

GETTING YOUR FAIR HOUSING
CONCERNS HEARD:
ASSESSMENT OF FAIR HOUSING IN
THE DALLAS REGION



Voices for Opportunity

- ▶ Provides fair housing advocacy training for renters, social service providers and others concerned about segregation, neighborhood equity and increasing housing options for lower income families in the Dallas region
- ▶ An initiative of the Inclusive Communities Project



V O I C E S

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Opportunity



Inclusive Communities Project

- ▶ Dallas-based nonprofit working for the
 - ▶ Creation and maintenance of thriving racially and economically inclusive communities,
 - ▶ Expansion of fair and affordable housing opportunities for low-income families, and
 - ▶ Redress for policies and practices that perpetuate the harmful effects of discrimination and segregation

Agenda

- ▶ What is the Assessment of Fair Housing (AFH) process?
- ▶ What is next in the AFH process for the Dallas Region?
- ▶ Q&A



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Fair Housing Act of 1968

- ▶ The Fair Housing Act does two things:
 1. Prohibits discrimination in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities, or otherwise make unavailable or deny, housing on the basis of race, color, religion, national origin, sex, disability, or familial status.
 2. Requires government actors to take affirmative steps to overcome segregation and unequal access to opportunity or “affirmatively further fair housing” (AFFH).

- ▶ “[The Fair Housing Act] imposes ... an obligation to **do more than simply refrain from discriminating** ... This broader goal [of truly open housing] ... reflects the desire to have HUD **use its grant programs to assist in ending discrimination and segregation, to the point where the supply of genuinely open housing increases.**” *NAACP v. Sec’y of Housing and Urban Development*, 817 F.2d 149, 155 (1st Cir. 1987) (Breyer, J.)

How do jurisdictions AFFH?

- The Housing and Community Development Act of 1974 requires HUD grantees to certify that they will comply with the duty to AFFH in order to receive funds.
 - No AFFH = no money
- A grantee is required to submit a certification that it will affirmatively further fair housing, which means that it will
 - conduct an analysis to identify impediments to fair housing choice within the jurisdiction;
 - take appropriate actions to overcome the effects of any impediments identified through that analysis; and
 - maintain records reflecting the analysis and actions in this regard.

(24 C.F.R. § 570.601(a)(2) and 24 CFR § 91.225(a)).

- The AFFH requirement has not been enforced well since 1968.

2015 AFFH Regulation (24 C.F.R. §§5.150-5.180)

- New process, participants must conduct an Assessment of Fair Housing (AFH) using an Assessment Tool provided by HUD.
- HUD provides standardized data to participants related to key metrics.
- AFH synchronized with Consolidated Planning process; Con Plan (and PHA plan) must reflect AFH-identified priorities.
- HUD must review AFH submissions.
- Encourages regional approaches and collaboration between jurisdictions and PHAs.
- Community participation, especially by historically excluded individuals, is integral to the process.
- Jurisdictions must include all comments they receive in the final AFH, and if they haven't incorporated those comments, they must explain why they didn't.

Definition of AFFH

Affirmatively furthering fair housing 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.

BOTH-AND

Increasing housing choice in
high opportunity areas

AND

Mitigating the effects of
historical disinvestment on low-
income communities of color.

“Investment” is not limited to housing funds for low-income minority communities.

Assessment of Fair Housing (AFH)

- Identifies **fair housing issues**
 - Public participation plan with outreach to protected classes and marginalized communities
 - Quantitative and spatial analysis of HUD-provided data and maps AND local data and knowledge
- Identifies **contributing factors** that led, in whole or in part, to the existence of those issues
 - qualitative analysis of policies and practices, both governmental and private, that may be contributing factors
- **Proposes goals for overcoming fair housing issues and contributing factors**

Areas of Analysis

- Assessment of past goals, actions, and strategies
- Patterns of Segregation
- Racially or Ethnically Concentrated Areas of Poverty (RECAP)
- Disproportionate housing need
- Disparities in Access to Opportunity
- Land use and zoning laws
- Location and type of affordable housing
- Public and private investment
- Lack of community revitalization strategies
- Transportation access.
- Location and type of affordable housing
- Environmental hazards
- Location of jobs
- Location of proficient schools and school assignment policies
- Accessibility for persons with disabilities
- How to ensure that projects comply with federal, state, and other fair housing and civil rights obligations?

HUD AFFH Data and Mapping Tool
<https://egis.hud.gov/affht/>

What are contributing factors?

- ▶ Community Opposition
- ▶ Displacement of residents due to economic pressures
- ▶ Lack of community revitalization strategies
- ▶ Lack of private investments in specific neighborhoods
- ▶ Lack of public investments in specific neighborhoods, including services or amenities
- ▶ Lack of regional cooperation
- ▶ Accessible public infrastructure
- ▶ Land use and zoning laws
- ▶ Lending Discrimination
- ▶ Location and type of affordable housing
- ▶ Occupancy codes and restrictions
- ▶ Private discrimination
- ▶ Siting selection policies, practices and decisions for publicly supported housing, including discretionary aspects of Qualified Allocation Plans and other programs

Local Data and Local Knowledge

- ▶ “Local data” and “local knowledge” (24 C.F.R. §§5.154(c), (d)(2))
- ▶ Local data subject to determination of statistical validity by HUD, can be found through reasonable search, low or no cost, necessary for completion of the AFH using the Assessment Tool. 24 C.F.R. §5.152
- ▶ Local knowledge is relevant to assessment, known or **becomes known** to the jurisdiction, and necessary for completion of the AFH using the Assessment Tool. 24.C.F.R. §5.152

Enforcement under the new rule

- ▶ There is still no “private right of action” (ability to sue) for AFFH violations under the Fair Housing Act.
- ▶ Litigation under the False Claims Act remains a possibility (Westchester);
- ▶ HUD must review and affirmatively accept the AFH: If a program participant does not have an accepted AFH, HUD will disapprove a consolidated plan (see 24 CFR 91.500) or a PHA Plan (see 24 CFR 903.23)
- ▶ HUD will continue to conduct compliance reviews of grantees' AFFH activities in response to administrative complaints alleging violations of civil rights statutes and the duty to AFFH; and
- ▶ HUD's own compliance with the duty to AFFH remains subject to challenge under the Administrative Procedure Act. If a grantee's alleged noncompliance and that of HUD's are closely entangled, an enforcement action against HUD could have implications for a grantee.



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Community Participation



Community Participation

Requirements:

- Provide the public reasonable opportunities for involvement in the development of the AFH and in the incorporation of the AFH, and other required planning documents
- Make data available (in accessible format) to the community, including residents, public agencies, and other interested parties
- Publish the proposed AFH in a manner that affords stakeholders the opportunity to examine its content and submit comments
- Provide a period of not less than 30 calendar days to receive comments from the community;

Benefits of Robust Community Participation

A successful AFH community participation process will create opportunities for members of protected classes, residents, stakeholders, and intergovernmental partners, to:

- Provide local knowledge to supplement the HUD data as well as to tell the story behind the HUD data
- Raise fair housing issues based on their experience and local data and knowledge
- Explore goals and strategies to address the contributing factors
- Legitimize and increases support for fair housing planning, including development of new projects;
- Improve community-government relations

Community Participation

- Community groups
- Tenant groups
- Environmental justice groups
- Universities
- Organizations that represent race or national origin groups, or women
- Disability rights organizations
- Social service providers that assist members of protected classes
- Organizations that represent LGBT individuals
- Religious congregations
- Housing developers

What Does the HUD Data Miss?

Every community is different, for example...

- Other burdens/benefits (e.g. lead exposure risk; park access; safety)
- Housing and neighborhood quality – parcel data
- Related civil rights enforcement
- Local history
- Causal factors
- Lack of/need for structural fixes – impact assessments, budget/funding distribution mechanisms

Community Participation

Educating Stakeholders about AFFH

Important opportunities assessed in the AFH linked to housing:

- Good jobs
- Quality schools
- Reliable and accessible transportation
- Healthy environments
- Low poverty neighborhoods

Fair Housing Goals: Example

Fair housing issue: Displacement of residents due to economic pressures

Goal: Preservation of 200 units of affordable housing in X, Y, and Z neighborhoods, which have high performing schools

Metrics: Within 6 months, publish and begin implementing a detailed 5-year plan to preserve and improve 100 units of affordable rental housing in X, Y and Z neighborhoods; including a plan to collect and analyze data on at-risk properties; facilitate collaboration among federal, state, and local agencies; and reduce operating costs.

Responsible Program Participant: Housing and Community Development Agency

How to Review Draft AFH and Provide Comments

Begin with the end in mind

- Start by reading the goals and keep them in mind throughout your review
- Follow the thread- goals, fair housing issues, contributing factors
- Submit written comments to ensure there is a record
- Split up the review with other advocacy organizations

North Texas (Fair) Regional Housing Assessment

- ▶ <http://northtexasrha.com/>
 - ▶ University of Texas Arlington coordinating public meetings and comments for AFH to submit to HUD
 - ▶ The draft AFH should be available in advance for review and comment
 - ▶ Survey online now for local data and local knowledge

Helpful Resources

- ▶ HUD AFFH
 - ▶ <https://www.hudexchange.info>
- ▶ PRRAC website
 - ▶ www.prrac.org

“Never doubt that a small group of thoughtful, committed citizens can change the world; indeed, it's the only thing that ever has.”

- Margaret Mead

Q & A

Please use the chat box in the anytime.com app to type your questions.

For More Information

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ICP Mobility Assistance
- ▶ Texas Appleseed
 - ▶ www.texasappleseed.org/disaster-recovery-fair-housing
- ▶ Poverty & Race Research and Action Council
 - ▶ <http://www.prrac.org/>
- ▶ University of Texas at Arlington
 - ▶ researches contracted to write the AFH report
 - ▶ <http://northtexasrha.com/>