

RECOVERING BRUCE'S BEACH

Historical Overview and Discussion of Legal Issues

Bruce's Beach History

1. Between 1900 and 1903, Willie "Willa" Ann Bruce (b. 1862, Missouri), and her husband, Charles Aaron Bruce (b. 1860, District of Columbia) moved with their son, Harvey (b. 1888), to Los Angeles.
2. On February 19, 1912, Willa Bruce purchased land in Manhattan Beach and in June 1912, "Bruce Beach Front," a seaside resort for bathing and fishing opened. Willa sold sodas, lunches, rented bathing suits, and provided access to bathing showers and dressing tents. She subsequently purchase a second plot, and the resort grew. Additionally, between 1919 and 1926, at least six other African Americans purchased property in close proximity to Bruces' resort.
3. As the popularity of the Bruces' resort grew within the Black community, it created an increased concern among White residents of Manhattan Beach. Beginning in 1920, there were a series of events that led to the condemnation and seizure of property from Black families residing near the Bruces'.

Strategies to Prevent Blacks from Owning Real Property

Evidence of Policies Dispossessing Black Americans of Property Ownership:

- In 1973, the U.S. Commission on Civil Rights concluded the housing industry aided and abetted by the government, must bear the primary responsibility for the legacy of segregated housing.
- In order to pass the New Deal, Roosevelt had to court the votes of Southern Democrats who would only agree to support it if the economic reform excluded industries where Black Americans predominated (i.e., agriculture). This set the stage for the wealth gap. Rothstein.
- Following immense population growth after the war, there was a housing shortage. The government began a public housing program to respond, but the focus was on housing White Americans; and if housing was provided to Black Americans, the policy of the federal government was to provide said housing separate from White Americans. Public housing was therefore used to funnel Black Americans into homogenous communities in urban ghettos. Rothstein.
- Agencies established by the New Deal worked to perpetuate residential segregation. The Tennessee Valley Authority and Civilian Conservation Corps offered housing to employees, but this sort of support was denied to Black Americans. Rothstein.
- The Public Works Administration maintained a 'neighborhood composition rule' so federal housing projects had to reflect the racial composition of the existing community prior to the project, exacerbating segregation. Rothstein.
- Unlike public housing, which was primarily a federal program, government policies to isolate White families in all-White neighborhoods began at the local level. Baltimore, for example, adopted zoning rules to separate the races. Black Americans were prohibited from buying in predominately White areas. This also happened in Miami, Dallas, Atlanta, and many other cities, and proved successful at keeping Black Americans out of middle-class neighborhoods. Rothstein.
- Local communities would impose racial covenants, prohibiting residents from selling to Black families.
- Acquiring a loan for a mortgage was difficult for Black Americans, so they would turn to other methods to get a home. Contract purchases, for example, were burdensome arrangements, where a buyer made payments to a seller, not a bank, and did not receive the deed until the payments were complete. Default on a single payment meant the home could be seized immediately. Other requirements imposed on Black home buyers were more burdensome than for White applicants. White persons in Levittown, for example, could buy property with no down payments and low interest rates under the VA mortgages, but Black applicants were not allowed to buy in this area, were made to pay a down payment, or get an uninsured mortgage with higher interest rates. The FHA also discouraged banks from making any loans in urban neighborhoods, where Black Americans had been strategically funneled, rather than in suburbs.

- In 1934, Congress created the Federal Housing Administration. The FHA insured private mortgages, causing a drop in interest rates and a decline in the size of the down payment required to buy a house. But an insured mortgage was not a possibility for Black Americans. The FHA had adopted a system of maps that rated neighborhoods according to their perceived stability. On the maps, green areas, rated "A," indicated "in demand" neighborhoods that, as one appraiser put it, lacked "a single foreigner or Negro." These neighborhoods were considered excellent prospects for insurance. Neighborhoods where Black people lived were rated "D," and were usually considered ineligible for FHA backing. They were colored in red. Redlining went beyond FHA-backed loans and spread to the entire mortgage industry, which was already rife with racism, excluding Black people from the most legitimate means of obtaining a mortgage.
- In 1976, the Supreme Court held that the Chicago Housing Authority, with the complicity of federal housing agencies, had unconstitutionally selected sites to maintain segregation in the city. They weren't building public housing in White areas or the suburbs, and the Court took issue with this. The City of Chicago continued to block efforts by the CHA and HUD to comply with the decision and consent decrees.
- During the early 1950s through the 1960s, the City of Chicago targeted predominately Black neighborhoods in the Hyde Park and surrounding neighborhoods for eminent, domain evictions and evictions on the basis of alleged blight. In 1953, the University of Chicago created the South East Chicago Commission with the stated purpose of addressing crime and blight in the areas surrounding its campus. The SECC specifically targeted Black-owned properties for their advocacy to police and housing authorities for "blight" and eminent domain evictions, and affirmatively sued for such evictions. The organization led urban renewal efforts in the 1950s and 1960s with the main goal being to rid the area of Black residents. The group was charged with looking for code violations in an area where residents were unable to secure bank loans to make repairs to their homes in order to bring them up to code; the landlords were then accused of being "slum lords," due to conditions perpetuated by the city in its refusal to provide adequate services to the area.
- There are a number of instances of land theft, worth millions of dollars, taken via legal chicanery or violence.

Return to the Return of Bruce's Beach

1. The murders of George Floyd and Breonna Taylor created a massive social movement. Locally, in the South Bay, activist Kavon Ward founded Justice for Bruce's Beach on Juneteenth, 2020.
2. LA County Supervisor Janice Hahn took interest, and eventually served as co-author on the motion to return the land to the heirs of Charles and Willa Bruce. Janice Hahn's father was a member of the Los Angeles County Board of Supervisors for 40 years, from 1952 to 1992. In 1961, he was the only elected official who agreed to meet Dr. Martin Luther King Jr. when he landed at LAX.

California Constitutional Issues

1. California's constitutional prohibition on gifts of public resources
 - a. "The Legislature shall have no power to...make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municipal, or other corporation[.]" Cal. Const., Art. XVI, Section 6.
 - b. "An appropriation of money by the legislature for the relief of one who has no legal claim therefor must be regarded as a gift within the meaning of the terms as used in this section, and it is none the less a gift that a sufficient motive appears for its appropriation, if the motive does not rest upon valid consideration." *Conklin v. Board of Supervisors*, (1893) 99 Cal. 17, 22.
 - c. "...moral considerations or demands resting merely upon some equitable consideration or idea of justice, which in an individual acting in his own right would be upheld, are insufficient as basis for making an appropriation of public moneys." *Ibid*.
2. Private vs. Public Purpose Doctrine
 - a. "It is well settled that, in determining whether an appropriation of public funds or property is to be considered a gift, the primary question is whether the funds are to be used for a 'public' or a 'private' purpose." *County of Alameda v. Janssen*, (1940) 16 Cal. 2d 276, 281.
 - b. There is no gift of public property "if a direct and substantial public purpose is served and non-state entities are benefited only as an incident to the public purpose." *California Housing Finance Agency v. Elliott*, (1976) 17 Cal. 3d 575, 583.
 - c. "The concept of public purpose has been liberally construed by the courts, and the Legislature's determination will be upheld unless it is totally arbitrary." *Mannheim v. Superior Court*, (1970) 3 Cal. 3d 679, 691.
3. California State Assembly Findings (SB 796)
 - a. The government has a "responsibility to prohibit and eliminate racial discrimination in all forms and to ensure that all persons are entitled to security against forced removal, harassment, and intimidation by entities who seek to deprive individuals of the rights to self-determination and dignity on the basis of their race."
 - b. "Government must act in the public's interest to ensure that communities can fairly access justice and an effective remedy, including, when appropriate, the potential return, restitution, resettlement, rehabilitation, or compensation, for unlawful and race-based displacements."

4. Los Angeles County Findings (County Resolutions)
 - a. Bruce's Beach was wrongfully taken from the Bruce's, and the return of the land to the Bruce family would serve the public interest.
5. Bruce's Beach Court Order (*Ryan v. Los Angeles County Board of Supervisors*, April 8, 2022).
 - a. "[T]he court finds where the appropriate of public funds and/or property is to address and/or remedy racial discrimination committed by the government, it serves a public purpose."
 - b. Righting a government wrong perpetrated in breach of our core and fundamental constitutional principles, works to strengthen governmental integrity, represents accountability in government, and works to eliminate structural racism and bias.
 - c. The government's act of rectifying a prior egregious wrong based on racism fosters trust and respect in government.
 - d. [W]here the government finds it previously acted as the perpetrator of racial discrimination to deprive its citizens of its property, public trust in our institutions and democracy is severely damaged.

Bruce's Beach Federal Tax Analysis

- 1) Is the return of the Bruce's Beach property a taxable event to the Bruce family?
 - a) Generally, unless otherwise excluded by law, gross income for federal income tax purposes includes all income from whatever source derived. This would normally include any receipt of property, as long as there is an "accession to wealth."
 - i) See, e.g., *Commissioner v. Glenshaw Glass Co.*, 348 U.S. 426 (1955); *Eisner v. Macomber*, 252 U.S. 189 (1920).
 - b) In contrast, return of previously owned capital assets generally does not constitute taxable income. This principle has been supported by case law, including in the context of the return of land, and in IRS rulings regarding certain payments of reparations. Similar principles apply to the recovery of stolen property.
 - i) See, e.g., *U.S. v. California & Hawaiian Sugar Refining Corp.*, 311 F.2d 235 (Ct. Cl. 1962) (return of previously paid taxes); *Alice Phelan Sullivan Corp. v. U.S.*, 381 F.2d 399 (Ct. Claims 1967) (return of land previously donated); Rev. Rul. 56-518, 1956-2 C.B. 25 (certain payments described therein were "in the nature of reimbursement for the deprivation of civil or personal rights and do not constitute taxable income to the recipients for federal income tax purposes.").

- c) Here, because Bruce's Beach was wrongfully taken from the Bruce family, the return of the property to the family should be a nontaxable return of capital.
- 2) Does basis step-up apply to Bruce's Beach in the hands of the Bruce family?
- a) Generally, the tax basis of property in the hands of a person who acquired the property through inheritance is automatically increased to its fair market value at the date of the prior owner's death.
- i) See Code Section 1014(a).
- b) Here, the basis of Bruce's Beach would have stepped up to its fair market value at the time and upon the death of each owner of the property in the Bruce family, had the property remained with the family. Because the property was wrongfully taken away from the family and then rightfully returned, it should be treated as having remained in the family for purposes of determining the tax attributes of the property, including for basis step-up purposes. Therefore, the basis of Bruce's Beach in the hands of the current rightful owners should be the fair market value at the time of the most recent (hypothetical) prior owner's death.
- i) See *Perry v. U.S.*, 160 F. Supp. 270 (Ct. Cl. 1958), overruled on other grounds; *Alice Phelan Sullivan Corp. v. U.S.*, 381 F.2d 399 (Ct. Cl. 1967) (reasoning with respect to returned property that "[w]hen the securities were returned . . . it was as if they had remained in the taxpayer's possession all the time . . .").
- 3) Is there any estate tax associated with the return of Bruce's Beach?
- a) Generally, estate tax applies to the passing of property through inheritance, but it should not apply where legal ownership of the property did not actually pass from one generation to the next, because an inchoate legal right is not property that is subject to taxation.

Models of Housing Reparations

- Evanston, IL – Local Reparations Restorative Housing Program, allocation from cannabis taxes in the locality. Assists Black families with US\$25 thousand for housing down payments. Only available to victims subjected to discriminatory housing policy and their descendants.
- Asheville, NC – Apology and financial appropriation to atone for residential segregation and its harms. Commission will work with community to determine how to spend the money.
- Massachusetts – Mass Housing, US\$500 million stimulus to address Black homeownership and the wealth gap, with US\$300 million for down payment assistance and the remaining amount for community economic development. Also has the Workforce Housing Fund and Commonwealth Builder program, which addresses the supply-side issue by offering developers money to build and offer units at affordable rates.
- Federal Housing Finance Agency imposed stipulations on Fannie Mae to implement equitable housing programs. One plan is the "Special Purpose Credit Programs," that increase access to

credit and encourage “sustainable homeownership for Black consumers.” Another assists with down payments and would require taxpayers to subsidize down payments for Black borrowers. Another new program would reduce “loan level price adjustments” for Black home buyers. Still another program would “support the reduction of borrower closing costs for Black homebuyers” – for instance, via appraisal reimbursements. Fannie says these credit subsidies are merely “pilot programs” that will be tested “in predominantly Black geographic markets” – i.e., big liberal cities – and evaluated based on “applications made to participating lenders from Black consumers” and “loans to Black borrowers.”

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