

Affordable Housing Organizations Oppose HUD’s Weakening of Nation’s Fair Housing Responsibilities

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On July 23, the U.S. Department of Housing and Urban Development (HUD) released a new final rule, Preserving Community and Neighborhood Choice, to replace the 2015 Affirmatively Furthering Fair Housing (AFFH) rule and the 1994 Analysis of Impediments (AI) requirements.

The 2015 AFFH rule guided HUD recipients in fulfilling their responsibility to actively address housing discrimination and segregation and to foster inclusive communities, as established by the Fair Housing Act of 1968. The 2015 AFFH rule established the new Assessment of Fair Housing (AFH) process, which was a marked improvement from the prior AI process for identifying barriers to fair housing.¹ In January 2020, HUD released proposed changes to the AFFH rule; however, HUD ultimately decided to disregard broad public comments urging a substantive commitment to AFFH and released this new final rule which does not revise the AFFH rule, but in fact terminates it. The final rule self-describes as taking “a narrower view of the extent of the obligations surrounding the AFFH certification” and merely concludes that a HUD grantees’ AFFH certification “will be deemed acceptable if the grantee has taken some active steps to promote fair housing” without any meaningful guidance as to what those standards are or how they would be evaluated. The final rule is not subject to public notice or comments and will be effective 30 days after its publication in the Federal Register.

This final rule is a dramatic step backwards in HUD’s legislatively-mandated role in furthering fair housing, and subsequently in the advancement of our communities in undoing segregation and fostering inclusion. **As affordable housing organizations committed to advancing equal access to decent, affordable housing, we strongly oppose HUD’s termination of the AFFH rule.**

“Everyone should have fair and equal access to housing. While the Fair Housing Act has been in place since 1968, we still need intentional policies to remedy our legacy of segregation,” said **Priscilla Almodovar, chief executive officer of Enterprise Community Partners**. “At a moment in our country’s history where the need to dismantle structural racism and segregation is so clear and present, HUD’s decision to terminate the Affirmatively Furthering Fair Housing (AFFH) rule represents a giant and shocking step backwards. Eliminating the AFFH rule will hurt not just renters by limiting where they can afford to live, but all of our communities and Americans who benefit from a fairer, more inclusive society.”

“Ending the Affirmatively Furthering Fair Housing (AFFH) rule while there is still so much work to be done to provide equal access to housing is unacceptable and only reinforces the structural racism plaguing the housing industry and our nation as a whole”,

¹ In a 2010 study, the Government Accountability Office (GAO) found that AIs were ineffective, noting that “HUD’s limited regulatory requirements and oversight may help explain why many AIs are outdated or have other weaknesses.”

said **Tom Bledsoe, CEO of Housing Partnership Network**. “This is a clear breach of the landmark and long-standing Fair Housing Act and our shared social contract to respect and ensure the rights of all. This rule should be withdrawn immediately and, in its place, the federal government must recommit to protections that will provide access to decent, affordable housing for everyone.”

“Affirmatively Furthering Fair Housing (AFFH) is a bedrock of the 50 year old Fair Housing Act. In the wake of multiple reminders of structural racism in our country and in the same week as the great John Lewis has left us, that the Administration should loosen the obligation—without public comment—is unconscionable,” said **Priya Jayachandran, President of the National Housing Trust**.

“The Fair Housing Act, which was borne out of our nation’s civil rights movement, requires our country to ensure that all Americans have equal access to housing,” said **Maurice Jones, President and CEO of the Local Initiatives Support Corporation**. “Federal government policies contributed to our nation’s segregated communities, which have precluded housing choices for many families, and the Fair Housing Act requires that our nation take meaningful actions to undo it. The Administration’s gutting of the Affirmatively Furthering Fair Housing regulations directly contradicts this responsibility and will only deepen housing inequities in our country.”

“As an organization committed to dismantling structural racism and building communities of equity, opportunity and well-being, the Low Income Investment Fund (LIIF) strongly opposes HUD’s new *Preserving Community and Neighborhood Choice* rule,” said **Daniel A. Nissenbaum, CEO of the Low Income Investment Fund (LIIF)**. “The Fair Housing Act is a landmark civil rights law that challenges our nation to address a long history of racist policies and practices in housing and lending; it also explicitly charges HUD with actively addressing housing discrimination and segregation. Instead of striving to achieve these ideals, this rule reflects a dangerous corrosion of the federal government’s responsibility to uphold values of fairness and equity in our nation’s housing system.”

“The Fair Housing Act established a statutory duty for HUD to not merely promote compliance, but to further the purposes of the statute. By terminating the AFFH rule and returning to decades-old failed processes, HUD not only fails this statutory obligation, it fails communities across the country by remaining complicit in decades of policies and decisions that preclude fair and meaningful housing choices for people of color,” said **Andrea Ponsor, President and CEO of Stewards of Affordable Housing for the Future**. “HUD should immediately withdraw this new rule and work with the states and localities to identify the resources needed to address the structural racism that impose barriers to fair housing, and create communities of choice and opportunity for all people.”