

July 17, 2023

Chair Kay Granger  
U.S. House Appropriations Committee  
1026 Longworth House Office Building  
Washington, DC 20515

Ranking Member Rosa DeLauro  
U.S. House Appropriations Committee  
1036 Longworth House Office Building  
Washington, DC 20515

Chair Patty Murray  
U.S. Senate Appropriations Committee  
154 Russell Senate Office Building  
Washington, DC 20510

Vice Chair Susan Collins  
U.S. Senate Appropriations Committee  
413 Dirksen Senate Office Building  
Washington, DC 20510

Chair Brian Schatz  
U.S. Senate Appropriations Committee  
Subcommittee on Transportation, Housing  
and Urban Development, and Related  
Agencies

Ranking Member Cindy Hyde-Smith  
U.S. Senate Appropriations Committee  
Subcommittee on Transportation, Housing  
and Urban Development, and Related  
Agencies

Dear Chair Granger, Ranking Member DeLauro, Chair Murray, Vice Chair Collins, Chair Schatz, and Ranking Member Hyde Smith:

We write to urge you to remove language that would prohibit funding for implementation of the proposed “Affirmatively Furthering Fair Housing” (AFFH) rule<sup>1</sup> in the FY24 appropriations bills for Transportation, Housing and Urban Development Department (HUD), and related agencies.

As currently drafted, the House FY24 appropriations bill for Transportation, HUD, and related agencies would prohibit HUD from using appropriated funds to implement, administer, or enforce the proposed AFFH rule. This provision threatens HUD’s ability to effectively meet its responsibilities under the Fair Housing Act and help federal funding recipients meet their existing obligations under federal law to address barriers to fair housing and increase housing opportunity.

As the U.S. Supreme Court recognized in 2015, “Much progress remains to be made in our Nation’s continuing struggle against racial isolation.”<sup>2</sup> Fifty-five years after passage of the Fair Housing Act, America remains residentially segregated, with opportunity distributed unequally according to race, disability, gender, and other protected characteristics.<sup>3</sup>

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<sup>1</sup> 88 Fed. Reg. 8516 (Feb. 9, 2023), <https://www.govinfo.gov/content/pkg/FR-2023-02-09/pdf/2023-00625.pdf>.

<sup>2</sup> *Tex. Dep’t of Hous. Cmty. Affairs v. Inclusive Communities Project, Inc.*, 576 U.S. 519, 546-47 (2015).

<sup>3</sup> E.g., Justin Steil & Nicholas Kelly, *The Fairest of Them All: Analyzing Affirmatively Furthering Fair Housing Compliance*, 29 Hous. Pol’y Debate 1, 85-105 (2018),

Under 42 U.S.C. § 3608(d) and § 3608(e)(5), Congress charged HUD and other federal agencies with the duty to affirmatively further fair housing, including by ensuring that federal funding for housing, transportation, infrastructure, and economic development advances equity.<sup>4</sup> Communities that receive HUD funding have long-standing obligations to affirmatively further fair housing for people of color, people with disabilities, women, and other groups that have struggled to access opportunity and exercise housing choice.<sup>5</sup>

Implementation of the AFFH rule will help ensure that HUD grantees have the guidance, data, and tools necessary to empower communities to shape their own, more cost-effective strategies to affirmatively further fair housing – including future investments in housing, transportation, infrastructure, and economic development that can make any community thrive. The AFFH process will help communities analyze barriers to housing choice and establish their own local goals and priorities to address the fair housing impediments identified in their community and connect people to opportunity. The proposed AFFH rule will also improve coordinated public-private investment in areas of highly concentrated poverty, transforming these neighborhoods into communities of opportunity. Overall, the proposed AFFH rule will ensure that communities leverage existing federal investments to increase access to opportunity, as required by the Fair Housing Act.

Housing justice and racial justice are inextricably linked. Comprehensive implementation and enforcement of the AFFH rule is an important step towards rectifying generations of discriminatory housing policies designed to create segregated neighborhoods.

We urge you to oppose appropriations language that would limit AFFH implementation and enforcement. Please be in touch with Amalea Smirniotopoulos, Senior Policy Counsel, NAACP Legal Defense and Educational Fund, Inc. ([ASmirniotopoulos@naacpldf.org](mailto:ASmirniotopoulos@naacpldf.org)) and Jorge Andres Soto, Associate Vice President of Advocacy and Government Affairs, National Fair Housing Alliance ([Jsoto@nationalfairhousing.org](mailto:Jsoto@nationalfairhousing.org)), if you have any questions or would like additional information.

Thank you for your consideration.

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<https://dspace.mit.edu/bitstream/handle/1721.1/126827/Steil%20Kelly%20Fairest%20of%20them%20All%202018%2005%2008.pdf?sequence=2&isAllowed=y>; Heather R. Abraham, *Segregation Autopilot: How the Government Perpetuates Segregation and How to Stop It*, 107 IOWA L. REV. 1963, 1969 (2022), [https://ilr.law.uiowa.edu/sites/ilr.law.uiowa.edu/files/2022-11/Segregation Autopilot How the Government Perpetuates Segregation and How to Stop It.pdf](https://ilr.law.uiowa.edu/sites/ilr.law.uiowa.edu/files/2022-11/Segregation%20Autopilot%20How%20the%20Government%20Perpetuates%20Segregation%20and%20How%20to%20Stop%20It.pdf).

<sup>4</sup> 42 U.S.C. § 3608(d), (e)(5).

<sup>5</sup> 24 C.F.R. §§ 91.225(a)(1), 91.325(a)(1)

Sincerely,

Human Rights Campaign

Justice in Aging

NAACP Legal Defense and Educational Fund, Inc. (LDF)

National Community Reinvestment Coalition (NCRC)

National Consumer Law Center (on behalf of its low-income clients)

National Disability Rights Network (NDRN)

National Fair Housing Alliance

National Housing Law Project

National Low Income Housing Coalition

National Urban League

National Women's Law Center

PolicyLink

Poverty and Race Research Action Council

Prosperity Now

The Arc of the United States

The Kelsey

True Colors United

Unidos US