

Office of the General Counsel  
Rules Docket Clerk  
Department of Housing and Urban Development  
451 Seventh Street SW, Room 10276  
Washington, DC 20410-0001

**Re: Reconsideration of HUD's Implementation of the Fair Housing Act's Disparate Impact Standard, Docket No. FR-6111-A-01**

On behalf of the undersigned national, local, and state-based community organizing and support groups, we are submitting this comment in response to the above referenced Advanced Notice of Proposed Rulemaking regarding the application of the the disparate impact standard under the Fair Housing Act and enforced by HUD.

The disparate impact standard is a critical tool in the ongoing fight for fair housing, which focuses on the damaging outcomes of racist and exclusionary policies regardless of the intent of the policymaker. We urge HUD to keep intact the guidelines for the application of the disparate impact standard and to vigorously enforce all of fair housing law.

The history of the U.S. housing market is rife with discrimination, the impacts of which both reverberate today and live on in our communities. Discrimination in access to housing opportunity and neighborhood investment has been a driver of harm encompassing everything from higher mortality rates to extreme wealth inequality. The Fair Housing Act was passed to address these inequities and fully enforcing the Act is a primary responsibility of HUD's. But despite the existence of the law, discrimination and lack of opportunity is rampant. It is critical that HUD increase its enforcement of the Act, including the application of the existing disparate impact standard, and not in any way diminish its scope or applicability.

Key to the enforcement of the Fair Housing Act is application of the disparate impact standard. The standard recognizes that outcomes matter as much or more than the intention or proveable intention of developers, landlords, insurance providers or community development agencies. As we have seen in our own communities, decisions about where to place new housing, where to invest in schools, transportation, parks and community centers have led to entrenchment of segregation, diminishment of opportunity and/or escalating displacement. We also know from attending countless community meetings and planning sessions that rarely is a discriminatory intent overtly stated - but that doesn't change unfair or discriminatory outcomes, which is exactly what the disparate impact standard was designed to address.

HUD should not be using its resources to open the question of the application of the disparate impact rule while citing the Supreme Court's recent decision in *Texas Dept. of Housing and*

*Community Affairs v. Inclusive Communities Project, Inc.* upholding the standard. As the majority stated in its opinion, the “[r]ecognition of disparate-impact claims is consistent with the FHA’s central purpose.” Further, the Court observed, that the purpose, “was ... to eradicate discriminatory practices within a sector of our Nation’s economy.” The Court concluded that “[m]uch progress remains to be made in our Nation’s continuing struggle against racial isolation.” This decision, and the mountain of case law that surrounds it, should be instructing HUD to redouble its efforts, not look to open loopholes.

In our communities, violations of fair housing continually occur. HUD’s focus needs to be on putting an end them whether they take the form of evicting a domestic violence victim for calling the police, concentrating affordable development in under-resourced communities of color, by refusing to insure a building that accepts Section 8 tenants or any of the many forms discrimination and discriminatory outcomes happen.

#### Local and State Based Organizations

Action NC, North Carolina

Alliance of Californians for Community Empowerment (ACCE),  
California

Causa Justa:Just Cause, California

Community Alliance of Tenants, Oregon

Families United for Racial and Economic Equality, New York

Good Jobs Now, Michigan

Jane Addams Senior Caucus, Illinois

Landless Peoples Alliance, Pennsylvania

Miami Workers Center /Homes for All, Florida

New Jersey Citizen Action, New Jersey

New York Communities for Change, New York

North Bay Organizing Project, California

Organizing Neighborhoods for Equality: Northside (ONE Northside), Illinois

People Organized for Westside Renewal, California

Right To The City Boston, Massachusetts

SPACEs In Action, Maryland

Tenants Together, California

Urban Habitat, California

National Organizations

Alliance for Housing Justice

CPD Action

MHAction

People's Action

Right to the City Alliance

The Partnership for Working Families