PolicyLink AFFH COMMENT TEMPLATE
Version 2

October 2018

Office of General Counsel
Rules Docket Clerk
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410-0001

Submitted electronically via www.regulations.gov
Re: Docket No. FR—6123—A—01
Affirmatively Furthering Fair Housing: Streamlining and Enhancements
RIN 2529 -AA97

Dear Madam/Sir:

I am writing on behalf of [INSERT NAME OF YOUR ORGANIZATION] in response to the Advance Notice of Proposed Rulemaking (ANPR) entitled "Affirmatively Furthering Fair Housing: Streamlining and Enhancements" posted in the Federal Register on August 16, 2018. [INSERT NAME OF YOUR ORGANIZATION] is a [INSERT BRIEF DESCRIPTION OF YOUR ORGANIZATION]. We write in support of the Affirmatively Furthering Fair Housing (AFFH) Rule finalized in 2015 and urge HUD to preserve the rule in the form that it was implemented as it is critical to ensure fair housing for everyone in the United States. The AFFH Rule is necessary to ensure all people throughout this country have access to housing free from illegal discrimination and that residents of all neighborhoods are connected to the kinds of opportunities they need to flourish.

The Affirmatively Furthering Fair Housing AFFH rule (AFFH), supports local leaders' success in meeting their long standing/existing requirement to Affirmatively Further Fair Housing set forth in the Fair Housing Act of 1968 by providing them with resources in the form of guidance, a data and mapping tool and technical assistance to support their planning success. The locally-driven planning process called the Assessment of Fair Housing (AFH) helps communities overcome persistent and growing challenges related to disparities in opportunity, fair housing choice and racially concentrated poverty for all protected classes.

For many years, local officials sought greater clarity and guidance from HUD about what they should be doing to affirmatively further fair housing. HUD's previous approach to implementing this mandate – through the requirement that grantees periodically develop an Analysis of Impediments to Fair Housing Choice – was neither well-structured nor

well-administered, as the U.S. Government Accountability Office (GAO) pointed out in its 2010 report on this subject.[1] The new approach set forth through the AFFH Rule addresses many of the criticisms that GAO highlighted, and provides HUD grantees with more structure, clearer guidance, and needed resources for identifying and addressing fair housing problems in their communities.

In [INSERT City, State where you are located]

[INSERT INFORMATION HERE ABOUT BARRIERS TO FAIR HOUSING AND OPPORTUNITY WHICH YOU SEE IN YOUR COMMUNITY. POSSIBLE TOPICS/ISSUES TO INCLUDE: information about low quality schools, lack of public transit, high unemployment, racial/ethnic segregation, concentrated poverty, availability of affordable housing, access/proximity to jobs, housing accessible to disabled, etc. You may want to also include data regarding these barriers as you reference them in your letter. You can access data on many of these issues at the links below:
Poverty: https://nationalequityatlas.org/indicators/Poverty

Housing burden: https://nationalequityatlas.org/indicators/Housing_burden

Neighborhood poverty: https://nationalequityatlas.org/indicators/Neighborhood_poverty

School poverty: https://nationalequityatlas.org/indicators/School_poverty/By_race~ethnicity:35576/United_States/false/Year(s):2016/School_type:All_public_schools/

Unemployment: https://nationalequityatlas.org/indicators/Unemployment]

Below are our thoughts on some of the key issues raised in the ANPR:

- The current rule does not prescribe goals and metrics, rather the rule provides communities with the tools and resources to identify the challenges and barriers to fair housing and opportunity which exist in their community and then the community sets the goals and metrics based on what makes sense for the local context. These provisions as set forth in the AFFH Rule implemented in 2015 should remain in place.

- The AFFH regulation provides for robust community input, it is important to have community participation that is specifically focused on fair housing issues and planning to ensure that these issues are given proper attention and to address the multitude of issues that impact fair housing.

[1] "HUD Needs to Enhance Its Requirements and Oversight of Jurisdictions' Fair Housing Plans," GAO-10-905, Sept. 14, 2010, available at http://www.gao.gov/products/GAO-10-905; see also AFFH Rule preamble at 80 Fed. Reg. 42,275.

- The rule provides that HUD will monitor the connection between assessments, priorities, investment and fair housing results. This is a proper and effective way to evaluate progress. The AFFH Rule guides jurisdictions on how to better align federal funding—Community Development Block Grants, HOME funds, public housing financing, and other HUD funds. Transit agencies, school districts, economic development agencies, and other federally and locally funded units of government are invited to align resources in a manner to address housing and economic inclusion challenges identified in the assessments of fair housing. Ultimately, the AFFH Rule promotes a more effective relationship between federal investments and housing choice and access to opportunity needs.

- The AFFH rule contemplates that not that every AFH will be accepted when it is submitted, but that there will be some back and forth between program participants and HUD before the AFHs are accepted. That is why the AFFH includes specific provisions about HUD providing written feedback and instructions regarding what might need to be changed, the availability of TA, and a 45-day period for grantees to make revisions and resubmit non-accepted AFHs. This is an appropriate process and is one of several provisions with the AFFH Rule which allows the local community to design goals and strategies tailored to their local context while simultaneously ensuring that they are meeting their fair housing responsibilities.

- There should not be any safe harbors. Local conditions and dynamics are variable and ever changing. The obligation to affirmatively further fair housing is ongoing and cannot be addressed effectively through a “safe harbor”.

For all of these reasons, we believe it is critical for HUD to preserve the Affirmatively Furthering Fair Housing regulation as enacted in 2015.

Sincerely,