

AFFH in Five Minutes R2 1080—HUD's – Affirmatively Furthering Fair Housing_transcription Donna Jack
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AFFH in Five Minutes R2 11080
HUD's – Affirmatively Furthering Fair Housing
{Effective July 16, 2015}

Affirmatively Furthering Fair Housing is a familiar HUD term, but on July 16, 2015, AFFH became the basis for a new rule adding severe strings to Housing and Urban Development grants. These new stipulations will shake the very foundations of your community.

The people who control LAND USE and ZONING LAWS, also control much of where and how you will live, the value of your home, and what it will cost to keep it. Right now these are controlled by your community and y our local officials who reflect your wishes. HUD is about to change that.

Under the new AFFH regulations,

**if public officials or public housing authorities accept certain HUD grants,
your community**

will lose control of local zoning and land use
and you can be forced to join a region, whether you want to or not.

And here's why:

The Fair Housing Act of 1968 was created to end community discrimination and segregation.

HUD housing grants led that battle.

By 2015 the administration concluded,

not enough was being done to end America's legacy of housing discrimination and segregation.

They concluded that HUD had not been aggressive enough in managing grant money at the local level.

**In response the agency introduced a new regulation
called Affirmatively Furthering Fair Housing.**

Under AFFH, if you accept

HUD's Community Development Block Grant (CDBG)
HOME Investment Partnerships (HOME)
Emergency Solutions Grants (ESG) or
Housing Opportunities with Persons with Aids (HOPWA)

To assure fair housing compliance, the agency can control your land use, zoning laws, and force you to join a Region. Here's how:

HUD requires these grant applicants to complete an assessment of fair housing.

This involves a house-by-house analysis of community data, involving race, ethnicity, concentrated areas of poverty, [English proficiency, disabilities,] and more.

Next you will list community resources such as: "proficient" [better] schools; jobs; transportation; housing; parks; and recreational activities.

Finally you will itemize any barriers that could make it harder for protected groups to access the community resources. HUD even provides a list of 40 barriers, or contributing factors that must be reduced or eliminated to affirmatively further fair housing.

Some [things considered to be barriers to furthering fair housing] are as normal as:

Community opposition to affordable housing
Current zoning laws or
Failure to cooperate with a region (lack of regional cooperation)

But they expect you to resolve these and to find more.

To receive the grant money you must also engage the public in completing your assessment of fair housing. That means:

Civil rights advocates
Affordable HOUSING DEVELOPERS
Community development organizations
And any interested members of the public

must participate in identifying potential areas of discrimination.

Applicants must use HUD's data tables
and jurisdictional and regional trend maps

to design your plan to remove the barriers, and create an integrated and balanced life style.

By requiring your community to compare your demographics with those of the region, HUD assures that your zoning plans will coordinate with the regional zoning plans.

This effectively annexes your community into the region.



HUD’s documentation clearly states:

“This rule does not impose any land use or zoning laws on any government.”

But paragraphs later the same rule says: **“HUD will assist recipients to adjust their land use and zoning laws to meet their legal obligation to affirmatively further fair housing.”**

So, while HUD does not personally impose new zoning laws, if you take the grant money, they obligate you to impose them. The legal obligation HUD refers to is a statement grant applicants must sign:

Your jurisdiction agrees to “take no action materially inconsistent with its obligation to affirmatively further fair housing.” [“We will take no action materially inconsistent with our obligation to affirmatively further fair housing.”]

According to legal analysis, this statement **“Establishes the basis for False Claims Act lawsuits by the Department of Justice or private individuals.”** [-Fox Rothschild LLP, Attorneys at Law]
And those lawsuits are growing.

When a grant recipient fails to affirmatively further fair housing, HUD can respond with

- a compliance review
- loss of grant money or
- lawsuits (false claims lawsuit -- or other lawsuits)

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Lawsuits can also be initiated by third parties, and the very same people that you invited to participate in your community’s fair housing assessment.

Here’s an example:

In August of 2015 a developer proposed 69 affordable housing units in Rockford, Illinois. The town council, the county board, and the public, decided to build 49. Shortly after the decision, HUD received a complaint against Rockford for choosing the fewer housing units.

HUD responded with a compliance review for: potential civil rights violations; failure to affirmatively further fair housing; and a threat to refer the case to the Department of Justice.

Public officials reversed the community’s vote.

HUD is receiving increasing numbers of third party AFFH-related complaints, and lawsuits are forcing communities into line.

Meanwhile the new ruling is having other serious side effects

After thoroughly reviewing HUD’s agreement, officials of Douglas County, Colorado noted, HUD’s Assessment of Fair Housing tool will “negate the county’s rights and seriously hamper our ability to...manage local affairs...” [August 17, 2015 – Douglas County Colorado]

The Supreme Court in their *Westchester County v. HUD* Decision [September 25, 2015] offered a solution to HUD’s tactics.

The Court assumes that applicants for federal grants have read and understood the obligations before signing the agreement. Therefore the Court decided, “if a party objects to a condition on the receipt of [the] federal funding, its recourse is to decline the funds.” [- SCOTUS]

Under Affirmatively Furthering Fair Housing, the government’s demand for balanced and integrated living patterns

forcers communities into regional living
impedes local rule
and supersedes community decisions

Public officials must

Please say “no” to regionalism. and
“no” to HUD grants that are affected by Affirmatively Furthering Fair Housing

THANK YOU

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