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Regulations Division, Office of General Counsel
Department of Housing and Urban Development
451 Seventh Street SW.
Room 10276
Washington, DC 20410-0001

Re: DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
[Docket No. FR-6070-N-01] Notice for Suspension of Small Area
Fair Market Rent (Small Area FMR)
Designations; Solicitation of Comment
AGENCY: Office of Public and Indian Housing, HUD.
ACTION: Notice; solicitation of comment.

We represent the Inclusive Communities Project, Inc, a non-profit fair housing organization that assists voucher holders who want desegregated housing opportunities in the Dallas metropolitan area. ICP opposes the suspension of SAFMRs on the grounds that it makes housing unavailable in violation of 42 U.S.C. § 3604(a) and 42 U.S.C. § 3608(e)(5).

HUD did not mention either the perpetuation of racial segregation that would occur or the disparate impact on the predominantly minority voucher households if the SAFMRs are suspended. HUD's obligation to affirmatively further fair housing required it to have taken these factors into account when it initially considered suspending the SAFMRs. The notice of the proposed SAFMR regulation was explicit. The core hypothesis of the SAFMR policy is that it supports HUD's obligation to affirmatively further fair housing. Proposed Rule, 81 Fed. Reg. 39218, 39226, June 16, 2016. The suspension was a clear violation of that obligation.

HUD did not even attempt to compare severity and magnitude of the possible harms from implementation of the SAFMRs with the certain and continued harm from the perpetuation of racial segregation in the voucher programs covered by the suspended programs. These harms include the undisputed injuries to children required to continue living in racially and ethnically concentrated areas of poverty because of the suspension. The purpose of the SAFMR regulation was to establish

a more effective means for HCV tenants to move into areas of higher opportunity and lower poverty by providing the tenants with a subsidy adequate to make such

areas accessible and, consequently, help reduce the number of voucher families that reside in areas of high poverty concentration. Final rule, 81 Fed. Reg. 80567, November 16, 2016.

Multiple housing authorities in the Dallas, TX Metro HUD FMR Area have been operating under SAFMRs for six years. These authorities range from the McKinney Housing Authority with approximately 300 vouchers to the Dallas Housing Authority with approximately 17,000 vouchers. All of the authorities have been able to apply SAFMRs for the benefit of the voucher households. This is strong evidence that HUD's stated reasons for the suspension are pretexts for racial discrimination.

ICP has clients in the jurisdiction of the Fort Worth-Arlington, TX HUD Metro FMR Area where HUD suspended the SAFMR implementation. HUD's action injured both the clients and ICP.

The *OCA v. Carson* preliminary injunction opinion and order set aside the suspension with the effect of requiring the immediate implementation of the policy by the covered housing authorities. A HUD attempt to again suspend SAFMR implementation would again violate HUD's Fair Housing Act and constitutional duties.

s/Michael M. Daniel

s/ Laura B. Beshara
attorneys for ICP