**Sample Comment Letter**

**HUD’s Proposed Changes to the Affirmatively Furthering Fair Housing Rule**

*Comments should be as unique and individualized as possible, otherwise HUD will not count your submission. To help get you started, the National Low Income Housing Coalition has put together this template.*

*How to use this template:*

1. *The template is divided into sections to provide a basic outline with some explanatory text in italics like this.*
2. *Fill in areas highlighted in yellow with the specific information noted in brackets.*
3. *This is only a template – change as much of the language as you want. Delete information, add new points, share your connection to the issue, and write about experiences in your community.*
4. *Remove any instructions or explanatory text before submitting.*

*If you are unfamiliar with affirmatively furthering fair housing (AFFH) or need a refresher, here is some background information. This information is not necessary to include in a comment since HUD is familiar with these facts.*

*The Fair Housing Act of 1968 requires the federal government, states, and local communities to work to undo the segregation of communities that federal housing policy created in the first place. Although this legal obligation is enshrined in the law, no meaningful guidance existed until the Affirmatively Furthering Fair Housing (AFFH) rule was published in 2015. After several years of considerable input from a broad array of stakeholders, the 2015 AFFH rule made the strongest effort in decades to reverse harmful patterns of segregation and discriminatory practices in communities across the country. The rule equipped communities with the tools and guidance they needed to meet their obligations under the Fair Housing Act, giving jurisdictions the flexibility to identify their unique fair housing challenges and develop priorities and methods for addressing them in a way that fit their circumstances.*

*The Department of Housing and Urban Development (HUD) published on January 14, 2020 a proposed AFFH rule that reverses the 2015 rule before it had even been fully implemented. The new proposal is not a fair housing rule. It considers housing that might be “affordable” to be the same as housing that is available to people in the Fair Housing Act’s protected classes based on race, color, national origin, sex, familial status, disability, and religion. The proposed rule falsely assumes that an increase in the supply of housing will trickle down to become affordable without any consideration of a jurisdiction’s policies and practices affecting people in the protected classes or a focus on overcoming historic patterns of housing segregation. The Trump administration’s proposal would be worse than the minimal AFFH process that existed from 1994 to 2015, which the Government Accountability Office (GAO) found to be ineffective.*

1. **Formalities**: *these are important if you want to submit longer comments as a PDF through regulations.gov (more information on how to do that* [*here*](https://nlihc.org/sites/default/files/Step_by_Step_Instructions_AFFH_Rule.pdf)*) and are unnecessary to include when commenting through FightForHousingJustice.org.*

Office of the General Counsel

Rules Docket Clerk

Department of Housing and Urban Development

451 Seventh Street SW, Room 10276

Washington, DC 20410-0001

Via regulations.gov

RE: HUD’s Affirmatively Furthering Fair Housing Proposed Rule, Docket No. FR-6123-P-02

1. **Introduction**: *an opportunity to share more about your or your organization’s connection and interest in affirmatively furthering fair housing, equitable communities, or fair housing.*

I am writing on behalf of [your organization or name] to express my opposition to HUD’s proposed changes to the 2015 Affirmatively Furthering Fair Housing rule. We strongly urge HUD to withdraw the proposed rule and fully implement the current rule, which was developed over several years with considerable input from a wide variety of stakeholders.

[If submitting for an organization, describe your organization and the people you serve or advocate for; if submitting for yourself, explain your interest and connection to fair housing and/or equitable communities.]

1. **Importance of Affirmatively Furthering Fair Housing**: *Below is some sample text about the importance of AFFH.*

Housing justice and racial justice are inextricably linked. Today’s housing crisis does disproportionate harm to people of color. Most deeply poor renters paying more than half of their income for rent and utilities are people of color, the result of decades of discrimination and disinvestment. [Share specific information about inequities you see in your community: racial segregation, a lack of accessible housing, disinvestment in communities of color, inequitable public transportation, etc.]

The 2015 AFFH rule was a critical step in addressing historic and ongoing discrimination; unfortunately, the proposed rule would completely undermine this work by gutting the 2015 rule and proposing a rule that ignores the legacy of segregation and practically eliminates any accountability. The proposed rule would be worse than the minimal AFFH process that existed from 1994 to 2015, which the Government Accountability Office (GAO) found to be ineffective.

1. **Supporting Arguments**: *Choose some of the arguments and talking points below to highlight the most relevant issues to your work. Find additional sector-specific talking points at* [*www.fightforhousingjustice.org/affh-resources*](http://www.fightforhousingjustice.org/affh-resources)*.*

[Organization] is specifically concerned about the following aspects of the proposed AFFH rule:

* **The proposed rule ignores the legacy of segregation and fails to address barriers to housing choice.**
	+ The proposed rule does not mention segregation and barely mentions discrimination even though examining and addressing inequities in our communities should be the primary focus.
	+ As part of the process proposed in this rule, HUD encourages jurisdictions to pick from a list of 16 pre-approved goals, only three of which pertain to fair housing.
	+ The proposed rule’s approach is a drastic departure from the 2015 AFFH rule, which created a data-driven approach to assessing fair housing and planning actions that clearly defined AFFH as a means to address disparities, integrate communities, eliminate concentrated areas of poverty, and encourage compliance with civil rights and fair housing laws.
* **The proposed rule centers on the false idea that simply increasing the supply of market-rate housing will increase fair housing choice.**
	+ The proposal’s strategies will not necessarily result in housing affordable to low-income – much less extremely low-income – people, and they are even less likely to reduce or eliminate discriminatory policies or entrenched segregation.
	+ HUD targets regulations that the administration considers barriers to housing development, including important environment, labor, and tenant protections (such as rent control).
* **The proposal contains no meaningful enforcement of the AFFH obligation and would allow jurisdictions uninterested in AFFH to continue ignoring their legal obligation without consequence.**
	+ HUD proposes to evaluate jurisdictions’ success with affirmatively furthering fair housing by measuring the adequacy of the supply of affordable housing instead of looking at actual housing opportunity for members of the protected classes, which includes women and people with disabilities.
	+ HUD would rank jurisdictions on their performance based on nine factors, only two of which relate to fair housing. Other factors focus on affordability, housing quality, and supply. These factors do not provide a meaningful indication of affirmatively furthering fair housing, and using them to rank jurisdictions ignores the unique situations of each place.
	+ HUD proposes giving high-ranking jurisdictions preference points for Notices of Funding Availability, a generally insignificant incentive, and provides no consequences to communities that ignore fair housing issues.
* **The proposed rule eliminates the AFFH public participation process required in the 2015 rule.**
	+ The proposed rule completely eliminates the separate AFFH public participation process, claiming that the public participation already required in the Consolidated Plan process is sufficient for addressing AFFH-related concerns and issues. However, the Consolidated Plan’s public participation process is designed to obtain input regarding housing and community development needs and assess which needs among the many have the highest priority in the five-year Consolidated Plan cycle. Identifying and assessing fair housing issues, priorities, and goals entail different concepts and may require different stakeholders.
	+ The 2015 AFFH rule reasonably designed the AFFH public participation process to be separate and precede the decision making associated with the Consolidated Plan and its Annual Action Plan system.
	+ The separate community participation process ensures that people who are most impacted by the fair housing consequences of housing and community development decisions have a voice in the planning process.
* **Public housing agencies (PHAs) would not have to meaningfully participate in the new AFFH process.**
	+ Under the proposed rule, a PHA would not have an active role in the planning process and would only have to state that it consulted with a jurisdiction regarding their common fair housing issues. The 2015 rule required PHAs to meet their obligation to affirmatively further fair housing by working with a local or state government preparing an Assessment of Fair Housing (AFH), partner with other PHAs for an AFH, or conduct its own AFH.
	+ PHAs are important partners for AFFH because of their role administering programs that increase housing choice, like public housing and Housing Choice Vouchers.
	+ PHAs make decisions regarding project basing of vouchers, the implementation of Small Area Fair Market Rents, proposals to develop mixed-finance projects, the demolition or disposition of public housing projects, and the administration of the voucher program.
* **Because jurisdictions would no longer need to conduct a data-driven analysis of the housing barriers in their communities, the proposed rule would not increase housing choice for members of protected classes under the Fair Housing Act.**
	+ Jurisdictions would not be required to address the severe shortage of accessible homes or remove other barriers to independence for people with disabilities.
	+ Jurisdictions would be not be required to examine any barriers to housing for immigrants.
	+ Jurisdictions would not be required to address historic and ongoing patterns of discrimination, segregation, or disinvestment based on race or other protected classes.
	+ Jurisdictions would not be required to identify and address barriers to housing for families with children.
	+ Jurisdictions would not be required to ensure survivors of domestic violence have equitable access to housing.
1. **Conclusion and ask**: *Below is the basic ask and sample language for a conclusion.*

[Organization name or “I”] oppose this proposed rule and urge HUD to retract it and fully implement the 2015 AFFH rule.