

October 15, 2018

Office of General Counsel
Rules Docket Clerk
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410-0001

Submitted electronically via www.regulations.gov

Re: Docket No. FR—6123—A—01

**Affirmatively Furthering Fair Housing: Streamlining and Enhancements
RIN 2529 -AA97**

Dear Madam/Sir:

I am writing on behalf of Public Advocates in response to the Advance Notice of Proposed Rulemaking (ANPR) entitled “Affirmatively Furthering Fair Housing: Streamlining and Enhancements” posted in the Federal Register on August 16, 2018. Public Advocates is a public interest law firm that collaborates with grassroots groups representing low-income communities, people of color, and immigrants.

We write in support of the Affirmatively Furthering Fair Housing (AFFH) Rule finalized in 2015 and urge HUD to preserve the rule in the form that it was implemented. It is critical to ensure fair housing for everyone in the United States. Fair housing means that all neighborhoods are equipped with the opportunities they need to flourish without unlawful discrimination.

Recognizing the importance of AFFH, California adopted its own commitment to further fair housing on September 30, 2018. The law, AB 686, requires all cities, counties, and state agencies in California to assess the extent of housing inequality and segregation, and to take concrete steps to dismantle this injustice and create equal housing opportunities for all. AB 686 directly references and codifies the AFFH Rule into state law while applying it to all local jurisdictions, indicating California’s understanding that the AFFH Rule is efficient and valuable as it currently stands.

City governments and planners in California, whose interests are similar to those of jurisdictions all across the country, have both fully embraced the AFFH Rule. For example, the League of California Cities stated in 2017 that it “strongly supports existing federal...anti-discrimination law” on AFFH. Similarly, the American Planning Association’s (APA) California Chapter stated that “APA agrees that [California] should incorporate the federal AFFH regulations into state law...”

The 2015 AFFH Rule

HUD has a statutory mandate under Sec. 808(d) of the 1968 Fair Housing Act to administer its programs in a manner that affirmatively furthers fair housing. **Federal courts have upheld this provision on numerous occasions.**

The 2015 AFFH Rule was a direct response to findings by the U.S. Government Accountability Office that HUD's previous approach to affirmatively furthering fair housing was ineffective and in need of reforms.

Historic Context

No state was immune to sweeping government policies of the twentieth century that led to segregation and housing inequality. Therefore, it is essential that HUD preserve the AFFH Rule to require all states to dismantle segregation.

For example, St. Louis, Missouri zoned polluting industries, liquor stores, and nightclubs only in African American neighborhoods. Levittown (now Willingboro Township), New Jersey limited a federally financed 17,500-unit development to whites only. Deeds for homes in Daly City, California regularly prohibited the use of those homes by any non-white person, except as a servant or domestic worker. Hamtramck, Michigan used federal urban renewal funds to demolish African American neighborhoods to expand a manufacturing plant. In Durham, North Carolina, urban renewal funds demolished a thriving African American neighborhood to build a highway. In Chicago, Illinois, African-Americans were charged 20 to 225 percent higher rents than whites in similar dwellings.

The legacies of these and countless other racist policies are **still** reverberating in cities and towns across the country, making the AFFH Rule critical to every American neighborhood.

Success Under The 2015 AFFH Rule

The existing rule strikes an appropriate balance on the issues identified in the ANPR. For example, it:

- Provides that HUD will monitor the connection between assessments, priorities, investments, and fair housing results - **ensuring efficiency**
- Provides grantees tools, structure, and resources to identify their fair housing problems and set their own goals/metrics to address them - **focusing on positive results and keeping regulatory burdens to a minimum and local control at a maximum**
- Recognizes that there will be some back and forth between grantees and HUD before the Assessments of Fair Housing (AFH) are accepted.
- Provides for robust community input - **increasing housing choice**

After seeing the success of the federal AFFH Rule in Los Angeles and San Mateo County, California codified the AFFH Rule through AB 686. The law's application to all

local jurisdictions shows that the AFFH Rule is not overly burdensome and is crucial everywhere. **It recognizes that California must address its history of racist housing policies in order to achieve fair housing. The United States must do the same.**

For all of these reasons, we believe it is critical for HUD to preserve the Affirmatively Furthering Fair Housing regulation as implemented in 2015.

Sincerely,

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