applicants to the same lotteries were CD residents."

The CDs in the Majority White Typology are predominantly White in population. Consider a housing lottery for projects in an area that is 60 percent White. It would be logical for a smaller share of Black applicants and a larger share of White applicants to be preference area residents. The same would be true for any group in any district in which it is dominant. Beveridge frequently represents these basic descriptive data points as analytic findings indicating the racial impacts of CP.

D. Beveridge fails to establish any relationship between Community Preference and segregation.

The fact that New York City is racially segregated, and that some CDs contain higher concentrations of certain racial groups than others, does not substantiate the claim that the community preference policy perpetuates segregation. Beveridge's analysis fails to establish any direct relationship between the policy and segregation patterns. In addition, if direct comparisons had been made, they would have been inaccurate, due to the incompatibility of the indicators employed. Beveridge defines CDs by their dominant racial group, while the Dissimilarity and Isolation Indices compare racial distribution at the census tract level to that of the citywide population.

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[6] Expert Report of Bernard R. Siskin, *Winfield v. City of New York*, 15 CV 5236-LTS-KHP, available at https://int.nyt.com/data/documenthelper/1412-siskin-nyc-housing-report/70a77899cc711249d6d3/optimized/full.pdf, p. 16

IV.   SUMMARY OF SISKIN STUDY

At the request of the City of New York, Bernard Siskin prepared a "Rebuttal" to the Beveridge study, which critiqued its methodology and findings and described Siskin's own analysis of the same data set, which drew opposing findings and conclusions.

A.   Siskin's Data and Methodology

Siskin identified and described methodological issues in the Beveridge studies similar to those discussed above. Siskin then analyzed the same data set, using what he argued were more accurate and appropriate methods. He preceded his analyses by noting that Black and Hispanic applicants in the data set were awarded disproportionately large shares of units, as compared to the representation of those groups among New York City households with incomes qualifying them to compete in housing lotteries.

B.   Siskin's Disparate Impact Analyses

Siskin ran simulation experiments of the housing lottery application process to:

1. Compare the outcomes of the process, with and without the CP policy, on the racial distribution of applications that were awarded units;
2. Assess the isolated impact of the "Consideration" stage of the process (the stage in which CP plays a role) on the racial distribution of applications in the subsequent stage;
3. Estimate the isolated impact of CP on the racial distribution of applications, directly after they pass through the stage in the lottery process when CP takes effect.[7]

Lottery simulations with CP saw a marginally higher number of White applications awarded units than simulations without it, an increase which came at the expense of the Asian population. The numbers of Black and Hispanic applications that were awarded units fluctuated by less than one percent between when CP was and was not in effect.

No meaningful differences were found in the racial distribution of applications directly before and after the Consideration stage. No meaningful differences were found in the racial distribution of applications directly before and after CP took effect.

C.   Siskin's Segregation Analyses

Siskin's segregation analyses examined (1) the impact of the housing lottery process overall; (2) the isolated impact of the "Consideration" stage; and (3) the estimated impact of eliminating the CP policy, on the city's Dissimilarity Indices. Siskin considered a universe of applications containing those which both listed an address that could be geocoded and were awarded a CP unit in a project located in a single census tract. The analyses consisted of:

1. Manual, numerically calculated estimate of the impact of awardee moves on the city's Dissimilarity Index;
2. Comparison of the demographic makeup of awardees' destination and origin census tracts, before and after their moves;
3. Simulation of the impacts of awardee moves, as determined by the lottery process with and without CP, on the Dissimilarity Index.

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[7]   Siskin claims that it is impossible to isolate the impact of Community Preference alone; for this reason, he examines the isolated impact of the "Consideration" stage of the application process in which Community Preference plays a role, and then estimates the impact of the policy itself.

Results indicated that the CP policy and the housing lottery process overall do not have meaningful effects on the Dissimilarity Indices between Whites and other racial groups in New York City. Any impacts made by CP were minimal, random, and mixed in direction (i.e., did not benefit a specific group more or less than others).

D. Siskin's Housing Choice Analysis

Siskin calculated the distances between each applicant's residence and the housing to which they applied. Two separate tests were used to analyze the correlation between these distances and the residences of each CD resident applicants and non-CD applicants. Both groups were found to be statistically significantly more likely to apply to specific housing projects that were closer to their current residence. Siskin drew from this finding that while lottery participants frequently apply for housing outside of their neighborhoods, they would also *prefer* to remain closer to where they currently live.

E. Siskin's Conclusions

Siskin concluded the following:

1. The impact of the community preference policy cannot be precisely measured, but in simulations of the lottery process, the policy did not have a racially disparate impact on the citywide population, nor did it have meaningful effects on the city's Dissimilarity Indices between Whites and other groups;

2. The stage of the lottery process in which Community Preference plays a role (the "Consideration" stage) does not have a racially disparate impact citywide, nor does it have meaningful effects on the city's Dissimilarity Indices between Whites and other groups;

3. The lottery process overall has minimal, random, and mixed effects on segregation which do not favor any particular group or show consistent patterns;

4. While lottery participants frequently apply to housing lotteries outside of their neighborhoods, statistical tests also support their preference to remain in the same neighborhoods.

V. APPENDICES

APPENDIX A: Housing Lottery Application Process[8]

1. Entrance: Each housing lottery is concerned with the units in one or more housing project(s). Households that wish to compete for a unit may apply to one or more lotteries.

2. Apparent Eligibility: If an application contains a self-reported household income and size that meets the requirements for at least one available unit in the lottery, it is deemed Apparently Eligible.

3. Consideration: Once an application period is closed, all Apparently Eligible applications are assigned a preference status (if any) and a randomized lottery number. An application's preference status and number determine the order in which it is processed by developers and marketing agents.

4. Confirmation: The applicant must verify their real interest and eligibility by meeting with the developer or marketing agent, submitting proof of income and other materials, and completing any other required steps, which may vary.

5. Award: Applications that complete the Confirmation stage may be awarded a housing unit.

APPENDIX B: Beveridge's Community District Typology

Majority White: over 50 percent White

Plurality White: no group accounts for more than 50 percent; White is the largest group

Majority Black: over 50 percent Black

Plurality Black: no group accounts for more than 50 percent; Black is the largest group

Majority Hispanic: over 50 percent Hispanic

Plurality Hispanic: no group accounts for more than 50 percent; Hispanic is the largest group

Majority Asian: over 50 percent Asian

APPENDIX C: Online Access to Expert Reports

1. Expert Report of Andrew A. Beveridge (April 1, 2019), *Winfield v. City of New York*, 5-cv-5236 (LTS) (KHP) (2019 S.D.N.Y.), available at: http://www.antibiaslaw.com/sites/default/files/Bev2019.pdf

2. Expert Report of Bernard Siskin (June 27, 2019), *Winfield v. City of New York*, 15-cv-5236 (LTS) (KHP) (2019 S.D.N.Y.), available at: https://int.nyt.com/data/documenthelper/1412-siskin-nyc-housing-report/70a77899cc711249d6d3/optimized/full.pdf

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[8] These stages are derived from the Beveridge and Siskin Expert Reports and do not reflect how the City of New York officially defines this process. Beveridge established the "Apparent Eligibility" and "Award" stages for the purpose of his studies; Siskin accepted and built from these the definitions of the other stages of the process, as they are described here.