

**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

**SECOND DECLARATION OF LISA RICE**

1. My name is Lisa Rice. I am the President and Chief Executive Officer of the National Fair Housing Alliance (NFHA). I am over the age of eighteen and am competent to make this declaration. I have personal knowledge of the matters set forth herein. NFHA is a national, nonprofit, public service, civil rights organization incorporated under the laws of the Commonwealth of Virginia with its principal place of business in Washington, DC. NFHA is a nationwide alliance of more than 220 private, nonprofit, fair housing organizations; state and local civil rights agencies, and individuals from throughout the United States. NFHA's mission is to promote residential integration and combat discrimination in housing based on race, national origin, disability, and other protected classes covered by federal, state and local fair housing laws – including the federal Fair Housing Act.
2. NFHA works to advance its mission through leadership, education, outreach, membership services, public policy initiatives, advocacy, community development, and enforcement.
3. NFHA's operating members conduct activities related to fair housing, including conducting fair housing advocacy, enforcement, education, and outreach; training of various groups about fair housing rights and responsibilities; engaging with local community leaders on fair

housing policies and municipal decision-making; working to ensure that the obligation to affirmatively further fair housing (AFFH) is met; and much more. Locally, NFHA members frequently advocate that actions taken by state and local jurisdictions be consistent with the requirements of the Fair Housing Act and the obligation to AFFH. In particular, many NFHA members are deeply involved in local decision-making around the completion of the Assessment of Fair Housing (AFH) process, including educating other community organizations and residents about the AFH process, how they can be involved, and how it could affect their neighborhoods or constituencies; participating in public hearings; advocating on behalf of families protected against discrimination by the Fair Housing Act; providing data and input; conducting research; identifying and assessing fair housing barriers and; proposing solutions for addressing fair housing issues raised during the AFH process.

4. Since its inception, NFHA has supported and engaged in work around the AFFH obligation. NFHA advocated for HUD to issue guidance to jurisdictions and recipients of federal funding about their obligation to affirmatively further fair housing and participate in the Analysis of Impediments to Fair Housing (AI) process. This advocacy resulted in the issuance of a Memorandum for All Entitlement Grantees from Judith Brachman, then Assistant Secretary for Fair Housing and Equal Opportunity and Jack Stokvis, then Assistant Secretary for Community Planning and Development in 1988, describing new actions taken to support the AFFH obligation. In 1991, as a NFHA member, I worked with NFHA constituents to secure the re-issuance of the Brachman/Stokvis memo. The memo was re-issued by Gordon Mansfield, then Assistant Secretary for Fair Housing and Equal Opportunity and Anna Kontratas, then Assistant Secretary for Community Planning and Development in 1991.

5. With the development of the Analysis of Impediments process in 1994 and the Fair Housing Planning Guide issued by HUD in March 1996, NFHA advocated for an effective planning process and assurances that HUD would require recipients of its funding to address existing patterns of segregation and discrimination and address fair housing issues as part of their activities. Specifically, NFHA advocated for and trained its members at national conferences and worked with them locally about the Analysis of Impediments process and communicated with HUD about key issues that should be addressed by recipients including funding of fair housing activities. NFHA members participated in the preparation of AIs locally. When HUD failed to issue a consistent framework for the AIs or to provide consistent guidance about their contents, NFHA itself monitored the initial submission of AIs, collected submissions locally and from HUD, and developed and disseminated a framework or template for AIs in 2001. The template was widely distributed and was posted and distributed publicly by NFHA and the National Low Income Housing Coalition as a tool for improving the AI process nationally.
6. NFHA's work has included providing assistance to local governments preparing Analyses of Impediments to Fair Housing Choice, providing support and guidance to local groups that were preparing or assisting in the preparation of AIs, collaborating with NFHA members in their attempts to ensure that their jurisdictions' AIs complied with HUD requirements and provided a sound basis for meaningful action to further fair housing, and engaging in advocacy for improvement of the AI process. Along with other organizations, NFHA advocated with HUD for several policy changes relating to the AFFH process, with limited success.

7. In 2006, 2007, and 2008, NFHA staff worked to help publish a book entitled “Segregation: the Rising Costs for America.” The book, edited by Jim Carr and Nandinee Kutty, goes to the heart of affirmatively furthering fair housing and includes 11 chapters written by noted fair housing and fair lending experts discussing why it is imperative for our nation’s success that the Fair Housing Act be fully implemented, including the AFFH provision of the law. The book discusses America’s own version of apartheid, the creating of residential segregation in America; harmful impacts caused by segregation; the role segregation plays in creating and perpetuating disparities and inequity in the U.S. economy; the pervasiveness of predatory lending practices fueled by segregation; the inextricable link between AFFH and education, employment, health, and social resources; the perils of lax fair housing and fair lending enforcement; and the danger and high costs associated with not fully achieving AFFH in America. NFHA staff worked to recruit experts to contribute to the book, assisted in editing and proof-reading the book, and helped to engage in educational efforts to promote the book.
8. In 2008, with its partners, NFHA created, staffed, and supported the National Commission on Fair Housing and Equal Opportunity. This Commission, co-chaired by former HUD Secretaries Jack Kemp (a Republican) and Henry Cisneros (a Democrat), conducted five public hearings and gathered evidence regarding, among other issues, HUD’s progress in implementing the AFFH obligation. Its report, published in 2008, and found at [http://nationalfairhousing.org/wp-content/uploads/2017/04/Future\\_of\\_Fair\\_Housing.pdf](http://nationalfairhousing.org/wp-content/uploads/2017/04/Future_of_Fair_Housing.pdf) concluded that “[t]he current federal system for ensuring fair housing compliance by state and local recipients of housing assistance has failed.”

9. Through these efforts, NFHA learned long before the publication in 2010 of the seminal Government Accountability Office (GAO) report on the efficacy of the AI system that the AI system was not adequate to fulfill HUD's statutory obligation to affirmatively further fair housing and that significant regulatory changes were necessary.
10. NFHA advocated aggressively for HUD to engage in rulemaking to modernize and clarify its grantees' obligation to affirmatively further fair housing, participating in listening sessions convened by HUD prior to the publication of the Proposed Affirmatively Furthering Fair Housing (AFFH) Rule in 2013. NFHA met with senior HUD staff and consultants to encourage the production of a proposed and final AFFH Rule, stressed the importance of the Rule, identified numerous failings in the AI process based on its experience and that of its members, and along with other advocates, attended regular meetings with HUD to provide input and consider potential data resources and research that HUD was considering in connection with the Rule.
11. NFHA organized meetings of the Leadership Conference on Civil and Human Rights Fair Housing Task Force with both Secretaries Donovan and Castro in which NFHA and other stakeholders stressed the importance of HUD developing a strong AFFH Rule and/or promulgating the Rule.
12. NFHA submitted comments with respect to the Proposed Rule and all iterations of the Assessment Tools that grantees are to use to complete their Assessments of Fair Housing (AFHs) under the 2015 AFFH Rule and encouraged its members and other organizations to do so as well. NFHA provided assistance to groups and helped facilitate their submission of comments on the AFFH Rule and the assessment process and AFH tool. NFHA supported one consistent format for assessments like the AFH tool because an organized format that

requires consideration of specific data and answering specific questions provides a common foundation that helps assure that similar issues are identified and addressed in similar ways in different communities. Additionally, NFHA was aware that jurisdictions and localities were requesting a more prescriptive format in the AFFH process to increase jurisdictions' ability to correctly identify barriers to fair housing and provide solutions for overcoming those barriers.

13. NFHA was aware, based on its extensive work with organizations throughout the United States on AFFH issues, that different jurisdictions were using different sets of questions and identifying different data points for the development of their fair housing plans. NFHA was also aware that some jurisdictions had not developed any questions or data points at all to help guide them through the AFFH process. This resulted in very diverse, inconsistent and ineffective Analyses of Impediments to Fair Housing and/or Fair Housing Plans since jurisdictions had little framework for understanding how to go about identifying fair housing barriers.
14. NFHA established and still facilitates the AFFH Working Group. Comprised of fair housing organizations from across the country, this group collaborates on ensuring that the AFFH Rule and provision of the Fair Housing Act are fully implemented.
15. NFHA and its members know from their experience that meaningful oversight of grantee compliance with the duty to affirmatively further fair housing is essential to their efforts to combat discrimination, foster residential integration, and promote access to opportunity. When HUD fails to provide this oversight, NFHA and its members are compelled to divert resources to counteracting the adverse effects of HUD's lack of guidance and oversight on the quality and frequency of local fair housing planning efforts.

16. After publication of the Final Rule, and once the AFH process was implemented, NFHA and its members worked in local communities across the country to advocate for effective community participation and substantive fair housing assessments that would make meaningful differences to communities. Its website includes a long list of AFFH resources and materials for grantees and members. NFHA developed a variety of resources based on its own knowledge and that of its members.
17. Since its inception, NFHA has organized, facilitated, hosted, and participated in numerous training sessions including webinars, in-service trainings, and conference segments to educate a wide range of stakeholders about various aspects of the AFFH provision of the Fair Housing Act and the AFFH Rule.
18. NFHA has provided technical assistance and educational information to local jurisdictions regarding the AFFH obligation, including providing fair housing information to jurisdictions for inclusion in their Assessments of Fair Housing. This includes meeting with 10 cities/counties - (1) the City of Baltimore, Maryland (2) Prince George's County, Maryland (3) the City of Indianapolis, Indiana (4) Lucas County, Ohio (5) the City of Denver, Colorado (6) the City of Aurora, Colorado, (7) the City of Gary, Indiana (8) the City of Aurora, Illinois, (9) the City of Philadelphia, Pennsylvania and (10) Franklin County, Ohio.
19. Along with other organizations NFHA developed strategies and messaging that described the new assessment process and participated in a wide variety of public and legislative outreach, public speaking, and advocacy in support of the AFH process and the Rule. For example, NFHA widely distributed a public message that described the AFFH Rule. The message stated: "This fair housing rule is an important tool for addressing America's growing racial and ethnic inequality, an alarming trend rooted in our history of segregation, and one that

threatens our national prosperity. In a country where zip code matters more than genetic code in determining life expectancy, this rule will help communities understand the importance of *place* in promoting or prohibiting opportunity. It provides jurisdictions with the tools they need to address barriers to fair housing and expand opportunity.”

20. NFHA members actively participated in the AFH planning process in many jurisdictions across the country and NFHA provided resources, guidance and strategic help to support their work.
21. In 2015, 2016, and 2017, NFHA staff worked to help develop and publish a book entitled *The Fight for Fair Housing: Causes, Consequences, and Future Implications of the 1968 Federal Fair Housing Act*. The book, edited by Gregory Squires and published by Routledge includes an Afterword by the Honorable Walter F. Mondale, co-author of the Fair Housing Act. NFHA staff helped recruit fair housing and fair lending experts including Raphael Bostic, President of the Atlanta Federal Reserve Bank and Frank Wu, former Chancellor and Dean of University of California Hastings College of Law, to write about the importance of enforcing all components of the federal Fair Housing Act and the need for AFFH. There is an entire chapter in the book, written by Raphael Bostic and Arthur Acolin, devoted solely to the AFFH provision of the law. This book provides compelling reasons for why achieving AFFH is so critical to the continued development of our nation and how not fully implementing AFFH will set the country back.
22. HUD’s decision to suspend the AFH process and its final Rule was profoundly shocking to NFHA and its members. NFHA immediately took steps to try to reverse the decision by issuing a press release with six other national organizations on January 8, 2018 opposing the action, calling on HUD “to maintain a critical fair housing tool.” I personally met on several




occasions with HUD officials to attempt to convince them to reinstate the AFFH Rule and process, most recently on May 3, 2018 when I, along with several NFHA Board members and Operating Members, asked Secretary Carson to rescind HUD's suspension of the AFFH rule.

23. NFHA submitted lengthy comments in opposition to HUD's action and worked with its members to provide comments that would describe the adverse effect that suspension of the rule would have on local communities. NFHA worked with national partners to develop a collective and consistent response to HUD's action.
24. NFHA also worked with its members to counter the almost immediate move by jurisdictions to stop working on AFHs. NFHA had a number of conference calls with its members and others discussing the likely effect of the HUD Notice and developing strategies to convince local governments to continue to work on Assessments. NFHA is developing a side by side comparison of the AI and the AFH to document for other advocates and decision makers the harm that removing the AFH process and the AFH tool is causing, both to civil rights advocacy nationally and to the ability of advocates to make genuine change in local communities. The AFH tool is a significant improvement over the AI process, in terms of analysis, format, and consideration of data at the national and local level. Although the AFH tool is not perfect, it is better than the previous AI process which provided no consistent analysis and had no requirement to consider specific issues or rely on any particular data that could help jurisdictions and entities identify barriers to fair housing. Withdrawing the AFH tool removes an important foundation for consideration of fair housing issues at the local and regional level.

25. By engaging in efforts to counteract HUD's actions, NFHA diverted its resources away from other important fair housing activities including its preparation for the 50<sup>th</sup> anniversary of the passage of the Fair Housing Act and the implementation of proposed solutions presented by attendees of NFHA's Access to Credit Forum, meant to provide quality, affordable, and sustainable credit to deserving borrowers who have been locked out of the financial mainstream.
26. As a result of HUD's suspension, NFHA has diverted its resources and has been unable to engage in a timely fashion to provide assistance to NFHA members on disaster recovery plans in Florida, Texas, and California; to analyze and advocate about proposed GSE reform legislation pending in Congress, focusing on the language needs of borrowers in mortgage originations and servicing; and to work on proposed regulation changes pertaining to the Federal Home Loan Bank.
27. Because the likely result of HUD's action, if left undisturbed, would be to reduce the efficacy of local efforts to combat discrimination, foster integration, and promote access to opportunity across the country, the suspension of the AFFH rule, the withdrawal of the AFH tool, the delay in the AFH process, and the loss of the substantive and procedural provisions of the rule significantly frustrates NFHA's mission.

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 May 29, 2018.

  
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LISA RICE