Affirmatively Furthering Fair Housing (AFFH) Final Rule

Overview

Affirmatively Furthering Fair Housing (AFFH) is a legal requirement that federal agencies and federal grantees further the purposes of the Fair Housing Act. This obligation to affirmatively further fair housing has been in the Fair Housing Act since 1968 (for further information see Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3608 and Executive Order 12892). HUD's final rule provides an effective planning approach to aid program participants in taking meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination. As provided in the final rule, AFFH 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 and 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 further fair housing extends to all of a program participant's activities and programs relating to housing and urban development."

The Assessment of Fair Housing

HUD's rule clarifies existing fair housing obligations with a streamlined process to analyze the local fair housing landscape and set fair housing priorities and goals through an Assessment of Fair Housing (AFH). The rule identifies four fair housing issues that program participants will assess:

1. Patterns of integration and segregation;
2. Racially and ethnically concentrated areas of poverty;
3. Disparities in access to opportunity; and
4. Disproportionate housing needs.

The AFH process begins with the provision of data, guidance, and an assessment tool that will help program participants identify fair housing issues and related contributing factors in their jurisdiction and region. Program participants are required to set goals to overcome fair housing issues and related contributing factors. Those goals must inform subsequent housing and community development planning processes.

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| **Part** | **Description** |
| **Part One: Provision of Data and AFH Assessment Tool** | HUD provides each program participant with data and an AFH assessment tool to use in assessing fair housing issues in its community. In addition, HUD will provide technical assistance to aid program participants in submitting its AFH. |
| **Part Two: Analysis** | Using the HUD data, local data and knowledge, the required community participation process, and the assessment tool, each program participant prepares and submits a complete AFH to HUD, including fair housing goals. |
| **Part Three: Review and Response** | HUD reviews each AFH within 60 days after receipt to determine whether the program participant has met the requirements for providing its analysis, assessment, and goal setting. HUD either accepts the AFH or provides the program participant written notification of why the AFH was not accepted and guidance on how the AFH should be revised in order to be accepted. HUD will not accept an AFH if HUD finds that an AFH or a portion of the AFH is inconsistent with fair housing or civil rights requirements or is substantially incomplete. |
| **Part Four: Incorporation into Subsequent Planning Processes and Action** | The goals identified in the AFH must inform the strategies and actions of the Consolidated Plan, the Annual Action Plan, the PHA Plan, and the Capital Fund Plan. |

The AFFH rule is designed to improve community planning in order to overcome fair housing issues. The AFH process will begin with inclusive community participation and will result in the setting of fair housing goals to increase fair housing choice and provide equal access to opportunity for all community members. HUD's program participants will then use the fair housing goals and priorities established in their AFH to inform the investments and other decisions made in their local planning processes.

Until program participants are required to submit an AFH under this final rule, the program participant must continue to conduct an analysis of impediments in accordance with existing HUD regulations.