



August 17, 2015

Secretary Julian Castro
c/o Regulations Division
Office of General Counsel
Department of Housing and Urban Development
451 7th St, SW Room 10276
Washington, D.C. 20410-0500

Docket No. FR-5173-N-05- Affirmatively Furthering Fair Housing Assessment Tool: Solicitation of Comment

Dear Secretary Castro,

The National Housing Conference (NHC) welcomes the Department of Housing and Urban Development's (HUD's) effort to better implement the obligation to affirmatively further fair housing (AFFH) as required by the National Housing Act. To improve neighborhoods and housing opportunities for all, HUD must balance housing need, civil rights, the burden on localities, and housing patterns born of a fraught history. That is no easy task. NHC appreciates the opportunity to suggest improvements to the revised version of the Affirmatively Furthering Fair Housing proposed Assessment Tool in furtherance of our shared objectives. NHC also appreciates how HUD has strengthened the tool by providing clear instructions, reducing local data requirements and making the online tool available for use. The data HUD plans to provide to local and state jurisdictions through tables and maps in the Assessment Tool should help them better understand housing trends and needs.

The Assessment Tool is clearly still a work in progress, and we expect that HUD will make ongoing improvements as initial localities use the tool to complete their Assessments of Fair Housing (AFH). NHC offers several recommendations on the revised Assessment Tool to ensure that it helps achieve the desired outcomes of the AFFH rule, in summary:

1. Provide clear definitions, step-by-step instructions and clarifying examples. We offer specific suggestions for improvement below.
2. Recognize the benefits and limitations of uniform, national data. Give localities more guidance in interpreting the data.
3. Provide guidance on local data that could be included. Particular attention to disability concerns and project-level data are warranted.
4. Make stated fair housing strategies explicit in the Assessment of Fair Housing.
5. Offer more explicit guidance on tracking and evaluating progress.

I. About the National Housing Conference

The National Housing Conference represents a diverse membership of housing stakeholders including tenant advocates, mortgage bankers, non-profit and for-profit home builders, property managers, local government officials, policy practitioners, real estate professionals, equity investors, and more, all of whom share a commitment to safe, decent and affordable housing for everyone 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 a research and education resource working to advance housing policy at all levels of government in order to improve housing outcomes for all in this country.

II. Comments on specific aspects of the assessment tool

In the assessment tool, HUD is providing extensive data and maps to communities that can provide credibility and transparency to the fair housing planning process. Data that are comprehensive can provide a holistic view of trends and activities on the ground. Ideally, the process will lead communities to identify or acknowledge fair housing issues they can address proactively. NHC commends HUD for the breadth and depth of the data it will provide and offers suggestions for improving the data and presentation.

A. Provide clear definitions, step-by-step instructions and clarifying examples

In order for program participants to complete the Fair Housing Assessment independently, the Tool must be accompanied by clear definitions, detailed step-by-step instructions, and clarifying examples at each step in the assessment process.

Clear Definitions. HUD's goal is to provide uniform data so that local jurisdictions can prepare an assessment of fair housing issues along common measures. Clear definitions of terms are important for helping to reduce burden on local jurisdictions.

We commend HUD for the definitions included in the revised tool and accompanying instructions. We do, however, suggest that the definitions could be improved. The following terms and the nuances related to them may be unfamiliar to some housing practitioners, so HUD should provide short definitions of each: LEP persons, national origin, color, family status, and proficient school.

Detailed and Step-by-Step Instructions. HUD has committed to providing "step-by-step guidance" for using the fair housing assessment tool, and the instructions provided with the revised tool will be very helpful for completing local fair housing assessments. However, the instructions could be clearer, provide examples, and include more explanatory language. For example, while HUD has done a good job explaining the various indices (labor market, jobs proximity, etc.), the instructions could provide more guidance on how to interpret those indices.

Clarifying Examples. Examples for each element of the fair housing assessment would be helpful and would reduce burden on local jurisdictions. By having an example they can follow when preparing their own assessments, local jurisdictions would spend less time determining what types of data to reference and how to interpret patterns and change.

Examples will also be helpful in the community participation section. As revised, this section does not provide enough information to jurisdictions for them to understand what is expected in terms of community participation. HUD should set a minimum standard in terms of outreach and community engagement. NHC does not recommend a process focused solely on public meetings, but rather complementing public meetings with other comments avenues that allow more detailed and constructive public comments. Achieving good fair housing outcomes through policy change often requires more detailed interaction between community members and local government than a public meeting format allows. HUD should provide suggestions and examples on ways to conduct community outreach and strategies for effective community participation. A program guide with types of organizations that should be included in the community engagement process and for the various sections in the AFH would also be helpful.

B. Recognize the benefits and limitations of uniform, national data

HUD has committed to providing "nationally uniform data to local jurisdictions for meaningful fair housing planning." Making these data available to local jurisdictions is a tremendous benefit to localities. We commend HUD's efforts to expand access to demographic, economic and other data that can help local jurisdictions with fair housing planning. We also encourage HUD to provide more guidance on using the data to draft the AFH.

First, the dissimilarity index is being calculated and provided at the core-based CDBG statistical area. HUD needs to clarify how jurisdictions should interpret this geography. Indices of segregation are highly sensitive to the scale of geography at which they are reported.¹

Second, we encourage HUD to provide the most recent data possible to local jurisdictions. The map on race/ethnicity trends appears to only include data from 1990 and 2000. Without more recent data, this map will not be relevant or helpful. In some fast-growing jurisdictions, the conditions on the ground can change quickly so having the most recent data will be important to accurately reflect those conditions. Because 2008-2012 ACS 5-year data are available, we recommend that HUD provide this most recent data to local jurisdictions and to establish a plan for providing updated 5-year ACS data as it is released annually by the Census Bureau. In addition, HUD should provide guidance for how local jurisdictions should use their own more up-to-date data, if available. We understand that the tool is still in development, but whatever data are provided should be up to date.

Third, more guidance on contributing factors would be helpful. As part of the assessment, communities are asked to consider contributing factors, and HUD has provided an extensive list of factors to review. Appendix C provides helpful descriptions of the contributing factors, but NHC would still encourage HUD to provide actual examples where possible as well as more elaboration on certain issues like land use and local zoning laws. HUD has listed example policies under the land use and zoning laws description which is very helpful; HUD could provide similar examples and greater elaboration for other factors like “location of proficient schools and school assignment policies”, “location and type of affordable housing”, and “lack of local private fair housing outreach and enforcement.” An analysis of contributing factors should also include more neutral determinants of racial-ethnic and immigrant segregation including cultural and institutional determinants. For example, many new immigrants cluster in one area to take advantage of social and familial networks that help with integration into the U.S.

C. Provide guidance on local data that could be provided

We recognize the importance of local data and community input to provide on-the-ground insights on local conditions. We appreciate the changes to the tool to make including local data less burdensome. Where local data is requested, we recommend HUD provide suggestions for data sources and examples of how some local jurisdictions have found or collected various data elements. For example, if a particular jurisdiction has been successful in obtaining disability data from a particular state office, this information would be helpful for other localities to provide a potential starting place as they seek out their own data on disability. In addition, HUD should provide guidance for how localities should use more up-to-date and neighborhood specific data, if available, to supplement or stand in for the local data HUD provides. In most sections of the AFH, additional and/or local data can be provided but HUD has not provided enough guidance or examples so that local jurisdictions could have an idea of what information could be easily provided.

Disability and Access. A major area of concern is the level of data on persons with disabilities and the supply of housing that is accessible to persons with different types of disabilities. In our experience working with local jurisdictions on housing needs analyses, it is very difficult, even among jurisdictions with large housing staffs and dedicated resources for data collection, to have a full understanding of this particular category of housing need and supply. NHC appreciates that the revised assessment tool takes this challenge into account and does not require local data. However, disability data is incredibly important, and NHC recommends that HUD suggest strategies for collecting disability data and examples. The detailed instructions clearly show the difficulty in finding this data but do not offer suggestions on how local communities could address this void. Without those instructions, this section of AFHs will not be as robust or helpful as it could be.

Project-Level Data. For the publicly supported housing analysis, the instructions mention that local data could be helpful as well as explain there is project data HUD cannot provide, like USDA projects or state funded housing projects. If

¹ Östh, John, William A. V. Clark and Bo Malmberg. Measuring the Scale of Segregation Using k-Nearest Neighbor Aggregates. *Geographic Analysis*. Early view published online 12 September 2014.

possible, HUD should provide guidance for how local jurisdictions might approach collecting project-level data, including processes to collect resident data, how to deal with any confidentiality issues, and how to determine how many and what types of projects local jurisdictions should collect data on. HUD could also describe strategies for collecting data on assisted housing projects through other programs.

D. Make stated fair housing strategies explicit

To make the proposed fair housing rule most effective, while at the same time minimizing the burden on local jurisdictions, we recommend HUD provide additional guidance on specific policies and programs that have been demonstrated to be effective at promoting fair housing goals. The Assessment of Fair Housing asks local jurisdictions to list fair housing issues identified through the assessment, to describe one or more goals related to each issue and contributing factors, and to set metrics and milestones for accomplishing each goal.

The Fair Housing Assessment Tool still does not make it clear that part of the goal discussion should include a description of policies and strategies that the local jurisdiction will undertake to meet the goals related to the identified fair housing issues. We recommend that HUD provide references to effective local fair housing strategies and evidence-based best practices that local jurisdictions can make use of in developing their own strategies. These strategies could also include more guidance and examples on community revitalization so that the AFH more clearly encourages a combination of both mobility and investment approaches.

HUD has resources on local best practices it could share. In addition, NHC's housingpolicy.org website is an online resource for state and local housing policy that provides valuable information to local housing planners and practitioners.

E. Offer more explicit guidance on tracking and evaluating progress

The current Fair Housing Assessment Tool lacks sufficient instructions and guidance for how local jurisdictions will evaluate fair housing interventions and track progress towards meeting fair housing goals. We recommend that HUD establish specific metrics and timeframes for evaluating progress toward meeting fair housing goals. We are concerned that the enhanced assessment process is not adequately linked to interventions and to specific measures of success. We urge HUD to provide more explicit guidelines to localities for evaluating progress toward meeting fair housing goals.

F. Review of the online tool

NHC has reviewed the data and mapping tool that is available online. Based on this review, NHC would encourage HUD to make the user guide much easier to find. Right now it is unclear that the user guide exists until after you have chosen a map and a jurisdiction. Just like the tables, users should be able to export the maps so they can be included in their Assessments. HUD has also not provided any information on what additional functionality will be added to the online mapping tool, making it difficult to assess its full value.

It is clear from the online tool that it is still a work in progress. We encourage HUD to continue to update the data already presented, expand the data available, solicit ongoing user feedback and make improvements to the tool. As HUD develops technical assistance materials, it should focus in particular on helping localities interpret the data in the Fair Housing Assessment and design strategies based on the data.

III. Conclusion

NHC commends HUD for its proactive efforts to further fair housing at the local level through the provision of the Assessment Tool and appreciates the many improvements made to the revised version of the assessment tool. We anticipate many more improvements to come as the initial localities work through the process. The Assessment of Fair Housing will help make progress toward addressing residential segregation and empowering communities to think creatively about their investments to better support communities.

Sincerely,

A handwritten signature in black ink that reads "Chris Estes". The signature is written in a cursive, flowing style.

Chris Estes
President and CEO