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Regulations Division
Office of General Counsel
U.S. Department of Housing and Urban Development
Room 10276
451 7th Street SW
Washington, DC 20410-0500

FR-5173-P-01 Affirmatively Furthering Fair Housing

To Whom It May Concern:

Thank you for the opportunity to offer comments regarding the Department's proposed rule to Affirmatively Furthering Fair Housing (AFFH). These comments are respectfully submitted on behalf of the National Affordable Housing Management Association (NAHMA). NAHMA is a 501(c)(6) non-profit trade association which represents apartment owners and managers, multifamily housing industry stakeholders, and providers of goods and services to the affordable housing industry. NAHMA's mission includes promoting the development and preservation of quality affordable multifamily housing and preparing affordable housing professionals to succeed in evolving economic and political environments.

NAHMA supports the Department's efforts to promulgate regulations that will add clarity to the requirements created by the Fair Housing Act and provide HUD grantees with additional tools with which to meet their statutory obligations. Promoting integration, deconcentrating poverty, improving access to community assets, and addressing disproportionate needs are important goals. We offer the following recommendations in the hopes of improving the proposed rule so that HUD may better assist grantees in successfully achieving those goals.

- **HUD must clarify the rule to ensure that preservation of existing rental housing is encouraged.** In its current form, the rule casts doubt on grantees' ability to invest in neighborhoods with ethnic and racial concentrations of poverty. Much of the housing stock in need of revitalization is currently located in distressed areas. The final rule should make clear that grantees' investments to preserve, rehabilitate and revitalize properties in distressed neighborhoods does affirmatively further fair housing.
- **NAHMA strongly urges HUD to clarify the proposed certification requirement that grantees "will take no action that is materially inconsistent with its obligation to affirmatively further fair housing."** HUD should clarify what is meant by "materially inconsistent" so that the rule does not inadvertently discourage preservation, rehabilitation or recapitalization of properties in distressed areas. Under this standard, a PHA may be hard-pressed to justify capital improvements on a property that exists in a neighborhood lacking community assets. Similarly, a PHA could struggle to explain how lowering their voucher payment standard in order to be able to stretch their budget and continue to serve the same number of families meets the definition of AFFH.

PROTECTING THE INTERESTS OF AFFORDABLE HOUSING PROPERTY MANAGERS AND OWNERS

- **NAHMA strongly urges HUD to add a “safe harbor.”** The proposed rule provides no assurances that grantees have sufficiently met their AFFH obligations. The rule should be amended to include a safe harbor provision that would recognize grantees’ efforts and hold them harmless for factors outside of their control.
- **It is critical that HUD provide an opportunity for a more thorough review of the nationally uniform data that “will be the predicate for and help frame program participants’ assessment activities.”** According to the summary section:

“...HUD will provide states, local governments, insular areas, and public housing agencies (PHAs), as well as the communities they serve, with data on patterns of integration and segregation; racially and ethnically concentrated areas of poverty; access to education, employment, low-poverty, transportation, and environmental health, among other critical assets; disproportionate housing needs based on the classes protected under the Fair Housing Act; data on individuals with disabilities and families with children; and discrimination. From these data, program participants will evaluate their present environment to assess fair housing issues, identify the primary determinants that account for those issues, and set forth fair housing priorities and goals. The benefit of this approach is that these priorities and goals will then better inform program participant’s strategies and actions by improving the integration of the assessment of fair housing through enhanced coordination with current planning exercises.”

- Considering the importance placed on this information, the Department should provide an opportunity for additional public comments on the data, as well as HUD’s intended uses of it. Rather than a clear, consistent, and easily comprehensible picture, it is possible that the data will show various needs in various locations. Interpretations will be drawn from this data, and it is possible that grantees and different stakeholders may draw different conclusions from the same data.
- **Finally, HUD should continue working with grantees to achieve the goals of the proposed rule through the most cost effective and least administratively burdensome means.** Before finalizing the rule, the Department should carefully evaluate the administrative and compliance costs to the grantees in the context of sequestration and other federal budget cuts.

In conclusion, NAHMA appreciates the opportunity to offer comments on this important proposed rule. Thank you in advance for your consideration of our recommendations.

Sincerely,

Michelle Kitchen
Director of Government Affairs