



March 16, 2020

Aaron Santa Anna
Assistant General Counsel for Regulations
U.S. Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, D.C. 20410-0001

Re: Comment regarding “HUD’s Affirmatively Furthering Fair Housing Proposed Rule”

Docket No. FR-6123-P-02

Dear Mr. Santa Anna,

I appreciate the opportunity to comment in opposition to the Department of Housing and Urban Development’s (HUD) proposed changes to the 2015 Affirmatively Furthering Fair Housing (AFFH) rule.

The Franklin County Auditor’s Office joins many individuals, organizations, and governments in working to affirmatively further fair housing efforts in our community and around the country. The proposed changes ignore how segregation and discrimination have historically contributed to housing burdens and fails to acknowledge these problems continue today.

The availability of quality affordable housing plays a vital role in ensuring housing opportunities are accessible to all residents. Stable, affordable, and accessible housing is an important factor in producing healthy neighborhoods and communities. The tremendous growth experienced in Franklin County, Ohio over the last several years has created vibrant municipalities and neighborhoods, but it has also caused significant housing-cost pressure for many in the county. Franklin County’s economic growth has many benefits, but it has also resulted in higher costs impacting many of our residents.

Franklin County is one of the regions in the Midwest confronted most with issues tied to housing accessibility and affordability. According to research conducted in 2017 by Harvard University’s Joint Center for Housing Studies, 43.2% of renters in the Columbus metropolitan area spend more than 30% of their income on housing (cost-burdened) and 23.2% spend more than 50% of their income on housing (severely cost-burdened).¹ In addition, fewer households moving from rental to homeownership has

¹ <https://development.franklincountyohio.gov/EDP-website/media/Documents/Community/Plans/Draft-AI-1025.pdf>



FRANKLIN COUNTY AUDITOR MICHAEL STINZIANO

373 South High Street | 21st Floor | Columbus, Ohio 43215

T (614) 525.HOME | C (614) 219.9224 | auditorstinziano@franklincountyohio.gov | franklincountyauditor.com

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strengthened rental market demand and rental rates, thereby contributing to affordability issues and cost burdens in the market for rental properties.²

Discrimination and segregation also contribute to the housing problem. From January 2013 through July 2018, HUD received 148 formal complaints of alleged housing discrimination within the jurisdiction of the City of Columbus and 78 complaints for other cities in Franklin County, totaling 226 complaints over 5 years. Of the total formal complaints from 2013 to 2018, disability was cited as the basis of discrimination in 119 complaints, followed by race in 78 cases, sex in 17 cases, retaliation in 32 cases, national origin in 21 cases, familial status in 23 cases, religion in 9 cases, and color in 7 cases. Between January 2013 and August 2018 there have been at least 17 federal lawsuits filed or litigated related to fair housing concerns. These lawsuits implicated various lenders, developers, and housing providers in the Columbus and Franklin County area.³

The Affirmatively Furthering Fair Housing (AFFH) rule requires local governments and public housing agencies receiving federal funds for housing to use data to analyze and actively attempt to correct segregation patterns within their communities and act to combat barriers to fair housing. With the rule being based on the framework of the Fair Housing Act of 1968, HUD's proposed changes to the 2015 rule fail to satisfy the regulatory framework necessary to effectively eliminate barriers to housing accessibility.

First, the proposed rule change revises the definition of "Affirmatively Furthering Fair Housing" by removing "combating discrimination" and "overcom[ing] patterns of segregation" from the definition.⁴ Eliminating these critical goals from the definition of AFFH strips away the foundational framework of the 2015 rule. Relaxing the requirement to analyze how development affects segregation and discriminatory practices reduces the rule's effectiveness in requiring jurisdictions to reduce barriers to housing access.

The revised definition would objectively diminish the statute's focus on addressing residential segregation. The change in definition effectively reduces fair housing obligations for local jurisdictions and weakens the impact of fair housing efforts by expanding what HUD considers an "effort" meriting AFFH certification.

Second, the proposed rule change would prioritize increasing overall housing supply instead of rectifying residential discrimination and segregation. Simply increasing the supply of housing will not necessarily result in housing that is affordable to low- to moderate-income residents. History also show such policy is even less likely to reduce segregation or discriminatory policies and practices.⁵

For example, the rule would tell jurisdictions that they are "free to choose to undertake changes to zoning or land-use policies...however, *no jurisdiction may have their certification questioned because they do not choose to undertake zoning changes*"⁶ (emphasis added). Under this new rule, localities with existing exclusionary zoning restrictions that increase or maintain residential segregation will not be scrutinized under the new FHA and AFFH rule. Providing localities the option to maintain exclusionary policies runs counter to the intent of the AFFH rule and is counterintuitive to creating inclusive, accessible housing opportunities.

Lastly, the proposed new assessment method relaxes a jurisdiction's duty to act on existing impediments to accessibility. The proposed rule change purports to make the program "less prescriptive" for local jurisdictions to meet.⁷ However, this sentiment is misguided. Put simply, this reform's relaxation of federal oversight requiring jurisdictions to undo their exclusionary zoning policies would reduce

² <https://development.franklincountyohio.gov/EDP-website/media/Documents/Community/Plans/Draft-AI-1025.pdf>, 70.

³ <https://development.franklincountyohio.gov/EDP-website/media/Documents/Community/Plans/Draft-AI-1025.pdf>

⁴ https://1c6e3796-283f-4165-8985-42201064a931.filesusr.com/ugd/e9d741_9a83d1aae39d4ab286b74c237c63de1c.pdf

⁵ https://1c6e3796-283f-4165-8985-42201064a931.filesusr.com/ugd/e9d741_9a83d1aae39d4ab286b74c237c63de1c.pdf

⁶ <https://www.federalregister.gov/documents/2020/01/14/2020-00234/affirmatively-furthering-fair-housing>, 20.

⁷ <https://www.federalregister.gov/documents/2020/01/14/2020-00234/affirmatively-furthering-fair-housing>, 5.

accountability for local governments and public housing agencies to fulfill their fair housing responsibilities.

As you know, the proposal would replace the data-driven Assessment of Fair Housing (AFH) in each jurisdiction, with the submission of at least three measurable, concrete goals to reach obstacles to resolve to increase fair housing choice. The problem with the new assessment is that HUD would not require that the goals cover specific areas or reach certain thresholds. Furthermore, the certification would not have to address all fair housing obstacles or identify every effort the jurisdiction would take.⁸ Such lax oversight allows jurisdictions to cherry pick options to technically meet the requirement even if discrimination and segregation do not decrease as a result.

Government entities, businesses, non-profits, and community partners should strive to make housing more accessible to everyone in the community and not less. I strongly oppose the proposed rule changes to the AFFH rule because it weakens localities' responsibility to address historical practices and policies that impede access to housing, specifically for low- to moderate-income individuals and protected classes such as people of color, single women, and people with disabilities.

Housing segregation patterns are still present in Franklin County and across the country; shifting focus away from fair housing efforts will stifle our work with local partners to achieve greater housing fairness and equity. The proposed rule change to the AFFH is poor policy because it would allow barriers to progress on fair housing initiatives. I urge the Department of Housing and Urban Development to develop a more responsible approach that places housing access affordability, and equity at the forefront of the AFFH rule while providing jurisdictions with the resources and direction necessary to eliminate barriers to fair housing.

Thank you for the opportunity to comment. Please do not hesitate to contact me further regarding these comments or any other matters I may be of service in addressing.

Sincerely,



Michael Stinziano
Franklin County Auditor

⁸ <https://www.federalregister.gov/documents/2020/01/14/2020-00234/affirmatively-furthering-fair-housing>, 18.