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Final Fair Housing Enforcement Rule

After seven years of planning and development strategy, HUD completes its plan to step up enforcement of the 1968 Fair Housing Act (FHA) through a complete rewrite of the laws regulations and a series of parallel rules to eliminate all enforcement loopholes.

The final segment of the strategy is formally informing cities and communities of their obligations to ensure that local zoning and planning rules conform to the Fair Housing Act or they should be ready to surrender those local government privileges to the federal government.

The new guidance is issued in a joint HUD-Justice Department statement designed to emphasize the administration's focus on enforcement. It expands the HUD/DOJ Joint Statement to Group Homes, Local Land Use, and the Fair Housing Act, issued Aug. 18, 1999.

"Zoning and land use are inherently local decisions," says HUD Assistant Secretary for Fair Housing & Equal Opportunity Gustavo Velasquez in a joint statement with the Justice Department. "This updated guidance will help give localities and the American people a clearer line of what could constitute housing discrimination under the Fair Housing Act. Cities will also have more resources to understand their fair housing rights and responsibilities in the course of making decisions related to various types of housing, including group homes for residents with disabilities."

The guidance is issued in place of a formal rulemaking. Guidance notices allow agencies to bypass public interaction and congressional oversight when developing new rules.

The new guide includes:

- How does the FHA apply to state and local land use zoning?
- Can state and local land use and zoning laws or practices violate the FHA?
- What is a group home within the meaning of the FHS?

The guidance spells out how the FHA is violated if a community considers the fears or prejudices of residents when applying its land use laws regarding housing.

Land use and zoning practices can be construed as discriminatory even if there is or was never any thought of discrimination. Under the federal government's new "disparate impact" authority,

a practice, however old or obsolete can be discriminatory if only one person feels offended.

Discrimination can be in the form of too much land for too few people. If an individual determines that a lot size is too large for a single family, that person can complain FHA discrimination alleging that the single-family home consumes more land than needed and therefore it has a disparate impact on housing for others.

“Government officials, housing providers and the general public need to understand how land use and zoning decision can create barriers to housing opportunity,” says Principal Deputy Assistant Attorney General Vanita Gupta, head of the Justice Department’s Civil Rights Division.

Info: See the statement at www.cdpublications.com/docs/9031

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