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How McDonald's Made Enemies of Black Franchisees

The company, once celebrated in Black entrepreneurial circles, is settling with Black owners who say they were blocked from the best and most profitable locations.

By Susan Berfield

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The Carnegie Avenue McDonald's formerly owned by Herb Washington, on Cleveland's east side *Photographer: Andrew Spear for Bloomberg Businessweek*

Herb Washington bought his first McDonald's restaurant in 1980. He was 29, young by McDonald's standards; a husband hoping to be a father, as the company preferred; a graduate of Michigan State University and Hamburger University. Washington had been a sprinter, nearly qualified for the 1972 Olympics, and later signed with the Oakland A's as a "designated runner." He lasted just a year, but it was a good year. The team won the World Series, and Washington earned about $100,000 all counted. That's how he paid for the restaurant.

When McDonald's decided he was ready, it also decided where he would go. For a decade, McDonald's had been recruiting Black men —and a few Black women—to own restaurants in Black neighborhoods. Civil rights activists demanded it. Black entrepreneurs wanted it. And company executives knew it was necessary to keep the business growing. Some of the restaurants were new, many had been owned by White operators who wanted, or were advised, to sell. White residents were abandoning cities for the suburbs, and so were White McDonald's franchisees. McDonald's itself wanted to stay. Washington was told his McDonald's would be in Rochester, N.Y., in a poor Black and Hispanic neighborhood, next to a public housing complex called Fight Village. Other Black operators called these "hood restaurants." Washington didn't know that yet.

But he knew enough about McDonald's to understand that turning down the offer would be a mistake. Getting into the system, as everyone calls it, is competitive. Buying restaurants is competitive, and no one gets into the system to own just one. He was excited to join more than a hundred other Black operators at a company that seemed to offer opportunities they were denied elsewhere. He was going to climb, he was going to lift, he was going to get rich.

His excitement didn't last long. The restaurant, on the corner of Clifford and Clinton avenues in downtown Rochester, was new, its economics untested. McDonald's owned the building–as it almost always does–and Washington, like all operators, paid rent plus a service fee to the company, based partially on sales. This model provides McDonald's revenue that doesn't account for the costs of running the restaurant, the debt most every owner takes on, or any unexpected problems. "We're just like the Mafia; we skim it right off the top," a McDonald's executive had joked to *Time* magazine in the early 1970s. No one ever said anything like that in public again, but it's one reason people still say that McDonald's doesn't sell burgers, it sells real estate.

McDonald's was optimistic about the potential of restaurants that served mostly Black customers. They were regarded as "super-users." Washington's restaurant fell short right from the start. Sales were expected to reach more than $1 million a year but came in at about $700,000. McDonald's misunderstood the demographics of Rochester's downtown, he said. Many of his customers received public assistance and didn't have a lot of disposable income. His staff couldn't upsell. Purchases spiked at the start of the month and plummeted at the end. The crack epidemic was taking hold. There were fights in the restaurant; he kept baseball bats around like they were spatulas.

After the first year, his was the lowest-volume restaurant in the region. That, he said, was devastating. When a restaurant is struggling, McDonald's can help by lowering the rent. But Washington didn't know to ask for assistance, and he said no one suggested he try. Instead he relied on an Urban League program that paid as much as half of the salaries of his younger employees.

The next year, McDonald's offered Washington a second Rochester store next to another public housing complex, Fight Square. He didn't hesitate to buy it. And a few years later, he took on a third. He had figured out a management system of his own.

He'd also figured out what a lot of other Black operators had. Life would be a little easier, and his bottom line stronger, if he could buy some restaurants in the suburbs, where, generally, the customers were White and better off economically, and the McDonald's franchisees were, too. Washington was friendly with one who wanted to sell three restaurants. Before McDonald's even knew the restaurants were on the market, he'd made a deal. That was probably a miscalculation. The company has the first right of refusal, which means a regional manager can prevent any sale between operators. That's what happened. "McDonald's can say, 'Oh no, we want these stores in those hands. It's that simple,'" Washington said. "McDonald's overrode the deal and then sold the restaurants to a White owner." McDonald's acknowledged that it didn't approve the sale. "After losing the stores, I felt betrayed," Washington said. "I felt discriminated against. I felt that if I was White, the deal would have gone through."

He'd done well for himself in the three decades since. He was able to acquire additional McDonald's restaurants, including one at the Rochester airport and another at a highway rest stop, then sell them all so he could move to Ohio to buy half the franchises of a big operator. At one point he owned 27 restaurants, which made him the largest Black owner in the system. He'd been honored and awarded. He served as chairman of the Federal Reserve Bank of New York in Buffalo and as vice president of the National Black McDonald's Operators Association (NBMOA). He briefly owned a minor league hockey team. He drives a Range Rover. He'd had some worrying operational problems, too, which McDonald's said were evidence of mismanagement–and Washington said were just speed bumps. But that moment in Rochester was when he saw how the system might disappoint him. And now, at age 70, he believed that if he'd had a better portfolio of restaurants over all those years–some in mostly Black communities, others in the suburbs–he could have been even more successful and might not have needed to work as hard. If he hadn't had the sense he was restricted by his skin color and confined by demographics, he might not be just wealthier, but happier. If any of that had happened, he might not have sued McDonald's.

Washington announced his lawsuit in February at his home in a suburb of Youngstown, Ohio, in front of a painting of Muhammad Ali knocking out Sonny Liston. "I knew I had to fight for everything, but I didn't know the fight would last a lifetime," he said. He looked like a man used to an audience. He wore a gray suit, white shirt, and black tie and read from a prepared statement. He accused McDonald's of operating a two-tier system for restaurant owners: Black franchisees, he said, are steered toward locations in Black, often poorer, neighborhoods, where the costs of security and insurance and employee turnover are higher and the annual sales are sometimes hundreds of thousands of dollars lower. He said that his requests for better restaurants went unfulfilled and that when he complained about unequal treatment, he was called uncooperative and felt he was at risk of retaliation. He claimed that in the preceding three years he'd been unfairly judged a poor operator and required to sell seven restaurants. He sought compensation, the amount unspecified, for economic damages and the harm caused by mental anguish, emotional distress, and humiliation.

"When I stood up for myself and other franchisees, McDonald's began to dismantle my life's work," he said. "I didn't quit on McDonald's. McDonald's quit on me." He spoke of his 35-year-old son Terrell, who worked with him and had trained to become an owner. Washington had been deemed ineligible for growth, as

McDonald's puts it, which meant he couldn't purchase any other restaurants. And because Terrell was part of his father's organization, he couldn't either. That seemed especially punitive to Washington, as it does to other operators whose wealth is tied up in a business they can't necessarily pass on to their children: "So much for a generational legacy."

Washington's lawsuit was the fourth in just over a year to claim that McDonald's practices its own kind of redlining. The first came in January 2020 from two Black executives, Vicki Guster-Hines and Domineca Neal, who had been vice presidents with responsibility for franchising and operations. They accuse McDonald's of "demoting or severing ties" with Black executives in disproportionate numbers in a reorganization: In 2014, when McDonald's was led by a Black chief executive officer, Don Thompson, there were 38 Black senior executives; by 2019, when it wasn't, there were seven. Neal and Guster-Hines were among those reassigned. About two months after they filed their case, Neal was fired. Guster-Hines went on temporary leave that she recently made permanent.

In September 2020 more than 50 Black former franchisees filed a federal suit saying they'd been pushed out, too, sometimes slowly, sometimes quickly, and sometimes in debt. They allege that they were restricted to older restaurants with much lower sales, presented with unequal and unreasonable renovation requirements, and subject to harsher grading and inspection standards. The former franchisees claim their annual sales were about $700,000 less than the national average.

Before year's end came the Byrd brothers, James and Darrell, with a class-action suit against McDonald's on behalf of current owners. They'd been part of the system for decades, in Tennessee, and said they'd received no help when they encountered unexpected problems that strained their already precarious finances. They, too, claimed that Black franchisees across the country faced a $700,000 sales differential. And they said their region had the biggest disparity in annual cash flow—what remains after capital expenses but before tax and interest payments—with a gap between White and Black owners of about $140,000. "Look at how many billions of dollars that comes to," said Darrell. "It's a staggering amount of wealth that didn't transfer to us."

The Black franchisee organization had similar complaints. In March 2019, Larry Tripplett, the leader of the NBMOA, wrote to company executives: "In general the trajectory of the treatment of African American Owners is moving backwards. Through no fault of our own we lag behind the general market in all measures." He said that no one in senior management looked like them, that they couldn't count on being treated fairly. "The current state of affairs for African American Owners can only be described as hostile." This year, in early December, he was just as direct in a statement to *Bloomberg Businessweek*: "Despite sales growth, Black franchisees collectively earn lower profits than non-Black McDonald's franchisees due to ongoing systemic and historical inequalities within the McDonald's Corporation."

The company denies all the allegations of racial discrimination and has brought on Loretta Lynch, who served as attorney general in the Obama administration, to represent it. After months of fighting, McDonald's said on Dec. 10 that it had settled the Byrds' case, paying $6.5 million for their four restaurants. On Dec. 16, McDonald's announced it had come to terms with Washington. McDonald's bought him out, purchasing his 13 restaurants for $33.5 million.

Read a letter to the editor from McDonald's.

There's always chafing against the system at McDonald's. The company makes most of its money from franchisees: Some 69% of its $7.7 billion in revenue in the U.S. last year came from rents and fees. McDonald's controls much about franchisees' operations and wants them to succeed, but it isn't necessarily responsible to help when they don't. Franchisees initially invest from $1.3 million to $2.3 million for a new restaurant, which typically comes with a 20-year lease. They must buy the equipment, the furniture, even the golden arches, and eventually secure the food and uniforms from approved suppliers. They hire their own employees. Franchisees also pay for insurance and cover property taxes on the restaurants, though McDonald's owns them.

Franchisees pay a base minimum rent plus as much as 28% (though most pay much less) of gross sales . The highest sales a restaurant reported in 2020 was $9.2 million; the lowest, $272,000. The median was $2.9 million, but almost one-quarter of the restaurants brought in less than $2.3 million. An additional 4% of sales goes to the company as a so-called service fee, and at least 4% goes to advertising and promotion. There are annual fees for technology and technology support, including $73.80 for a company email, that total more than $10,000. When McDonald's tried to add to those fees this year, franchisees resisted, and the company relented on the size of the increase.

Franchisees want to get in and stay in because a lot of them become wealthy. That includes Black franchisees. Nonetheless, they say, decisions made decades ago created inequities that continue to constrain them. The biggest factor is, in some ways, the simplest: location. "There is a kind of territorial understanding of where Black operators should be and where White operators should be," says Marcia Chatelain, author of the Pulitzer Prize-winning book *Franchise: The Golden Arches in Black America*. "This reflects McDonald's early attempts to put Black operators in Black neighborhoods." Once that seemed the best way to integrate the system. Now it seems to limit potential.

In its response to the lawsuits, McDonald's acknowledged that there's a cash-flow gap between Black and non-Black franchisees. It acknowledged a difference in sales, too, though it said the gap in 2019 was about $79,000, much smaller than the lawsuits claim. The company said in a filing that the number of Black franchisees had declined to 186 in 2020 and in a later statement noted that the number of White franchisees has declined, too, and that the representation of Black owners in the system is broadly unchanged. It said the company doesn't place franchisees in restaurants; rather, franchisees select which ones they want to purchase among those up for sale, and once they're in place, the same grading standards apply to all franchisees. Following Washington's press conference, McDonald's said that his mismanagement had put some of his restaurants at risk and that his organization had "failed to meet many of our standards on people, operations, guest satisfaction and reinvestment."

While it's been defending itself against charges of discrimination, the company has addressed racial inequities in the ways many companies are doing. Since the murder of George Floyd set off protests, McDonald's has donated to the NAACP and the National Urban League. It's tied 15% of executive bonuses to meeting precise diversity metrics and promised that by 2025 one-quarter of its purchases would be from diverse suppliers and 10% of its national advertising budget would go to diverse media. In early December the company said it will spend $250 million in the U.S. over the next five years to recruit franchisees from underrepresented groups, reduce initial equity requirements for them, and "provide alternatives to traditional financing." It noted that at the end of 2020, Black, Asian, or Hispanic franchisees constituted nearly 30% of the total. In Bloomberg's survey of corporate diversity this year, McDonald's came out near the top.

The company also has been quietly offering Black franchisees permanent rent reductions, debt relief, and opportunities to buy restaurants that have high sales, which seems like much of what they've been seeking. In a statement, Bill Lowery, McDonald's vice president for diversity and ombudsman, said: "While the realities of restaurant ownership go beyond racial composition, we've worked collaboratively with the National Black McDonald's Association on actions that have improved average cash flow for Black franchisees." Washington said the deal he was offered, though, amounted to a break of about $6 a day for each of his restaurants.

McDonald's seems to be making some changes. They might endure, they might erode, or they could be too small to make a difference. Still, they're coming too late for Herb Washington.

Our development in urban areas has been challenging because it represents an entirely different kind of real estate situation. There also are all kinds of social and political currents swirling around in a big city that you don't have to deal with in suburbia. –Ray Kroc, in Grinding It Out: The Making of McDonald's

Herman Petty was McDonald's first Black franchisee. He bought a restaurant on Chicago's South Side at the end of 1968 with two partners, both White men. For a while, McDonald's encouraged these arrangements–calling them zebra or salt-and-pepper deals–because it was difficult for Black operators to get loans on their own. The restaurant cost $125,000, about average at the time but overpriced considering the shape it was in. "Not one piece of equipment in his store was in proper working order–if it worked at all. There was no air conditioning. There was no freezer," Roland Jones, McDonald's first Black field consultant, wrote in his autobiography. "Inside and outside, the store looked like it was ready for the wrecking ball."

Petty figured out how to manage the restaurant profitably. (One key was getting rid of the partners.) He co-founded the NBMOA as a selfhelp organization, bought more restaurants, and became a millionaire. His portrait hangs in McDonald's new Chicago headquarters.

The year after Petty entered the system, residents of Cleveland's East Side began a boycott of four McDonald's restaurants to pressure the company to sell them to Black owners. Cleveland was among the most segregated cities in the country and bristling with racial tension. Customers stayed away. Protesters, some armed, patrolled the streets around the restaurants, and it wasn't long before the White owners were staying away, too.

After about a month, McDonald's agreed to give a community group the right to approve Black franchisees for those restaurants. Wilson Rogers had been working at National Screw for two decades when he saw an ad seeking applicants. He ended up buying the McDonald's at 9101 Kinsman in 1971 for $225,000—more than the price of many new restaurants. He didn't mind. The owner had been asking $275,000. "It was a great store," says his son Jayson. Wilson worked there every day, wearing a sidearm just in case.

Jayson would sell this restaurant to Washington in 2011. Three years later, he would sell Washington a second restaurant that had also been part of the boycott. By then it was too dangerous to let the manager take the day's earnings to the bank—"zero chance I would do that," Jayson says. He paid $2,000 a month for an armored car to come for the money. In 2018 the two restaurants—Kinsman and Beacon Place—would become part of Washington's dispute with McDonald's.

In such neighborhoods in cities across the country, McDonald's was advising White owners to sell to Black operators. By 1973 there were 50 Black owners, almost 10% of the total. The restaurants had been built years earlier, were often rundown, and usually didn't have eat-in dining. Many new Black owners had to take on further debt for renovations. Within a couple of years, one-third of those 50 were gone, unable to keep up with their expenses or with McDonald's requirements.

When a franchisee failed, the company would usually acquire the restaurant, absorb the losses, find a new buyer, and raise the rent or the purchase price to recoup its investment. If the restaurant turned over again in distress, the rent or price could be raised again. This may not have been intended to maintain the advantage White operators had, but it did.

In the 1980s, McDonald's opened restaurants on a riverboat, in a colonial mansion, even on Guantanamo Bay Naval Base in Cuba. It opened thousands of others in the U.S. Some Black franchisees complained they were still being confined to hardcore urban centers—"subjected to a double standard," as civil rights leader Jesse Jackson said; stuck in urban hellholes, as Charles Griffis, a Black franchisee in Los Angeles, said. In 1984, as he was being sued for breach of contract, Griffis filed suit alleging that Black operators were systematically kept from buying restaurants in White neighborhoods.

A McDonald's spokesperson at the time may have explained more than she intended when she said that the company was being sensitive to Black communities' needs when it sent in Black businesspeople, that the best person was someone the community respected—and that if the population was mostly Black, the best person might also be Black. And if a community were mostly White? She didn't say.

Several months later, McDonald's paid Griffis $4.7 million. The company said this was the cost of buying him out; Griffis said it was far more than his four franchises were worth.

In some ways the system was working. By the end of the 1980s there were 224 Black franchisees with 457 restaurants, 6% of the total, and these numbers set McDonald's far apart from its competitors. McDonald's advertised itself as a place where Black employees could advance and where Black executives "help call the shots." Its restaurants in Black neighborhoods were some of the busiest in the country. And the company was about to introduce its first-ever celebrity burger, the McJordan, a quarter-pounder with bacon, cheese, barbecue sauce, mustard, onions, and pickles.

Seventeen of the most successful Black operators walked into the company's headquarters in Oak Brook, Ill., on a Wednesday morning in April 1996. They'd been invited by Reggie Webb, then head of the Black franchisee organization, to a meeting with Ed Rensi, then head of McDonald's U.S. operations. Herb Washington was there, and Larry Tripplett was there. Leroy Walker had come from Mississippi, Ralph King from Missouri, Gordon Thornton from North Carolina. The former head of the NBMOA, Frances Jones, was there, too. The operators wore suits, looked sharp, felt anxious. The agenda had just one item: parity.

The franchisees sat around a rectangular table with regional managers in chairs behind them. The meeting began with presentations from McDonald's. After lunch, as Rensi was bringing out more charts and graphs, King said: “Mr. Rensi, with all due respect, we don’t need to see another damn chart.” They already knew what they needed to know about Black McDonald’s. In all but one region, Black owners had fewer stores than the average owner, as well as the lowest volumes, cash flow, and profits—while carrying the highest debt and paying the highest percentage of gross sales in rent.

When Rensi asked the Black operators what they wanted, Walker stood up. “I said, ‘Mr. Rensi, take a blank sheet of paper, write down what you want for your community, yourself, your children, your legacy—and sign our damn names to it,’” Walker recalls. “I said: ‘Don’t leave nothing out.’” Washington remembered how this disarmed the McDonald’s executives. “We just want what you want.”

Three of those operators are among the former franchisees suing McDonald’s. King and Thornton declined to comment for this story, and Walker didn’t want to say much either, except: “The chickens have come home to roost, as Malcolm X would say.”

The day after the meeting in Oak Brook, Tom Dentice, an executive vice president, wrote a letter to Webb acknowledging that although McDonald’s had tried to do the right thing, it was responsible for placing many Black franchisees in restaurants where they couldn’t achieve the same success as White owners. It wasn’t right or fair, he wrote, and now there would be “No excuses, no reasons, no would’ves, could’ves, or should’ves—just results.”

The executives and the franchisees agreed on a five-year plan to remedy the disparities. Webb says McDonald's eventually began selling more restaurants to Black operators, mostly profitable ones that the company itself had been running. It lowered rents, permanently for some and temporarily for others. "We went from a room primarily of poor operators to a room of millionaires," Webb says. "It felt good."

It was during those years of plenty that Washington moved to Ohio and became the largest Black franchisee in the nation by purchasing 25 restaurants from one of the largest White franchisees. Youngstown was another city in decline, but Washington knew he wasn't likely to get another chance to become this big so quickly. He had the means and the controls and thought he could manage in a place with a population that was more than 40% Black. Right away, Washington became involved in a legal dispute with the former owner over the poaching of employees. Washington won 15 years later. He said he expected some financial help from McDonald's during that time. The company said it didn't have information about the dispute and denied the allegation that it treated Washington differently because of his race.

Still, Washington was getting recognition. "Herb symbolizes the dynamic, entrepreneurial spirit that is the power behind the Golden Arches," McDonald's CEO Jack Greenberg said at a White House business roundtable with Vice President Al Gore in 1998, where the company was commended for "its commitment to minorities." That year, Washington's organization came in at No. 95 on the *Black*

Enterprise list of the top 100 Black-owned businesses.

For all his success, Washington couldn't help thinking that nothing was quite as it seemed at McDonald's. After the parity agreement expired in the early 2000s, the pressure on McDonald's eased, and the gaps that had been closing widened again. To Washington and others it looked as if the shadow system was reasserting itself. The unofficial policy of awarding suburban stores to White owners wasn't as absolute as it had been, says Webb. "But it wasn't equitable, either."

Washington's Youngstown operation brought in about $1.3 million per restaurant annually. The national average was about $1.6 million, the regional average a little lower. The profit margin for all operators was declining, in part because of competition and in part because of an expensive, ultimately flawed program allowing customers to order the way they could at other restaurants. Putting onions on a sandwich that didn't normally have them or leaving them off one that did sounded simple, but each step added time to a process that was measured in seconds. Washington said he asked a vice president for some help via rent reductions. The answer was no. Washington took the request to Oak Brook. Again, no.

He made the restaurants work. He'd been in the system a long time and knew which pennies to pinch, which spigots to turn. In 2007, when Jayson Rogers decided to sell three stores on Cleveland's East Side, McDonald's suggested he call Washington. "This made me feel good that they had that much confidence in me," Washington said. "They were tough inner-city stores. So, then I asked: 'How about something a little bit easier in the suburbs?'" He said he didn't get an answer. And when he did sign a deal for the city restaurants, he noticed that McDonald's had raised the rent. McDonald's said that Rogers had been operating under the temporary rent relief program and that Washington didn't need the help. By many measures, Washington was doing just fine. He owned that local hockey team. He could reach any local politician at any time, and he hosted a fundraiser at his home for Barack Obama's presidential campaign. But he took this as a slight.

Four years later, Don Thompson became McDonald's first Black CEO, and Washington bought 9101 Kinsman. He knew its historical significance, but he didn't make much of it. He was preoccupied. He thought he had an agreement to buy a new restaurant in a wealthy, mostly White area called University Heights. Washington says that all anyone needs to know about the location is that it's next to a Whole Foods store. He selected the décor, ordered the furniture and the equipment. Then, he says, the regional vice president asked if he would do her a favor—which she'd return—and step aside so she could give the restaurant to someone else. That someone else was a White owner who operated four other franchises. Washington believed the executive must have been pressured, maybe by White franchisees, maybe by her bosses, and that he had no choice either. McDonald's denied that it places franchisees in restaurants or favored the White owner in this case. The regional vice president didn't respond to requests for comment.

In 2014, for the first time in decades, annual same-store sales declined across the system. McDonald's didn't offer all-day breakfast, even though people really seemed to want it. McDonald's didn't have a crispy chicken sandwich, even though everyone could see the lines outside Chick-fil-A. Then, *Consumer Reports* published a survey of hamburgers from 21 fast-food chains: McDonald's came in dead last. 2014 would turn out to be Don Thompson's final year as CEO.

Rogers fell into financial trouble. He sold his three remaining restaurants to Washington—who bought the first two mostly because he wanted the third, on Carnegie Avenue. It backed up on an abandoned commercial building in a neighborhood where nearly 70% of the residents lived in poverty. But Carnegie Avenue is a main thoroughfare in Cleveland, running from downtown all the way past the Cleveland Clinic, and the restaurant was profitable. This is where I finally met Herb and Terrell Washington in person.

The dining room was closed, the entrances were locked. The drive-thru was busy, though, and the shake machine was loud. It was early August, and we were wearing masks. Terrell's had McDonald's arches. He wore a linen jacket, jeans, loafers, and prayer beads around his wrist. His hair was pulled into a bun. Herb is bald. His mask and jeans and sneakers were black. His polo shirt was white with gray checks. He has a light-up-the-room smile and sometimes lowered his mask to show it. He and Terrell seemed relaxed, all things considered.

"Excuse me, Donna. Excuse me, come here, babe," Herb said as he called over Donna Finley, one of his managers. He wanted me to think about the small costs. "The average customer comes in and orders a coffee. How many creams?" I guessed three. "Honestly, at least five, sometimes 10," Finley said. Sugar packets? "About 20." In a restaurant in the suburbs, a customer would ask for two sugars at most. "But here it's extra cream, extra sugar, day after day." It adds up. McDonald’s is a business of penny profits.

The dining room wasn’t open mostly because Finley couldn’t hire enough employees, and no one wanted customers waiting in long lines. “People have short fuses,” Herb said. “You have to learn to bring things down, to deescalate. I say: ‘Sorry about what happened. I’m going to personally make it better.’” Finley had worked there the past six years. Customers know her but sometimes called her names if she asked them to leave. “There’s a lot of people with mental health issues, and we welcome those people,” Herb said. Some facilities for them are close by. “However, sometimes they get agitated. Sometimes it’s because of the smallest thing. With some people, it’s all the frustration in their life.” People don’t like to talk about all of this, Herb said, but “I can tell you that in suburban stores, it doesn’t happen as much.”

He said it’s also unlikely that a suburban restaurant owner would have to deal with two shootings in three months. In February 2019 the overnight manager at another of his East Side restaurants shot at customers after they bought smoothies in the drive-thru. One evening in May, a former East Cleveland police officer working as a security guard at the same restaurant shot and killed a customer after an altercation.

“I never carried my gun in Youngstown,” Terrell said. “I do here, after dark. When I had to close the store on Kinsman, you bet I had it.”

Washington still called many of his restaurants “hood” and described the suburbs as mostly White, well-off locations. There are, of course, wealthy Black communities, gentrifying urban neighborhoods, and suburbs where people live amid scarcity. McDonald’s is in all of them. But Washington mostly operated in cities that are impoverished and segregated. He wasn’t sure how to count the psychic toll of the vigilance required to do so, except to say it’s exhausting.

I heard him taking a deep breath. “One of the things that hurts is that McDonald’s doesn’t know how much I care,” Herb said. He spoke deliberately and softly. “I didn’t see this coming,” he said, and by that he meant the emotion. “Judge me on my merits. I’m OK with that. McDonald’s thinks I’m difficult. I’m not difficult, I’m just asking to be treated fairly. I’m going to give you respect from the jump.” He left the table for a few minutes. When he returned his eyes were teary, and he’d found a tissue. “You just carry it, carry it, and it’s just compounded, compounded, and no one will listen,” he said. “I still have love for the brand. It didn’t have to get to this point.”

It got to that point through a scramble of complaints and misunderstandings, ego and pride, distrust and insult, much of it documented in Washington’s lawsuit and McDonald’s response. In November 2017, McDonald’s offered Washington four of its company-run restaurants in Wooster, Ohio, a small college town with a population that's more than 90% White. It sounded like the kind of opportunity he'd wanted for years. But Wooster was a 90-minute drive from his other restaurants, and the deal came with a catch: He'd have to sell all 14 of his restaurants in the Youngstown area. McDonald's had told Washington his organization wasn't as effective as it should be, and downsizing would help. He didn't entirely disagree. He was in his late 60s; he was worn out. He was thinking about what he needed, what he deserved, what he hoped to pass on. When he objected to selling all of his Youngstown restaurants, executives suggested he sell his Cleveland restaurants instead. Washington didn't want to do that, either. He preferred to keep his best restaurants in Cleveland and Youngstown and get rid of his "hood stores."

In such a case, McDonald's has a powerful inducement: It controls which franchisees have their leases renewed and which can grow. Some of those decisions are based on corporate reviews that franchisees say can be subjective—McDonald's says they're not—and are difficult to contest. Washington said he didn't trust the new regional executive. He worried that he'd lose the restaurants he really wanted to keep and might not get the ones in Wooster, anyway. He decided against pursuing them. Instead he agreed to a deal: He would sell 10 restaurants in Youngstown and Cleveland by March 2018, and McDonald's would put off a decision on his franchise renewals.

The years between the agreement and the filing of Washington's suit were filled with demands, negotiations, and implied threats. Against that backdrop, a local Cleveland newspaper reported in late 2018 that Washington's Beacon Place restaurant had voluntarily shut down at least twice for health violations, including a rodent infestation. He brought in an exterminator, but the problem persisted. When health officials returned for another inspection, the paper noted, "the building was closed due to an unrelated police matter." These are some of Washington's speed bumps.

"We are extremely concerned about the damage caused to the brand by this incident and we believe it speaks to the operational deficiencies we have raised," McDonald's wrote to Washington a few weeks later. The back and forth continued, and Washington grew more frustrated. He told McDonald's it was setting him up for failure.

In March 2019, Tripplett, the head of the NBMOA, wrote his letter to McDonald's executives describing Black franchisees' situation as hostile and laying out a bill of particulars. The franchisees thought their finances weren't being reviewed fairly and that McDonald's lease renewal policy wasn't being applied evenly. Customer complaints, which were sometimes bogus and sometimes racist, were being given too much weight. And some owners were in dire financial circumstances, needed immediate help, and didn't think it was coming.

Ten days later, Washington received a letter demanding that he sell all of his Cleveland restaurants or face the immediate prospect of losing them. That "showed the arrogance of a slave master speaking to one of his slaves," he wrote back. "I am not a house negro and I will not be treated like one. If you continue to take the position in that letter, our relationship will get very ugly very quickly."

After speaking with Washington by phone, McDonald's executives wrote to him again. "We are extremely disappointed and frustrated with the allegations that you made in your letter. Most concerning is your suggestion that we have treated you unfairly because of your race." They noted that McDonald's had been supportive and accommodating and that, despite his management deficiencies, bad press, and customer complaints, the company had worked with him so he could keep seven restaurants.

"Here's what bothered me the most," said Washington. "They said, 'You're wrong for feeling the way you do, you're wrong for thinking you have lower sales than White operators, you're wrong to feel bad about having to pay for security.'" He said he knew the risk of calling them out in writing, but "when you're quiet, people sometimes take that as consent. I had to let McDonald's know what I was feeling." After the exchange, the executives agreed to find a buyer willing to pay $380,000 for three Cleveland restaurants, including Kinsman and Beacon Place. Washington would sell a fourth on his own.

In Washington's communications with McDonald's, one name kept coming up: John House. He was a White franchisee who'd bought his first restaurant in 2011 and, with his wife and son, had been expanding his operation. "Why would John House buy my hood stores when he has bought 3 other stores since March with both higher sales and in better communities?" Washington wrote to McDonald's. McDonald's had an answer: It would provide financial assistance. Not just to House but to anyone who bought Washington's restaurants, since any new owner would need to spend hundreds of thousands of dollars to remodel two of them. McDonald's had recently unveiled what it called Experience of the Future, which included touchscreen kiosks for ordering inside, license-plate scanners for drive-thrus, and an Uber Eats counter for delivery. This experience could cost as much as $750,000 per restaurant, and McDonald's would cover about 55% of that. Washington had already remodeled the Kinsman restaurant.

In July 2019, McDonald's told Washington that House would buy the three restaurants for the promised price, $380,000. Soon after, a letter arrived from McDonald's indicating that Washington had received $3 million as part of the transaction. He had not. He called. "I asked what account of mine did they put the money in, because I don't see it. Where is it? They didn't want to talk about it. I pressed them. And finally they acknowledged they gave the money to John House." The letter was an administrative mistake; in its legal response to Washington's suit, McDonald's stated that it did provide House with financial assistance, but didn't comment on the amount, and said it supports Black franchisees in the same ways it does White franchisees. House didn't respond to requests for comment.

Washington continued showing up at his other restaurants. Terrell did, too. That summer they opened a medical marijuana dispensary. In December 2019, *Business Insider* reported that Black franchisees were earning less than the average McDonald's operator. In January, Guster-Hines and Neal filed their lawsuit, claiming that disparity resulted from racial discrimination. By the end of 2020, the former franchisees and the Byrds had brought their cases, and Washington was preparing his own.

The first three complaints were filed in federal court in Illinois, while Washington's was lodged in federal court in Ohio. The four judges have come to some different conclusions. Neal and Guster-Hines made their claims of racial steering under a law concerning employment practices, which the court said didn't apply. Most of their other allegations–of racist name-calling, of their concerns being ignored and their achievements overlooked, of harassment and stress that provoked anxiety attacks and necessitated medical leave–remain. After the Byrds' claims of racial steering were dismissed as too old and other claims as too vague, they amended their complaint. McDonald's argues that the former franchisees' case should be dismissed because their claims of racial steering are also too old and other claims are too vague.

In September, the U.S. district judge in Ohio denied McDonald's efforts to dismiss Washington's discrimination case. December brought the settlements for the Byrds and Washington. The company said in both cases that it had paid no more than a fair price for the restaurants, that the court didn't find that it had violated any laws, and that "discrimination has no place at McDonald's." Washington's restaurants will likely be sold soon to local franchisees.

“I want McDonald’s to do right by our people,” Washington said in our first phone call after he began his legal fight. He sees himself as part of McDonald’s complicated history with Black franchisees, a history of pressure and optimism and movement and inertia. And now his years in the system have come to an end.

Read next: Papa John Is Still Obsessed With Papa John’s