

# Fair Housing Act and Affirmatively Furthering

The Secretary of HUD has the obligation to:

- “[A]dminister the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this subchapter”
- The obligation to affirmatively further fair housing also applies to all federal agencies and regulators and supervisors of lenders

*42 USC 3608*



# What is Affirmatively Furthering Fair Housing?

- Taking proactive steps to overcome segregated living patterns
- Providing access to community assets for all persons protected by the Fair housing Act
- Support and promote integrated communities
- Ensuring compliance with civil rights and fair housing laws
- Promote housing that is structurally accessible to, and usable by, all persons



# Potential AFFH Problems: Land Use

- Recent siting decisions or proposals for affordable housing/housing for people with disabilities
- Exclusionary zoning
- Group home zoning and land use restrictions affecting housing for people with disabilities
- Residency preferences
- Inclusionary zoning success stories



# Potential AFFH Problems: Physical Infrastructure

- Resources and investment plans
- Discriminatory patterns affecting municipal services and amenities (from police and sidewalks to sewers and paved roads)
- Public transportation access to high opportunity areas; lack of transit options in minority communities
- Quality of schools in areas of minority concentration and relationship to housing options
- Reduction in affordable housing stock availability in comparison to need



# Private Market Conditions

- Availability of land and infrastructure for development of affordable housing
- Landlord participation in Section 8 programs, limitation or reduction of Section 8 programs
- Support or resistance from public officials to affordable housing; use of education and enforcement to combat
- Community resistance to affordable housing based on race, national origin, disabilities of potential residents; programs to combat
- Source of income discrimination/discrimination against Section 8 voucher holders
- Patterns of systemic private discrimination (steering, lending practices, insurance practices) and appropriate responses by communities



# Other Policy Issues

- Displacement of residents in racially or ethnically concentrated areas
- Mobility programs for displaced low income persons; mobility counseling
- Fair Housing enforcement, compliance, outreach (including budget)
- Effect of gentrification in racially and ethnically concentrated areas
- Public housing segregation by site or within site; segregation between PHA and Section 8 program
- Development of replacement housing in demo/dispo settings outside of areas of minority concentration



# Who Is Affected By AFFH?

- Anyone who receives federal monies from HUD must create policies that ensure that affirmatively fair housing occurs.
- The new AFFH rule applies to:
  - PHAs
  - Local governments and States that receive HUD funds through the following programs:
    - Community Development Block Grants (CDBG)
    - HOME Investment Partnerships (HOME)
    - Emergency Solutions Grants (ESG)
    - Housing Opportunities for Persons With AIDS (HOPWA)



# The AFFH Regulation & Proposed Assessment of Fair Housing

- Provides jurisdictions and public housing authorities (PHAs) with HUD provided data to be used in the development of Assessments of Fair Housing (AFH)
- Provides a template/guidance for the required assessment (AFH)
- Actions are not required in the AFH; actions must be incorporated subsequently into Public Housing Assessment and Consolidated Plans to inform planning
- AFH must be submitted to HUD for review
- HUD will provide technical assistance before and after submission, if needed
- Regional participation encouraged
- Community participation must be conducted

*Id. 43711.*



# Assessment of Fair Housing (AFH)

- Replaces the Analysis of Impediments
- Program participants must conduct an AFH to identify goals that will AFFH and inform fair housing strategies in the consolidated plan and PHA plan
- Must address
  - Integration and segregation,
  - Concentrations of poverty,
  - Disparities in access to community assets, and
  - Fair housing enforcement and outreach capacity



# Submission Requirements

- Submissions need to take place every 5 years
- PHA's are offered the opportunity to work with their local governments on the creation of an AFH or submit their own AFH
- The AFH will be submitted on the same cycle that program participants submit their Consolidated plans, or PHA plans
- The initial AFH submitted 9 months before Con Plan/PHA Plan is due
- After submission of the initial AFH, AFHs submitted 7.5 months before Con Plan/PHA Plan is due
- This early submission helps ensure that the fair housing analysis can inform all planning



# AFH Review

- HUD has 60 days to review the AFH and provide written guidance about anything that needs to be changed.
- If HUD has not informed the program participant of concerns about the AFH within that 60-day period then the AFH has been accepted
- If HUD requires changes to the AFH, the program participant is given 45 days to submit an amended AFH for review.

