



Housing Assistance Council

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Via regulations.gov [<http://www.regulations.gov/#!submitComment;D=HUD-2013-0066-0001>]

September 11, 2013

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

To Whom It May Concern:

The Housing Assistance Council (HAC) respectfully submits comments to the United States Department of Housing and Urban Development (HUD) in response to the Affirmatively Furthering Fair Housing (AFFH) proposed rule [5173-P-01].

HAC is a national nonprofit organization that has supported affordable housing efforts in rural areas of the United States since 1971. With more than 40 years of experience supporting and developing affordable housing across rural America, HAC is uniquely positioned to comment on the proposal's possible impact in rural places.

HAC supports the proposed improvements to regulations that carry out the Fair Housing Act's requirement to ensure that all federal agencies administer their programs relating to housing and community development in a manner that affirmatively furthers fair housing, particularly in rural areas. We commend HUD for investing in an effort to seek and obtain the views of a wide range of stakeholders. The proposed rule changes are an important step toward the goal of equal opportunity.

General Comments

HAC applauds the proposed regulatory improvements. For example, it will be useful to replace the ambiguous Analysis of Impediments (AI) with an Assessment of Fair Housing (AFH) that will have defined elements and that will spell out specific fair housing "issues" that fund recipients must identify, prioritize, and take proactive steps to address. HAC welcomes the proposed rule requirement to develop the AFH with input from the community and from stakeholder organizations for submission to HUD for review and acceptance prior to receipt of

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some HUD program funds. The expectation and obligation to affirmatively further fair housing will be strengthened by a clearer and more direct inclusion of the AFH in the Consolidated Plan and PHA Plan processes for establishing fund allocation priorities. It is a critical positive step making both the AFH and Consolidated Planning processes more transparent and holding the jurisdictions accountable.

Data Issues

Because rules crafted for cities do not always work the same way in rural places, HAC has two specific concerns about making the final AFFH rule work best in rural areas. First, in the proposed rule HUD stated that it will make datasets available to help program participants measure relevant population, poverty, and housing characteristics. HUD will provide data related to education, poverty, transit access, employment, exposure to environmental health hazards, and other important community assets to facilitate this measurement process.

HAC is concerned about the reliability of the available data for rural areas. Our experience has been that assessing social, economic, and housing characteristics is often complicated in rural areas due to sparse populations, limited sampling, undercounts, and exclusion. There is a clear relationship between the population size of a geography and the reliability of data: as the population in rural areas is smaller, the likelihood of reliability within survey data is lower. While the American Community Survey (ACS) provides more timely data than its predecessor, the decennial long-form, it has a somewhat smaller sample and therefore less reliable results for less populated areas, potentially distorting the actual picture of segregation or isolation. The best solution for this problem would be to expand the ACS sample size. Alternatively, an approach would be to calculate and provide a data reliability indicator to accompany the datasets. HAC recommends that HUD set a standard at which the data could be considered reliable, and use only the data that meets that criterion. There have been several approaches at establishing such thresholds. (More information is available at <http://www.esri.com/library/whitepapers/pdfs/the-american-community-survey.pdf>, http://www.ofm.wa.gov/pop/acs/userguide/ofm_acs_user_guide.pdf, and <http://www.ruraldataportal.org/>.)

In addition, the ACS provides only pooled estimates (five years' worth of data) for jurisdictions with 20,000 or fewer people. As a result, the figures may not show some important details, especially when things change markedly as they did at the beginning of the recent recession. Data averaged over a period 'masked' the dramatic change.

Useful data from other federal sources either is not available for rural jurisdictions or is not recent enough to be reliable. For example, it is more difficult to obtain residential building data for sparsely populated counties or smaller geographic units, but this information is readily available in metropolitan areas. Home Mortgage Disclosure Act information, too, is limited for rural, nonmetropolitan areas because banks operating entire outside of metropolitan areas are not required to provide lending data. Out-of-date data sources include HUD's Picture of Subsidized Housing data, currently available only for 2009.

The net effect of these data issues is that rural jurisdictions preparing AFHs must supplement the data HUD provides with locally sourced information such as tax records, building permits, etc. to ensure as complete a picture as possible, verifying, clarifying, or challenging what the HUD data

sets indicate. HUD could aid these efforts by providing a data guide explaining these issues and suggesting alternative sources, such as the Census Bureau's Small Area Income and Poverty Estimates.

Public Participation

HAC also supports the need to ensure public participation in the AFH, ConPlan, and PHA Plan process. HAC reminds HUD and other agencies to ensure that the approved plans must demonstrate effective methods for maximum engagement, particularly for isolated rural jurisdictions and their residents to participate in this process. Those who fall under any of the protected classes and live in isolated communities may encounter obstacles to participate in an AFH process, such as limited public meetings that are located far from their local community. Methods for maximizing public participation need not be sophisticated, merely effective and efficient. Examples such as remote real-time access to video links, or 'electronic clickers' that allow for anonymous and active participation are used in certain circumstances and should be identified in the planning process so that this engagement process is presented to and approved by HUD. Jurisdictions should also be required to accept comments by email or postal mail as well.

HAC is pleased to have this opportunity to comment on an improved process that affirms fair housing opportunities across the U.S. We hope these comments are useful in addressing and strengthening the data and public participation process so that rural and tribal communities and their residents are appropriately represented. Please contact me if any additional information is needed.

Sincerely,

A handwritten signature in black ink, appearing to read 'Moises Loza', with a long horizontal flourish extending to the right.

Moises Loza
Executive Director