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February 14, 2023

RE: Affirmatively Furthering Fair Housing (AFFH) Proposed Rule is a Major Step in the Right Direction to Advance Fair and Affordable Housing and Strengthen Communities

The Affirmatively Furthering Fair Housing (AFFH) Rule is critical to advancing housing justice and addressing the racialized housing and land exclusion policies, institutions, and value systems that have restricted and denied equal opportunities to Black and Brown families and other marginalized groups. Although illegal now, the remnants of redlining, segregation, blockbusting, racial steering practices, and many more are still deeply felt in communities today. These discriminatory practices continue to deprive Black and Brown communities access to safe and stable housing, full-service grocery stores, public transportation, parks and greenspaces, top-tier schools, employment opportunities, and much more that contribute to the ever-widening equity gap.

For decades, the AFFH mandate was a provision in the 1968 Fair Housing Act, a federal law that requires federal agencies to administer any housing-related programs “in a manner affirmatively to further” fair housing—but local and state governments were not held accountable and failed to address the inequities that persisted in their communities. In 2015, the Obama Administration, under the advisement of numerous housing justice advocates, instituted a strong AFFH rule that provided the specificity needed to strengthen the enforcement and efficacy of this important tool of defense for protected classes. The rule was repealed by the Trump administration in 2018 and the United States Department of Housing and Urban Development (HUD) suspended its implementation on January 5th of that year. BRHP and housing justice advocates across the nation, expressed fervent opposition and warned the administration of the detrimental ramifications that would follow the reversal of the 2015 AFFH rule. On February 9, 2023, under the Biden Administration, the Notice of Proposed Rule Making (NPRM) for a proposed AFFH rule was published to the *Federal Register* with a deadline for public comments set for April 10, 2023. Broadly, the proposed rule follows the framework of the 2015 AFFH rule in that participants must analyze and identify fair housing issues, establish priorities, and develop goals to address them; however, the rule has been refined in response to feedback obtained from advocates and stakeholders, and insight gained from HUD’s experience and self-evaluation.

The key refinements to the 2023 proposed AFFH rule include 1) establishing an Equity Plan (formerly known as the Assessment of Fair Housing) and a sequential timeline for participants to engage with the AFFH process, 2) requiring participants to prioritize community engagement, 3) forming a stronger link between fair housing goals and strategies, and 4) creating new opportunities for transparency, oversight, and accountability.ⁱ The Baltimore Regional Housing Partnership (BRHP) commends the United States Department of Housing and Urban Development (HUD) for taking the necessary steps toward specifying and strengthening the federal government’s obligation to affirmatively further fair housing. These refinements will expand housing choice—especially for low-income communities of color—which is critical to mitigating the historical symptoms of racial and economic inequities plaguing American cities today.

Based in one of the most historically segregated cities in America, BRHP serves the very families that are still experiencing the harm inflicted by the first race-based ordinance to legalize segregation passed by the Baltimore city council in 1911. Even though the Supreme Court declared racially biased zoning





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unconstitutional in 1917, unofficial racial exclusion persisted by using restrictive zoning and covenants, mortgage redlining, and blockbusting to trap generations of minorities in impoverished, underserved neighborhoods for over 10 decades. Despite the incremental progress achieved since 1911, the legacy of unjust housing practices coupled with the impact of current adverse policies continues to fuel the persistence of deeply entrenched racial segregation in Baltimore city. The consequences are multi-generational and deny Black families equal access to mortgage financing, neighborhoods with quality schools, neighborhood investments, and federal homeownership subsidies that could lead to wealth and asset building to benefit subsequent generations.

In 1995, six Black families residing in public housing in Baltimore, Maryland, sued HUD, the Housing Authority of Baltimore City (HABC), and the City of Baltimore for allegedly establishing and perpetuating a system of segregated public housing— *Thompson v. HUD*. The landmark lawsuit occurred as the government planned to demolish housing projects in the city and replace them with new units in neighborhoods with similar levels of segregation. The American Civil Liberties Union (ACLU) of Maryland, which represented the families, alleged that HABC, the City of Baltimore, and HUD had engaged in racial and economic segregation through site selection and development of public housing in the City of Baltimore since 1937. On January 6, 2005, a U.S. District Court in Baltimore held in *Thompson v. HUD* that the U.S. Department of Housing and Urban Development (HUD) had failed to affirmatively further fair housing in the Baltimore metropolitan areaⁱⁱ. Among other provisions, BRHP emerged from this groundbreaking class action lawsuit as part of the prescription ordered to remedy the legacy of racial and economic segregation that continues to plague Baltimore City.

In 2012, BRHP was authorized as the regional administrator for the *Thompson Program* (formerly known as the Baltimore Housing Mobility Program) and has provided over 5,000 low-income families with Housing Choice Vouchers coupled with pre- and post-move counseling ever since. Our organization is the outcome of holding agencies accountable to their obligation to further fair housing and underscores the necessity of equipping our nation with an effective AFFH rule to defend communities against housing injustices. Many facets of social injustices and racial inequalities, deeply embedded in the genetic makeup of our nation's infrastructure, stem from a decrepit housing system in dire need of bold reform. We support the improvements to HUD's Affirmatively Furthering Fair Housing regulations and will be preparing to submit a strong, equity-focused public comment to help shape the proposed rule.

By: Fiona Mesfun, policy analyst at the Baltimore Regional Housing Partnership

ⁱ United States. 2023. Affirmatively Furthering Fair Housing Proposed Rule. Federal Register. [Federal Register :: Affirmatively Furthering Fair Housing](#)

ⁱⁱ United States. 2017. *Interface of Mobility and Sustainability: Thompson v. HUD* [Interface of Mobility and Sustainability: Thompson v. HUD Final Report \(huduser.gov\)](#)

