

EXHIBIT

1

**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. 1:18-cv-1076-BAH

THIRD DECLARATION OF JUSTIN STEIL

1. My name is Justin Steil. 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 am an Assistant Professor of Law and Urban Planning at the Massachusetts Institute of Technology. I have studied and published extensively in the field of urban planning, based on quantitative and qualitative research that I have conducted and supervised. I hold a Ph.D. in Urban Planning from the Columbia Graduate School of Arts and Sciences, a juris doctorate degree from Columbia Law School, an M.Sc. from the London School of Economics in City Design and Social Science, and a Bachelor of Arts degree from Harvard College in African-American Studies. A copy of my curriculum vitae is attached as Exhibit A.
3. A significant focus of my ongoing research is on fair housing policy and the implementation of the Department of Housing and Urban Development (HUD)'s Affirmatively Furthering Fair Housing (AFFH) regulation.
4. I have researched the initial period of implementation of the AFFH Rule, including a detailed review and analysis of 28 Assessments of Fair Housing (AFHs) submitted to HUD

through July 2017, and have compared those AFHs to the previous Analyses of Impediments (AIs) filed by the same program participants. Based on this review, which I describe in detail below, I conclude that the AFH process required by the AFFH Rule was working as intended and was successfully fulfilling the regulation's aim of producing meaningful goals that further fair housing. In contrast, the AIs that I reviewed were, as a whole, dramatically weaker documents, a significant majority of which failed to set forth clear fair housing goals.

5. My analysis also included a review of the initial "non-acceptance" (otherwise known as "pass-back") letters that HUD provided to participants whose AFHs required improvement. This Third Declaration amends my previous declaration to include all of the pass-backs issued to participants (several of which I had not yet received from HUD at the time of writing my initial declarations.) Those documents demonstrate how the "pass-back" process was functioning as intended by the AFFH regulation: as a means of delivering tailored individualized guidance that helped the participants successfully produce AFHs that meaningfully further fair housing. The majority of the errors in the AFH filings related to prioritizing factors contributing to segregation and to setting out fair housing goals. The errors in fair housing priorities were generally a failure to prioritize the factors that municipalities had identified as contributing to residential segregation and disparities in access to key measures of opportunity. This failure to prioritize contributing factors seems to have arisen from a misunderstanding by some municipalities of the AFFH Rule that HUD could quickly and easily remedy through its existing technical assistance programs. Indeed, in the current pass-back process, municipalities were able to promptly revise their AFHs to remedy these errors. The failures in fair housing goals were generally failures to create measurable objectives and timelines and to identify the parties responsible for realizing the goals. These failures in creating goals with sufficient specificity could stem from a

misunderstanding of the AFFH Rule, easily remedied by HUD's existing technical assistance and pass-back process, or they could stem from a reluctance by municipalities to create robust and measurable goals, a problem that the pass-back process was intended to address and that no delay in implementation will resolve.

I. Research Methodology of Review of AI and AFH Goals

6. To evaluate the extent to which the AFH submissions differ from the prior AI submissions, I (together with a research assistant under my supervision) coded and analyzed all of the 28 AFHs that were submitted between October 2016 (the first submission date) and July of 2017, as well as each of these municipalities' AIs (their previous plans filed before the AFFH Rule came into effect). In analyzing the AFHs, we focus on the Fair Housing Goals and Priorities; and in the AIs, we focus on the roughly parallel recommendations or action plans. We analyzed differences in the robustness of municipal goals (measured as goals that set out a measurable objective or that commit to a new policy) to address segregation between those plans submitted pursuant to the AFH process and those submitted previously under the AI process.

7. In examining the AFHs, we analyzed whether each municipality has created (1) a measurable objective supported by numerical metrics or milestones that the municipality has advanced to allow quantifiable evaluation of progress and (2) a new policy or program to accomplish that objective. We also analyzed the difference between the AFH program and the AI program in the likelihood of any given goal having a quantifiable metric or new policy or a mobility or place-based initiative.¹

¹ This type of analysis is called a multi-level logistic regression. Because the goals are nested within plans (either AFH or AI) which are then nested within municipalities, it is a three-level model. The dependent variable is whether or not a goal has a numerical metric or includes a new policy, and the primary independent variable of interest is whether the goal was submitted as part of an AI or an AFH.

8. The 28 municipalities whose AFH submissions we reviewed represent a wide cross section of the country, from Fort Pierce, Florida with a population of 43,000 to Philadelphia, Pennsylvania with a population of 1.6 million. Median household incomes range from \$26,000 in Fort Pierce to \$86,000 in Chester County, Pennsylvania. Demographic composition varied widely, from Lake County, Ohio, which is 90 percent white non-Hispanic, to cities such as Paramount, California, where 80 percent of the population identifies as Latino, and New Orleans, Louisiana, where 59 percent identify as black. Levels of black-white and Latino-white segregation also varied widely from lows in Victorville, California (0.18 and 0.15, respectively) to highs in Philadelphia (0.76 and 0.63, respectively).

Table 1: Descriptive statistics of
the first 28 municipalities filing
AFHs

	Min	Mean	Max
<u>Controls</u>			
Population	43,267	300,241	1,555,072
County		0.29	
<u>Capacity</u>			
CDBG funding	474,148	3,701,544	39,046,238
CDBG timeliness*	0.25	1.17	1.59
<u>Political Context</u>			
Conservatism	-0.868	-0.115	0.418
FHEO cases	0.64	3.69	12.84
FHIP organizations	0.00	0.54	7.00
<u>Socio-economic context</u>			
Unemployment rate	5.18	9.19	15.48
Median HH income	25,635	49,751	85,976
College graduates (%)	0.08	0.29	0.59
<u>Heterogeneity and segregation</u>			
Black-white dissimilarity	0.18	0.47	0.76
Latino-white dissimilarity	0.15	0.40	0.63
White Non-Hispanic (%)	0.05	0.540	0.90
Black Non-Hispanic (%)	0.01	0.174	0.59
Latino (%)	0.04	0.207	0.80
<u>High-Cost</u>			
Median home value	85,900	215,518	552,600
Median gross rent	686	977	1,557
Vacancy rate	0.04	0.11	0.24
Share renters	0.25	0.45	0.64

* Data unavailable for five cities

9. As I describe below, there is also significant variation in the goals that municipalities put forth in their AFHs, the metrics they put forward to evaluate progress, and the policies they

create to realize the goals. Notably, across the variety of locational characteristics and locally-tailored outcomes, the AFHs succeed in providing meaningful fair housing goals.

10. In contrast to the AIs, the goals in the AFHs indicate a likelihood that the AFHs will set participants up for success in implementing fair housing policies. Prior research about plan quality and implementation in general has found that the characteristics most associated with ultimate implementation of a plan are 1) the fact basis of the plan, 2) the presence of goals based on measurable objectives, and 3) the specification of policies designed to achieve those goals. To be effective, goals and policies in a plan must be sufficiently specific to be tied to definite actions, supported by a written commitment to carry out those actions, and incorporate provisions for measuring progress, including indicators of advancement, timelines for completing the required actions, and identification of the parties responsible for implementation.² In the AFH process, all municipalities are given the same HUD data as a starting point for their plans (and are encouraged to supplement that data with additional local data) and are required to analyze that data and answer specific questions posed by HUD in the AFH assessment tool and then create measurable goals to advance fair housing based on that analysis.

II. Research Findings on AI and AFH Goals

11. Of all goals in the 27 AIs we reviewed (one AI was unavailable), only five percent contained a quantifiable objective or included a new policy. By contrast, 33 percent of all goals in the 28 AFHs contained a quantifiable objective or new policy, an increase of 28 percentage points (see Table 2). Every municipality except two (Harrisonburg, VA and Hamilton, OH) had

² See Baer, W. C. (1997). General Plan Evaluation Criteria: An Approach to Making Better Plans. *Journal of the American Planning Association*, 63(3), 329–344; Berke, P. R., & Godschalk, D. (2009). Searching for the Good Plan: A Meta-Analysis of Plan Quality Studies. *Journal of Planning Literature*, 23(3), 227–240.

more goals with quantifiable metrics or new policies in their AFH than in their AI. Compared to the old AIs, the new AFHs include a dramatic increase in the number of goals, in the ambition of those goals, and in the share of goals with metrics the public can use to hold municipalities accountable to their commitments.

Table 2: Goal characteristics by AI or AFH program

<u>Goal characteristic</u>	<u>Overall AI percentage</u>	<u>Overall AFH percentage</u>
Quantifiable objective, new policy, both	5%	33%
Quantifiable objective	3%	23%
New policy	1%	12%

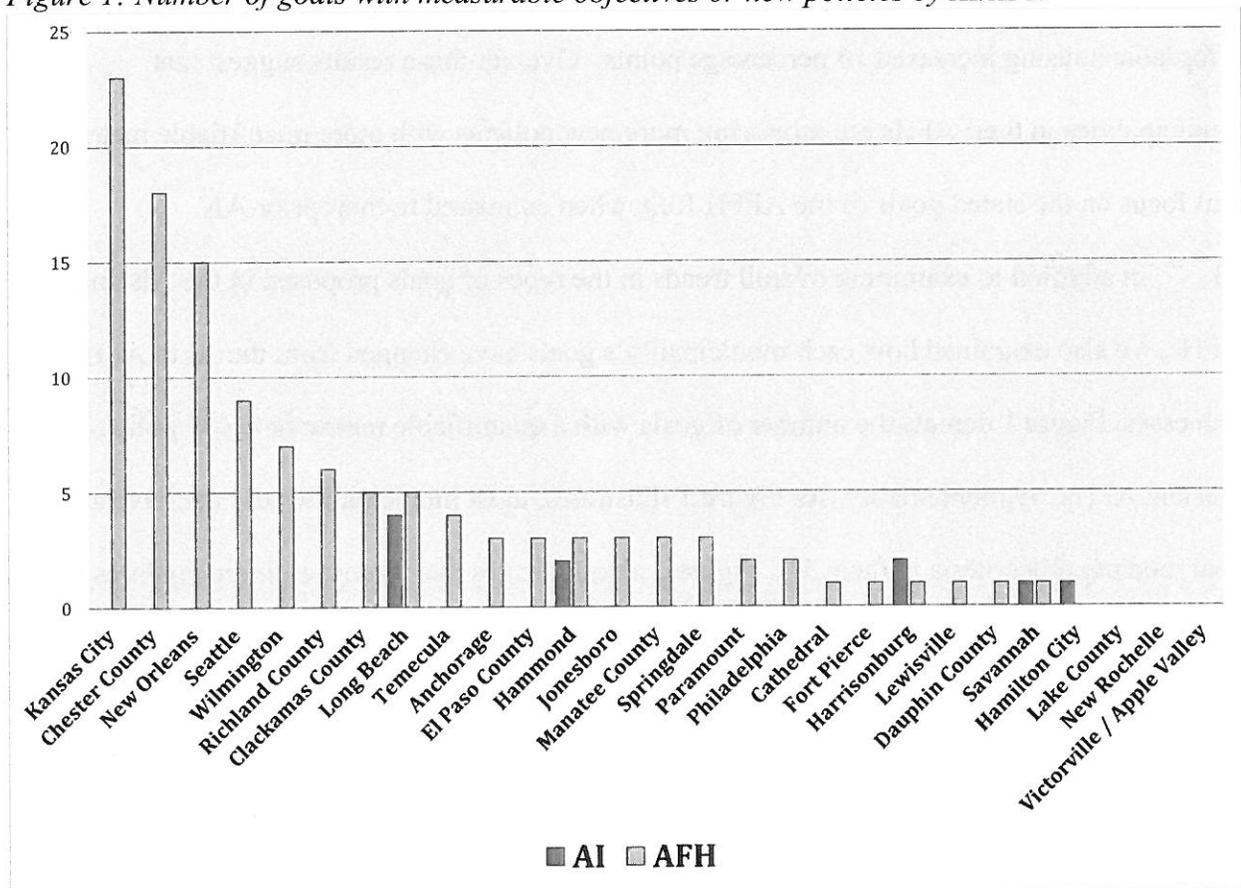
12. From the AIs to the AFHs, goals describing place-based investments increased by 11 percentage points and mobility investments increased nine percentage points. Goals referencing affordable housing increased 16 percentage points. Overall, these results suggest that municipalities in their AFHs are proposing more new policies with more quantifiable metrics that focus on the stated goals of the AFFH Rule when compared to their prior AIs.

13. In addition to examining overall trends in the types of goals proposed in the AIs and AFHs, we also examined how each municipality's goals have changed from the AI to AFH processes. Figure 1 depicts the number of goals with a quantifiable metric or a new policy in the AIs and AFHs, by municipality. As Figure 1 illustrates, most municipalities did not have a single goal meeting this criteria in their AIs. Figure 1 also indicates that almost all municipalities have plans with a significantly larger number of quantifiable goals or new policies in their AFHs compared to their AIs.

14. An illustrative example of change in goals in one city from the AI to the AFH can be seen in El Paso County, Colorado. In El Paso County's 2009 AI, one goal was to "[e]mpower people through educational materials to help them avoid becoming a victim [of predatory and unfair lending practices]" by "[p]rovid[ing] online information and training to increase knowledge of

existing and potential homeownership and lending practices” (El Paso County, Colorado, 2009). The county did not give any metrics by which one could measure progress in empowering people to avoid unfair lending or in ensuring that information was more readily accessible. In El Paso County’s 2016 AFH, by contrast, one goal was for the county to “assist with the development of 100 [publicly supported affordable housing] units in areas of opportunity” (El Paso County, Colorado, 2016, p.57). Unlike the AI goal, this AFH goal includes at least some metric for the public to assess progress—were 100 publicly subsidized affordable housing units created by 2021 and were they located in parts of the county with comparatively higher levels of access to opportunity?

Figure 1: Number of goals with measurable objectives or new policies by AI/AFH³



³ As this chart indicates, only five of the AIs had goals with any measurable objectives or new policies; the remaining municipalities had zero such goals.

15. In order to examine this relationship more rigorously, we use a multilevel logistic regression to estimate the relationship between the shift from the AI to the AFH program and the likelihood of a goal having either a quantifiable metric or a new policy. Consistent with the descriptive statistics above, we found a dramatic increase in the odds of quantifiable metrics and new policies in the AFH program.

16. After including controls for both goal and municipal level characteristics in model two, the highly significant and large relationship between AFHs and quantifiable metrics and new policies remains.

17. An example of the shift from AIs with nebulous goals to AFHs with more concrete ones is that of Temecula, California. Temecula's 2012 AI included action items stating that the "city should invest in community projects in low-income areas" (without any further detail on a target for a level of investment, relevant types of investment, or locations of investment) and that the city should "add easy to find fair housing information on its website" (without setting an objective for how to evaluate the translation of that additional information into better outcomes for residents) (City of Temecula, 2012, Sec. V., p.33). Temecula's 2016 AFH, by contrast, included goals such as "amend Title 17 of the Municipal Code to . . . establish an Affordable Housing Overlay on at least 100 acres" (City of Temecula, 2016, p.43) allowing multi-family uses by right, without a conditional use permit, by June 30, 2018 and "[e]nter into an exclusive negotiating agreement with a developer to allocate \$12.4 million in remaining affordable housing Tax Allocation Bond proceeds to create or rehabilitate an estimated 100 affordable housing units" in census tracts that do not have high poverty rates (City of Temecula, 2016, p.54).

18. As an additional example, in the 2010 Wilmington, North Carolina AI, one of the nine goals and recommendations was to "consider soliciting an intern from a local college to institute

basic practices with regard to fair housing” for the city and the county by “disseminating fair housing information,” “developing and monitoring a hotline,” and “work[ing] with the city and county to maintain fair housing information on each website” (Wilmington, 2010, p.69). This is an example of a goal that makes essentially no public commitment to any defined action and provides minimal ways to measure whether fair housing information is being effectively disseminated and what effect that dissemination is having on awareness or enforcement of fair housing laws.

19. The 2016 AFH from Wilmington, by contrast, includes an increased number of goals (12) and a number of more concrete commitments. For instance, Wilmington set out goals including: “10% of affordable housing produced with CDBG and HOME participation over the next 5 years will be targeted for persons with disabilities”; “partner with area banks to provide up to 10 mortgages annually through the homeownership opportunities program to households at or below 80% of AMI” with a commitment that the housing authority will enhance the existing Housing Choice Voucher homeownership program support; “fund after school programs in racially or ethnically concentrated areas of poverty over the next 5 years” such that “75% of youth enrolled will increase scores on end of year test at 80% or more; 90% promotion to next grade level” (Wilmington, 2016, p.101-03); and a commitment to making 100 percent of city-owned available in-fill lots available for development into affordable housing, as well as revisions to the zoning code to encourage mixed-use, mixed-income, and mixed-tenure status units. The goals in the AFH are more specific, touch on a broader range of place-based characteristics affecting access to opportunity, and include concrete commitments to measurable outcomes, from first-time home-buyer loans financed, to dwelling units that are accessible to the disabled, to school performance, to the use of public land for affordable housing.

20. Throughout the AFHs we reviewed, municipalities made concrete commitments to measurable goals or to the implementation of new policies. Some of those goals attempted to increase the mobility of households receiving housing vouchers. For instance, New Orleans, Louisiana set out to provide landlords in the city with information on how to become Housing Choice Voucher landlords in order to expand program participation and decrease the share of Housing Choice Voucher properties in racially or ethnically concentrated areas of poverty from 33 percent to 30 percent by 2021. Other goals sought to reduce displacement from gentrification. For instance, Seattle, Washington proposed scaling its mandatory housing affordability requirements to geographic areas of the city based on market conditions, in an effort to increase the contributions to affordable housing from areas with strong markets. Similarly, New Orleans set out the goal of developing more than 400 affordable rental units in the gentrifying neighborhood of Treme over five years. Other goals made commitments to increasing the number of affordable units in neighborhoods with high levels of access to opportunity. For instance, Chester County, Pennsylvania committed to creating 200 new affordable units in high opportunity neighborhoods across the county by 2021. Still other goals focused on public housing, economic development, and education. For instance, Wilmington set out the aim of enrolling at least 150 individuals from public housing in a job training and placement program while New Orleans proposed developing new commercial sites in public housing. Other goals focused on ensuring that the obstacles to housing for the disabled were removed. For instance, Paramount, California committed to making specified amendments to its zoning ordinance (by specific deadlines) to make its housing more inclusive, such as allowing group homes for people with disabilities in residential zones. The AFHs also included a joint regional submission from five different municipalities in the Kansas City region, collaborating

across jurisdictional lines to develop a shared approach to reducing place-based disparities in access to opportunity.

21. To assess the extent to which the AFHs were actually producing goals that were consistent with the AFFH Rule's aim to "overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics," we also coded goals that either proposed to increase household mobility or access to neighborhoods with low-poverty rates and other measures of opportunity ("mobility" goals); or that proposed to invest in "transforming racially and ethnically concentrated areas of poverty into areas of opportunity" ("place-based" goals) (Fed. Reg. 42,272, 42,279 (July 16, 2015)). There was a more than five-fold increase in both of these types of goals, from fewer than 20 across all of the AIs to nearly 100 in the AFHs.

III. Review of AFH Non-Acceptances

22. HUD has reported that of all 49 submissions prior to the delay in implementation just over one in three were initially not accepted. I have obtained and reviewed 17 of the "pass-back" letters that HUD sent to municipalities detailing the reasons for HUD's non-acceptance of the AFH and offering guidance for revisions and technical assistance. As noted above, this Third Declaration amends my previous declaration to include all of the pass-back letters; the previous declaration had examined 13 of those letters.

23. In the pass-back letters, HUD describes in detail what made the AFH submission substantially incomplete. HUD states the specific provisions of the AFFH Rule that were not complied with, identifies the prompt from the AFH template being addressed, the reason why the responses were incomplete, and then sets forth detailed guidance as to how the municipality can

revise the AFH so that it can be accepted, along with further feedback or technical assistance to assist in revisions.

24. These initial non-acceptances represent a strength of the new AFFH Rule and HUD's implementation of it, in that the AFFH Rule has higher standards for municipalities than the previous AI and that HUD is enforcing those standards. The non-acceptance letters provided participants with the opportunity to respond to HUD feedback and to strengthen their final AFHs to meet their fair housing obligations.

25. Although improved technical assistance is certainly important, HUD's initial rejections of AFHs have generally been because jurisdictions failed components of a functional AFH that were clearly directed by the regulatory language, AFH template, and existing guidance. For example, municipalities whose AFHs HUD rejected ignored segregation in an entire section of their AFH; excluded analyses of particular protected classes; declined to consider housing barriers for key constituents, such as persons residing in public housing; did not identify how the goals were designed to address fair housing issues; or failed to include meaningful metrics or milestones to measure improvements in fair housing.

26. The AFFH Rule itself provides clear instructions as to what is expected in an AFH (see 24 C.F.R. §§ 5.154-5.158). For example, the Rule clearly states that public housing authorities "must follow the policies and procedures described in 24 CFR 903.13, 903.15, 903.17, and 903.19 in the process of developing the AFH, obtaining Resident Advisory Board and community feedback, and addressing complaints." 24 C.F.R. § 5.158(a)(2). HUD did not accept the submission from Dauphin County, Pennsylvania and the Housing Authority of the County of Dauphin in part because of failures in conducting and describing community participation, including the housing authority's report that it engaged the community by contacting a "key

representative of the Residency Advisory Board.” But the Rule itself states that public housing authorities must obtain Resident Advisory Board and community feedback, not just contact one member of the board.

27. HUD also published in December of 2015 a detailed AFFH Rule Guidebook. This Guidebook contains over 100 pages of careful and thorough explanations of each step in the AFH process. It also provides roughly 90 pages of appendices, including AFH checklists and worksheets to aid in preparation, extensive example answers to questions in the AFH, and a sample agreement for joint or regional AFHs.

28. HUD also posted on the HUD Exchange website extensive responses to more than 30 frequently asked questions.⁴ The responses include answers to questions such as, “What are the community participation requirements?”, “Do the requirements of the Assessment of Fair Housing (AFH) change if I am conducting a joint or regional AFH?”, and “What is a balanced approach to fair housing?”. HUD also produced eight fact sheets to assist in the AFH process, including: The Fair Housing Planning Process Under the AFFH Rule, succinctly laying out the key elements of an AFH;⁵ separate guidance on Community Participation and Affirmatively Furthering Fair Housing for both consolidated plan participants and for public authorities;⁶ and

⁴ Department of Housing and Urban Development, *AFFH FAQs*, <https://www.hudexchange.info/affh/faqs/>

⁵ Department of Housing and Urban Development, *AFFH Fact Sheet: The Fair Housing Planning Process Under the AFFH Rule* (December 2015), <https://www.hudexchange.info/resource/4863/affh-fact-sheet-the-fair-housing-planning-process-under-the-affh-rule/>

⁶ Department of Housing and Urban Development, *AFFH Fact Sheet: Community Participation and Affirmatively Furthering Fair Housing (Guidance for Consolidated Plan Program Participants)* (November 2015), <https://www.hudexchange.info/resource/4823/affh-fact-sheet-community-participation-and-affirmatively-furthering-fair-housing-guidance-for-consolidated-plan-program-participants/>; Department of Housing and Urban Development, *AFFH Fact Sheet: Community Participation and Affirmatively Furthering Fair Housing (Guidance for Public Housing Agencies)* (November 2015), <https://www.hudexchange.info/resource/4824/affh-fact->

Guidance on HUD's Review of Assessments of Fair Housing to assist program participants in understanding how HUD will conduct its review of an AFH and apply the standards established in in Section 5.162 of the AFFH Rule.⁷

29. One potential concern is that the new AFH Tool may lead municipalities to feel that they need to hire a consultant to aid in preparation of the new document. After reviewing the 49 submissions, I identified nine AFHs that credited a consultant for assistance in preparation.⁸ I then searched for the prior AIs filed by those same nine municipalities and was able to obtain AIs for eight of the municipalities (all but Rogers, AR). All eight of those municipalities also used consultants in their prior AI submission. This suggests that the overwhelming majority of those jurisdictions that hired consultants to assist in the preparation of their AFHs also hired consultants for their AIs and thus the AFH Tool is not the cause of their reliance on consultants.

30. All of the 17 pass-backs listed specific provisions or prompts from the AFH that had not been complied with and that made the AFH substantially incomplete, and 15 of the 17 listed two or more provisions.

31. In Table 3, below, I present the primary reasons HUD provided for the non-acceptance of the AFHs in the 17 pass-back letters that I reviewed.

sheet-community-participation-and-affirmatively-furthering-fair-housing-guidance-for-public-housing-agencies/

⁷ Department of Housing and Urban Development, *Guidance on HUD's Review of Assessments on Fair Housing* (June 2016), <https://www.hudexchange.info//resource/5069/guidance-on-huds-review-of-assessments-of-fair-housing-afh/>

⁸ Rogers, AR (Morningside Research and Consulting, Inc.); Springdale, AR (Morningside Research and Consulting, Inc.); Los Angeles County Community Development Commission and Housing Authority, CA (Western Economic Services, LLC); San Mateo County Region, CA (BBC Research & Consulting); Savannah, GA (Mosaic Community Planning); Kansas City Region, KS and MO (Mid-America Regional Council); Richland County, SC (Western Economic Services, LLC); Corpus Christi, TX (Morningside Research and Consulting, Inc.); and Lewisville, TX (Western Economic Services, LLC).

Table 3: Reasons for Non-Acceptance

State	Municipality	Prompt	Name
PA	Dauphin County	III.4	Community participation
OH	Lake County	IV.1	Assessment of past goals
AK	Anchorage	V.B	Disparities in access to opportunity
AK	Anchorage	V.B	Disparities in access to opportunity
GA	Clayton County	V.B	Disparities in access to opportunity
GA	Sandy Springs	V.B	Disparities in access to opportunity
OH	Lake County	V.B	Disparities in access to opportunity
CA	Pomona	V.B	Lack of regional analysis
GA	Clayton County	V.B	Lack of regional analysis
NC	Greenville	V.B	Lack of regional analysis
OH	Lake County	V.B	Lack of regional analysis
TX	Lewisville	V.B	Lack of regional analysis
TX	Lewisville	V.B	Lack of use of local data
AK	Anchorage	V.B	Segregation/Integration
CA	Apple Valley / Victorville	V.B	Segregation/Integration
OH	Lake County	V.B	Segregation/Integration
CA	Apple Valley /Victorville	V.C	Publicly supported housing
OH	Lake County	V.C	Publicly supported housing
PA	Dauphin County	V.C	Publicly supported housing
AK	Anchorage	V.D	Disability and access
OH	Lake County	V.D	Disability and access
OH	Lake County	V.E	Fair housing enforcement, outreach, & resources
AR	Jonesboro	VI.1	Prioritization of contributing factors
CA	Apple Valley / Victorville	VI.1	Prioritization of contributing factors
CA	Los Angeles County	VI.1	Prioritization of contributing factors
CA	Pomona	VI.1	Prioritization of contributing factors
CA	Temecula	VI.1	Prioritization of contributing factors
GA	Clayton County	VI.1	Prioritization of contributing factors
GA	Sandy Springs	VI.1	Prioritization of contributing factors
OH	Lake County	VI.1	Prioritization of contributing factors
TN	Nashville	VI.1	Prioritization of contributing factors
AK	Anchorage	VI.2	Fair housing goals
AR	Jonesboro	VI.2	Fair housing goals

CA	Apple Valley / Victorville	VI.2	Fair housing goals
CA	Long Beach	VI.2	Fair housing goals
CA	Los Angeles County	VI.2	Fair housing goals
CA	Moreno Valley	VI.2	Fair housing goals
CA	Pomona	VI.2	Fair housing goals
CA	Temecula	VI.2	Fair housing goals
GA	Clayton County	VI.2	Fair housing goals
GA	Sandy Springs	VI.2	Fair housing goals
NC	Greenville	VI.2	Fair housing goals
NY	New Rochelle	VI.2	Fair housing goals
OH	Lake County	VI.2	Fair housing goals
PA	Dauphin County	VI.2	Fair housing goals
TN	Nashville	VI.2	Fair housing goals
TX	Hidalgo County	VI.2	Fair housing goals
TX	Lewisville	VI.2	Fair housing goals

32. Table 3 indicates that even for those prompts that were the most common problems identified in the pass-back letters, the majority of the 49 municipalities that submitted AFHs got them right. Creating goals that were likely to result in meaningful actions to address fair housing and identifying measurable objectives, metrics, and timelines to accompany those goals was the most common problem and all 17 of the 31 municipalities whose AFHs were not accepted failed to initially fulfill with this prompt in some way. But more than twice as many municipalities submitted AFHs that met the requirements of the regulation with regard to section VI.2 of the Assessment Tool. Similarly, the second most common problem was identifying and prioritizing contributing factors, which was incomplete on nine AFHs. But that means that roughly four times as many municipalities submitted AFHs that met the requirements with regard to section VI.1 of the Assessment Tool than failed to meet the requirements. The fact that the vast majority of municipalities were able to successfully complete almost all of the AFH provisions suggests that the Assessment Tool itself is not fatally flawed.

33. For example, five of the pass-back letters found that AFHs were substantially incomplete for failing to include the regional analysis clearly specified by the regulation itself, at 24 C.F.R. §§ 5.154(d)(2)(i-iv). A regional analysis is required because fair housing issues cross jurisdictional boundaries and are an aspect of a regional housing market, and HUD accordingly provides regional maps and tables to municipalities for their analyses. Other letters identified missing components, such as participants' failure to analyze particular protected classes for sections of the AFH or to analyze the HUD-provided data on segregation, despite specific prompts within the guidance and tools provided by HUD and the available HUD maps. The Lake Metropolitan Housing Authority in Ohio failed to specify whether there were any fair housing charges against it, in violation of the requirement in 24 C.F.R. § 5.154(d)(1) to "include a summary of fair housing issues in the jurisdiction, including any findings, lawsuits, enforcement actions, settlements, or judgments related to fair housing or other civil rights laws." Lake County also failed to assess progress toward past goals (24 C.F.R. § 5.154(d)(7)).

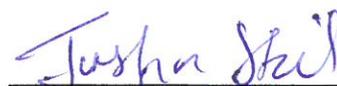
34. The pass-back process enabled HUD to provide oversight and ensure that its program participants included meaningful goals within their AFHs. The most common prompt identified as incomplete was the fair housing goals prompt, because municipalities presented goals that lacked a clear description of how each goal was designed to overcome the local fair housing issues and/or lacked clear, measurable metrics and milestones for determining what fair housing results would be achieved, inconsistent with 24 C.F.R. § 5.154(d)(4)(iii) and the HUD AFFH Guidebook. For instance, in Moreno Valley, California's AFH, several of the metrics and milestones were so vague that one could not determine whether they would result in any meaningful actions to advance fair housing.

35. HUD also used the pass-back process to hold its participants accountable for the AFH's public participation requirement and the use of relevant local data and knowledge. Lewisville, Texas held required public hearings and included transcripts from those hearings, but did not include additional information provided by the public that was relevant to the AFH (24 C.F.R. § 5.154(c)). Further, statements in the goals section of Lewisville's AFH contradicted statements in the analysis section regarding public comments and input about disability and access. Dauphin County, Pennsylvania failed to include a summary of any comments, views, or recommendations received in the AFH process and the Housing Authority of the County of Dauphin appeared not to have consulted meaningfully with the Housing Authority's Resident Advisory Board (24 C.F.R. § 5.154(d)(6)).

36. Every pass-back letter included detailed guidance to resolve the non-acceptance, and many included further feedback, such as maps that program participants could analyze to address gaps in the AFH or examples of model responses. Most of the submissions HUD initially rejected were subsequently improved through this collaborative process between HUD and the jurisdictions. At the time of HUD's AFH suspension, all but a few had already been accepted following their revision.

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 June 26, 2018.



JUSTIN STEIL