



April 24, 2023

Regulations Division
Office of General Counsel
U.S. Department of Housing and Urban Development
451 7th Street SW, Room 10276, Washington, DC 20410-0500

Re: FR-6250-P-01 Affirmatively Furthering Fair Housing Proposed Rule (Docket number HUD-2023-0009)

Dear Office of General Counsel Staff,

On behalf of [Enterprise Community Partners](#), [Housing Partnership Network](#), [Local Initiatives Support Corporation](#), [Low Income Investment Fund](#), and the [Stewards of Affordable Housing for the Future](#), we appreciate the opportunity to comment on the Affirmatively Furthering Fair Housing (AFFH) proposed rule. We commend HUD for soliciting comments on this critically important regulation, which at its core is focused on advancing racial equity and opportunity for all people. Our organizations are committed to the Fair Housing Act's goal of overcoming patterns of segregation, promoting housing choice, eliminating disparities in housing opportunities, and fostering inclusive communities that are free from discrimination. A meaningful commitment to affirmatively furthering fair housing is required from all program participants involved in affordable housing and community development to turn these goals into concrete actions.

General Comments

Our organizations strongly support HUD's ultimate objective to reform and advance this crucially important goal of ensuring access to decent, affordable housing in strong and healthy communities for all Americans. We recognize and appreciate that HUD staff have spent considerable time learning from participant's experience with the 2015 AFFH regulation for this proposed rule.¹ We are very pleased that the AFFH rule is written with such clarity of purpose and provides the necessary flexibility to support actions based on local needs. This is a significant step forward in defining both the intent and the purpose of this important effort.

As proposed, the AFFH rule initiates a coordinated and comprehensive planning process that could result in substantive, positive changes in the implementation of affordable housing and community development activities. The process will be challenging, particularly as localities and HUD adjust to the new system, but if structured and executed as intended, the result will be a genuine integration of fair housing planning into affordable housing and community development planning requirements. We appreciate that the rule addresses barriers to fair housing on many levels. Despite their many differences, urban, rural, and suburban communities often resist perceived changes in a neighborhood and present similar barriers to fair housing through local laws and regulations or discriminatory actions. The proposed rule explicitly acknowledges the need for changes to these barriers on a local level.

We are particularly pleased that the proposed rule: 1) increases community engagement requirements; 2) provides public transparency and requires annual evaluation of a participant's fair housing progress; 3) incorporates the regulation's proposed Equity Plans into other federal affordable housing and community development planning requirements, such as Consolidated Plans, Annual Action Plans, and Public Housing Authority (PHA) Plans; 4) recognizes that a balanced approach to planning incorporates both investments in

¹ <https://www.federalregister.gov/documents/2015/07/16/2015-17032/affirmatively-furthering-fair-housing>

economically distressed communities and approaches that increase options in higher resource communities, where possible; and 5) acknowledges capacity constraints and generally reduces unnecessary burden.

As HUD notes, community engagement is an essential component of AFFH activities, and was an important part of identifying fair housing issues and figuring out how best to prioritize and address them in the 2015 rule. The proposal requires program participants to actively engage with a wide variety of diverse perspectives within their communities and to proactively facilitate community engagement during the development of the Equity Plan. ***We appreciate the proposal's focus on engagement and urge Program Participants to use this opportunity to promote greater resident agency and voice as Equity Plans are developed. We also believe that a holistic view of the community should include affordable housing owners and developers, especially those with existing partnerships in the community. Affordable housing providers can also be trusted resources in connecting Program Participants to residents, relaying information and sharing opportunities for engagement.***

The proposed rule provides the public more opportunities to directly engage with HUD and provides the Department with the ability to respond to the public. All Equity Plans submitted to HUD for review will be posted to a HUD webpage, where the public can provide additional information about a Plan under review. The proposed regulation includes broad evaluation standards and allows HUD to engage in an interactive process with program participants until an Equity Plan is finalized. In addition, a program participant's Annual Progress Evaluations will be posted on a HUD website. ***We support publicly sharing Equity Plans and Annual Progress Evaluations so stakeholders understand progress towards AFFH. The proposed regulation includes evaluation standards HUD will utilize when conducting its review and we encourage the Department to issue detailed guidance after the regulation is finalized so it minimizes burden on program participants and allows the public to better understand HUD's review process.***

The proposed rule would require program participants to incorporate the fair housing goals from their Equity Plans into their Consolidated Plan, Annual Action Plan, or PHA Plan. HUD states that the direct linkage between the Equity Plan and these planning documents will enable program participants to make more informed decisions about how to overcome circumstances that cause, increase, contribute to, maintain, or perpetuate fair housing issues and ultimately fulfill their obligations to affirmatively further fair housing. ***Our organizations support the linkage between these plans to ensure HUD funding is truly AFFH but caution that timeframes must be carefully considered as the Equity Plan may not align completely with these planning documents. We also appreciate that HUD allows program participants that don't have an accepted Equity Plan by the time another HUD planning document must be approved, additional time to achieve an approved Equity Plan. This will help mitigate compliance risk to program participants with timing concerns of multiple planning documents.***

The proposed regulation builds off lessons learned from the 2015 final rule by emphasizing balanced approaches to affirmatively furthering fair housing—preserving affordable housing in underserved communities and also increasing access to higher opportunity areas. ***Our organizations strongly support this balanced approach since both strategies are vitally important to preserving and improving the quality of existing affordable housing, many of which were developed decades ago in distressed places, while also reducing barriers to opportunities in areas with more community assets and historical investment. Both strategies are needed to improve housing options and quality of life for underserved families and individuals.***

The proposed rule is designed to reduce burden on program participants by streamlining the analysis of fair housing issues that they must perform, allowing them to focus more directly on the setting of effective fair housing goals and strategies to achieve them, and not rely on consultants to take on a burdensome effort. The proposed regulation rightfully acknowledges capacity constraints of program participants by requiring the largest jurisdictions and PHAs to submit their Equity Plans first and provides later date for smaller places and PHAs. ***Our organizations appreciate that HUD has developed this regulation with a deep understanding of the capacity constraints of program participants. We applaud the Department's commitment to providing technical assistance to ensure participants have the tools and resources necessary to develop the best Equity Plans possible.***

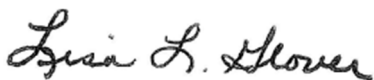
Specific Comments

We are pleased to offer the following specific comments on the proposed rule:

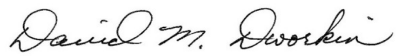
1. **Clearly acknowledge and message nuances of a balanced approach in a multiyear planning process.** The proposed rule defines a balanced approach as a “combination of actions designed to address all these disparities...to achieve a balanced approach, community planning and investment would need to balance place-based strategies with mobility strategies.” While we appreciate HUD’s intention to support both strategies, we urge the agency to further refine the definition to clarify that these actions do not have to be accomplished in equal allocations or in the same planning year.
2. **Address the capacity and resource concerns within HUD to evaluate and enforce Equity Plans.** As written, the rule requires sufficient and experienced HUD staff with the expertise to evaluate, monitor, and enforce Equity Plan plans. These plans will incorporate complex principles and nuanced strategies in order to be effective. In the final rule or guidance, there must be clear expectations and evaluative criteria that reflect substantive changes in fair housing implementation. We suggest that HUD also consider establishing a national advisory committee that reflects the composition of the AFFH program participants and other key stakeholders such as affordable housing owners, developers, and tenant associations to provide feedback for program refinement during implementation.
3. **Provide clear and transparent guidance to ensure complaint and compliance process does not unnecessarily delay affordable housing projects.** In the proposed rule, HUD indicates that it would maintain a range of enforcement options to ensure compliance and offer tailored approaches but provides no further detail. As HUD implements AFFH, we urge the Agency to develop, with stakeholders, clear and transparent guidance on enforcement options. This should ensure that program participants are held accountable but also provide assurances that affordable housing projects that have received funding from these participants can continue without delay.
4. **Provide relevant, useful technical assistance to program participants.** We greatly appreciate HUD’s questions in the proposed rule requesting input on the forms of technical assistance (TA) that would be most useful to program participants and their partners as they engage in the AFFH process. We believe that the streamlining efforts and focus on goals should help program participants be able to develop their own equity plans as opposed to seeking consultants for intense data analysis. However, we also recognize there will still be a strong need for TA. Our organizations have seen this firsthand in our own work facilitating community engagement and fostering innovation in affordable housing and community development program design, finance, operations and strategic planning with capacity constrained organizations. We believe certain tools and resources such as peer-to-peer learning and structured training programs, for example, will help program participants voice obstacles and share strategies as they implement the new rule.

We appreciate the time and energy that HUD has spent crafting this rule, and support the aspirations embedded within. We look forward to engaging in continued discussions with HUD and welcome any requests for additional information. Thank you for your commitment to this important goal.

Sincerely,



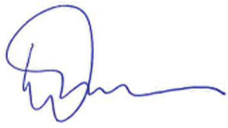
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