

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

NATIONAL FAIR HOUSING ALLIANCE,  
*et al.*

Plaintiffs,

v.

BEN CARSON, *et al.*,

Defendants.

Civ. Action No. \_\_\_\_\_

Judge - \_\_\_\_\_

**DECLARATION OF DEBORAH GOLDBERG**

1. My name is Deborah Goldberg. I am over the age of eighteen and am competent to make this declaration. I have personal knowledge of the matters set forth herein. I joined the NFHA staff in 2005 as Director of the Hurricane Relief Project, and I am currently the Vice President of Housing Policy and Special Projects at the National Fair Housing Alliance (NFHA). In that capacity, I have led NFHA's policy and advocacy work to promote the fulfillment of the promise of the Fair Housing Act's affirmatively furthering fair housing mandate since I joined NFHA in 2008.
2. Since the 1990s, NFHA has been deeply involved in working nationally and locally through its members to assure that grantees funded by HUD affirmatively further fair housing. NFHA members have worked with local jurisdictions for years, providing information for Analyses of Impediments ("AI(s)"), assisting jurisdictions to develop AIs, reviewing and commenting on AIs, and watching jurisdictions implement, or not implement, AIs. NFHA and its members saw jurisdictions adopt poor quality AIs with little or no content dealing with fair housing issues. NFHA and its members saw jurisdictions hire contractors who

wrote AIs that were completely inadequate to address deeply entrenched challenges of segregation and inequitable access to community resources. NFHA and its members saw jurisdictions adopt well-crafted AIs—and ignore their contents. NFHA saw jurisdictions ignore local fair housing advocates and their recommendations, in favor of exclusionary and discriminatory practices. NFHA and its members even saw local jurisdictions deliberately exclude fair housing advocates and community members from the Affirmatively Furthering Fair Housing (“AFFH”) planning process. NFHA therefore learned long before the 2010 publication of the Government Accountability Office (GAO) report on the inadequacy of the AI system that the AI system was not adequate to fulfill HUD’s statutory obligation to affirmatively further fair housing and that significant regulatory changes were necessary.

3. NFHA advocated aggressively for HUD to engage in rulemaking to modernize and clarify its grantees’ obligation to affirmatively further fair housing, participating in listening sessions convened by HUD prior to the publication of the Proposed AFFH Rule in 2013. We met with senior HUD staff and consultants to discuss the importance of the Rule, and organized meetings of the Leadership Conference for Civil and Human Rights Fair Housing Task Force to plan and attend meetings with then Secretary Shaun Donovan and Assistant Secretaries under his direction in which we and others stressed the importance of HUD promulgating an updated AFFH Rule that would remedy the failings of the existing AI process.
4. During the rulemaking process that led to the promulgation of the 2015 AFFH Rule and during the Paperwork Reduction Act review processes for the AFFH Assessment Tools, I prepared comment letters on behalf of NFHA and worked with NFHA members and coalition allies to ensure that the resulting Rule and Assessment Tools provided a robust basis for sound and ambitious fair housing planning informed by community participation,



particularly by our members and the populations they serve. NFHA staff and members also advocated for a strong AFFH Rule and supporting tools in meetings with U.S. Department of Housing and Urban Development (HUD) staff and through strategic communications efforts to build support for the rule.

5. NFHA trained its members and allies on the obligation to affirmatively further fair housing for many years, elevating the issue in conferences going back at least as far as 2008, and focusing in on what we anticipated would be the outlines of the Rule once the proposed Rule was published in 2013. We had webinars (and spoke on webinars sponsored by other organizations), in-service trainings, included a variety of AFFH-related sessions at our national conferences, spoke at the conferences of other organizations, and developed written materials, among other things. In fact, the theme of our 2014 conference was “Making Your Zip Code = Opportunity.”
6. After the AFFH Rule became final in 2015, I provided training, technical assistance, and support to NFHA members that were engaging in the community participation process for Assessments of Fair Housing (“AFHs”) in their communities. Many of the resources we developed have been made publicly available on our website, at <http://nationalfairhousing.org/affirmatively-furthering-fair-housing/>. These efforts helped our members build the capacity to effectively leverage the specific procedural and substantive protections of the AFFH Rule to advocate for the inclusion of strong goals and meaningful strategies in AFHs that would address systemic patterns of housing discrimination and other barriers to residential integration and access to opportunity. The AFFH Rule’s requirements, when in effect, made NFHA’s efforts more efficient and effective. Not only did the Rule provide NFHA and its members greater ability to inject fair

housing considerations into municipal planning, but its community participation process, consistent template, common data sources and maps, and formalized rules made it much simpler for NFHA to advise and assist its members.

7. One particularly important part of the AFFH Rule was the requirement that there be an accepted AFH as a condition of approval of a Consolidated Plan, making an accepted AFH effectively a condition of continued funding for CDBG-funded entities. Assuring that HUD would examine Assessments to assure that they were substantially complete, consistent with the data, and that uniform community participation processes were followed was critical to make sure that jurisdictions took the AFH process seriously. The requirement of an accepted AFH as a condition of continued funding provided valuable leverage to advocates like NFHA members who could encourage local jurisdictions to consider more robust and effective strategies. Another particularly important part of the AFFH Rule was the requirement that the goals, metrics, and timelines adopted be incorporated into the jurisdiction's Consolidated Plan, that the Consolidated Plan specify strategies and designate resources for achieving those goals, and that jurisdictions report on their progress toward meeting those goals in their annual performance reports. This provision created an additional mechanism for holding local officials accountable, and by directing the use of housing and community development resources, would have led to concrete action to lessen segregation and mitigate its harmful effects in communities that adopted AFHs, thus furthering the mission of NFHA and its members.
8. Since the January 5, 2018 suspension of the AFFH Rule, I have led and coordinated the efforts of NFHA's staff in (1) reading and analyzing the notice and its implications; (2) consulting with partner organizations at the national level about the notice's implications and



how to combat its effects; (3) meeting with multiple HUD officials to seek clarification regarding the unlawful action and HUD's intentions; (4) preparing and submitting two Freedom of Information Act requests to HUD seeking records necessary for a full understanding of HUD's action and intentions; (5) identifying which local government program participants may have submitted AFHs prior to January 5, 2018 but that had not received HUD's acceptance of their submissions; and (6) conducting affirmative outreach to NFHA members in HUD's ten regions to learn how HUD was applying the notice on the ground. Each of these steps has been time- and resource-intensive, but they have been necessary for NFHA to effectively educate and counsel its members and other civil rights and affordable housing stakeholders in the face of the uncertainty created by HUD's action.

9. When HUD suspended the AFFH rule in January 2018, HUD removed all of the benefits of efficiency and thought that had gone into the AFH process and returned to the previous AI process which is deeply flawed and lacks the AFH's organized process, consistent template, and common data sources and maps. That action has significantly affected NFHA's ability to address issues through its members across the country because all of the common assumptions and information built into the AFH process are no longer in effect. This has increased the burden on NFHA's resources to deal with a variety of community based issues without a common template, and halted the momentum of NFHA members in advocating for, and achieving, fair housing goals. The suspension has directly harmed NFHA's ability to achieve actions that will advance fair housing principles and undo long-standing patterns of segregation and exclusion, and to help its members to do the same.
10. As a result of the suspension of the AFFH Rule, NFHA has had to undertake actions to try to counter HUD's actions. NFHA provided extensive comments in response to HUD's January

notice, which can be viewed at <http://nationalfairhousing.org/2018/03/07/the-national-fair-housing-alliances-comments-on-huds-announcement-to-suspend-the-affirmatively-furthering-fair-housing-rule/>. NFHA is developing written materials to help members continue advocating for effective AFFH activities in their communities and counseling and providing technical support to individual members, many of which were working with localities in some stage of the AFH process at the time of HUD's January 5, 2018 action.

11. Because of our expertise with respect to the AFFH Rule and knowledge of fair housing law and policy, allied civil rights, affordable housing, and consumer protection organizations looked to us for advice and counsel about how to most effectively respond to HUD's unlawful action. My colleagues and I have given presentations concerning the notice and the bases for countering it to the Fair Housing Association of Connecticut, whose members include fair housing officers from towns across that state, to the Leadership Conference on Civil and Human Rights Fair Housing and Fair Lending Taskforce, to Americans for Financial Reform Housing and Foreclosure Working Group; and to the Affirmatively Furthering Fair Housing Working Group of NFHA's members. Because of the amount of time taken up by efforts to respond to the January 5 notice, I had to cancel plans to give a presentation about AFFH and the impact of that notice at a conference sponsored by the Inland Fair Housing and Mediation Board, one of NFHA's members in San Bernardino County, California.
12. I have had to inform NFHA's members about the impact of the notice through a detailed e-mail on the day of its issuance; the release of a public statement posted on NFHA's website the following week and disseminated by e-mail; and individualized e-mail outreach and, in some cases, follow-up phone calls with key NFHA members located in HUD's ten regions.



Between my colleagues and me, these efforts, which directly targeted 16 NFHA members but reached all of NFHA members as well as many supportive stakeholders, required the investments of dozens of hours of staff time.

13. In future months, the extent to which my colleagues and I will have to devote time to counteracting the adverse effects of HUD's notice will only increase. This is the product of the fact that, under the AFFH Rule, a majority of local government program participants would have their AFHs due from April 2019 through January 2020. These grantees are currently making decisions about whether to proceed with a full AFH on the timeline of the AFFH Rule, whether to conduct an Analysis of Impediments to Fair Housing Choice (AI) on that same timeline, whether to conduct an AI at some later date, the extent to which to utilize some of the resources associated with the AFFH Rule in completing an AI, and whether to conduct an AI at all. These grantees will also have to make decisions about whether to incorporate goals, metrics, and timelines from their AI/AFH into their Consolidated Plan and/or PHA plan. If grantees fail to include the information from their AI or AFH into the Consolidated Plan, which would have been required before HUD suspended the AFFH Rule, measurable reductions in segregation, expansion of housing opportunities, or strategic investment in extremely poor communities of color will be diminished. NFHA's members must advocate to affect this decision-making process and promote the completion of full AFHs and inclusion into Consolidated Plans of actions to implement the AFHs in order to effectively advance their own missions. As a result of HUD's suspension of the AFFH Rule with its specific community participation requirements, NFHA's members will again have to advocate even more vigorously to meet with grantees and be involved in discussions and decision-making about all of these issues. These members have already begun and will

continue to turn to NFHA staff, including myself, for advice and counsel about how to most effectively carry out this work.

14. By engaging in efforts to counteract HUD's actions, NFHA diverted its resources away from other important fair housing activities including its preparations for the 50<sup>th</sup> anniversary of the passage of the Fair Housing Act and the publication of its annual Fair Housing Trends report. NFHA has also had to delay or scale back its plans to provide assistance to NFHA members on disaster recovery plans in Florida, Texas, and California, work with other partners to increase access to FEMA disaster data that could benefit fair housing related improvements in disaster recovery, analyze and work on improving the resources and protections available through the GSEs to address the language needs of non-English-speaking borrowers in mortgage originations and servicing, analyze the Federal Housing Finance Agency's proposed changes to regulations affecting the affordable housing programs of the Federal Home Loan Banks, and informing our members about and engaging with the GSEs on their efforts to promote residential economic diversity as detailed in their Duty to Serve plans.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and accurate. Further, I certify that I am qualified and authorized to file this declaration.

Executed within the United States on May 7, 2018.

  
DEBORAH GOLDBERG