

**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 JANET HOSTETLER

1. My name is Janet Hostetler. I am currently serving as Deputy Director of the National Law Center on Homelessness & Poverty. I have a JD from New York University. I am over the age of eighteen and am competent to make this declaration. I have personal knowledge of the matters set forth herein.

2. I served as Senior Advisor and Chief of Staff in the Office of Fair Housing and Equal Opportunity (FHEO) at the U.S. Department of Housing and Urban Development from October 2009 to June 2015, during the development of the Affirmatively Furthering Fair Housing (AFFH) rule. After leaving HUD, I continued to follow the development of the rule closely.

3. When I arrived at HUD, the agency was actively considering options for developing a new fair housing planning rule for jurisdictions receiving HUD funds, based in part on our experience in the Westchester County litigation, which had revealed the ineffectiveness of HUD's then current fair housing planning rules, which relied on the "Analysis of Impediments to Fair Housing" (AI).

4. Shortly before I arrived, in July 2009, FHEO hosted a “listening session” on the overall AFFH planning process. I reviewed the notes from the listening session and spoke with several people who were in attendance- both HUD personnel and outside stakeholders. The overwhelming feedback that emerged from this session was that the AI process was ineffective and was in need of overhaul. Also in 2009, the Office of Policy Development and Research released an internal review of the AI process, which I read and discussed with the HUD personnel involved in writing it. The review, based on a nationwide sample of jurisdictions, found that many jurisdictions did not have a recent AI, that the quality of AIs varied widely, with many omitting key analyses of fair housing and fair housing goals, that AIs were not generally accessible to the public, and that AI’s were not required to be submitted to HUD for review.

5. The decision to move ahead with an overhaul of the fair housing planning process was powerfully influenced in the following year by the release of a Government Accountability Office report to Congress, *Housing and Community Grants: HUD Needs to Enhance Its Requirements and Oversight of Jurisdictions’ Fair Housing Plans* (GAO, September 2010), which documented the serious deficiencies of fair housing planning process associated with the “Analysis of Impediments to Fair Housing.”

6. The GAO report confirmed our internal observations that the AI process did not achieve compliance with grantees’ affirmative fair housing obligations, and thus was not consistent with HUD’s own obligations to affirmatively further fair housing.

7. It also accorded with our conclusions that the AI process lacked any meaningful standards for setting goals and timetables, no clear guidance on format or methodology for assessing issues

like segregation, and no process for HUD review. As a result, many jurisdictions were simply ignoring their obligations.

8. In addition to the 2009 “Listening Session,” in 2010-11 we sent two senior advisors, representing the Department, on an extensive fact-finding tour to get input from city and county leaders across the country on how best to design a planning process that would both restore accountability and be workable and effective for local staff and leadership.

9. The final AFFH rule restored accountability to HUD’s fair housing oversight through a step by step reporting process focused on clear outcome metrics in the Assessment of Fair Housing (AFH). The rule includes stronger public participation requirements (including a published response to specific public input in the final AFH), and most importantly, a required submission to HUD for review. An essential part of the HUD review process is the procedure for “pass-backs,” to help jurisdictions improve submissions that were missing key elements (such as meaningful fair housing goals).

10. As part of the rule implementation, and to reduce the reporting burden on local jurisdictions, HUD has provided the data and mapping tool, which includes uniform national data to help local planners quickly assess local levels of segregation, disparities across neighborhoods communities, and unmet housing needs in their jurisdiction.

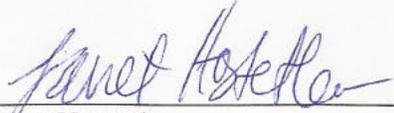
11. The final rule also contemplates a significant degree of HUD technical assistance to jurisdictions, through guidebooks, trainings, and hands-on technical assistance.

12. As I observed in our efforts to ensure Westchester County's compliance with a settlement, as well as my experience reading AIs and the Fair Housing analyses conducted by grantees of the Regional Planning Grant program, clarity, data, and feedback are all essential to successful compliance with the 1968 Fair Housing Act. Delays by HUD in providing this assistance will be detrimental to jurisdictions in their efforts to comply with the Fair Housing Act.

13. One of the strengths of the AFH process is its emphasis on local solutions. Jurisdictions are required to assess the extent and the causes of local patterns of segregation and neighborhood disparities, but the selection of specific strategies and goals to address these local problems is up to the jurisdiction.

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 correct. Further, I certify that I am qualified and authorized to file this declaration.

Executed within the United States on May 4, 2018.



Janet Hostetler