



Fair Housing Enforcement Tempered

Rather than use a blunt instrument to shred HUD's Affirmatively Furthering Fair Housing rule, HUD Secretary Ben Carson chooses to dull its impact by muddling the 2015 re-interpretation of the 1968 Fair Housing Act's enforcement powers.

As HAL told you earlier (*HAL Issue No. 31, Aug. 10, 2018*), Carson intended to diffuse the far-reaching effort devised under former HUD Secretaries Shaun Donovan and Julian Castro to forcibly -- if necessary -- desegregate U.S. suburban single-family home neighborhoods. Carson has recently submitted a formal notice to modify the rule, which is considered one of the Obama administration's chief legacies.

The rule took more than five years to develop before it was unveiled in July 2015 and is part of a three-pronged initiative intended to close all enforcement loopholes and preempt local zoning rules if communities refuse to change them.

The rule, dubbed inclusionary zoning, allows developers to build high-rise tenement-style buildings or cluster housing in single-family home neighborhoods on available government-owned properties such as parks and occupy them with poor minority families under the Section 8 housing voucher program.

Carson, who described the concept as social engineering during his 2016 presidential campaign, wants the rule to focus on reducing regulatory burdens in local government jurisdictions to give them more control while encouraging programs that increase housing choice and supply.

In a statement, Carson says the AFFH rule crafted by the previous administration "often dictated unworkable requirements" and was "suffocating investment in some of our most distressed neighborhoods."

"HUD found that in contrast to its stated goals, the AFFH rule proved ineffective, highly prescriptive, and effectively discouraged the production of affordable housing," Carson adds.

In one of the most contentious applications of the new rule, more than 1,000 homeowners and residents in the New Towne neighborhood on the outskirts of Rockford, IL were overruled by HUD's Chicago regional office in 2016. The Chicago office ordered the Rockford Housing

Authority to build a \$12 million cluster of townhouses in the center of the neighborhood.

The 49 townhouses were designed to house single mothers with children transferred from the city's notorious Fairgrounds Valley public housing project, a crime-ridden complex in the center of Rockford. In an effort to quash criminal activity there, the city renovated an abandoned post office building directly across from the new development to house a police substation.

In order to veer from such relocation, Carson's plan is to rebuild these sorts of inner-city projects or use vacant inner-city lands to rebuild housing.

"We do not have to abandon communities in need. Instead, we believe we can craft a new, fairer rule that creates choices for quality housing across all communities," Carson says.

Regardless of the outcome of the revised AFFH, Carson has already neutered the main element of the enforcement plan. The rule requires communities and local governments receiving federal funding, including Community Development Block Grants, to submit fair housing assessments.

HUD provided communities with a Local Government Assessment Tool to help them submit housing data and ensure they were complying with the federal laws. Carson in May scrapped the LGAT, leaving communities rudderless and unable to carry out such surveys. "The LGAT was confusing, difficult to use and frequently produced unacceptable assessments," HUD said at the time.

While HUD develops changes to the AFFH rule, the department will accept comments from the public over 60 days following publication in the *Federal Register*. HUD also will stage informal listening forums to get input from city planners, public housing authorities, and housing advocates.

Info: See the HUD proposal at www.cdpublications.com/docs/9518

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