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Regulations Division
Office of the General Counsel
US Department of Housing & Urban Development
451 7th Street, SW
Room 10276
Washington, DC 20410-0500

Docket No. FR-5173-P-01, Affirmatively Furthering Fair Housing

Submitted electronically via <http://www.regulations.gov/#!documentDetail;D=HUD-2013-0066-0001>

Dear Madam/Sir:

On behalf of Building One America, please accept these comments on HUD's proposed regulations to implement the Affirmatively Furthering Fair Housing (AFFH) provisions of the Fair Housing Act.

Building One America is a broad based regional community-organizing network working with local elected officials from municipalities, school districts, counties, and regional organizations from increasingly diverse suburban middle class communities in the Northeast, Midwest, and southwestern metropolitan regions including those in Arizona, Colorado, Illinois, Indiana, New Jersey, New York, Ohio, Michigan, and Pennsylvania.

Building One America supports the Administration's efforts to develop a clear set of rules and guiding principles designed to advance the goals of the Fair Housing Act of 1968 and to promote a fully inclusive society.

Too often a lack of clarity, specificity, uniformity and clear guidelines have led to an uneven and misguided application of fair housing laws that can have the unintended effect of unfairly singling out diverse middle class communities and leaving some of the most affluent and exclusionary communities free of any responsibility while doing little to advance the goals of integration and poverty deconcentration within a region.

And while we recognize that HUD has limited tools to promote fair housing in all communities, an approach that is only punitive does little to encourage or expand housing opportunity in communities that are struggling to support and manage the social and fiscal challenges that often accompany the dramatic demographic changes that many of our communities are experiencing.

A set of principles and rules that considers the dynamic trends of both race and opportunity factors across metropolitan regions and is aimed at reducing concentrated poverty and racial and economic segregation by encouraging stable and sustainable diversity would be a welcome change.

HUD's proposed regulations to implement the Affirmatively Furthering Fair Housing (AFFH) provisions of the Fair Housing Act are an important step in this direction. Building One America would like to offer the following comments and recommendations to highlight, reinforce, and strengthen certain aspects of the proposed rules.

1. Encourage a Regional Approach to Furthering Fair Housing

Building One America applauds HUD's proposal to allow and encourage regional or multijurisdictional Assessments of Fair Housing (AFH) and Consolidated Plans (ConPlans). HUD should strengthen this regional emphasis by requiring AFHs to include entire metropolitan regions (working through MPOs, large PHAs, and/or counties) and to measure existing conditions (housing segregation, poverty concentration and opportunity assets) as well as the goals and progress of the ConPlan based on a region's demographics and opportunity structures.

While metropolitan regions should be the scope and scale for assessing and addressing integration and housing opportunity, local jurisdictions cannot be let "off the hook." Each community within a metro region (and unincorporated areas that aren't within local jurisdictions but part of the metro area) must be included in both the analysis of available data in the AFH and the plans and goals reflected in a regional ConPlan. However, each local community's current situation as well as its goals and progress should be measured against regional demographics, trends, and assets. A community's progress should be assessed and measured in relationship to its region.

A community's goals should be based on regional goals, which should be based on regional demographics and opportunity structures. This way the most pressure for making progress toward greater inclusion would be put on communities that have done the least (the most exclusive), have the most (community assets - schools, jobs, tax base, etc), and whose racial and economic demographics are the farthest away from the region's demographics. At the same time, communities that are moving in a positive direction (becoming increasingly diverse and inclusive and closer to the region's demographic and economic mix) are viewed in a more positive light and given credit for their progress. We need ensure that communities with fewer assets (in relationship to its region) such as lower fiscal capacity, lower incomes, and struggling schools are not are viewed in the same light as their wealthier neighbors.

2. Set Stronger Standards and Higher Expectations for Performance by Grantees and PHAs

Moving communities and regions toward greater inclusion, reducing segregation and combating concentrated poverty requires multiple and comprehensive approaches at the local and regional level. HUD should go beyond requiring entities to set "one or more" goals to overcome those issues. One goal, or even two, will not be sufficient to ensure progress toward ending segregation and increasing access to community assets. HUD should require PHAs, regions and communities to develop specific multiple goals and timetables aimed at moving communities closer to a regional balance of housing integration including reductions in segregation and poverty concentration and a comprehensive plan designed to achieve those goals.

3. Measuring Community Assets in Assessing Fair Housing

Building One America applauds HUD for including multiple indicators of opportunity for assessing data for analyzing fair housing within communities and regions especially those related to race, poverty, school proficiency, jobs and the environment.

We are concerned however that using access to and distance from bus or rail transit could have the unintentional effect of undermining regional fair housing goals by reducing the responsibility of some of the highest opportunity communities to promote fair housing and achieve inclusion. Many of the most exclusive and wealthiest communities will rank poorly on transit access. In too many cases this was an intentional and all too common tactic in a broader strategy to discourage low-income residents from moving into such communities.

Regardless of the history and motives, lack of transit should not be allowed to reduce a community's responsibility or to steer a region's plan away from communities with strong assets such as schools and jobs and toward higher poverty communities or even diverse communities. Transit access is far more common in high poverty and poverty impacted neighborhoods. Access to transit is not a substitute for good schools and strong diverse neighborhoods and should not be used to encourage more affordable housing in places impacted by poverty while exclusionary communities with less transit are let "off the hook."

Another important indicator that can help map the opportunity structure of a region and towns is its fiscal capacity. In addition to jobs and income demographics, a community and/or school district's per-capita tax-base (relative to its region) should be considered in evaluating fair-housing conditions and weighting fair housing goals within a region.

4. AFFHs Purpose Must Support All Communities

HUD must make it crystal clear that the Rule supports spending federal dollars to stabilize, strengthen and expand quality services in diverse middle class communities as a way to strengthen and encourage inclusion and integration.

The proposed rule must be carefully worded and crafted, so that no jurisdiction or stakeholder misconstrues its meaning. We do not believe it is HUD's intent to establish a prohibition against the use of federal funds and resources in low, moderate, or middle-income communities. Nor do we believe it is HUD's intent to dissuade financial investments in communities that are diverse.

Thus, in the final rule, the language describing the purpose of the Affirmatively Furthering Fair Housing provision which is found in Section 5.150 must be changed to indicate that program participants' "strategies and actions" should include strategically enhancing a neighborhoods assets **and** promoting greater mobility within the region. Currently, the proposed rule seems to suggest that program participants have a choice between the two.

Moreover, the final rule must emphasize the importance of making strategic investments in diverse communities as well as low and moderate income communities throughout the entire text, not just the statement of purpose.

5. Carrots as well as Sticks

HUD's ability to enforce the goals of the AFFH are restricted by its limited budget and because not all communities are seeking grants. Unfortunately, many of the most exclusionary and high opportunity communities have the least need while those with the greatest needs are often the most diverse.

HUD should seek ways to incentivize inclusion and diversity by rewarding and supporting communities that are moving in a positive direction - that is, they are at, near, or moving closer to the demographics of their region. HUD should not punish struggling communities that are racially and ethnically diverse but are experiencing patterns of segregation within their borders while some of the wealthiest municipalities (who need the least financial assistance from HUD) appear not to be segregated because they have little or no diversity. Instead HUD should rank relative diversity based on regional trends and demographics. Diverse communities should be offered higher marks for their progress (intentional or not) and given preference over exclusionary communities for federal investments. This would be a much stronger incentive if it were tied to regional plans that included the potential for other federal agencies (especially those of the

Sustainable Communities Partnership - HUD, EPA, DOT - and the Department of Education) to consider a community's ranking or score related to inclusion and integration.

6. Conclusion

Many communities today are becoming increasingly diverse and inclusive. This is very much the trend in America's middle class suburbs. However, the fiscal and social challenges associated with these positive trends in suburban communities and school districts need to be better understood and appreciated if we are going to encourage and expand stable and sustainable integration and housing choice across our regions. Investing in these communities and rewarding them for their diversity will encourage inclusion in other communities and help to promote stability in regions. Providing tools and incentives for integrating neighborhoods will help these communities manage their diversity in a sustainable and balanced way. We believe that encouraging balanced diversity across regions and stable integration within neighborhoods is our best hope for reversing the toxic mix of intergenerational, racialized urban poverty that is stifling the potential of thousands of children, destabilizing our regions and making us less competitive as a nation.

Thank you for the opportunity to comment on this important regulation. We look forward to seeing the final regulation published soon, and to working with HUD and our local communities and PHAs to affirmatively further fair housing.

Sincerely,

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