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

Via regulations.gov [<http://www.regulations.gov/#!submitComment;D=HUD-2013-0066-0001>]

Re: Docket No. FR-5173-P-01, Affirmatively Furthering Fair Housing

The National Housing Conference strongly supports HUD's effort to better define and implement the obligation to affirmatively further fair housing (AFFH), subject to our suggestions and comments below. The requirement created by the Fair Housing Act affects important operational features of housing and community development programs. It also represents a federal commitment to ensuring equal opportunity not only in housing but also in the health, educational, employment, and other social dimensions that housing affects directly. We appreciate HUD's efforts to engage stakeholders and move this rule forward, and we commend the efforts of all who have contributed.

We offer some suggestions to improve the rule below, and we know that many other stakeholders bring their own specific perspectives. We should not let these specific suggestions obscure the broad-based agreement on the core principles of the rule. Ending the patterns of segregated housing built up during our nation's history will benefit us all by creating more inclusive communities, wider pathways to economic improvement, and more opportunities for individuals and families to flourish. All in America should have access to safe, decent, and affordable housing in communities that offer the opportunities we all desire.

About the National Housing Conference

The National Housing Conference (NHC) represents a diverse membership of housing stakeholders including tenant advocates, mortgage bankers, non-profit and for-profit home builders, property managers, policy practitioners, realtors, equity investors, and more, all of whom share a commitment to safe, decent and affordable housing for all in America. We are the nation's oldest housing advocacy organization, dedicated to the affordable housing mission since our founding in 1931. As a nonpartisan, 501(c)3 nonprofit, we are an evidenced-based research and education organization working to improve housing policy at all levels of government to improve housing outcomes for all in this country.

Comments on the AFFH rule

The proposed AFFH rule offers many improvements over the existing process, beyond the essential step of formalizing the process into federal regulations. Among the improvements we endorse are:

- Encouragement of a regional approach to fair housing planning, because housing patterns cut across many jurisdictional lines
- Integration of AFFH with other planning requirements, so that fair housing planning can become an ongoing focus of state and local decision-making and not set aside as a check-box documentation step
- Promulgation of uniform national data with which to evaluate progress, which will reduce compliance costs for recipients and enable better evaluation nationwide
- Using both mobility and investment strategies to connect people with opportunity, because we must strive to improve areas of racial and ethnically concentrated poverty even as we also open pathways to opportunity elsewhere

There are also some areas where HUD should improve the rule:

1. **Clarify that compliance with the rule requires both investment to improve areas of racially and ethnically concentrated poverty and actions to promote mobility and access to community resources.** HUD finances, assists, and regulates millions of homes that have been in place for many years in established communities. Reinvestment in these homes and communities is essential, both to maximize the value of past investments and to help create new opportunities in those communities. The rule should make clear that preservation of affordable housing is valuable, particularly in areas that are at risk of gentrification. Overall, investment must be strategic and careful not to simply reinforce existing housing patterns, and actions to promote mobility should accompany that investment. The right mix of activities, however, will vary depending on the entity in question—a small public housing authority with a voucher portfolio and a few public housing units should choose quite different actions than a HOME participating jurisdiction in a major city, for instance. Recipients with more tools at their command (not simply federal resources) or more severe patterns of segregation should be expected to set higher goals and accomplish more with available tools.
2. **Require actions to increase access to housing beyond just use of federal resources.** However large the federal investment in housing may be, it is small in comparison to housing activity in the private market. Fair housing strategies must be broader than just allocating federal dollars. To affirmatively further fair housing, communities must use all of the tools at their disposal to become more inclusive—zoning changes, removing and reducing barriers to development, fairer marketing of houses and apartments, engaging community members in local decisions, and making creation of and preservation of housing less costly. Preferably, these changes should be part of more comprehensive regional or even statewide planning, consistent with the proposed rule's preference for integrating the Assessment of Fair Housing (AFH) with other planning. The

rule should make clear that such actions should be part of local strategies implemented to fulfill the goals laid out in AFHs.

3. **Take a flexible approach that recognizes different rates of change in communities.** Timely preservation activities that anticipate gentrification can prevent communities from quickly switching over from distressed to exclusive, or at least preserve some affordable housing amidst gentrification. Alternatively, some communities with entrenched and largely static patterns of segregated housing will need a variety of actions over time to improve housing opportunity. The rule as proposed offers room for flexibility, such as through the individually crafted AFHs and accompanying goals, but HUD's choices in enforcement will affect greatly how flexible and effective the process truly is. For flexibility to be effective, HUD will have to be transparent about its expectations for participants and the potential enforcement actions, and participants will have to be willing to work with the evolving process.
4. **Address HUD's limited capacity to review and process the Assessment of Fair Housing.** The AFH process should encourage actions at the local level—it should not become a bottleneck. Simply put, HUD has too few staff to review and approve every AFH from every recipient in a timely way. If left unaddressed, this mismatch between desired review and agency capacity may well result in too-quick, formulaic reviews that result in approvals for form rather than substance. Congress should provide HUD more funds for sufficient enforcement of the rule, but in the absence of such resources, HUD should ensure that delays in review do not hold up housing and community development program activity or planning processes.
5. **Make the data tools available for public review and improvement.** The uniform national data are a promising tool for improving housing policy, but they are by nature a first step. Uniformity often trades off with specificity at a local level. We expect that the initial data will improve over time, in part through corrections and modifications suggested by program participants. We urge HUD to release the promised data and tools in draft for review and to allow ongoing comment and improvement over time. Several of NHC's members are making specific comments based on the early prototype of the data tool that should be helpful at this stage. Going forward, HUD should maximize the value provided by the many program participants who will work with the data by incorporating their corrections and feedback in frequent updates.

We appreciate HUD's work to affirmatively further fair housing and would welcome the opportunity to discuss any of these comments in greater detail.

Sincerely,



Chris Estes
President and CEO