



Regulations Division
Office of General Counsel
U.S. Department of Housing and Urban Development
451 7th Street, SW Room 10276
Washington, DC 20410-0001

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

To Whom It May Concern:

Corporation for Supportive Housing (CSH) is a national non-profit organization and Community Development Financial Institution. Our mission is to advance solutions that use housing as a platform for services to improve the lives of the most vulnerable people, maximize public resources and build healthy communities. We envision a future in which high-quality supportive housing solutions are integrated into the way every community serves the men, women and children in most need.

As a lender, technical assistance provider, consultant, and policy organization we have a unique perspective of how legislation, regulation and funding decisions impact the creation of supportive and affordable housing opportunities in communities across the country.

We view policy changes through the lens of the people it impacts most – the most vulnerable Americans who, but for having access to safe, affordable housing and supportive services are highly likely to remain homeless, inappropriately institutionalized, or otherwise continue indefinitely in highly precarious situations that impact their ability to live healthy lives. We firmly and unquestionably support efforts to increase housing choice and to prevent discrimination, and want to ensure vulnerable people have access to safe and affordable housing with supportive services. It is crucial that efforts to de-concentrate poverty and provide housing choice work cooperatively with efforts to create the greatest amount of high-quality affordable housing in communities across the country. This final point is especially important in the myriad of communities that have high rent burdens, an insufficient stock of affordable housing units, and significant homeless populations.

CSH supports the proposed improvements to regulations that carry out the Fair Housing Act's requirement that all federal agencies administer their programs relating to housing and community development in a manner that affirmatively furthers fair housing. We commend HUD for undertaking a multi-year effort to obtain the views of a wide range of stakeholders, and urge the Department to commit resources to move expeditiously through the comment period to implementation of the final rule.

CSH believes that in most instances the rule strikes the appropriate balance of pushing communities to more effectively further fair housing opportunities while not encumbering them with unfunded mandates or unrealistic goals. That said, we have the following suggestions for improvements to the rule:

1. First and foremost, by encouraging communities to reduce racial and ethnic concentrations of poverty and reduce disparities in access to community assets, the rule must not dissuade communities from investing in such neighborhoods. If the rule is not explicit in its intention on this point very harmful disinvestment could take place from the very communities that need it most.

Therefore the final rule must clearly reinforce the acceptability of “strategically enhancing neighborhood assets” in the definition of “affirmatively furthering fair housing”, the definition of “fair housing choice”, and in the opening subsection pertaining to the Assessment of Fair Housing. The final rule must recognize that affirmatively furthering fair housing may entail devoting resources to improve areas of concentrated racial and ethnic poverty by preserving and improving affordable housing, and by implementing investment policies that augment access to essential community assets for protected class residents who wish to remain in their communities – while protecting them from the forces of displacement.

2. We are pleased the rule requires jurisdictions to encourage participation by the Continuum of Care and community-based organizations in developing and implementing the AFH. CSH has found that it is vitally important to the planning process that the wishes of a potential supportive housing consumer are taken into account and realized. In this respect, some communities may find that those who are in need of, or are already living in, supportive housing place higher geographic value on the ease of access to supportive services, transportation, social networks and community resources above other considerations.
3. Throughout the proposed rule, the concept of integrating protected classes is emphasized. Defining “integration” has recently received much attention as HUD released guidance on how it will implement the mandate under the Supreme Court’s Olmstead decision. We believe this proposed rule should refer to the Olmstead guidance’s emphasis on the need for new affordable, integrated housing opportunities. Additional affordable units are needed for people who are seeking to exit institutions, for those who are at-risk of institutionalization, and are also needed if communities are to construct new multi-family developments that are not primarily for persons with disabilities.
4. More importantly, the proposed rule should re-emphasize an important concept in the Olmstead guidance: a community-wide vision of considering all of the housing options available in a community and not making judgments on a project-by-project basis. For example, a community that has relied on single-site supportive housing is well-advised to consider adding mixed-tenancy and scattered site units. Those communities that have many integrated housing options may be more flexible in considering what models of new development they may want to support.
5. While we agree with the collaborative process of involving various community stakeholders, we remain concerned that the proposed rule’s new caveat of requiring HUD “acceptance” of the AFH could threaten funding for much needed new development, including housing and other assets of value to the community. We are not suggesting the HUD approval provision be removed, but suggest that the rule must not allow those who may oppose the AFH based on some insufficiencies to stall the flow of dollars to the community. Only in the most egregious situations where a community is entirely failing to meet its obligations under AFFH should funding be withheld.
6. In determining a community’s acceptable performance under the proposed rule, we believe HUD must take into account local conditions such as density and the local government’s track record of commitment of resources and ability to improve impoverished neighborhoods. Dense urban areas may be able to bridge the divide between neighborhoods of opportunity and distressed neighborhoods more easily. The commitment of affordable housing resources to a community likely to be gentrified can be a sound strategy. Conversely, localities and regions with highly static patterns of inter-neighborhood mobility should be held to a higher standard of investing in new places.

7. While we are sympathetic to those who feel that enforcement of AFFH must be far more rigorous and that specific benchmarks should be laid out in the AFH, we believe such a shift would be unwise. The proposed rule brings significantly more accountability to communities and promises to vastly improve the fair housing process; we believe more stringent applications beyond what has been laid out would be counter-productive and could stymie what would otherwise be productive development.
8. The final rule should be more explicit that all of a program participant's housing and community development resources, as well as its policies, practices, and procedures (such as zoning which inhibits development of permanent supportive housing or multifamily housing) must be assessed in the AFH and in any certification that it is affirmatively furthering fair housing. As written, the proposed rule could be misunderstood to only consider use of HUD funds.
9. The Proposed Rule's definition of *fair housing choice* appropriately states that "For persons with disabilities, fair housing choice includes access to accessible housing, and, for disabled persons in institutional or other residential environments, housing in the most integrated setting appropriate as required under the law, including disability related services that an individual needs to live in such housing." We recommend, however, that the Final Rule clarify that fair housing choice means that housing is not conditioned on acceptance of disability-related services (unless that is one of the rare instances in which it is specifically required by a federal statute).
10. We share the concerns of the Consortium for Citizens with Disabilities regarding HUD's data on people with disabilities, including those who are institutionalized or at-risk of institutionalization. CCD has highlighted several challenges with existing data on where this protected class is living in the community. We urge HUD's attention to resolving this data deficiency and, if it can not reasonably do so, to provide guidance to community's on how they should account for and properly address the fair housing rights of people with disabilities.
11. Finally, we are cognizant that this rule only covers HUD programs, while the requirement to affirmatively further fair housing extends throughout government. We urge HUD and the Administration to work together, particularly in allocating transportation and other infrastructure funding, to support communities' efforts to create more housing choice in neighborhoods of opportunity.

We appreciate HUD's considerations of our comments, and again urge the Department to move forward towards a final rule as soon as possible.