

PRRAC

Poverty & Race Research Action Council

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HUD’S NEW “AFFIRMATIVELY FURTHERING FAIR HOUSING” REGULATION: AN INTRODUCTION

Elements of the “Assessment of Fair Housing” Process

Every five years, participant jurisdictions must conduct an AFH to analyze fair housing issues: aspects of discrimination, segregation, inadequate affordable housing, and lack of access to neighborhood “opportunity” characteristics (such as quality schools and environmental health). The AFH must also identify “meaningful actions” to address those issues.

HUD has issued a template and guidance for the structure of the AFH.¹ The assessment requires a comprehensive, cross-disciplinary look at the participating locality’s built environment and community development structure, where “housing issues” mean not only adequate shelter, but also housing and neighborhoods as platforms for quality of life. While the locality generally will designate a lead agency or department to conduct the AFH, the assessment must examine this full scope of issues. HUD has provided local data for the AFH, but the assessment also relies on a robust community participation process, and the provision of local data and knowledge from sources such as other agencies, academics, practitioners, and advocates.

The key outcome of the AFH is the setting of concrete actions and goals, and its influence on local planning processes.

Elements of the AFH include the following:²

Community participation: Description of outreach activities, comments received, explanation required if comments not accepted.

Past goals (as identified in previous AFH, Analysis of Impediments, or other relevant planning documents): Discussion of progress, barriers, and future steps.

Fair housing analysis (informed by data provided by HUD, as well as other sources such as community participation):

- Discussion of demographic trends;
- Patterns of segregation and “contributing factors” (such as community opposition to affordable housing; deteriorated and abandoned properties; displacement due to

¹ Available at www.huduser.gov/portal/affht_pt.html#affh.

² For more detail, refer to the HUD Assessment Tool, available at www.huduser.gov/portal/affht_pt.html#affhassess-tab.

economic pressures; lack of community revitalization strategies; lack of public or private investments in specific neighborhoods, including services or amenities; lack of regional cooperation; land use and zoning laws; location and type of affordable housing; occupancy codes and restrictions; and private discrimination);

- Identification of R/ECAPs (racially/ethnically concentrated areas) and contributing factors;
- Disparities in access to opportunity, including transportation, education, environmental health, employment, and low-poverty exposure; and contributing factors (such as access to financial services; quality of public transportation; lack of private or public investments in specific neighborhoods, including services or amenities; lack of regional cooperation; land use and zoning laws; lending discrimination; location of employers; location of environmental health hazards; location of proficient schools and school assignment policies; location and type of affordable housing; occupancy codes and restrictions; and private discrimination).

Disproportionate Housing Needs: Analysis of housing cost burden, housing quality and habitability issues, which groups are severely or disproportionately burdened, and contributing factors.

Publicly Supported Housing Analysis: For range of supported housing programs, including public housing, vouchers, and LIHTC properties; the examination of resident demographics, location and distribution (particularly with regard to segregated and racially/economically concentrated areas), and disparities in access to neighborhood opportunity characteristics; and contributed factors (such as site selection policies, need for housing counseling, discrimination by landlords, Qualified Allocation Plan incentives, etc.).

Disability and access analysis: Includes distribution and integration of units, access to opportunity, and contributing factors.

Fair Housing Enforcement, Outreach Capacity, and Resources Analysis: Examination of contributing factors such as lack of local private or public fair housing outreach and enforcement; lack of resources for fair housing agencies and organizations; lack of state or local fair housing laws; and unresolved violations of fair housing or civil rights law.

Goals and Priorities: For each of the issues discussed above, the contributing factors are to be prioritized in order of their significance in affecting fair housing choice, access to opportunity, or fair housing or civil rights compliance.³ The participant must set goals to overcome each significant contributing factor. For each goal, the participant should identify metrics and milestones.

³ Further detail on contributing factors can be found in the Assessment Tool, available at www.huduser.gov/portal/sites/default/files/pdf/Assessment-of-Fair-Housing-Tool.pdf.

Resources

For completion of the AFH, HUD provides data and maps that supply information on demographics, housing distribution, and basic neighborhood opportunity characteristics.

In addition, “local data and knowledge” should also be used as needed for a complete and meaningful Assessment of Fair Housing, with its analysis of issues, contributing factors, and goal identification. This data and knowledge can be drawn from a variety of sources including local agencies, universities, and others. It must reflect the robust “public participation” measures required under the rule.⁴

Setting Goals and Metrics

The goals identified in the AFH are to inform the participating jurisdiction’s planning processes. This must include, but is not limited to, the Consolidated Plan and Public Housing Authority Plan. As HUD states:

These goals will form the basis for strategies and actions in the subsequent planning documents. As stated in the regulatory text at 24 C.F.R. § 5.150, a program participant’s strategies and actions must affirmatively further fair housing and may include various activities, such as developing affordable housing, and removing barriers to the development of such housing, in areas of high opportunity; strategically enhancing access to opportunity, including through targeted investment in neighborhood revitalization or stabilization; through preservation or rehabilitation of existing affordable housing; promoting greater housing choice within or outside areas of concentrated poverty and access to areas of high opportunity; and improving community assets such as quality schools, employment, and transportation.⁵

Each jurisdiction’s goals are to be accompanied with concrete metrics for action, as well as a timeline, and should identify responsible actors. Goals and metrics should take meaningful steps to address fair housing issues and contributing factors, but should also be specific.

Goals will reflect the individualized problem faced by each jurisdiction “on the ground,” as informed by HUD-provided and local data, knowledge, and community participation. For example, goals might include:

- Establish and fund an Office of Fair Housing charged with assessing and enforcing fair housing compliance.
- Where environmental health disparities are problematic, strategies such as instituting a requirement for Health Impact Assessments through local legislation; and concrete measures to improve enforcement of environmental and related civil rights protections, for instance, by creating or expanding local prosecutorial or legal services support.

⁴See AFFH regulation, 24 C.F.R. § 5.152, and HUD Assessment Tool at p.2, regarding use of local data and knowledge, including that gathered through public participation.

⁵ Assessment Tool at 17.

- Staff and fund an initiative for fair housing public education, including communications, marketing, and outreach to promote inclusionary development of affordable and workforce housing for more equitable distribution throughout the region.
- Ensuring more equitable private investment strategies, for example through local legislation promoting community benefit agreements.

Localities should also assess the extent to which their current fair housing infrastructure can support and create accountability for meaningful, concrete action toward the identified goals. This may entail creation and support of a designated office, department, and/or committee specifically charged with fair housing oversight, with adequate staff, resources, and authority. Localities should also consider instituting formal processes for incorporation of the AFH’s findings into planning processes—potentially including transportation, health, comprehensive plans, and other plans, in addition to the consolidated plan.⁶

⁶ See 24 C.F.R. § 5.154, “...identifying goals to affirmatively further fair housing and to inform fair housing strategies in the consolidated plan, annual action plan, the PHA Plan and any other plan incorporated therein, and community plans including, but not limited to, education, transportation, or environmental related plans.”