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

RE: Docket No. FR-5173-P-01 – Affirmatively Furthering Fair Housing

On behalf of Enterprise Community Partners, Local Initiatives Support Corporation (LISC), and the National Housing Trust, we appreciate the opportunity to comment on the Affirmatively Furthering Fair Housing proposed rule. We commend HUD for seeking input and taking these steps to update and streamline fair housing regulations.

Enterprise works with partners nationwide to build opportunity. We create and advocate for affordable homes in thriving communities linked to jobs, good schools, health care and transportation. We lend funds, finance development, and manage and build affordable housing, while shaping new strategies, solutions and policy. For over 30 years, Enterprise has created 300,000 homes, invested more than \$13.9 billion and touched millions of lives. Together we have developed robust partnerships with local organizations and stakeholders on the ground, as well as with financial institutions and investors.

The Local Initiatives Support Corporation (LISC) is dedicated to helping community residents transform distressed neighborhoods into healthy and sustainable communities of choice and opportunity — good places to work, do business and raise children. LISC mobilizes corporate, government and philanthropic support to provide local community development organizations with financial, technical and policy resources. We are a national organization with a community focus, with local LISC offices in 30 different cities and partnerships with a network of 60 rural organizations. Our program staff in the cities and the rural areas where we work collaborate actively with local community development groups, to help identify priorities and challenges, and to deliver the most appropriate support to meet local needs — whether it's in the area of housing, economic development, education, healthcare, community safety, or building family income and wealth. Since 1980, we invested \$13 billion in communities across the country which leveraged \$38 billion in total development, including 300,000 affordable homes and apartments.

For over 25 years, the National Housing Trust (NHT) has been dedicated to the preservation and improvement of existing affordable rental housing. Through our work in real estate development, lending and affordable housing finance, the Trust has helped save and improve more than 25,000 apartments in 41 states, leveraging more than \$1.5 billion in investment for affordable housing. The majority of properties that NHT has preserved have HUD subsidized mortgages or project-based rental assistance. The majority of the residents we assist are persons of color and quite often our work involves working areas of concentrated poverty. In all cases, we are working with residents and tenant leaders to help them stay in their homes if that is their choice.

Support for the Rule

Our organizations strongly support HUD's ultimate objective to reform and advance this crucially important goal of ensuring access to decent, affordable housing in strong and healthy communities for all Americans. We recognize and appreciate that HUD staff have spent considerable time and energy to incorporate the needs and expectations of a wide range of stakeholders into this rule.

We are very pleased that the AFFH rule is written with such clarity of purpose. This is a significant step forward in defining both the intent and the purpose of this important effort. Further, as proposed, the AFFH rule initiates a coordinated and comprehensive planning process that could result in substantive, positive changes in the implementation of community development activities. The process will be challenging, particularly as localities and HUD adjust to the new system, but if structured and executed as intended, the result will be a genuine integration of fair housing planning into overall community development planning.

We appreciate that the rule addresses barriers to fair housing on many levels. Despite their many differences, urban, rural, and suburban communities often resist perceived changes in a neighborhood and present similar barriers to fair housing through local laws and regulations or discriminatory actions. The proposed rule explicitly acknowledges the need for changes to these barriers on a local level, and we appreciate the language addressing the need to carefully consider where affordable housing is sited in the future.

Finally, although we have some concerns about the data as currently presented, the provision of nationally uniform data to all jurisdictions is a critical step forward and will provide a standardized context for comprehensive planning.

Recommendations for Improvement

Our primary concerns are outlined below; we welcome the opportunity to discuss these further with HUD.

1. Preservation of existing affordable housing and reinvestment in distressed or gentrifying neighborhoods must be considered as valid strategies *equal to* mobility and moving to high opportunity areas.

Our organizations have worked extensively with local governments and organizations across the country that are making concerted efforts to invest public funds in communities that have experienced disinvestment and neglect. These areas often include concentrations of racial or ethnic groups and have disproportionately high poverty rates, but we firmly believe that these targeted investments are a critical tool to improve housing options and quality of life for families and individuals living in these communities. In other cases, we have saved housing occupied by minorities at risk of being converted to market rate by increasing market pressures.

Procedural clarifications related to the proposed rule are critical to ensuring that we are able to continue this important work. Based on the proposed rule, we are concerned that preservation and revitalization efforts will be sidelined in favor of programs that increase mobility. Section 5.150 in the rule states:

“A program participant’s strategies and actions may include strategically enhancing neighborhood assets (for example, through targeted investment in neighborhood revitalization or stabilization) *or* promoting greater mobility and access to communities offering vital assets such as quality schools, employment, and transportation consistent with fair housing goals.”

We strongly recommend that HUD revise the rule to ensure that jurisdictions feel empowered to both revitalize distressed areas *as well as* to promote and preserve housing in areas of high opportunity.

In Section 91.225, jurisdictions are asked to certify that their strategies are not “materially inconsistent” with the rule. It is important for HUD to explicitly clarify in the final rule that activities that benefit existing neighborhoods, despite being predominantly low-income or minority occupied, will be evaluated as equally viable strategies. Thus, the definition of “affirmatively furthering fair housing” in Sec. 5.152 should be clarified to affirm that state, local, and federal investments are appropriate to preserve subsidized housing and develop new, well-managed housing in neighborhoods with high minority/poverty concentrations. While it is preferable to have these investments as part of a multifaceted revitalization strategy, this is simply not always possible. Indeed, it is well documented that housing investments themselves do improve such neighborhoods.

Further, HUD's latest initiative to revitalize Public Housing, Mod Rehab, Rent Supplement and Rental Assistance Payment (RAP) properties through the Rental Assistance Demonstration (RAD) is in part dependent upon the allocation of state resources to help revitalize that stock, sited decades ago, often occupied by protected classes and in desperate need of revitalization. Thousands of HUD assisted housing units, often principally occupied by minority residents, are in need of repair and rehabilitation and we must ensure that they continue to have access to a variety of tools and resources.

Finally, we want to stress the importance of preventing gentrification and involuntary displacement to the greatest extent possible. Although generally well intentioned, some community development plans in past decades have had severely negative consequences for low-income residents, particularly people of color. Unless carefully planned, managed and monitored, a strategy involving significant public and private investments can result in the wholesale gentrification of neighborhoods and communities and the involuntary displacement of existing residents. The final rule should ensure that strategic investments of public and private funds ultimately encourage and sustain mixed-income, diverse neighborhoods and communities.

In addition, our organizations frequently use the Low Income Housing Tax Credit program, along with HOME, CDBG, project-based and voucher assistance to preserve and rehabilitate affordable rental housing for minority low-income families in both low wealth neighborhoods and other economically stronger communities with a more heterogeneous population. We are strongly in support of this rule providing guidance to jurisdictions to take on a *both/and* approach rather than a restrictive *either/or* approach.

2. Support approaches that integrate fair housing planning with other planning processes.

We strongly support the Administration's commitment to holistic community development, recognizing that equal access and opportunity must incorporate far more than just housing. We have worked extensively with the transportation, education, health, and economic sectors, and see tremendous value in these types of collaboration. The background to the proposed rule rightfully recognizes that neighborhood features in addition to housing are important components of assessing housing opportunity equality; however, there is no indication of how an approach that reaches beyond housing would be implemented or supported.

3. Clarify and enhance the community participation elements of the proposed rule.

Community participation is a critical component of the process, and how participants engage members of their community, as well as how those views are eventually represented or reported in the AFH, will substantially impact the success of the rule. In order to realize the goals embedded in the rule, the community participation component must be significantly strengthened in a number of ways. We

recommend that each AFH identify a coordinating entity that will oversee the process. This coordinating entity (CE) would be comprised of all elements of stakeholders, including public, private, academic, and community-based representatives. The CE would develop a comprehensive community-organizing plan that encompasses all parts of the community in the process. We recommend that both public and private funds support the establishment and implementation of this CE, which will act as an organizing and monitoring entity.

In addition, while we applaud the innovation and encouragement of regional approaches, we are concerned that there is no clear guidance on how to organize such a process. Regions are comprised of various types and networks of governments (e.g. cities, counties etc) and this complexity must be taken into account in proposing a new framework of planning, implementation and evaluation.

4. Address the capacity and resource concerns within HUD to evaluate and enforce local and regional AFH plans.

As written, the rule requires an experienced and tightly managed HUD staff with the expertise to evaluate, monitor, and enforce AFH plans. These plans will incorporate complex principles, legal issues, and nuanced strategies in order to be effective. In the final rule, there must be clear expectations and evaluative criteria that reflects substantive changes in fair housing implementation. We suggest that HUD consider establishing an advisory entity at the national level that reflects the composition of the local coordinating entities.

5. Release the data tools and allow for additional review and improvement.

As discussed above, the provision of standardized data is a vast improvement and will aid jurisdictions in creating a far more comprehensive fair housing plan. However, we feel that jurisdictions must have a very early opportunity to evaluate the data to determine accuracy, and ensure there is ample time to identify other data sources as needed.

Currently, the mapping portal does not include tabular data, and the data cannot be downloaded or manipulated. It is important for jurisdictions to be able to interface with the data during a comment period in order to provide practical, constructive feedback.

Additionally, a dispute process must be established as a fail-safe for serious disputes over inaccurate data analysis or other issues.

6. Provide relevant, useful technical assistance to program participants.

We greatly appreciate HUD's explicit question in the proposed rule requesting input on the forms of technical assistance and non-profit capacity building that would be most useful to grantees and their partners as they engage in the AFH process. We are eager to hear what types of assistance HUD identifies and captures in the responses.

Each of our organizations provides capacity building to non-profit partners and technical assistance (TA) consulting services to state and local governments with a focus on fostering innovation in housing and community development program design, finance, operations and strategic planning. We are committed to providing communities with an approach that breaks down silos within local government and across sectors.

Our TA and capacity building support and services can help to enable local governments and non-profit partners to leverage resources, use data in setting priorities, and build sustainable management systems and organizational capacity through a cross-program and targeted approaches. We also help promote resilience by helping localities build capacity and maximize the effectiveness of federal and private funds. We believe certain tools and resources would be most useful to program participants undertaking the new requirements of the AFH. Peer-to-peer learning and structured training programs, for example, will help localities voice obstacles and share strategies as they implement the new rule.

Conclusion

Again, we appreciate the time and energy that HUD has spent crafting this rule, and support the aspirations embedded within. We look forward to engaging in continued discussions with HUD and welcome any requests for additional information. Thank you for your commitment to this important goal.

Sincerely,



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