



NLIHC 2016 POLICY FORUM

Overcoming Housing Poverty,
Achieving Housing Justice

Advocacy Opportunities with the New AFFH Rule

Ed Gramlich

National Low Income Housing Coalition

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Timing of the Assessment of Fair Housing (AFH)



- Most program participants not required to use new AFFH system until 2019.
- Five categories of due dates for the initial AFH.
- For each, first AFH must be submitted 270 days before start of program participant's program year in which new 5-Year ConPlan or 5-Year PHA Plan due.
- Until program participant is required to submit an AFH, it must continue to follow current AI process, Analysis of Impediments to fair housing.

Timing of the Assessment of Fair Housing (AFH)

(continued)



1. CDBG entitlement jurisdictions receiving \$500,000 or more in FY15 **and** that must have new 5-Year ConPlan on or after January 1, 2017 must submit initial AFH 270 days before new ConPlan is due. (22 jurisdictions).
2. CDBG entitlement jurisdictions receiving \$500,000 or less in FY15 **and** that must have new 5-Year ConPlan on or after January 1, 2018 must submit initial AFH 270 days before new ConPlan is due. (99 jurisdictions)
3. States required to have new 5-Year ConPlan on or after January 1, 2018 must submit initial AFH 270 days before new ConPlan is due. (Six states).

Timing of the Assessment of Fair Housing (AFH)

(continued)



4. Public Housing Agencies (PHAs) with more than 550 public housing units and vouchers, combined, (“non-qualified PHAs”) must submit AFH 270 days before new 5-Year PHA Plan due on or after January 1, 2018.

5. PHAs with fewer than 550 public housing units and vouchers, combined, (“qualified PHAs”) must submit AFH 270 days before new 5-Year PHA Plan due on or after January 1, 2019.

What Is an Assessment of Fair Housing (AFH)?



- An Assessment of Fair Housing (AFH) means
- An analysis of fair housing data,
 - An assessment of fair housing “issues” and “contributing factors”, and
 - An identification of fair housing priorities and goals,
 - All of which are submitted to HUD using the Assessment Tool.

What Is an Assessment of Fair Housing (AFH)? Analysis of Fair Housing Data



AFFH rule requires AFH to analyze:

- HUD-provided data
- Other local data (from universities, regional planners)
- Local knowledge, including from public participation

ADVOCACY TIPS

- Bring your local knowledge to public hearings.
- Submit your local knowledge in writing during draft AFH stage.
- Make sure all relevant data is used.
- Challenge how data is presented, if necessary.
- Get help from people comfortable with GIS and maps.

What Is an Assessment of Fair Housing (AFH)? What Is a Fair Housing “Issue”?



AFH must have analysis of fair housing issues: conditions that restrict choice or access to opportunity, including:

1. Local or regional segregation, or lack of integration.
2. Racial or ethnic concentrations of poverty.
3. Significant disparities in access to opportunity.
4. Disproportionate housing needs (e.g., Protected class paying more than 30% or 50% of income for rent compared to total population).

“Protected classes”: race, color, national origin, religion, sex, familial status, or disability.

What Is an Assessment of Fair Housing (AFH)? What Is a “Contributing Factor”?



AFH must identify fair housing contributing factors: something that creates, contributes to, perpetuates, or increases the severity of one or more fair housing “issues”.

Examples:

- Displacement due to economic pressures
- Lack of community revitalization strategies
- Landlords discriminating against people with vouchers
- Land use and zoning laws

What Is an Assessment of Fair Housing (AFH)?

Identify Fair Housing Priorities & Goals



- AFH must prioritize contributing factors and justify those priorities.
- AFH must set goals for overcoming effects of contributing factors.
- For each goal AFH must:
 - Identify contributing factors goal is designed to address;
 - Describe how goal relates to overcoming contributing factor(s) and related fair housing issue(s); and,
 - Identify measures for determining what fair housing results will be achieved.

It's Up To You To Shape the AFH



- Make use of the required public participation process.
- Add your local knowledge about fair housing issues.
 - Ensure data and studies from other sources are used.
 - Ensure all fair housing issues are identified:
 - Does a higher percentage of a protected class pay more than 50% of income for rent?
 - Ensure all contributing factors are identified:
 - City fails to use CDBG to revitalize certain neighborhoods?
 - Towns have density ordinances that prevent multifamily rental homes?

It's Up To You To Shape the AFH

(Continued)



It's not enough for AFH to do a good job of identifying all important fair housing issues and contributing factors.

- Do the most critical factors get highest priority?
- Are there goals for overcoming each priority factor?
- Will the goals realistically address priority factors?
- Are there reasonable benchmarks for advocates to measure progress toward achieving each goal?

Assessment Tool



Assessment Tool refers to HUD-provided forms or templates that must be used to conduct and submit AFH.

- Consists of questions designed to help program participants identify fair housing issues.
- Different Assessment Tools for local governments, states, and PHAs.

ADVOCACY TIPS

- Become familiar with the Assessment Tool.
- Use it to help you influence your AFH.

Link Between AFH and ConPlan or PHA Plan



- Strategies and actions to implement fair housing goals and priorities in AFH must be included in 5-Year ConPlan, Annual ConPlan Action Plan, or 5-Year PHA Plan.
- ConPlan regulations modified to require Strategic Plan portion of ConPlan to describe how ConPlan priorities and specific objectives will affirmatively further fair housing by having strategies and actions consistent with AFH goals and “other elements”.

Link Between AFH and ConPlan or PHA Plan (continued)



Your advocacy work is not done when the AFH is done.

ADVOCACY TIPS

- Will proposed uses of funds in ConPlan affirmatively further fair housing?
- For example, will funds be used to:
 - Develop affordable housing in areas of high opportunity?
 - Revitalize or stabilize neighborhoods?
 - Preserve or rehab existing affordable housing?

Link Between AFH and ConPlan or PHA Plan (continued)



ADVOCACY TIPS

- Will policies or programs in ConPlan or PHA Plan affirmatively further fair housing?
- For example, are there plans to:
 - Remove barriers to developing affordable housing in areas of high opportunity?
 - Improve community assets, such as quality schools, public transportation, employment, healthy environment?
 - Have PHA tenant selection and assignment policies that lead to desegregation?
 - Have PHA coordinate with supportive service agencies?

HUD Review of AFH



- HUD might not “accept” AFH, or part of AFH, if it is:
 - “Inconsistent” with fair housing or civil rights laws,
 - or
 - “Substantially incomplete”.
- HUD will not approve ConPlan or PHA Plan unless program participant has HUD-accepted AFH.

HUD Review of AFH *(continued)*



“Inconsistent” can be:

AFH does not identify policies or practices as fair housing contributing factors even though they result in excluding protected class people from areas of opportunity.

ADVOCACY TIP

If AFH is missing key fair housing factor(s), write to HUD Field Office.

HUD Review of AFH *(continued)*



“Substantially incomplete”, might be AFH with priorities or goals:

- Inconsistent with data and other evidence;
- Not designed to overcome effects of contributing factors and related fair housing issues.

ADVOCACY TIP

If AFH goals do not line up with data or will not help address fair housing contributing factors, write to HUD Field Office.

Public Participation in AFH Process (page 1)



- For first time, AFFH rule requires program participants to give the public opportunities for involvement in developing AFH and linking its fair housing goals to priorities and objectives in ConPlan and PHA Plan.
- Public participation provisions of ConPlan and PHA Plan regulations must be followed in the process of developing the AFH.

Public Participation in AFH Process (page 2)



Encouraging Public Participation

AFFH rule adds to ConPlan rule, requiring jurisdictions to:

- Provide for and **encourage** residents to participate in development of AFH.
- Take “appropriate actions” to encourage participation by minorities, non-English speakers, and disabled people
- Encourage participation by Continuum of Care, local and regional institutions, and other organizations (including community-based organizations) in process of developing and implementing AFH.

Public Participation in AFH Process (page 3)



Encouraging Public Participation (continued)

- Encourage participation by public housing residents, Resident Advisory Boards (RABs), resident councils, and other low income residents of revitalization area where a development is located.
- Jurisdictions must take steps to provide language assistance to ensure meaningful access to participation by people with limited English proficiency.

Public Participation in AFH Process (page 4)



Make Data, Proposed AFH, Records Available to Public

AFFH rule adds to ConPlan rule, requiring jurisdictions to:

- Make publicly available as soon as practical, HUD-provided data and supplemental information jurisdiction intends to use in preparing AFH.

Public Participation in AFH Process (page 5)



Make Data, Proposed AFH, Records Available to Public

(continued)

- Publish proposed AFH in a way that gives public opportunity to examine it and submit comments.
- Publishing may be met by:
 - Summarizing AFH in newspapers. Summary must include list of places where copies of entire AFH may be examined.
 - Making copies available on jurisdiction's website, and at libraries, government offices, and other public places.
- Jurisdiction must provide reasonable number of free copies to those who request it.

Public Participation in AFH Process (page 6)



Public Review and Comment During Development of the AFH and ConPlan

AFFH rule adds to ConPlan, requiring jurisdictions to:

- Have at least one public hearing while AFH is being developed.
- Have at least one public hearing before proposed AFH is published for comment to obtain comments about:
 - AFH-related data, and
 - How well a jurisdiction's housing and community development programs affirmatively furthering fair housing.

Public Participation in AFH Process (page 7)



Public Review and Comment During Development of the AFH and ConPlan

(continued)

- Must be "adequate" public notice of and access to hearings.
 - Publishing small print notices in newspaper a few days before hearing is not adequate notice.
 - Two weeks' notice is adequate.
 - Hearings must be held at times convenient to people likely to be affected.
 - Hearings must be at places easy for lower income people to get to.

Public Participation in AFH Process (page 8)



Public Review and Comment During Development of the AFH and ConPlan

(continued)

- Must provide at least 30 days for comment on proposed AFH.
- Final AFH must explain reasons for not accepting comments.

Public Participation in AFH Process (page 9)



Public Review and Comment During Development of the AFH and ConPlan

(continued)

- Must have at least one public hearing before proposed ConPlan is published for comment in order to obtain comments about affirmatively furthering fair housing.
- One of two ConPlan hearings must get comments about proposed strategies and actions for affirmatively furthering fair housing consistent with AFH.

Consultation



AFFH rule amends ConPlan regulation's consultation requirements to include the AFH.

- Jurisdiction required to consult community and regionally-based (or state-based) organizations, including:
 - Organizations representing protected class members;
 - Organizations that enforce fair housing laws;
 - Other public and private fair housing service agencies.

Consultation (continued)



- Consultation must take place at various points in fair housing planning process, at least in development of both AFH and ConPlan.
- Consultation regarding ConPlan must specifically seek input about how AFH goals inform ConPlan priorities and objectives.

For More Information



- NLIHC's AFFH webpage, <http://nlihc.org/issues/affh>
- HUD's AFFH webpage, <https://www.hudexchange.info/programs/affh>
- Contact Ed Gramlich at NLIHC
ed@nlihc.org
202.662.1530 x 314