



October 15, 2018

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

Subject: Submission of Comments

Docket No. FR-6123-A-01

Affirmatively Furthering Fair Housing: Streamlining and Enhancements

The Greater New Orleans Housing Alliance is a collaborative of non-profit housing builders and community development corporations working to rebuild the housing stock available in the city of New Orleans after Hurricane Katrina devastated the city's infrastructure. Since its creation in 2007, GNOHA has sought to create change in the Greater New Orleans community through public policy advocacy and public education. The collaborative advocates for the preservation and production of affordable housing for people within the Greater New Orleans metropolitan region and places a special emphasis on the needs of the most vulnerable in society - seniors, people with disabilities, veterans, low-wage workers and low-income families.

GNOHA and its members recognize the importance of analyzing and addressing impediments to fair housing. Prolonged housing discrimination has led to many in our community not having true choice regarding where they live. The Fair Housing Act state grantees of Community Planning and Development funds must take seriously the requirement to fully incorporate fair housing considerations into their existing planning processes. States recognize this need and requirement and are willing to work to evaluate fair housing choice in their state to identify barriers to fair housing choice, set fair housing goals to overcome those barriers, and ultimately take action to overcome these barriers. States have not fully understood the specifics regarding HUD's expectations for affirmatively furthering fair housing. We appreciate HUD's attempts to clarify the requirements to affirmatively further fair housing, and the provision of a separate state tool as a guide to developing a state AFH. However, withdrawing the local government assessment tool as stated in the ANPR would not do the Fair Housing Act any justice.

We urge HUD to make no changes to the AFFH rule because the rule had just begun to be implemented by a very small number of the approximately 1,200 jurisdictions that would ultimately be required to comply over the coming years. HUD began to informally seek input from a comprehensive set of stakeholders in 2010 and afterwards HUD publish a proposed rule on July 19, 2013. HUD carefully considered the formal comments, taking until July 15,

A Shared Initiative, Inc.
Alembic Community Development
Alliance for Affordable Energy
Asakura Robinson Company
Broadmoor Improvement Association
Capital One
Committee for a Better New Orleans
Crescent City Community Land Trust
Desire Community Housing Corporation
Dillard University
Enterprise Community Partners
Family Resources of New Orleans
Finance Authority of New Orleans
First NBC Bank
Foundation for Louisiana
GCR Inc.
Global Green USA
Greater New Orleans Foundation
Green Coast Enterprises
GNO Fair Housing Action Center
Greater New Orleans, Inc.
Gulf Coast Housing Partnership
Harmony Neighborhood Development
Home by Hand, Inc.
Housing Authority of New Orleans
Iberia Bank
Iris Development
Jane Place Neighborhood Sustainability Initiative
Jefferson Community Action Programs
Jericho Road Episcopal Housing Initiative
Jerusalem Economic Development Corp.
JPMorgan Chase Bank
LA Association of Affordable Housing Providers
Louisiana Appleseed
Louisiana Association of Nonprofit Orgs.
Louisiana Homebuyer Education Collaborative
Louisiana Housing Alliance
Louisiana Housing Corporation
Lower 9th Ward Homeownership Association
McCormack Baron Salazar
Neighborhood Development Foundation
Neighborhood Housing Services
New Day Homeowner Services
New Orleans Area Habitat for Humanity
New Orleans Redevelopment Authority
Northshore Housing Initiative
Office of Housing Policy & Community Development
Perez, APC
Preservation Resource Center
Project Homecoming
Providence Community Housing
Puentes New Orleans
Rebuilding Together New Orleans
Redmellon
Renaissance Neighborhood Development Corporation
Renaissance Property Group
SBP
Service Providers and Professionals Assoc.
Spottswood CDC
St. John the Baptist Housing Authority
St. Roch Community Development Corporation
Tulane/Canal Neighborhood Development Corporation
Tulane City Center
United Way of Southeast Louisiana
University of New Orleans
Urban Focus
U.S. Department of Housing and Urban Development
Volunteers of America
Wells Fargo
Whitney Bank

2015 to issue a final rule. The Fair Housing Assessment Tool underwent two public review and comment cycles, one 60 days and 30 days respectively as part of the Paperwork Reduction Act. Therefore, HUD should not make abrupt changes to the AFFH rule, Assessment of Fair Housing (AFH), and Assessment Tool at this time.

In response to the eight sets of questions posed by HUD in the ANPR, GNOHA offers the following:

Question Set 1: HUD asks whether AFFH issues need public participation procedures separate from the public participation procedures required by the Consolidated Plan's Annual Action Plan process. In other words, could public input about AFFH be included as part of the Annual Action Plan process?

Response:

The AFFH rule's requirement for genuine public participation in drafting an AFH was a great improvement over the lack of public input under the flawed Analysis of Impediments (AI) to fair housing choice process. In addition, the AFFH rule introduced specific public engagement and consultation with fair housing organizations for the first time. The Consolidated Plan's Annual Action Plan public participation process is designed to obtain input regarding, housing and community development needs, which needs have priority, and which activities ought to be funded. Identifying fair housing issues, assessing fair housing priorities, and recommending fair housing goals entail very different concepts and sometimes even different stakeholders. Consequently, separate public participation procedures are necessary. The AFFH rule designed the AFFH public participation process to precede and inform the decision making associated with the Consolidated Plan and its Annual Action Plan system.

Question Set 2a: HUD asks whether jurisdictions should be allowed to choose which data to consider instead of using uniform data provided by HUD?

Response:

We think that there must be a minimum, standard set of data local jurisdictions must use. All recipients of federal housing and community development assistance should be required to attempt AFFH analysis based on the same data considerations. Allowing a jurisdiction to cherry pick which data to use can lead to jurisdictions creating rosy AFHs and/or establishing low-hanging fair housing goals and accomplishments.

Question Set 2b: HUD asks whether jurisdictions should be allowed to rely on their experiences instead of relying on what HUD calls a "data-centric approach."

Response:

GNOHA believes that data are essential for a rational analysis of fair housing issues. Data can reveal situations that might not otherwise be obvious, help overcome unconscious bias, and identify degrees of severity of fair housing issues. The AFFH rule's requirement to use local information and knowledge, which is often not quantitative, can complement data gathered around fair housing concerns.

Question Set 3a: HUD asks whether local jurisdictions should be required to provide a detailed report of any AFFH analysis, or whether a summary of goals is sufficient.

Response:

We think details are essential. Public officials responsible for complying with the Fair Housing Act need a thorough presentation of the analysis to responsibly set policies, establish procedures, and fund activities that affirmatively further fair

housing. A summary of general goal statements cannot provide the nuance essential for decision-making. The general public also needs detailed analysis to monitor AFFH compliance and progress and to keep public officials accountable.

Question Set 3b: HUD asks how often program participants should report on their AFFH efforts, and whether to keep the AFFH rule's requirement that a new AFH be submitted every five years in synch with the five-year Consolidated Plan cycle.

Response:

The AFFH rule requires jurisdictions to identify metrics and milestones for measuring the extent to which they are achieving fair housing results. Public officials and the general public need to have annual performance reports in order to detect difficulties in meeting metrics and milestones so that corrections or adjustments can be made on a timely basis. The AI process did not specify how often a new AI should be conducted. Consequently, some AIs were very out of date and did not reflect major changes in the housing market. The AFFH rule's five-year cycle in synch with the Consolidated Plan process makes sense.

Question Set 4: One of the questions asks whether the rule should be amended to allow local jurisdictions to determine the number and types of fair housing obstacles to address.

Response:

The AFFH rule does not prescribe the number or types of fair housing obstacles a jurisdiction must address. The AFFH rule leaves it up to each jurisdiction to assess its own community and set its own goals.

Question 5: HUD asks how much deference jurisdictions should have in establishing objectives to address obstacles to fair housing goals and associated metrics and milestones.

Response:

Contrary to HUD's claim that the AFFH rule is "highly prescriptive" and gives jurisdictions "inadequate autonomy in developing fair housing goals," the AFFH rule does not prescribe how jurisdictions set objectives, goals, metrics, or milestones.

Question Set 6: HUD asks what types of elements should distinguish acceptable efforts to address fair housing issues from those that should be considered unacceptable.

Response:

The AFFH rule, for the first time, requires HUD field staff to review a jurisdiction's AFH and assess whether it should be accepted. If there are issues, HUD is to specify the problems in an AFH, and jurisdictions have 45 days to address the issue in order to have an AFH accepted. The criteria for HUD to decide whether or not to accept an AFH are very general, consequently there is a lot of leeway. The AFFH rule's absence of "prescription" offers jurisdictions the opportunity to submit and HUD to accept an AFH that is tailored to the community. The only consideration should be whether the AFH identifies meaningful goals and activities that relate to genuine fair housing issues.

Question 7: HUD asks whether the rule should be amended to specify certain levels of effort or specific actions that will be deemed to be in compliance, or should there be "safe harbors."

Response:

The AFFH rule does not prescribe specific levels of activity. This is appropriate given varying conditions in communities. Ultimately it is up to the public to judge whether a local jurisdiction's efforts are sufficient and to convince the jurisdiction and/or HUD that more needs to be done. There should not be any safe harbors.

Question 8: HUD asks for other types of revisions that could add clarity, reduce uncertainty, or decrease regulatory burden.

Response:

While the AFFH rule did not include all of the provisions that advocates requested, the final AFFH rule represents the previous administration's conscientious, lengthy, and cautious approach to drafting the final rule.

Additionally, GNOHA and other housing advocates in New Orleans have been working with the Housing Authority of New Orleans on a Small Area Fair Market Rent program. The program is design to deconcentrate poverty and allow residents to move into neighborhoods of high opportunity with HCVP. This program can only be better with mobility strategies and counseling as suggested by the balanced approach to affirmatively further fair housing. GNOHA strongly recommends that there be no changes to the AFFH rule until all jurisdictions have substantial experiences with the July 16, 2015 ruling.

Thank you for your consideration, and please feel free to contact me at 504.224.8301 or amorris@gnoha.org with any questions.

Sincerely,

A handwritten signature in blue ink that reads "Andreanecia Morris". The signature is fluid and cursive, with a large loop at the beginning.

Andreanecia Morris,
President/Chair, Greater New Orleans Housing Alliance