



May 2, 2025

Secretary Scott Turner
U.S. Department of Housing and
Urban Development
451 Seventh Street, SW
Washington, DC 20410

Re: Docket No. FR-6519-I-01; Affirmatively Furthering Fair Housing Revisions

Dear Secretary Turner:

Imagine a society in which every child and every person can live in a neighborhood with ample affordable and accessible housing, fresh air, clean water, good public transportation, living wage jobs, quality healthcare, healthy foods, and affordable credit. That is what affirmatively furthering fair housing means. However, the Trump administration has backed away from the federal government's duty to affirmatively further fair housing and taken away critical tools that states and localities need and requested to address the nation's fair and affordable housing crisis and advance the American Dream of having a safe, stable place to call home.

The National Fair Housing Alliance® (NFHA™)¹ and the undersigned advocacy organizations submit this comment in opposition to the U.S. Department of Housing and Urban Development's (HUD) 2025 Interim Final Rule titled, *Affirmatively Furthering Fair Housing Revisions (2025 AFFH IFR)*.² The 2025 AFFH IFR purports to implement the Affirmatively Furthering Fair Housing (AFFH) provision of the Fair Housing Act and rescinds the 2021 Interim Final Rule (2021 AFFH IFR). For the reasons described below, we strongly urge HUD to immediately withdraw the 2025 AFFH IFR and reinstate the 2021 AFFH IFR:

- 1. People in America Are in the Middle of a Fair and Affordable Housing Crisis**
- 2. HUD's 2025 AFFH IFR Will Only Worsen the Fair and Affordable Housing Crisis**

¹ The National Fair Housing Alliance® (NFHA™) leads the fair housing movement. NFHA works to eliminate housing discrimination and ensure equitable housing opportunities for all people and communities through its education and outreach, member services, public policy, advocacy, housing and community development, tech equity, enforcement, and consulting and compliance programs.

² HUD, Interim Final Rule, *Affirmatively Furthering Fair Housing Revisions*, 90 Fed. Reg. 11020 (March 3, 2025), <https://www.federalregister.gov/documents/2025/03/03/2025-03360/affirmatively-furthering-fair-housing-revisions>.

COMMENTS

1. People in America Are in the Middle of a Fair and Affordable Housing Crisis

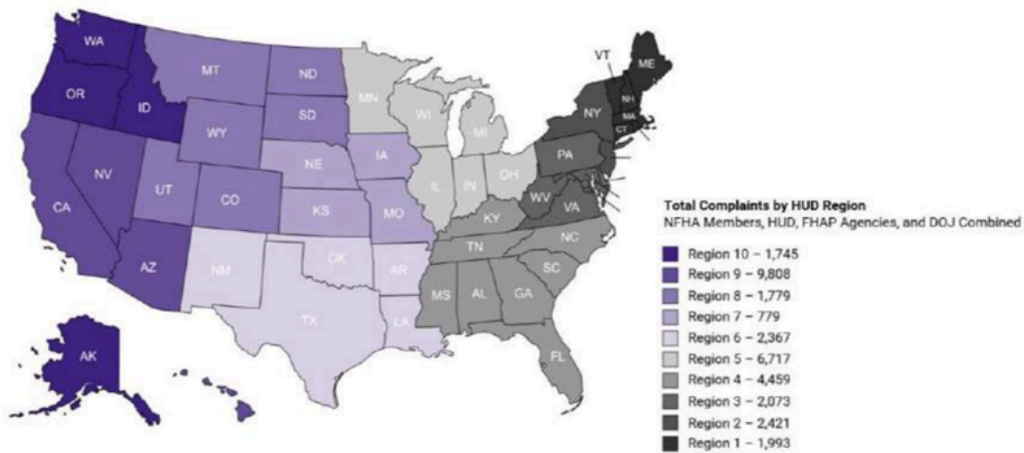
Now is not the time to turn away from expanding housing opportunity for everyone. The people of America are facing a fair and affordable housing crisis that impacts every aspect of their lives. In this country, place is inextricably linked to opportunity: where we live determines our access to fresh air, clean water, well-resourced schools, quality medical care, reliable transportation, good jobs, and much more. This section explains the country's fair and affordable housing crisis, which calls out for meaningful action to ensure everyone has access to thriving, inclusive communities.

THE FAIR HOUSING CRISIS

Housing Discrimination Complaints Are at An All-Time High

Housing Discrimination Complaints by Region

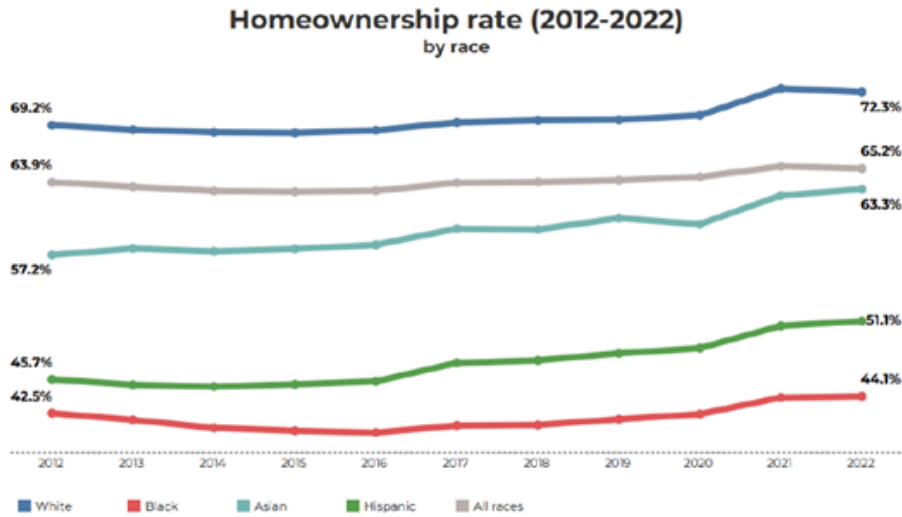
Total Fair Housing Complaints by HUD Region
Fair Housing Trends Data, 2023



Throughout America, people are facing an escalating fair housing crisis, which severely restricts their ability to access housing opportunities. The 2024 NFHA Fair Housing Trends Report recorded the largest-ever number of fair housing discrimination complaints.³ Discrimination based on disability accounted for the majority of complaints, followed by race. Complaints of harassment increased by 66 percent and complaints based on color increased by 35 percent since 2022. The largest increases in complaints based on color originated from rental complaints and harassment complaints. There was also an uptick in “other” complaints based on age or student status, sexual orientation, gender identity or gender expression, and victims of domestic violence. The continued increase in domestic violence complaints is especially concerning, as it doubled in size from 2020 to 2021 and has continued to rise each year since.

³ NFHA, 2024 Fair Housing Trends Report (2024), <https://nationalfairhousing.org/resource/2024-fair-housing-trends-report/>.

Homeownership Trends by Race in the Last Decade



Source: NAR Snapshot of Race and Home Buying in America



The racial homeownership gap remains wide and persistent. Currently, about 72 percent of White households own their home as compared to 51 percent of Latino households, and 44 percent of Black households.⁴ That is, the Black-White homeownership gap is 28 percentage points and the Latino-White homeownership gap is 21 percentage points. In 1960 (before passage of the Fair Housing Act in 1968), there was a 27-percentage point gap between Black homeownership (38 percent) and White homeownership (65 percent). So, the current Black-White homeownership gap of 28 percentage points is **higher** than it was when housing discrimination was legal.

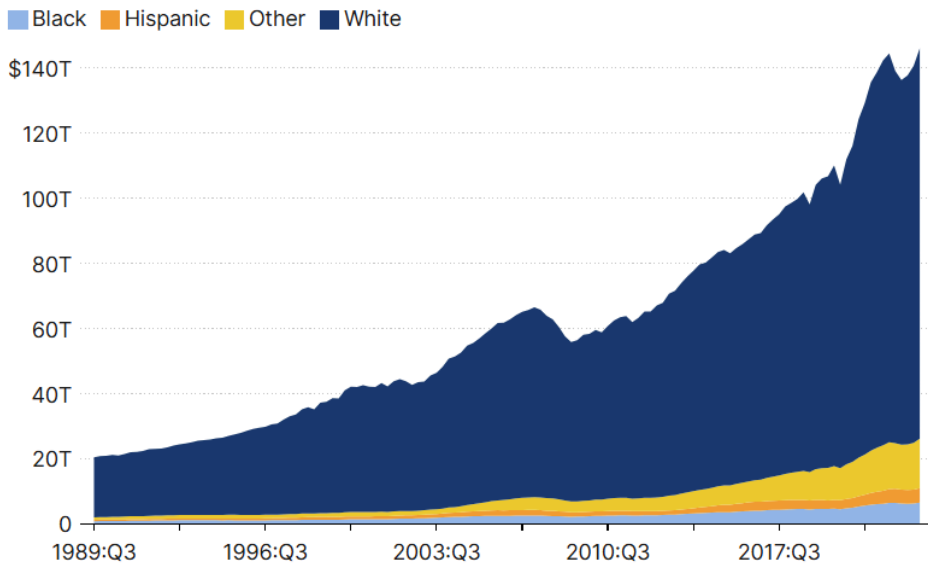
Homeownership disparities are further compounded when analyzed by gender and race. In 2021, White, non-Hispanic men were **nearly three times** more likely and White, non-Hispanic women were **over three times** more likely than Black, non-Hispanic women to be homeowners.⁵

⁴ National Association of REALTORS® Research Group, *2025 Snapshot of Race and Homebuying in America* (March 17, 2025), <https://www.nar.realtor/newsroom/black-homeownership-rate-sees-largest-annual-increase-among-racial-groups-but-still-trails-white-homeownership-rate>.

⁵ National Women’s Law Center, *Homeownership - A Pathway to Wealth Building - Is Still Out of Reach for Many Women of Color* (Nov. 8, 2023), <https://nwlc.org/resource/homeownership-a-pathway-to-wealth-building-is-still-out-of-reach-for-many-women-of-color/>.

The Black-White and Latino-White Wealth Gap Remains Wide and Persistent

Total household wealth grew in 2022, but white households still hold the vast majority



Source: Brookings Analysis of the Distributional Financial Accounts, 1989-2022

B | Brookings Metro

In large part because people of color face numerous barriers to homeownership, this country's primary driver of wealth creation, the racial wealth gap has remained wide and persistent. As of 2022, the median wealth was about \$285,000 for White households while the median wealth was only \$44,890 for Black households and \$62,000 for Latino households.⁶ Since 2010, the wealth disparity between Black and White families has persistently expanded. The growing disparity means that for every \$100 in wealth held by White households, Black households hold only \$15. Moreover, the lack of accumulated family wealth is a key barrier to homeownership for households of color. With skyrocketing home prices, many home buyers rely on the "Bank of Mom and Dad" to buy their first home, which limits the opportunities for young potential homebuyers of color whose families lack such resources because our nation's homeownership policies that are the foundation of today's middle class excluded them.⁷

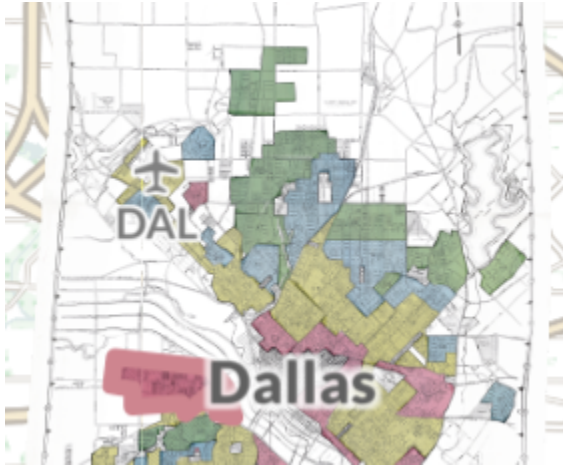
⁶ Andre M. Perry, Hannah Stephens, and Mannan Donoghue, *Black Wealth Is Increasing, But So Is The Racial Wealth Gap*, Brookings Metro (Jan. 9, 2024),

<https://www.brookings.edu/articles/black-wealth-is-increasing-but-so-is-the-racial-wealth-gap/>.

⁷ Lisa Marie Conklin, *The Bank of Mom and Dad: How to Compete Against Nepo Homebuyers* (Feb. 28, 2024),

<https://www.realtor.com/advice/buy/the-bank-of-mom-and-dad-how-to-compete-against-nepo-homebuyers/>.

Historical HOLC Redlining Map for Dallas, TX



Source: HOLC Map from Mapping Inequality

The roots of discrimination in housing are deep, pernicious, and persistent. Thousands of racially discriminatory housing, banking, and other policies created systems and structures that shut out people of color from housing opportunity. Even laws that appeared to be racially neutral were implemented with discriminatory policies. For example, in the 1930s, the New Deal's federal Home Owners' Loan Corporation (HOLC) developed one of the most harmful policy decisions in the housing and financial services markets. Based on feedback from the real estate professionals of the time, the HOLC promoted a now-infamous system that included race as a fundamental factor in determining the value of neighborhoods for purposes of access to credit.⁸ On color-coded maps, communities of color (or even communities with just a few residents of color) were shaded red, coded as "hazardous," and given the low-ranking letter "D." The highest value was reserved for all-White communities.

The HOLC's system cemented the unfounded association between race and risk. That is, credit "risk" was based on the racial and ethnic background of the residents, rather than individual credit worthiness. This approach led to the modern-day term "redlining," which refers to restricting access to credit in communities of color. This unfounded association between race and risk continues to this day. In the past few years, the Department of Justice Combatting Redlining Initiative secured over \$150 million in relief for communities of color to resolve redlining allegations against lenders across the country.⁹

⁸ The Home Owners' Loan Act of 1933 established the HOLC as an emergency agency under the Federal Home Loan Bank Board. 12 U.S.C. § 1461 *et seq.* See also University of Richmond, Virginia Tech, University of Maryland, and Johns Hopkins University, [Mapping Inequality](#) (documenting the maps and area descriptions created by the HOLC between 1935 and 1940); Richard Rothstein, *The Color of Law: A Forgotten History of How Our Government Segregated America* (2017).

⁹ Department of Justice, *Justice Department Secures Third Settlement with a Non-Depository Mortgage Company to Resolve Redlining Claims in Miami* (Jan. 7, 2025), <https://www.justice.gov/archives/opa/pr/justice-department-secures-third-settlement-non-depository-mortgage-company-resolve>.

Figure 33: Mean Child Opportunity Score of neighborhoods formerly graded by the Home Owners' Loan Corporation (HOLC)

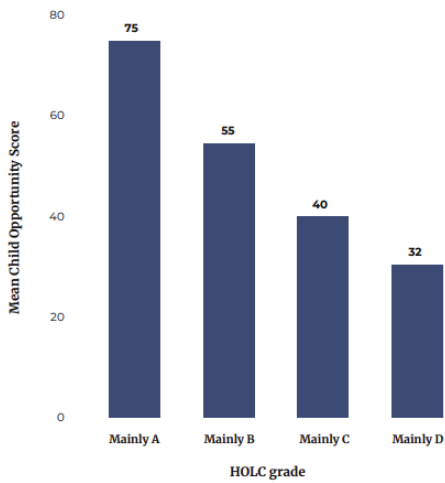
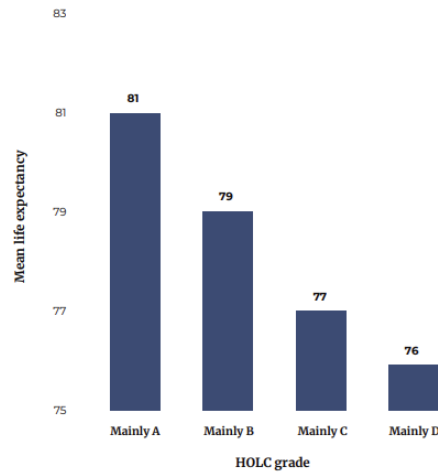


Figure 34: Mean life expectancy in neighborhoods formerly graded by the Home Owners' Loan Corporation (HOLC)



Source: *The State of Racial/Ethnic Equity in Children's Neighborhood Opportunity*, Diversitydatakids.org and Brandeis Heller School for Social Policy and Management

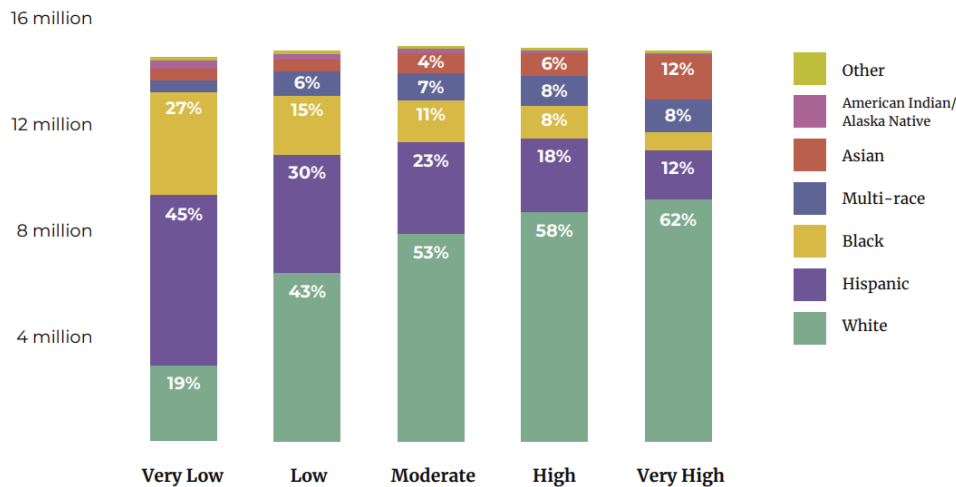
Today, neighborhoods of color that the federal government redlined continue to lack the opportunities available in majority-White neighborhoods. The graphic above shows the “Child Opportunity Score” and life expectancy in areas that the HOLC formerly graded as “A” (the most “creditworthy,” typically all-White communities) through “D” (the worst, least “creditworthy,” typically communities of color).¹⁰ The formerly-redlined “D” areas rank the lowest both in opportunities for children and life expectancy. Research shows that “[a] key form of inequality – the separation of children into neighborhoods with vastly different conditions – has been created and maintained by residential segregation.”¹¹

¹⁰ See Dolores Acevedo-Garcia, Nancy McArdle, Leah Shafer, Clemens Noelke, *The State of Racial/Ethnic Equity in Children's Neighborhood Opportunity*, Diversitydatakids.org and Brandeis Heller School for Social Policy and Management (April 2024),

https://www.diversitydatakids.org/sites/default/files/file/DDK_The_State_of_Racial_Ethnic_Equity_in_Childrens_Neighborhood_Opportunity_April2024v2.pdf. The “Child Opportunity Score” analyzes more than 40 neighborhood factors including building vacancy rates, green space and employment rates to create a score for each of the country's 73,000 census tracts.

¹¹ *Id.*

Number of children of each racial/ethnic group, by Child Opportunity Level



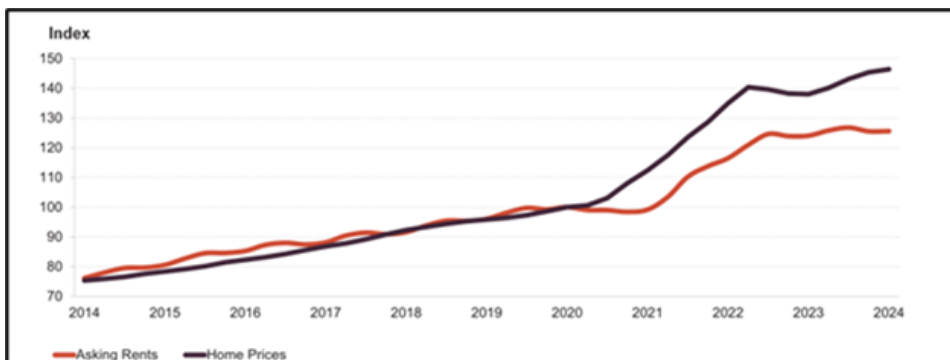
Source: *The State of Racial/Ethnic Equity in Children's Neighborhood Opportunity*, Diversitydatakids.org and Brandeis Heller School for Social Policy and Management

This longstanding government-facilitated residential segregation means White people and people of color continue to live apart in neighborhoods that are far from equivalent. The graphic above shows that low-resourced areas with fewer opportunities tend to be where the Black and Latino children live.¹² Outside majority-White neighborhoods, well-resourced schools with expanded learning opportunities are less common, unemployment and poverty are higher, health is worse (as the coronavirus pandemic made plain), and access to financial institutions remains inadequate. For example, with a dearth of responsible lenders, neighborhoods of color are much likelier to be targeted by unscrupulous companies, such as disreputable lenders targeting homeowners of color with equity-stripping mortgage schemes and payday loans, which further strip a community of wealth and opportunity.¹³

THE AFFORDABLE HOUSING CRISIS

Housing Costs Are at Record Highs

Housing Costs Remain Elevated



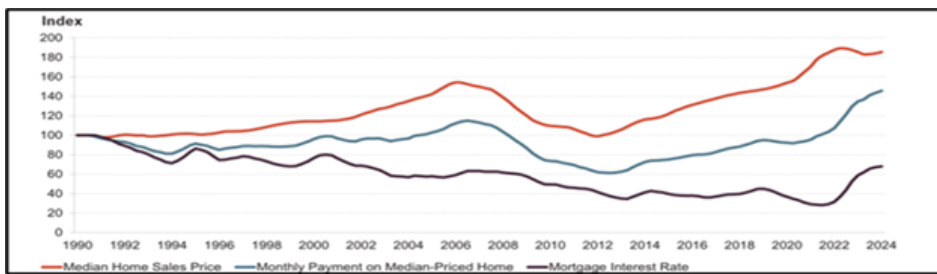
Source: JCHS tabulations of US Census Bureau, ACS 1-Year Estimates

¹² *Id.* See also, Claire Thornton, "A World Apart:" How Racial Segregation Continues to Determine Opportunity for American Kids, USA Today (March 14, 2024),

<https://www.usatoday.com/story/news/nation/2024/03/14/racial-segregation-changes-us-kids-outcomes/72957814007/>.

¹³ See, e.g., *Saint-Jean, et al. v. Emigrant Mortgage Co.*, 337 F. Supp. 3d 186 (E.D.N.Y. 2016).

Homeownership Costs Are at Record Highs



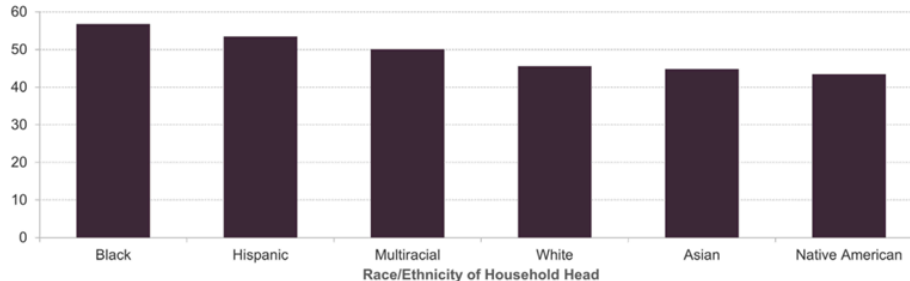
Source: JCHS tabulations of US Census Bureau, ACS 1-Year Estimates

The people of America are facing a dire affordable housing crisis, which severely restricts their ability to access housing opportunities. Housing costs are a key driver of inflation and consumers in America are feeling the squeeze. In the United States, the “shelter” category in the Consumer Price Index (CPI) includes housing costs like rent and homeownership. Currently, shelter costs are the largest contributor to inflation.¹⁴ As of December 2024, the index for shelter was the largest contributor to the monthly increase in all items index, accounting for nearly 37 percent of the total increase. In addition, home prices continue to rise, with the median sale price in January 2025 increasing almost five percent year-over-year, which is the 19th consecutive month of annual growth.¹⁵

More Than Half of Renters of Color Are “Cost-Burdened”

PERSISTENT DISCRIMINATION HAS LEFT MORE THAN HALF OF BLACK AND HISPANIC RENTER HOUSEHOLDS COST BURDENED

Share of Renter Households with Cost Burdens (Percent)



Notes: Black, multiracial, white, Asian, and Native American householders are non-Hispanic. Hispanic householders may be of any race. Cost-burdened households spend more than 30% of income on rent and utilities.

Source: JCHS tabulations of US Census Bureau, 2023 American Community Survey 1-Year Estimates.

The number of cost-burdened renter households has reached record highs, further deepening the housing affordability challenge. As of 2023, 22.6 million renter households were “cost-burdened,” meaning they spent more than 30 percent of their income on rent and utilities.¹⁶ Black and Latino renters were more likely than White renters to be cost-burdened. More than half of Black renters (57 percent) and Latino renters (53 percent)

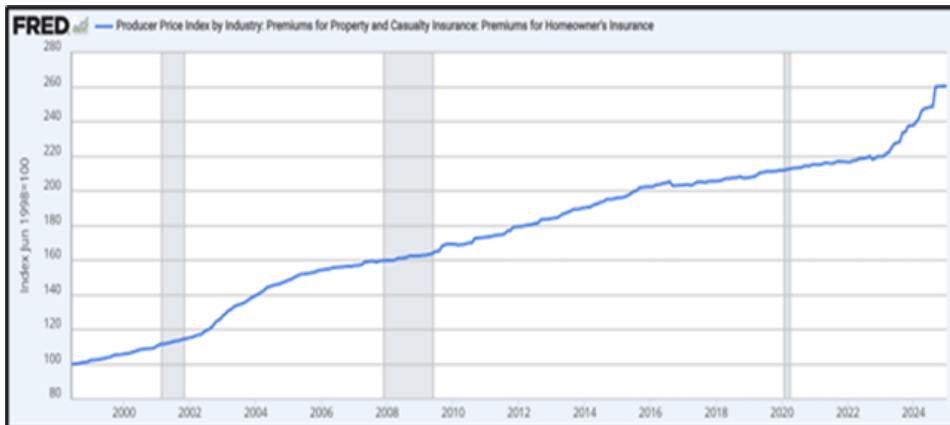
¹⁴ National Association of Home Builders, *Housing Inflation Moderates among Higher Energy Costs* (Jan. 15, 2025), <https://eyeonhousing.org/2025/01/housing-inflation-moderates-amid-higher-energy-costs/>.

¹⁵ National Association of Realtors, *Existing-Home Sales Decreased 4.9% in January, But Increased Year-Over-Year for Fourth Consecutive Month* (Feb. 21, 2025), <https://www.nar.realtor/research-and-statistics/housing-statistics/existing-home-sales>.

¹⁶ Joint Center for Housing Studies of Harvard University, *Deteriorating Rental Affordability: An Update on America’s Rental Housing 2024* (Dec. 2024), https://www.jchs.harvard.edu/sites/default/files/research/files/harvard_jchs_rental_affordability_airgood-obrycki_2024.pdf.

were cost-burdened, while about 45 percent of White renters were cost-burdened.¹⁷ Moreover, among single renters, 43 percent of Black, non-Hispanic women, 45 percent of Latina women, 41 percent of Indigenous, non-Hispanic women, 41 percent of Asian American and Native Hawaiian/Pacific Islander, non-Hispanic women, and 40 percent of white, non-Hispanic women spent the majority of their income on housing, compared to only 32 percent of white, non-Hispanic men.¹⁸ These disparities make it more difficult for many renters to build wealth and save for down payments for homeownership.

Homeowner's Insurance Costs Are Skyrocketing Due to Climate Change



Source: U.S. Bureau of Labor Statistics via FRED, Shaded areas indicate U.S. recessions

Homeowners' insurance costs are rapidly rising, largely due to an increase in climate-related disasters. Over the past decade, while consumer prices have risen by approximately 30 percent, homeowners' insurance costs have surged by more than 50 percent.¹⁹ Moreover, the people impacted by climate-related disasters disproportionately reside in formerly-redlined communities. For example, Altadena, California's Black residents had built a thriving community there as redlining laws prevented them from purchasing homes elsewhere.²⁰ Prior to the recent wildfires, 81 percent of Altadena's Black residents owned their homes. Like Black victims of the Great Recession, many of Altadena's residents are seniors who now have lost generations of their families' wealth in the California wildfires.

2. HUD's 2025 AFFH IFR Will Only Worsen the Fair and Affordable Housing Crisis

As everyday people in America struggle to make ends meet, HUD has issued the watered-down 2025 AFFH IFR, which will only worsen the fair and affordable housing crisis by weakening mandates and taking key tools away from states and localities despite many of them requesting HUD's guidance. Consistent with the current administration's anti-civil rights framework, HUD and the administration are taking actions that will only decrease housing opportunity for the people of America. (See [Appendix A](#) for a full list of the executive actions worsening the fair and affordable housing crisis.)

¹⁷ See *id.*

¹⁸ National Women's Law Center and National Low Income Housing Coalition, *Cutting Rental Assistance Is Harmful for Women, LGBTQIA+ People, and Families* (Feb. 2025), <https://nwlc.org/resource/cutting-rental-assistance-is-harmful-for-women-lgbtq-people-and-families/>.

¹⁹ National Association of REALTORS® Research Group, *2025 Snapshot of Race and Homebuying in America* (March 17, 2025), <https://www.nar.realtor/sites/default/files/2025-03/2025-snapshot-of-race-and-home-buying-in-america-03-17-2025.pdf>.

²⁰ Gloria Oladipo, *For Black Families in Altadena, History and Community Burned alongside Homes*, *The Guardian* (Jan. 18, 2025), <https://www.theguardian.com/us-news/2025/jan/18/altadena-fire-black-families#:~:text=Altadena%2C%20a%20quiet%2C%20tight%2D,homes%20elsewhere%20in%20the%20state.>

In addition to overturning clear congressional intent, decades of case law, and meaningful regulations (see [Appendix B](#)), HUD's 2025 AFFH IFR suffers from two key deficiencies:

1. The IFR's definitions gut the Fair Housing Act's promise of creating thriving, inclusive communities.
2. The IFR fails to provide localities with a meaningful framework to develop thriving, inclusive communities.

The IFR's Definitions Gut the Fair Housing Act's Promise of Creating Thriving, Inclusive Communities

With the passage of the Fair Housing Act of 1968, Congress established fair housing as the national policy of the United States and enacted two promises:

- The right of all people to access housing free of discrimination; and
- The creation of thriving, inclusive communities for all.²¹

HUD's 2025 AFFH IFR guts the Fair Housing Act's key promise of dismantling housing segregation and creating thriving, inclusive communities. In remarks to the press, HUD Secretary Scott Turner stated, "We have to save our suburbs....We are taking the [AFFH Rule] down today so that we could restore our suburbs."²² The Secretary's remarks seemed to harken back to a time of rigid residential segregation when all-White suburbs held the highest value regardless of the creditworthiness of the borrower or the condition of the home. The remarks also totally disregard the growing problem that the lack of affordable housing supply is causing in rural communities nationwide.

HUD's 2025 AFFH IFR uses the following definitions:

*(a) The phrase "fair housing" in 42 U.S.C. 5304(b)(2), 5306(d)(7)(B), 12705(b)(15), and 1437c-1(d)(16) means housing that, among other attributes, is **affordable, safe, decent, free of unlawful discrimination, and accessible** as required under civil rights laws.*

*(b) The phrase "affirmatively further" in 42 U.S.C. 5304(b)(2), 5306(d)(7)(B), 12705(b)(15), and 1437c-1(d)(16) means to take any action rationally related to promoting **any attribute or attributes of fair housing** as defined in the preceding subsection.²³*

By contrast, HUD's 2021 AFFH IFR used the following definition:

*"Affirmatively furthering fair housing" means taking meaningful actions, in addition to combating discrimination, that **overcome patterns of segregation and foster inclusive communities** free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, **address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially or ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.** The duty to affirmatively*

²¹ 42 U.S.C. §§ 3601-3619.

²² HUD Secretary Scott Turner, Interview on Fox Business, *Secretary Turner Repeals Biden AFFH 'Zoning Tax'* (Feb. 26, 2025), <https://www.youtube.com/watch?v=xzTT9cEM6fY>.

²³ 24 C.F.R. § 5.150 (2025).

*further fair housing extends to all of a program participant's activities and programs relating to housing and urban development.*²⁴

Thus, HUD's 2025 AFFH IFR acknowledges the Fair Housing Act's first purpose regarding nondiscrimination, but guts the second purpose regarding creating healthy, thriving, and inclusive communities. HUD's 2025 AFFH IFR deletes the critical language from the 2021 AFFH IFR regarding:

- Overcoming patterns of segregation;
- Fostering inclusive communities;
- Addressing significant disparities in housing needs and in access to opportunity;
- Replacing segregated living patterns with truly integrated and balanced living patterns; and
- Transforming racially or ethnically concentrated areas of poverty into areas of opportunity.

Also, HUD's 2025 AFFH IFR specifically undermines Congress's repeated reinforcement of the AFFH mandate for funding recipients by embedding the watered-down definition in:

- The Housing and Community Development Act of 1974 (42 U.S.C. §§ 5304(b)(2), 5306(b)(2));
- The Cranston-Gonzalez National Affordable Housing Act of 1990 (42 U.S.C. § 12705(b)(15)); and
- The Quality Housing and Work Responsibility Act of 1998 (42 U.S.C. § 1437C-1(d)(16)).

Through these laws, Congress clearly intended for HUD program participants receiving federal funds to affirmatively further fair housing in a meaningful manner. HUD's 2025 AFFH IFR effectively guts those requirements and undermines congressional intent.

Finally, HUD's 2025 AFFH IFR appears to overlook the difference between affordable housing and fair housing. Conflating affordable housing and fair housing perpetuates the misconception that most people of color and members of other protected classes are poor and that income is the key barrier that prevents them from being able to live in the neighborhood of their choice. It overlooks the continued prevalence of discrimination and segregation. To truly fulfill the AFFH mandate of the Fair Housing Act, HUD's regulation must address the lack of access to resources in communities that are not low-income. Moreover, HUD's 2025 AFFH IFR appears to allow actions on "safe" or "decent" housing to satisfy the AFFH requirement. That is, a jurisdiction could meet the requirements by simply passing habitability requirements without addressing residential segregation and equitable access to resources.

The IFR Fails to Provide Localities with a Meaningful Framework to Develop Thriving, Inclusive Communities

Although HUD Secretary Scott Turner stated that the previous AFFH rule was "crippling people from having the suburban American dream,"²⁵ HUD's 2025 IFR in fact fails to empower localities with a meaningful framework to develop healthy, thriving, and inclusive communities as the Fair Housing Act intended. This approach is grossly out of touch with the reality on the ground and will only worsen the fair and affordable housing crisis.

²⁴ HUD, Final Rule, *Restoring Affirmatively Further Fair Housing Definitions and Certifications*, 86 Fed. Reg. 30779 (June 10, 2021),

<https://www.federalregister.gov/documents/2021/06/10/2021-12114/restoring-affirmatively-furthering-fair-housing-definitions-and-certifications>.

²⁵ HUD Secretary Scott Turner, Interview on Fox Business, *Secretary Turner Repeals Biden AFFH 'Zoning Tax'* (Feb. 26, 2025), <https://www.youtube.com/watch?v=xzTT9cEM6fY>.

HUD's 2025 AFFH IFR is practically meaningless and provides no guidance to localities seeking to develop healthy, thriving, and inclusive communities. The 2025 AFFH IFR states:

*A HUD program participant's **certification** that it will affirmatively further fair housing is sufficient if the participant takes, in the relevant period, **any action that is rationally related** to promoting one or more attributes of fair housing as defined in section 5.150(a). Nothing in this paragraph relieves jurisdictions of their other obligations under civil rights and fair housing statutes and regulations.²⁶*

In addition, HUD's 2025 AFFH IFR defines "affirmatively further" as "any action **rationally related** to promoting any attribute or attributes of fair housing."²⁷

Thus, HUD's 2025 AFFH IFR forgoes any meaningful requirements or guidance for developing thriving, inclusive communities and instead issues a flimsy "certification" requirement, effectively gutting the rule. In contrast to the 2021 AFFH IFR's requirement of "meaningful action," this rule's "rational relationship" standard is a very low bar. Moreover, given the rule's definition of fair housing, the "certification" could be unrelated to overcoming segregation and creating healthy, thriving, and inclusive communities. Under this rule, localities will no longer be required to undertake any kind of fair housing planning. They will not be asked to consider any data, analysis, or public input on local patterns of segregation and disparities in access to community resources. Localities will not have to establish fair housing goals, chart a strategy for achieving them, or keep records that document those efforts. For example, a jurisdiction could perpetuate discrimination but hold a fair housing poster contest; that jurisdiction could then still "certify" that it met its AFFH obligations. Actions taken to perpetuate segregation would not be deemed to conflict with AFFH obligations.

Finally, HUD's 2025 AFFH IFR deletes the requirement for HUD to provide technical assistance to program participants at a time when jurisdictions want guidance.²⁸ Also, HUD will not monitor the program participants' performance, oversee their compliance with their fair housing obligations, or provide them with tools and resources to conduct the analysis. In other words, with this regulation, HUD has effectively abdicated its responsibility to ensure that its programs affirmatively further fair housing, as intended by Congress and interpreted by the courts. In the midst of this fair and affordable housing crisis, HUD has effectively abandoned the people of America and the promise of the American Dream of a safe, stable place to call home.

Responsible Localities Can Still Engage a Meaningful AFFH Planning to Develop Thriving, Inclusive Communities

To remedy the fair and affordable housing crisis, we encourage local communities to continue to engage in effective AFFH planning. With too many people living paycheck to paycheck, AFFH is critically important, opening the door for more people to live in healthy, viable, well-resourced neighborhoods with living wage jobs, clean air, safe water, high-performing schools, and affordable and accessible housing. (See [Appendix C](#) for a list of resources and AFFH success stories.)

²⁶ 24 C.F.R. § 5.151 (2025).

²⁷ 24 C.F.R. § 5.150 (2025).

²⁸ HUD, Final Rule, *Restoring Affirmatively Further Fair Housing Definitions and Certifications*, 86 Fed. Reg. 30779 (June 10, 2021),

<https://www.federalregister.gov/documents/2021/06/10/2021-12114/restoring-affirmatively-furthering-fair-housing-definitions-and-certifications>.

CONCLUSION

In a move that is grossly out of touch with the reality on the ground and voters' desire for housing solutions, HUD's 2025 AFFH IFR guts the Fair Housing Act and abandons the people of America during this fair and affordable housing crisis. Our strength as a nation depends on ensuring that all communities are safe, healthy, and thriving. HUD could have chosen to lead during this time of crisis, but instead chose to ignore its statutory mandate and this opportunity to help localities develop healthy, thriving, and inclusive communities. HUD's 2025 AFFH IFR is a step in the wrong direction, and will only hinder meaningful efforts to promote housing opportunity for all. NFHA and its allies call on HUD to immediately withdraw the 2025 AFFH Interim Final Rule and reinstate the 2021 AFFH Interim Final Rule.

Sincerely,

National Fair Housing Alliance

NATIONAL

Alliance for Housing Justice
Americans for Financial Reform Education Fund
Bazelon Center for Mental Health Law
Center for Law and Social Policy (CLASP)
Community Opportunity Alliance
Consumer Action
Consumer Federation of America
Disability Rights Advocates
Disability Rights Education and Defense Fund
Equal Rights Center
Grounded Solutions Network
Justice in Aging
JustLeadershipUSA
The Kelsey
The Leadership Conference on Civil and Human Rights
MHP
NAACP Legal Defense and Education Fund, Inc.
The National Coalition for Asian Pacific American Community Development (National CAPACD)
National Coalition for the Homeless
National Community Reinvestment Coalition
National Consumer Law Center (on behalf of its low-income clients)
National HIV/AIDS Housing Coalition
National Housing Law Project
National Low Income Housing Coalition
National Urban League
PolicyLink
Poverty & Race Research Action Council
Race Forward
The Redress Movement
Revolving Door Project
SAGE

Shriver Center on Poverty Law
Woodstock Institute

STATE/LOCAL

Alabama

Center for Fair Housing
Fair Housing Center of Northern Alabama
Housing Authority of the City of Dothan, AL

Arizona

William E. Morris Institute for Justice

California

Bay Area Legal Aid
Disability Right California
East Bay Housing Organizations
Fair Housing Advocates of Northern California
Fair Housing Council of Orange County
Housing and Economic Rights Advocates
Housing California
Housing Rights Center
People's Self-Help Housing
Project Sentinel, Inc.
Public Counsel
The Public Interest Law Project
Rise Economy
Townspeople
Western Center on Law and Poverty

Colorado

Colorado Health Foundation
The Dearfield Fund

Connecticut

Bridgeport Neighborhood Trust d/b/a Building Neighborhoods Together
Open Communities Alliance
Partnership for Strong Communities

Delaware

Housing Alliance Delaware

District of Columbia

Central American Resource Center
Washington Lawyers' Committee for Civil Rights and Urban Affairs

Florida

Fair Housing Center of the Greater Palm Beaches

Housing Opportunities Project for Excellence, Inc. (HOPE, Inc.)
Jacksonville Area Legal Aid

Georgia

Athens-Clarke County Continuum of Care
Georgia Advancing Communities Together, Inc.
Metro Fair Housing Services, Inc.
Savannah-Chatham County Fair Housing Council, Inc.

Idaho

Intermountain Fair Housing Council, Inc.

Illinois

Chicago Area Fair Housing Alliance
HOPE Fair Housing Center
Housing Action Illinois
Housing Choice Partners
South Suburban Housing Center

Indiana

Fair Housing Center of Central Indiana

Iowa

Iowa Coalition against Domestic Violence

Kentucky

Homeless and Housing Coalition of Kentucky
REBOUND, Inc.
River City Housing, Inc.

Louisiana

Clover NOLA
Louisiana Fair Housing Action Center

Maryland

Public Justice Center

Massachusetts

Boston Tenant Coalition
Grandmothers' Village Project, Inc.

Michigan

Fair Housing Center of West Michigan
Michigan Coalition Against Homelessness

Minnesota

Hearth Connection

HOME Line

Missouri

Community Partnership of the Ozarks
Empower Missouri

Nebraska

Nebraska Appleseed

New Jersey

Housing and Community Development Network of New Jersey
New Jersey Citizen Action
New Jersey Community Capital

New Mexico

Southwest Neighborhood Housing Services
United South Broadway Corporation

New York

ANHD
CNY Fair Housing
Fair Housing Justice Center, Inc.
Housing Opportunities Made Equal
Long Island Housing Services, Inc.
Westchester Residential Opportunities, Inc.

North Carolina

Disability Rights North Carolina
NC Housing Coalition

North Dakota

High Plains Fair Housing Center

Ohio

ABLE Advocates for Basic Legal Equality Inc.
Fair Housing Advocates Association
The Fair Housing Center
Fair Housing Center for Rights & Research
Fair Housing Resource Center
Horizon Housing Communities Development
Housing Opportunities Made Equal of Greater Cincinnati
Miami Valley Fair Housing Center, Inc.
Reinvest Toledo, Inc.
Sena Mourad Friedman Consulting

Oregon

CASA of Oregon

Fair Housing Council of Oregon
Housing Land Advocates
Housing Oregon

Pennsylvania

Fair Housing Rights Center in Southeastern PA
Housing Alliance of Pennsylvania
Housing Equality Center of Pennsylvania
NWCS, Inc.
Pittsburgh Community Reinvestment Group

Rhode Island

Rhode Island KIDS COUNT

Tennessee

Tennessee Fair Housing Council

Texas

The Samaritan Inn
Southern Dallas Progress Community Development Corporation
Texas Appleseed
Texas Housers

Virginia

Central VA Client Council
Legal Aid Justice Center
Virginia Housing Alliance

Washington

The Fair Housing Center of Washington
Northwest Fair Housing Center

Wisconsin

Metropolitan Milwaukee Fair Housing Council

The Administration's Actions Are Worsening the Fair Housing and Affordable Housing Crisis

The Trump administration, Elon Musk, and the so-called Department of Government Efficiency (DOGE) have engaged in a series of actions that are only worsening the fair and affordable housing crisis. The actions turn the basic definition of fairness and civil rights upside down to protect the powerful and undermine those merely seeking a fair opportunity to achieve the American Dream of a safe, stable place to call home.²⁹ These actions include:

Increasing housing costs for the average renter, buyer, or homeowner

- **Tariffs.** The administration increased the cost of housing supplies during the nation's fair and affordable housing crisis by imposing tariffs.³⁰ (first started on 2/13/2025)
- **Infrastructure Projects.** The administration delayed projects that improve communities by pausing the disbursement of funds appropriated through the Inflation Reduction Act or the Infrastructure Investment and Jobs Act.³¹ (1/20/2025)
- **Performative Actions.** The administration engaged in performative actions that will not lower costs, such as ordering agencies to deliver emergency housing price relief (without any authorization or funds to do so).³² (1/20/2025)
- **Tenant Protections.** In its capacity as conservator, the Federal Housing Finance Agency (FHFA) issued an order rescinding a Directive titled, "Aligned Policies on Multifamily Rental Payment Flexibility and Lease Notices," which required Fannie Mae and Freddie Mac to include certain tenant protections, such as rental payment flexibility and lease notices, as a condition of new multifamily financing.³³ (3/24/2025)
- **Consumer Protection.** In its capacity as conservator, FHFA issued an order rescinding guidance titled, "Advisory Bulletin No. 2024-06: Regulated Entity Unfair or Deceptive Acts or Practices Compliance," which articulated FHFA's expectations for the GSEs' and the FHLBanks' compliance with Section 5 of

²⁹ For more detail on how the administration's actions are hurting the renters and homeowners of America and practical solutions to address the fair and affordable housing crisis, see Testimony of Nikitra Bailey, EVP of NFHA, in a Hearing Titled, *Building Our Future: Increasing Housing Supply in America*, before the U.S. House Financial Services Subcommittee on Housing and Insurance (March 4, 2025),

<https://docs.house.gov/meetings/BA/BA04/20250304/117970/HHRG-119-BA04-Wstate-BaileyN-20250304.pdf>. See also

NFHA Press Release, *Fair Housing Month Begins Amid National Assault on Fair Housing* (April 3, 2025),

<https://nationalfairhousing.org/fair-housing-month-begins-amid-national-assault-on-fair-housing/>.

³⁰ See Keith Griffith, *Trump's Tariffs Are Expected to Raise New-Home Costs \$9,200*, Realtor.com (April 4, 2025),

<https://www.realtor.com/news/trends/trump-tariffs-new-home-prices-homebuilders/>; Erica York, *Trump Tariffs: Tracking the Economic Impact of the Trump Trade War*, Tax Foundation.org (Feb. 13, 2025),

<https://taxfoundation.org/research/all/federal/trump-tariffs-trade-war/>. See also Testimony of Buddy Hughes on Behalf of the National Association of Home Builders (NAHB Testimony), in a Hearing Titled, *Building Our Future: Increasing Housing Supply in America*, before the U.S. House Financial Services Subcommittee on Housing and Insurance (March 4, 2025),

<https://docs.house.gov/meetings/BA/BA04/20250304/117970/HHRG-119-BA04-Wstate-HughesB-20250304.pdf> (stating that supply chain instability and tariffs on imported materials continue to create uncertainty for builders).

³¹ Trump Administration, *Unleashing American Energy* (Jan. 20, 2025),

<https://www.whitehouse.gov/presidential-actions/2025/01/unleashing-american-energy/>.

³² Trump Administration, *Delivering Emergency Price Relief for American Families and Defeating the Cost-of-Living Crisis* (Jan. 20, 2025),

<https://www.whitehouse.gov/presidential-actions/2025/01/delivering-emergency-price-relief-for-american-families-and-defeating-the-cost-of-living-crisis/>.

³³ FHFA, *Order Rescinding Directive on Multifamily Lease Policies*, Order Nos. 2025-OR-FNMA-13, 2025-OR-FHLMC-13 (March 24, 2025), <https://x.com/pulte/status/1904282014582264283>.

the Federal Trade Commission Act, which prohibits unfair or deceptive acts or practices (UDAP).³⁴ (3/24/2025) Also, FHFA placed its UDAP examiners on administrative leave, which means that the regulator will no longer supervise Fannie Mae and Freddie Mac for compliance with the UDAP law.³⁵ Each of the federal financial regulators has long supervised its entities for compliance with UDAP, so this makes FHFA an outlier among the regulators and leaves average consumers without basic consumer protections.³⁶

- **GSE Privatization and Increased Lending Costs.** Administration officials have discussed privatizing Fannie Mae and Freddie Mac, allowing them to exit conservatorship, and making the government's stake in Fannie Mae and Freddie Mac the core assets for a sovereign wealth fund.³⁷ Experts predict that privatization is likely to cause interest rates to rise and rate-lock agreements to evaporate as the explicit government backstop is rolled back, driving up housing costs for middle-class families.³⁸ Moreover, NFHA advocated for policies to strengthen FHFA's fair lending oversight and ensure its compliance with the Fair Housing Act's AFFH obligation to make it possible for the agencies to responsibly exit conservatorship while serving the whole of the community. With these actions now being roll backed, the GSEs are likely to return to their abysmal levels of backing conventional loans for consumers of color.

Rolling back established fair housing rights for people with disabilities, women, families with children, victims of domestic violence and sexual harassment, people of color, people of faith, and others

- **Diversity, Equity, Inclusion, Accessibility.** The administration attacked basic civil rights protections under the guise of terminating "'diversity, equity, inclusion, and accessibility' (DEIA) mandates, policies, programs, preferences, [positions], and activities in the Federal Government."³⁹ (1/20/2025) These actions will undermine housing and credit opportunities for the consumers of America. NFHA, the National Urban League, and the AIDS Foundation of Chicago filed suit challenging these orders.⁴⁰

³⁴ FHFA, *Order Rescinding Advisory Bulletin No. 2024-06: Regulated Entity Unfair or Deceptive Acts or Practices Compliance*, Order Nos. 2025-OR-FNMA-2, 2025-OR-FHLMC-2, 2025-OR-B-2 (March 24, 2025), <https://x.com/pulte/status/1904283306603982858>.

³⁵ See Eric Katz, *Housing Agencies Begin Closing Offices, Escorting Employees Out*, Government Executive (March 19, 2025), <https://www.govexec.com/workforce/2025/03/housing-agencies-begin-closing-offices-escorting-employees-out/403903/>.

³⁶ See, e.g., Board of Governors of the Federal Reserve and Federal Deposit Insurance Corporation, *Unfair or Deceptive Acts or Practices by State-Chartered Banks* (March 11, 2004), <https://www.federalreserve.gov/boarddocs/press/bcreg/2004/20040311/attachment.pdf>.

³⁷ See Scott Carpenter, *Fannie, Freddie Speculation Mounts on Bessent Remark on Sovereign Wealth Fund*, Yahoo Finance (March 21, 2025), https://finance.yahoo.com/news/fannie-freddie-speculation-mounts-bessent-201258581.html?guccounter=1&guce_referrer=aHR0cHM6Ly93d3cuZ29vZ2xlLnVnbS8&guce_referrer_sig=AQAAANzWg0J7ZwFD7wzBlupN-qLmHdu6u0y35TNsJ7ulZEsHsUUCj5SKq7NY8XvTvpfgf83vSzoF8fGA3-9eWII6u5vly9Mu0tN-FfPyCiUPkhqz6E7FO8VpC3GZtHcqq6HrShv3sz_np6BBzHfpmB29QWi3U9ENw_sTBqfNWuSQc0hJ; Trump Administration, *A Plan for Establishing A United States Sovereign Wealth Fund* (Feb. 3, 2025), <https://www.whitehouse.gov/presidential-actions/2025/02/a-plan-for-establishing-a-united-states-sovereign-wealth-fund/>.

³⁸ See Ronda Kaysen, *What Will It Mean for Homebuyers If Fannie Mae and Freddie Mac Go Private*, N.Y. Times (April 2, 2025), <https://www.nytimes.com/2025/03/26/realestate/fannie-mae-freddie-mac-loans-pulte.html>.

³⁹ Trump Administration, *Ending Radical and Wasteful DEI Programs and Preferencing* (Jan. 20, 2025), <https://www.whitehouse.gov/presidential-actions/2025/01/ending-radical-and-wasteful-government-dei-programs-and-preferencing/>.

⁴⁰ See NFHA Press Release, *Civil and Human Rights Organizations Sue Trump Administration Over Executive Orders Banning Diversity, Equity, Inclusion, Accessibility, and Erasing Transgender People* (Feb. 19, 2025), <https://nationalfairhousing.org/civil-and-human-rights-organizations-sue-trump-administration-over-executive-orders-banning-diversity-equity-inclusion-accessibility-and-erasing-transgender-people/>. See also, NFHA Press Release, *Elimination of Federal Diversity, Equity, and Inclusion Programs Threatens Economic Stability and National Security* (Jan. 22, 2025), <https://nationalfairhousing.org/elimination-of-federal-diversity-equity-and-inclusion-programs-threatens-economic-stability-and-national-security/>.

- Fair Housing Grants. HUD/DOGE canceled nearly half of the signed grant agreements of local fair housing organizations assisting people with disabilities, seniors, families with children, victims of domestic violence, and others in dire situations that all rely on these vital services to ensure they have safe, affordable, and accessible homes.⁴¹ (2/27/2025) NFHA members have filed suit against HUD and DOGE challenging the unlawful cancellation of the grants, which have received bipartisan support for decades.⁴² Some grants have been restored, but the future of these grants remains unclear.
- HUD Complaint Portal. Under the Fair Housing Act, HUD is required to provide a means for the members of the public to submit complaints of housing discrimination for administrative investigation and adjudication.⁴³ However, HUD will now only accept housing discrimination complaints submitted through its online portal. Complaints will no longer be accepted via email, mail, telephone, or in-person submissions. Additionally, regional hotlines, intake numbers (available in both English and Spanish), and email addresses previously used for filing complaints have been discontinued. (3/15/2025) These changes are likely to severely impede the ability of people with disabilities, people with limited English proficiency, and people with limited internet access to secure their right to fair housing.
- Federal Lands. HUD and the Department of Interior created a Joint Task Force on Federal Land for Housing to identify federal lands for affordable housing.⁴⁴ (3/17/2025) HUD has rescinded meaningful regulations to affirmatively further fair housing, so there is no framework to ensure that the affordable housing developments will be part of inclusive, thriving communities with good jobs, schools, and transportation or will further isolate the people who need access to affordable housing.
- Appraisal Modernization. In May of 2024, Fannie Mae, Freddie Mac, and HUD's FHA published requirements for a consumer-initiated Reconsideration of Value (ROV) that promotes consistency for all consumers when a perceived appraisal issue and/or appraisal deficiency exists, including potential appraisal discrimination.⁴⁵ Generally, industry supported these standards to ensure fair and consistent treatment of consumers and decrease industry liability.⁴⁶ On March 19, 2025, HUD's FHA rescinded its policies that clarified the application of the Fair Housing Act to appraisal discrimination and established standards for FHA lenders to follow in connection with a consumer's request Reconsideration of Value (ROV).⁴⁷ (3/19/2025) This will make it harder for consumers to access the full equity of their homes.
- Special Purpose Credit Programs (SPCP)/Down Payment Assistance. In its capacity as conservator, FHFA issued an order requiring Fannie Mae and Freddie Mac to "terminate SPCP Programs supported by the Enterprises."⁴⁸ (3/25/2025) SPCP's are authorized by law under the Equal Credit Opportunity Act

⁴¹ See Rachel Siegel, *HUD Cuts Might Hamper Government Efforts to Stop Housing Discrimination*, Washington Post (April 6, 2025), <https://www.washingtonpost.com/business/2025/04/06/fair-housing-enforcement-hud-cuts/>; Jennifer Ludden, *HUD Choked Funding to Enforce Fair Housing Laws. Legal Aid Groups May Not Survive*, NPR (March 15, 2025), <https://www.npr.org/2025/03/15/nx-s1-5325936/hud-funding-fair-housing-laws-legal-aid-groups-scott-turner>.

⁴² NFHA Press Release, *Relman Colfax and Fair Housing Advocates Ask Court to Halt HUD's and DOGE's Termination of Grants to Fight Housing Discrimination* (March 13, 2025), <https://nationalfairhousing.org/national-fair-housing-alliance-applauds-court-decision-halting-huds-and-doges-termination-of-grants-to-fight-housing-discrimination/>.

⁴³ 42 U.S.C. § 3610.

⁴⁴ HUD, *HUD Secretary Scott Turner and DOI Secretary Doug Burgum Announce Joint Task Force to Use Federal Lands for Affordable Housing* (March 17, 2025), <https://www.hud.gov/news/hud-no-25-042>.

⁴⁵ Fannie Mae Selling Guide Announcement, SEL-2024-03 (May 1, 2024), <https://singlefamily.fanniemae.com/media/39081/display>; Freddie Mac Single Family Bulletin, 2024-06 (May 1, 2024), https://guide.freddiemac.com/ci/okcsFattach/get/1009248_7.

⁴⁶ Joint Letter from the Housing Policy Council, industry, and advocates to FHFA re Uniform Reconsideration of Value Process (May 30, 2023), https://www.housingpolicycouncil.org/files/ugd/d315af_3d4ec6debc9c4d5f8d84f26fccf9bad.pdf.

⁴⁷ HUD, *Rescinding Multiple Appraisal Policy Related Mortgagee Letters*, Mortgagee Letter 2025-08 (March 19, 2025), <https://www.hud.gov/sites/default/files/OCHCO/documents/2025-08hsgml.pdf>.

⁴⁸ FHFA, *Order Issuing Directive to Terminate Special Purpose Credit Programs*, Decision No. 2025-145 (March 25, 2025), https://x.com/pulte/status/1904621959213965690?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Etweet.

and Regulation B.⁴⁹ This order does not (and cannot) ban lenders' ability to originate SPCPs but will severely restrict liquidity for SPCPs, which typically overcome historic barriers to homeownership by providing down payment assistance for certain underserved geographic areas.

- **Fannie Mae/Freddie Mac Equitable Housing Finance Plans:** In its regulatory capacity, FHFA issued a regulatory waiver of the requirements for Fannie Mae, Freddie Mac, and the Federal Home Loan Banks (GSEs) to submit and publish Equitable Housing Finance Plans.⁵⁰ (3/25/2025) FHFA finalized the regulation for the Equitable Housing Finance Plans in 2024.⁵¹ The waiver does not require the GSEs to stop any of the initiatives started in connection with the Plans (e.g., appraisal modernization), except for SPCPs, but severely restricts the transparency and accountability needed for the public to determine whether the GSE's are fulfilling their statutory mandate to serve the whole of the housing market.
- **REO Repairs.** In its capacity as conservator, FHFA issued an order requiring Fannie Mae to end its "Repair All" strategy for its REO inventory and to return to a portfolio neutral approach.⁵² (3/25/2025) This raises questions about whether Fannie Mae will repair homes in communities of color or create blight and drive down prices in certain communities. NFHA and local fair housing groups had previously sued Fannie Mae, Freddie Mac, and several lenders to ensure equal maintenance and marketing of REO homes in compliance with the Fair Housing Act.⁵³
- **Vacated Redlining Settlement.** The Consumer Financial Protection Bureau (CFPB) and a defendant (Townstone Financial) in a landmark redlining case upheld by the Seventh Circuit filed with the court to vacate the settlement and refund the civil penalty to the defendant.⁵⁴ (3/26/2025) This approach sent the message that the federal government will no longer protect communities who are unfairly denied access to credit. NFHA and a coalition of civil rights and consumer advocates filed an amicus brief opposing this unprecedented move.⁵⁵
- **Disparate Impact.** HUD has been instructed to further undermine people's fair housing rights by disregarding the longstanding theory of disparate impact liability,⁵⁶ even though this theory was upheld by the Supreme Court in 2015.⁵⁷ (4/23/2025)

⁴⁹ 15 U.S.C. § 169(c); 12 C.F.R. § 1002.8.

⁵⁰ FHFA, *Regulatory Waiver of Enterprise Equitable Housing Finance Planning Requirements*, 2025-W-4 (March 25, 2025), <https://x.com/pulte/status/1904633180604481753>.

⁵¹ 12 C.F.R. Part 1293.

⁵² FHFA, *Order Issuing Directive Terminating "Repair All" REO Strategy*, Decision No. 2025-144 (March 25, 2025), https://x.com/pulte/status/1904621815563215008?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Etweet.

⁵³ NFHA Press Release, *NFHA Reaches Historic Settlement with Fannie Mae* (Feb. 7, 2022), <https://nationalfairhousing.org/nfha-reaches-historic-settlement-with-fannie-mae/>.

⁵⁴ Consumer Federal of America, *By Vacating Townstone, the CFPB Prolongs Its March Madness* (March 28, 2025), <https://consumerfed.org/by-vacating-townstone-the-cfpb-prolongs-its-march-madness/>.

⁵⁵ NFHA Press Release, *Civil Rights and Consumer Protection Groups Urge Court to Reject the Trump Administration's Unprecedented Attempt to Abandon Redlining Settlement with Townstone Financial, Inc.* (April 7, 2025), <https://nationalfairhousing.org/civil-rights-and-consumer-protection-groups-urge-court-to-reject-the-trump-administrations-unprecedented-attempt-to-abandon-redlining-settlement-with-townstone-financial-inc/>.

⁵⁶ Trump Administration, *Restoring Equality of Opportunity and Meritocracy* (April 23, 2025), <https://www.whitehouse.gov/presidential-actions/2025/04/restoring-equality-of-opportunity-and-meritocracy/>.

⁵⁷ *Texas Department of Housing and Community Affairs v. Inclusive Communities Project*, 576 U.S. 519 (2015).

Rolling back established rights for LGBTQ+ individuals

- **Sexual Orientation/Gender Identity.** The administration terminated LGBTQ+ people's rights by limiting the definition of "sex" to two unchangeable sexes (male and female).⁵⁸ (1/20/2025) NFHA, the National Urban League, and the AIDS Foundation of Chicago filed suit challenging this order.⁵⁹
- **Equal Access Rule.** HUD issued an order to halt any pending or future enforcement actions related to HUD's 2016 Equal Access Rule,⁶⁰ which ensured equal access to HUD-assisted or HUD-insured housing without regard to actual or perceived sexual orientation, gender identity, or marital status. In the announcement, HUD Secretary Scott Turner stated that this approach "means getting the government out of the way of what the Lord established from the beginning when he created man in His own image."⁶¹ (2/7/2025) HUD also has a proposed rule regarding the Equal Access Rule, which is pending at OMB and which could further erode the housing protections for LGBTQ+ people.

Rolling back established rights for immigrants

- **HUD/ICE Collaboration.** HUD and the Department of Homeland Security (DHS) entered into a Memorandum of Understanding to collaborate to identify undocumented immigrants who are ineligible for Federal housing assistance and take remedial actions, including referral for immigration enforcement action.⁶² (3/24/2025) These and other DHS actions are designed to use agency data to target immigrants and erode their feeling of safety and security in their homes.
- **FHA Mortgages for DACA Recipients.** HUD eliminated the non-permanent resident category from FHA's Single Family Title I and Title II programs (which applied to DACA, pending asylum, pending refugee status, and H1-B immigrants).⁶³ (3/26/2025) Although HUD's Press Release framed this action as preventing undocumented immigrants from accessing FHA mortgage benefits, FHA has never allowed undocumented immigrants to access those loans. In fact, the non-permanent resident category was established under HUD Secretary Ben Carson, who was appointed by the Trump Administration.⁶⁴
- **USDA Loans for Non-Citizens:** USDA rescinded its policy that provided temporary eligibility for non-Citizens with social security numbers and work authorization to apply for its Single Family Housing Guaranteed Loan Program.⁶⁵ (3/18/2025) The temporary eligibility was provided in 2022 because the existing categories of eligible immigration statuses did not include some categories of immigrants who were authorized to live and work in the United States.

⁵⁸ Trump Administration, *Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government* (Jan. 20, 2025),

<https://www.whitehouse.gov/presidential-actions/2025/01/defending-women-from-gender-ideology-extremism-and-restoring-biological-truth-to-the-federal-government/>.

⁵⁹ See NFHA Press Release, *Civil and Human Rights Organizations Sue Trump Administration Over Executive Orders Banning Diversity, Equity, Inclusion, Accessibility, and Erasing Transgender People* (Feb. 19, 2025),

<https://nationalfairhousing.org/civil-and-human-rights-organizations-sue-trump-administration-over-executive-orders-banning-diversity-equity-inclusion-accessibility-and-erasing-transgender-people/>. See also, NFHA Press Release, *Elimination of Federal Diversity, Equity, and Inclusion Programs Threatens Economic Stability and National Security* (Jan. 22, 2025), <https://nationalfairhousing.org/elimination-of-federal-diversity-equity-and-inclusion-programs-threatens-economic-stability-and-national-security/>.

⁶⁰ 24 C.F.R. § 5.106.

⁶¹ HUD, *Secretary Scott Turner Halts Enforcement Actions of HUD's Gender Identity Rule* (Feb. 7, 2025), https://www.hud.gov/press/press_releases_media_advisories/hud_no_25_026.

⁶² HUD, *HUD Secretary Scott Turner, DHS Secretary Kristi Noem Establish Partnership to End Illegal Alien Exploitation of Housing Programs* (March 24, 2025), https://www.hud.gov/press/press_releases_media_advisories/hud_no_25_046.

⁶³ HUD, *HUD Cracks Down on Government-Backed Mortgages for Illegal Immigrants* (March 26, 2025), <https://www.hud.gov/news/hud-no-25-048>.

⁶⁴ See FHA, *Eligibility Requirements for Certain Non-Permanent Resident Borrowers*, Mortgagee Letter 2021-12 (May 28, 2021), <https://www.hud.gov/sites/dfiles/OCHCO/documents/2021-12hsgml.pdf>

⁶⁵ USDA, *Retraction of Non-U.S. Citizen Eligibility* (March 18, 2025), <https://content.govdelivery.com/accounts/USDARD/bulletins/3d79381>.

Ignoring the threat to local communities from climate change

- Green and Resilient Retrofit Program. HUD terminated the \$1 billion Green and Resilient Retrofit Program, which would have made HUD-assisted multifamily properties safer from natural disasters.⁶⁶ (3/12/2025) Congress had approved the Green and Resilient Retrofit Program in 2022 as part of the Inflation Reduction Act, which included major investments in climate resilience.
- Community Development Block Grant – Disaster Recovery (CDBG-DR). HUD removed requirements that grantees perform fair housing assessments and certify compliance with the Fair Housing Act and other federal civil rights law when administering \$12 billion in long-term disaster recovery funding.⁶⁷ (3/19/2025). CDBG-DR is the only federal long-term disaster recovery program and provides critical funds for housing repair and reconstruction in disaster-impacted communities across the country. These harmful changes undermine policies that were developed with direct input from disaster survivors across the nation and will make it harder for federal recovery resources to reach those most in need.
- Climate-Related Risk Management. In its capacity as conservator, FHFA issued an order rescinding FHFA's previously-issued guidance that required Fannie Mae and Freddie Mac to integrate a climate-related risk management framework into its existing enterprise risk management framework.⁶⁸ (3/25/2025)

Eviscerating key agencies that provide people with access to fair and affordable housing

- DOJ Civil Rights Division Employees. DOJ suspended many of the activities of the Civil Rights Division and reassigned leadership to prosecute officials from sanctuary cities that protect immigrants.⁶⁹ (1/31/2025)
- CFPB Employees. CFPB/DOGE suspended the agency's activities and staff, including its ability to fully enforce the Equal Credit Opportunity Act and other consumer protection laws.⁷⁰ (2/10/2025)
- Fannie Mae and Freddie Mac Boards. FHFA Director Bill Pulte has fired a total of 14 members of the 25 board members at Fannie Mae and Freddie Mac; installed himself as chair of both boards (in violation of law); installed FHFA's General Counsel, Clinton Jones, as a member on both boards; and fired Fannie Mae's entire audit committee.⁷¹ (3/17/2025)
- FHFA Employees on Administrative Leave. FHFA placed employees of the following sections on administrative leave (likely as a precursor to a Reduction in Force): Division of Public Interest

⁶⁶ Ashleigh Fields, *Trump Administration Halting \$1B Affordable Housing Preservation Program*, The Hill (March 12, 2025), <https://thehill.com/homenews/administration/5190958-hud-billion-green-resilient/>.

⁶⁷ HUD, *Waivers and Alternative Requirements for Community Development Block Grant Disaster Recovery Grantees* (March 19, 2025), <https://www.hud.gov/sites/default/files/CPD/documents/CPDUniversalnotice.pdf>. See also, National Low Income Housing Coalition, *Statement on CDBG-DR Universal Notice Modifications* (March 21, 2025), <https://nlihc.org/resource/nlihc-statement-cdbg-dr-universal-notice-modifications>.

⁶⁸ FHFA, *Order Rescinding Advisory Bulletin 2024-01: Climate-Related Risk Management*, 2025-OR-FNMA-4, 2025-OR-FHLMC-4 (March 25, 2025),

https://x.com/pulte/status/1904618898537750553?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Etweet.

⁶⁹ Chloe Atkins and Daniel Barnes, *Trump Is Reversing the Justice Department's Civil Rights Policies*, NBC News (Jan. 31, 2025), <https://www.nbc.com/2025/02/28/cfpb-leaders-and-elon-musk-doge-planned-to-fire-nearly-all-staff.html>.

⁷⁰ Chris Megerian, *Secrecy Preceded the Shutdown of The Consumer Protection Agency's Washington Headquarters*, AP (Feb. 10, 2025),

<https://apnews.com/article/cfpb-trump-musk-doge-7a62161f4ed6faf43ec62075b5844e57#:~:text=Vought's%20message%20followed%20one%20on.debts%2C%20compensation%20and%20reduced%20loans>.

⁷¹ Rachel Siegel, *Trump Team Shakes Up Mortgage Giants As It Weighs Their Futures*, Washington Post (March 19, 2025), <https://www.washingtonpost.com/business/2025/03/18/fannie-mae-freddie-mac-fhfa-overhaul-mortgage/>. Lew Sichelman, *Pulte Cleans House at GSEs*, National Mortgage Professional (March 18, 2025), <https://nationalmortgageprofessional.com/news/pulte-cleans-house-gses>.

Examinations (fair lending, UDAP, and consumer protection), Division of Accounting and Standards, Division of Research and Statistics, and Office of Minority and Women Inclusion.⁷² (3/18/2025) The Office of Minority and Women Inclusion is required by statute and was moved to FHFA's Equal Employment Opportunity Office, whose employees were also placed on administrative leave.

- **Fannie Mae and Freddie Mac Employees:** FHFA fired most of the officers and staff in the Office of Minority and Women Inclusion at Fannie Mae and Freddie Mac; and Freddie Mac's CEO, COO, and head of HR.⁷³ (3/18/2025)
- **HUD Employees and Field Offices:** A memo from HUD Secretary Turner gave notice to the employee union about cutting all GS-13 staff within the Office of Field Policy and Management; this appeared to be a step toward closing field offices and cutting HUD staff by 50 percent. In addition, it was reported that HUD plans cut up to 75 percent of staff within the Office of Fair Housing and Equal Opportunity (FHEO), which is responsible for carrying out HUD's legal obligations under the Fair Housing Act and other civil rights laws.⁷⁴

Jeopardizing people's data privacy and protections from unfair algorithms

- **Unfair Algorithms.** The administration rescinded the federal government's framework for responsible artificial intelligence (AI) and unleashed AI and other automated systems to experiment on the people of America in housing and financial services without the guardrails of a safe, secure, and trustworthy auditing framework.⁷⁵ (1/20/2025)
- **Personal Data.** Without security clearances or training, Elon Musk and DOGE gained access to the personal, confidential data of the people of America through government databases.⁷⁶ For example, DOGE gained access to HUD's Enforcement Management System, or HEMS, which contains medical records, financial files, Social Security numbers, medical details, and addresses of domestic violence survivors. (2/26/2025)

⁷² See Eric Katz, *Housing Agencies Begin Closing Offices, Escorting Employees Out*, Government Executive (March 19, 2025), <https://www.govexec.com/workforce/2025/03/housing-agencies-begin-closing-offices-escorting-employees-out/403903/>.

⁷³ Katy O'Donnell, *Housing Regulator in Upheaval as Executives, Employees Put on Leave*, Politico (March 20, 2025), <https://www.politico.com/news/2025/03/20/employees-placed-on-leave-at-top-housing-regulator-00240298>.

⁷⁴ Rachel Siegel, *HUD Cuts Might Hamper Government Efforts to Stop Housing Discrimination*, Washington Post (April 6, 2025), <https://www.washingtonpost.com/business/2025/04/06/fair-housing-enforcement-hud-cuts/>.

⁷⁵ Trump Administration, *Initial Rescissions of Harmful Executive Orders and Actions* (Jan. 20, 2025), <https://www.whitehouse.gov/presidential-actions/2025/01/initial-rescissions-of-harmful-executive-orders-and-actions/>. For more information on Responsible AI, see NFHA Press Release, *NFHA Outlines Key Considerations for OSTP Director Michael Kratsios* (April 1, 2025), <https://nationalfairhousing.org/national-fair-housing-alliance-outlines-key-considerations-for-ostp-director-michael-kratsios/>.

⁷⁶ Jesse Coburn, *DOGE Gains Access to Confidential Records on Housing Discrimination, Medical Details - Even Domestic Violence*, ProPublica (Feb. 26, 2025), <https://www.propublica.org/article/doge-elon-musk-hud-housing-discrimination-privacy-domestic-violence>.

HUD's 2025 AFFH IFR Overturns Clear Congressional Intent, Decades of Case Law, and Meaningful Regulations

HUD's 2025 AFFH IFR overturns clear congressional intent, decades of case law, and meaningful regulations; and abandons the people of America during a fair and affordable housing crisis. Below is a partial history of the AFFH Provision of the Fair Housing Act showing HUD's clear obligation to help localities develop thriving, inclusive communities.⁷⁷

1968

Early in 1968, the Kerner Commission warned that discriminatory practices and inequities were producing “two societies, one black, one white—separate and unequal.”⁷⁸ The Commission found that “residential segregation and unequal housing and economic conditions” were central to this “deepening racial division.”

Later in 1968, after the horrific assassination of Dr. Martin Luther King, Jr., Congress passed the **Fair Housing Act**⁷⁹ and declared that it is “the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States.”⁸⁰ According to one of its co-authors, Senator Walter Mondale (D-MN), the Act's goal was to secure “truly integrated and balanced living patterns” for all Americans.⁸¹ The Act's other co-author, Senator Edward Brooke (R-MA), declared that without passage of the Fair Housing Act, people would suffer from “the awful impact of blighted neighborhoods, inadequate schools, and lack of job opportunity.”⁸² He went on to state that America's future lies in the “elimination of compulsory segregation in housing, education, and employment.”⁸³

In addition to the non-discrimination requirements, Congress specifically included in the Fair Housing Act a requirement for HUD to use its programs to “**affirmatively further**” **fair housing**. The law states:

All executive departments and agencies shall administer their programs and activities relating to housing and urban development (including any Federal agency having regulatory or supervisory authority over financial

⁷⁷ See NFHA, *Key AFFH Milestones* (Jan. 19, 2023), <https://nationalfairhousing.org/wp-content/uploads/2023/01/Key-AFFH-Milestones-1-19-23.pdf>; PolicyLink, *Designing Our Just Housing Futures Affirmatively Furthering Fair Housing (AFFH) Public Comment Guide* (2023), <https://www.policylink.org/resources-tools/affh-full-comment-guide>; Poverty and Race Research Action Council, *HUD Repeal of Grantee Duty to Further Fair Housing* (Aug. 7, 2020), <https://www.prrac.org/wp-content/uploads/2020/07/PRRAC-Memorandum-re-2020-Repeal-of-HUD-AFFH-Requirement.pdf>.

⁷⁸ *Tex. Dep't of Hous. & Cmty. Affairs v. Inclusive Cmty. Project, Inc.*, 576 U.S. 519, 529 (2015) (quoting *Report of the National Advisory Commission on Civil Disorders* 91 (1968)).

⁷⁹ 42 U.S.C. §§ 3601-3619.

⁸⁰ 42 U.S.C. § 3601.

⁸¹ See *Otero v. New York City Hous. Auth.*, 484 F.2d 1122, 1134 (2d Cir. 1973) (quoting 114 Cong. Rec. 3422).

⁸² See Sen. Edward Brooke on Fair Housing Act of 1968 – Congressional Record (1968), Congressional Black Caucus Foundation,

<https://avoice.cbcbfinc.org/exhibits/fair-housing/attachment/sen-edwardbrooke-on-fair-housing-act-of-1968-congressional-record-1968-2/>.

⁸³ *Id.*

*institutions) in a manner **affirmatively to further** the purposes of this subchapter and shall cooperate with the Secretary [of Housing and Urban Development] to further such purposes.*⁸⁴

With this provision, Congress expressed its clear intent for HUD to expand housing opportunity for everyone by (1) ending housing discrimination and (2) dismantling housing segregation.

Generally, the AFFH provision of the Fair Housing Act ensures that cities, counties, public housing agencies, regions, and states are proactively pursuing housing and other policies that connect all residents to the resources they need to succeed. The AFFH duty extends to all of a program participant's activities and programs related to housing and urban development. More specifically, the **following entities are subject** to the AFFH provision:

- States, local governments, and insular areas that receive federal funds and are required to submit consolidated plans for the following programs:
 - Community Development Block Grant (CDBG)
 - Emergency Solutions Grants (ESG)
 - Home Investment Partnerships (HOME)
 - Housing Opportunities for Persons with AIDS (HOPWA)
 - National Housing Trust Fund
- Public housing authorities receiving assistance under Sections 8 (Housing Choice Vouchers) or 9 (Public Housing) of the US Housing Act of 1937.

In addition, **all federal agencies administering programs and activities relating to housing and urban development are subject** to the duty to affirmatively further fair housing under the Fair Housing Act, including the following:

- HUD and all offices under HUD (such as the Office of Fair Housing and Equal Opportunity)
- Consumer Financial Protection Bureau
- Department of Agriculture
- Department of Education
- Department of Health and Human Services
- Department of Justice
- Department of Labor
- Department of Transportation
- Department of Treasury
- Environmental Protection Agency
- Federal Housing Finance Agency

1970

For decades, **courts** have held that the AFFH obligation imposes a duty on HUD and its grantees to affirmatively further the purposes of the Fair Housing Act. These courts have held that funding recipients, to meet their AFFH obligations, must, at a minimum, ensure that they make decisions informed by preexisting racial and socioeconomic residential segregation. The courts have further held that, informed by such

⁸⁴ 42 U.S.C. § 3608(d).

information, funding recipients must strive to dismantle historic patterns of racial segregation; preserve integrated housing that already exists; and otherwise take meaningful steps to further the Fair Housing Act's purposes beyond merely refraining from taking discriminatory actions and banning others from such discrimination.

In 1970, in the case of ***Shannon v. HUD***, the U.S. Court of Appeals for the Third Circuit held that HUD is obligated to “utilize some institutionalized method whereby, in considering site selection or type selection, it has before it the relevant racial and socio-economic information necessary for compliance with its duties” under the Fair Housing Act.⁸⁵ The court further held that any HUD discretion must be exercised to not just prevent discrimination in housing, but to align the federal government “in favor of fair housing.”⁸⁶ It follows that, where HUD delegates decision-making responsibility to its grantees, HUD grantees must likewise gather and consider relevant information such as racial and socioeconomic segregation in housing to inform decisions that will foster integration and not further perpetuate segregation.

Also in 1970, HUD Secretary Romney ordered HUD officials to enforce AFFH by rejecting applications for infrastructure projects in jurisdictions where local policies upheld segregation. President Nixon intervened to stop this effort and **Secretary Romney resigned**.⁸⁷

1973

In 1973, in the case of ***Otero v. New York City Housing Authority***, the U.S. Court of Appeals for the Second Circuit held that the obligation to AFFH requires that “[a]ction must be taken to fulfill, as much as possible, the goal of open, integrated residential housing patterns and to prevent the increase of segregation, in ghettos, of racial groups whose lack of opportunity the Act was designed to combat.”⁸⁸ The court further held that, to accomplish this goal, HUD and funding recipients must take into account the socioeconomic and demographic makeup of the neighborhoods they govern, reasoning that “the affirmative duty placed on the Secretary of HUD by § 3608(e)(5) and through him on other agencies administering federally-assisted housing programs also requires that consideration be given to the impact of proposed public housing programs on the racial concentration in the area in which the proposed housing is to be built.”⁸⁹

1974

Congress has repeatedly confirmed its view that the AFFH mandate imposes affirmative obligations on HUD funding recipients. In 1974, Congress passed the **Housing and Community Development Act of 1974**, which established the **Community Development Block Grant (CDBG)** program.⁹⁰ Among the objectives of the CDBG program are “the reduction of the isolation of income groups within communities and geographical areas and the promotion of an increase in the diversity and vitality of neighborhoods through the spatial deconcentration of housing opportunities for persons of lower income and the revitalization of deteriorating or deteriorated

⁸⁵ *Shannon v. United States Dep't of Hous. & Urban Dev.*, 436 F.2d 809, 821 (3d Cir. 1970).

⁸⁶ *Id.* at 819-20.

⁸⁷ See Nikole Hannah-Jones, *Living Apart: How the Government Betrayed a Landmark Civil Rights Law*, ProPublica (June 25, 2015), <https://www.propublica.org/article/living-apart-how-the-government-betrayed-a-landmark-civil-rights-law>; Poverty and Race Research Action Council, *George Romney, Richard Nixon, and the Fair Housing Act of 1968* (2007), <https://www.prrac.org/pdf/RoismanHistoryExcerpt.pdf>

⁸⁸ *Otero v. New York City Housing Auth.*, 484 F.2d 1122, 1134 (2d Cir. 1973).

⁸⁹ *Id.* at 1133-34.

⁹⁰ Pub. L. 93-383 (August 22, 1974); 88 Stat. 633 (the “1974 HCDA”); 42 U.S.C. § 5304(b)(2).

neighborhoods.”⁹¹ Under the statute as enacted, this objective and others were to be accomplished through the adoption by participating jurisdictions of a “housing assistance plan.”

Under the regulations that HUD later issued for the program, a participating jurisdiction was required to adopt a “community development plan summary” and housing assistance plan which took into account “any special needs found to exist in any identifiable segment of the total group of lower income persons in the community.” The rule was clear that the objective of these requirements was to promote “greater choice of housing opportunities and avoiding undue concentrations of assisted persons in areas containing a high proportion of low-income persons.”⁹² The obligation to develop written documentation reflecting affirmative fair housing duties was reinforced by the new rule’s performance review standards for equal opportunity.

1983

During the late 1970s and early 1980s, Congress grew dissatisfied with HUD’s administration of the CDBG program. Among the concerns was HUD’s failure to require participating jurisdictions to “affirmatively further fair housing opportunities.” Concerned that HUD was “intransigent” in this and other matters, Congress amended the **CDBG statute** to require participating jurisdictions to certify in annual applications for funding that “the grantee will affirmatively further fair housing.”⁹³

Congress’ intent was clear:

*The Committee is concerned that the proposed CDBG regulations did not stress enough the responsibility for CDBG recipient communities to affirmatively further fair housing opportunities, so it has amended the statute to clarify that responsibility for both entitlement and non-entitlement communities. It is expected that regulations issued by the Department will provide clear guidance as to this responsibility in compliance with the Committee’s intent.*⁹⁴

The concept of an Analysis of Impediments to fair housing choice had its origin in HUD’s implementation of the 1983 statutory changes.

1987

In 1987, in the case of **NAACP, Boston Chapter v. HUD**, the U.S. Court of Appeals for the First Circuit found that the AFFH mandate requires, “as a matter of language and of logic” that HUD and its funding recipients do more than refrain from discrimination.⁹⁵ The case involved a claim that HUD and Boston officials knew the city’s neighborhoods and housing were racially segregated, yet they failed to utilize the “immense leverage” of federal funds to “provide desegregated housing so that the housing stock is sufficiently large to give minority

⁹¹ Pub. L. 93-383, §101(c)(6), 88 Stat. 634, enacting 42 U.S.C. § 5301(b)(6).

⁹² See 39 Fed. Reg. 40136, 40138 (November 13, 1974) (promulgating 24 C.F.R. §570.3(j); definition of “identifiable segment of the total group of lower income persons in the community”); and 39 Fed. Reg. 40144 (24 C.F.R. §570.303; components of housing assistance plan).

⁹³ See H. Rep. Rpt. 98-123 (May 13, 1988), p. 2. See also Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98-181 (November 30, 1983), 97 Stat. 1162 (amending 42 U.S.C. §5304(b)(2) to add affirmatively furthering fair housing as a compliance requirement) and 97 Stat. 1166 (adding 42 U.S.C. §5306(d)(5)(B) to impose the AFFH certification requirement).

⁹⁴ H. Rep. Rpt. 98-123, p. 12.

⁹⁵ **NAACP, Boston Chapter v. HUD**, 817 F.2d 149, 154 (1st Cir. 1987).

families a true choice of location.”⁹⁶ The court held that HUD’s obligation to AFFH requires that “HUD do more than simply not discriminate itself”; rather, HUD must “use its grant programs to assist in ending discrimination and segregation, to the point where the supply of genuinely open housing increases.”⁹⁷ The court explained that to carry out this AFFH obligation effectively, HUD and its grantees must “consider the effect of a HUD grant on the racial and socio-economic composition of the surrounding area,” including historical patterns of segregation.⁹⁸

1990

In 1990, Congress made significant changes to community development programs with the passage of the **Cranston-Gonzalez National Affordable Housing Act** (NAHA).⁹⁹ NAHA repealed the CDBG program’s housing assistance plan requirements and replaced it with a “comprehensive housing affordability strategy” (CHAS) requirement. The AFFH certification requirement remained a feature of the CDBG statute, and identical certification standards were made part of the CHAS. NAHA also authorized the **HOME Investment Partnership** (HOME) program. A CHAS (including the AFFH certification) was a condition of distribution of HOME funds to participating jurisdictions.¹⁰⁰ The purpose of the AFFH certification was to require “that participating jurisdictions represent that they not only would comply with existing fair housing laws but also would affirmatively carry out activities that reduce or eliminate discriminatory impact in housing on the basis of race, creed, national origin, gender or disability.”¹⁰¹

1994

In 1994, an **Executive Order** clarified that, among other things, HUD has the primary authority and responsibility for AFFH, and that “programs and activities” subject to the AFFH provision included programs and activities operated, administered, or undertaken by the federal government; grants; loans; contracts; insurance; guarantees; and federal supervision or exercise of regulatory responsibility (including regulatory or supervisory authority over financial institutions).¹⁰²

In 1994, HUD issued the **Analysis of Impediments (AI) Rule**.¹⁰³ The obligation to affirmatively further fair housing was largely located within HUD’s consolidated planning rule.¹⁰⁴ The rule imposed three requirements on participating jurisdictions: (1) the duty to carry out an analysis of impediments to fair housing choice; (2) the responsibility to take action to address any impediments identified in the analysis; and (3) the obligation to maintain records evidencing both the analysis and the actions undertaken to address fair housing impediments.

⁹⁶ *Id.* at 152.

⁹⁷ *Id.* at 155.

⁹⁸ *Id.* at 156.

⁹⁹ 42 U.S.C. § 5306(d)(7)(B), § 12705(b)(15)).

¹⁰⁰ See Pub. L. 101-625, §105(b)(13) (November 28, 1990), 104 Stat. 4089 (CHAS AFFH certification), § 216(5), 104 Stat. 4104 (CHAS as a condition of HOME allocations) and § 913(B)(1)(A), 104 Stat. 4392 (repeal of housing assistance plan).

¹⁰¹ See S. Rpt. 101-316 (June 8, 1990).

¹⁰² Clinton Administration, Executive Order 12892, *Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing* (Jan. 17, 1994),

<https://www.govinfo.gov/content/pkg/FR-1994-01-20/html/94-1532.htm>.

¹⁰³ 24 C.F.R. § 91.225(a)(1), § 91.325(a)(1) and § 91.425(a)(1) (1996).

¹⁰⁴ Codified at 24 C.F.R. part 91.

1996

HUD published the **Fair Housing Planning Guide** to assist its grantees in their fair housing planning efforts.¹⁰⁵

1998

In 1988, Congress reaffirmed the AFFH responsibilities for public housing agencies (PHA) in the **Quality Housing and Work Responsibility Act**.¹⁰⁶

2005

In 2005, in the case of *Thompson v. HUD*, a federal district court found that HUD violated its duty to affirmatively further fair housing by limiting its efforts to desegregate public housing in Baltimore to the city limits, as opposed to widening its focus to the Baltimore region as a whole.¹⁰⁷ In ordering HUD to take a regional approach, the court found that the AFFH mandate requires HUD to adopt policies “whereby the effects of past segregation in Baltimore City public housing may be ameliorated by the provision of public housing opportunities beyond the boundaries of Baltimore City.”¹⁰⁸

2009

In 2009, in the case of *Anti-Discrimination Center (ADC) v. Westchester County*,¹⁰⁹ ADC asserted that Westchester County violated the False Claims Act (which allows for treble damages) by falsely certifying to HUD that it would affirmatively further fair housing. ADC alleged that the county failed to consider impediments to fair housing choice that were based on race, failed to take steps to overcome these impediments, and failed to keep the required records documenting its efforts. The federal district court held that an interpretation of AFFH that excluded race would be an “absurd result.” The court later approved a landmark settlement, which required Westchester County to spend \$52 million to develop at least 750 units of affordable housing in areas within the county with small Black and Latino populations.

2010

In 2010, the U.S. **Government Accountability Office (GAO)** found that local communities placed a low priority on using the Analysis of Impediments as an effective planning tool, in part because of HUD’s limited oversight as well as insufficient guidance, data, and technical assistance.¹¹⁰

¹⁰⁵ HUD, Fair Housing Planning Guide (1996)

<https://www.hud.gov/sites/dfiles/FHEO/documents/Fair-Housing%20Planning-Guide.pdf>.

¹⁰⁶ 42 U.S.C. § 1437C–1(d)(16).

¹⁰⁷ *Thompson v. HUD*, 348 F. Supp. 2d 398, 459, 461 (D. Md. 2005).

¹⁰⁸ *Id.* at 462. See also *U.S. ex rel. Anti-Discrimination Ctr. v. Westchester Cnty.*, 2009 WL 455269 (S.D.N.Y. Feb. 24, 2009) (finding program participant’s certification that it would AFFH deficient where it failed to adequately consider the impact of race on housing opportunities in the county).

¹⁰⁹ *U.S. ex rel. AntiDiscrimination Ctr. v. Westchester Cnty.*, 668 F. Supp. 2d 548 (S.D.N.Y. 2009).

¹¹⁰ GAO Report, *HUD Needs to Enhance Its Requirements and Oversight of Jurisdictions’ Fair Housing Plans*, GAO–10–905 (Sept. 14, 2010), <http://www.gao.gov/new.items/d10905.pdf>.

2015

In 2015, in the case of *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*, the Supreme Court reaffirmed the role of the Fair Housing Act in creating thriving, inclusive communities. The Court stated that “[m]uch progress remains to be made in our Nation’s continuing struggle against racial isolation. . . . The Court acknowledges the Fair Housing Act’s continuing role in moving the Nation toward a more integrated society.”¹¹¹ As the Supreme Court held, the Fair Housing Act’s broad remedial purposes cannot be accomplished simply by banning intentional discrimination. The AFFH requirement plays a key role in the accomplishment of those purposes, requiring HUD and recipients of federal financial assistance to take affirmative steps to create an open, integrated society and to eliminate the barriers that stand in the way of truly equal housing opportunities.

Also in 2015, after years of study and input from a wide variety of stakeholders, HUD adopted a new AFFH final rule (**2015 AFFH Rule**) designed to give local jurisdictions and community stakeholders a more effective roadmap for compliance.¹¹² The 2015 AFFH Rule included several meaningful provisions, including:

- **Assessments.** Replaced the AI with a more effective and standardized Assessment of Fair Housing (AFH) through which program participants identify fair housing issues and factors contributing to fair housing issues (contributing factors). Required jurisdictions to submit their AFH to HUD for review and acceptance once every 3-5 years.
- **Integration.** Integrated fair housing planning into existing planning processes, the consolidated plan, and the Public Housing Authority (PHA) Plan.¹¹³
- **Collaboration.** Facilitated regional approaches to address fair housing issues, including collaboration across jurisdictions and PHAs.
- **Data.** Provided data to aid program participants in establishing fair housing goals to address fair housing issues and contributing factors.
- **Community Participation.** Required community participation so the public could provide input about fair housing issues, goals, and priorities; and the most appropriate uses of HUD funds and other investments.

HUD’s new approach was designed to empower program participants to reduce disparities in housing choice, thereby expanding economic opportunity and enhancing the quality of life.

¹¹¹ *Tex. Dep’t of Hous. & Cmty. Affairs v. Inclusive Cmty. Project, Inc.*, 576 U.S. 519, 546-47 (2015).

¹¹² HUD, Final Rule, *Affirmatively Further Fair Housing*, 80 Fed. Reg. 42272 (July 16, 2015), <https://www.govinfo.gov/content/pkg/FR-2015-07-16/pdf/2015-17032.pdf>.

¹¹³ Program participants subject to the rule included jurisdictions and insular areas required to submit consolidated plans for the Community Development Block Grant (CDBG) program; the Emergency Solutions Grants (ESG) program; the HOME Investment Partnerships (HOME) program; and the Housing Opportunities for Persons With AIDS (HOPWA) program; as well as PHAs receiving assistance under sections 8 or 9 of the United States Housing Act.

2018

In 2018, HUD under the Trump Administration **repealed** the 2015 AFFH rule and suspended its AFFH implementation.¹¹⁴ Civil rights groups filed a lawsuit challenging the Trump Administration's suspension of the AFFH rule.

2020

In 2020, in a move that was improper and likely illegal, HUD used a procedural ploy to repeal the 2015 AFFH Rule and adopt a new final rule without the required public notice and comment (**2020 AFFH Rule**, also known as the **Preserving Community and Neighborhood Choice or PCNC Rule**).¹¹⁵ The 2020 AFFH Rule was widely-criticized by civil rights groups¹¹⁶ because it left program participants without any obligation to undertake any type of fair housing planning (whether an AFH, an AI, or any other) and left HUD without any mechanism to assist jurisdictions that wished to develop plans to develop thriving, inclusive communities.

2021

In 2021, HUD repealed the 2020 AFFH Rule and published an Interim Final Rule (**2021 AFFH IFR**).¹¹⁷ The 2021 AFFH IFR reinstated the relevant definitions and the regulatory requirement that program participants certify that they take meaningful actions to affirmatively further fair housing. Although the Interim Final Rule did not require program participants to undertake any specific type of fair housing planning to support their certifications, it allowed HUD to once again offer technical assistance to jurisdictions that wished to undertake AFHs, AIs, or other forms of fair housing planning.

2023

In 2023, HUD issued a proposed rule to further build out the AFFH framework (**2023 AFFH Proposed Rule**).¹¹⁸ The 2023 AFFH Proposed Rule was never finalized, but included several meaningful provisions, including:

- **Equity Plan.** Replaced the Assessment of Fair Housing with an Equity Plan, which included a description of fair housing issues, fair housing goals, prioritization of fair housing issues that will result in a

¹¹⁴ See Affirmatively Furthering Fair Housing: Withdrawal of Assessment Tool for Local Governments, 83 Fed. Reg. 23922, (May 23, 2018)

¹¹⁵ HUD, Final Rule, *Preserving Community and Neighborhood Choice*, 85 Fed. Reg. 47899 (Aug. 7, 2020), <https://www.federalregister.gov/documents/2020/08/07/2020-16320/preserving-community-and-neighborhood-choice>. HUD originally issued a proposed rule in January of 2020, which garnered nearly 20,000 public comments that were overwhelmingly against the proposed rule. In August of 2020, HUD issued a final rule, which did not reflect the proposed rule and likely was a violation of the Administrative Procedures Act's notice and comment requirement.

¹¹⁶ NFHA, Press Release, *Civil Rights Groups Strongly Oppose HUD's New "Fair Housing" Rule and Call on the Agency to Reinstate the 2015 AFFH Regulation* (Sept. 8, 2020), <https://nationalfairhousing.org/civil-rights-groups-strongly-oppose-huds-new-fair-housing-rule-and-call-on-the-agency-to-reinstate-the-2015-affh-regulation/>.

¹¹⁷ HUD, Final Rule, *Restoring Affirmatively Further Fair Housing Definitions and Certifications*, 86 Fed. Reg. 30779 (June 10, 2021), <https://www.federalregister.gov/documents/2021/06/10/2021-12114/restoring-affirmatively-furthering-fair-housing-definitions-and-certifications>.

¹¹⁸ HUD, Proposed Rule, *Affirmatively Furthering Fair Housing*, 88 Fed. Reg. 8516 (Feb. 9, 2023), <https://www.govinfo.gov/content/pkg/FR-2023-02-09/pdf/2023-00625.pdf>.

material positive change for underserved communities, and a description of community engagement activities.

- **Community Engagement.** Required engagement with the public during the development of the Equity Plan, from the identification of fair housing issues to the establishment of fair housing goals.
- **Fair Housing.** Required program participants to incorporate the fair housing goals from their Equity Plans into their consolidated plan, annual action plan, or PHA plan.
- **Transparency, Oversight, and Accountability.** Required program participants to make drafts of the Equity Plan available for purposes of community engagement and required HUD to publish submitted Equity Plans on a website for public access.

2025

On March 3, 2025, HUD issued the **2025 AFFH IFR**, which rescinded the 2021 AFFH IFR.¹¹⁹ The 2025 AFFH IFR changed the definition of AFFH and allowed a locality to merely certify compliance, without any specific process or requirement for community engagement. In remarks to the press, HUD Secretary Scott Turner stated, “We have to save our suburbs.... We are taking the [AFFH Rule] down today so that we could restore our suburbs.”¹²⁰ The Secretary’s remarks seemed to harken back to a time of rigid residential segregation when all-White suburbs held the highest value regardless of the creditworthiness of the borrower or the condition of the home.

¹¹⁹ HUD, Interim Final Rule, *Affirmatively Furthering Fair Housing Revisions*, 90 Fed. Reg. 11020 (March 3, 2025), <https://www.federalregister.gov/documents/2025/03/03/2025-03360/affirmatively-furthering-fair-housing-revisions>.

¹²⁰ HUD Secretary Scott Turner, Interview on Fox Business, *Secretary Turner Repeals Biden AFFH ‘Zoning Tax’* (Feb. 26, 2025), <https://www.youtube.com/watch?v=xzTT9cEM6fY>.

States and Localities Can Successfully Use AFFH to Create Thriving, Inclusive Communities

California¹²¹

California Assembly Bill 686 (AB 686), signed in 2018, established an independent state mandate that expands the duty of all California's public agencies to affirmatively further fair housing. State and local public agencies are required to affirmatively further fair housing through deliberate action to explicitly address, combat, and relieve disparities resulting from past and current patterns of segregation to foster more inclusive communities. Importantly, AB 686 also creates housing element requirements that include an assessment of fair housing practices, an analysis of the relationship between available sites and areas of high or low resources, and concrete actions in the form of programs to affirmatively further fair housing. The purpose of the assessment and analysis is to replace segregated living patterns with truly integrated and balanced living patterns and to transform racially and ethnically concentrated areas of poverty into areas of opportunity.

Boston, Massachusetts, and Chicago, Illinois¹²²

In a national survey of more than 300 companies, 55 percent of large companies reported an insufficient level of affordable housing in their area, and two-thirds of these respondents cited this shortage as negatively affecting their ability to hold onto qualified employees. Affordable housing availability plays an important role in where new businesses decide to build or expand their operations. In Boston and Chicago, fair housing assessments helped these cities support new affordable homes around growing job centers in order to attract more employers to the area.

Chicago, Illinois

The City of Chicago approved the relocation of General Iron, a metal-shredding operation, from a mostly white and affluent neighborhood to a majority-Latino neighborhood surrounded by Black neighborhoods. Environmental justice advocacy organizations (Southeast Environmental Task Force, Chicago South East Side Coalition to Ban Petcoke, and People for Community Recovery) filed a complaint to HUD, alleging that the city discriminated on the basis of race and national origin by facilitating the relocation of General Iron. Residents and community organizers feared the health and environmental impacts of fires, water pollution, toxic emissions, and debris related to the facility.

HUD's investigation found: "The City's efforts to relocate the facility were part of a broader City initiative to shift heavy industry from White neighborhoods in the northeast to Black and Hispanic neighborhoods elsewhere in the city.... These consequences are particularly egregious given the longstanding and well-known disproportionate environmental burdens already borne by the Southeast Neighborhoods." Most importantly, HUD required the city to adopt an enhanced fair housing planning process that includes planning for overcoming disparities in environmental impacts, which will advance equitable development across Chicago.

¹²¹ See California Department of Housing and Urban Development, *Affirmatively Furthering Fair Housing*, <https://www.hcd.ca.gov/planning-and-community-development/affirmatively-furthering-fair-housing>.

¹²² See PolicyLink, *Designing Our Just Housing Futures Affirmatively Furthering Fair Housing (AFFH) Public Comment Guide* (2023), <https://www.policylink.org/resources-tools/affh-full-comment-guide>.

Minneapolis, Minnesota

In the Regional Analysis of Impediments to Fair Housing, concerns related to tenant screening practices were uplifted, specifically related to high application denial rates in communities of color due to criteria related to criminal background, credit history, and eviction history. The Minneapolis City Council unanimously passed the Renter Protections Ordinance, which limits tenant screening practices by landlords on the basis of criminal history and other factors. Today, landlords cannot reject applicants due to misdemeanors older than three years, felonies older than seven years, and convictions for more serious crimes with sentencing dates older than 10 years.

New Orleans, Louisiana

Using the 2015 AFFH rule, the City of New Orleans engaged over 100 stakeholder organizations and heard many residents express concern about disparities in access to “good schools,” the lack of housing near schools, problems with resources at schools, and a desire for schools that were more integrated into neighborhoods. This led the city to make “location of proficient schools and school assignment policies” a high priority in its fair housing goals, writing: “The City’s study and other national studies have shown a direct link between educational attainment and access to other opportunities. Many in protected classes have not had opportunities to further their education and have been subjected to failing schools.”¹²³

New Orleans, Louisiana

The Greater New Orleans Fair Housing Action Center and Lawyers’ Committee for Civil Rights Under Law completed a People’s Analysis of Impediments for New Orleans, uplifting displacement, reinvestment, redevelopment, and gentrification as major concerns for a post-Katrina recovery. They wrote: “An adequate AI is not complete without a full analysis of the following: ...Decisions and activities causing displacement of residents and businesses particularly post-Katrina revitalization efforts, property tax increases, demolition of assisted housing, ... and relocation policies and practices.” The mayor’s office released the city’s resilience strategy, in which the expansion of access to safe and affordable housing was listed as a priority. The plan included the launch of New Orleans’s Integrated Housing policy, which created a framework through which, “the City will invest in both place and people to expand access to a range of safe, quality housing options that are affordable to them and with access to jobs, services, and neighborhood amenities.”

Philadelphia, Pennsylvania

The City of Philadelphia, using the 2015 AFFH rule, conducted its Assessment of Fair Housing (AFH), a process that engaged community members, including tenants and grassroots organizers. Due to the advocacy and organizing work of tenants, the AFH resulted in the city establishing goals, such as increasing representation for low-income tenants in eviction court. The Philadelphia City Council voted unanimously to pass a renter’s right to counsel ordinance, guaranteeing all low-income renters access to an attorney to fight their eviction. The program went into effect in February 2022.

St. Louis, Missouri

When the City of St. Louis conducted its Fair Housing and Equity Assessment, they found that Housing Choice Vouchers were not being used in high-income areas, but instead were concentrated in low-income, disinvested neighborhoods. This assessment helped the city confront the negative perception of housing vouchers among residents and local officials, promote education about the benefits of economically diverse communities,

¹²³ See City of New Orleans Office of Community Development, 2016 Assessment of Fair Housing (2016), <https://nola.gov/archived/community-development/documents/2016-updated-afh-plan-090516/afh-plan-090516-final/>.

assist residents in finding diverse housing choices through web-based tools, and create new transit connections from communities of concentrated poverty to job centers.