

April 10, 2023

Regulations Division, Office of General Counsel
Department of Housing and Urban Development
451 7th Street, Room 10276
Washington, D.C. 20410-0500



**RE: Affirmatively Furthering Fair Housing Proposed Rule, FR-6250-P-01,
Document ID HUD-2023-0009**

The Pittsburgh Community Reinvestment Group (PCRG) appreciates the opportunity to comment on the proposed rule regarding the implementation of the Affirmatively Furthering Fair Housing (AFFH) rule of the Fair Housing Act of 1968. PCRG is a coalition of nearly 60 community development and services organizations representing Western Pennsylvania. Our organization began in 1988 as a group dedicated to addressing the effects of redlining and advocating for community reinvestment through the Community Reinvestment Act (CRA). PCRG continues this work through our quarterly collaborative banking roundtables with local banks and community groups, routine comments on federal rulemaking, CRA examinations, and bank mergers and acquisitions, as well as through work with our national partners at the National Community Reinvestment Coalition (NCRC). As such, PCRG strongly believes in upholding the legal responsibility of banks and financial institutions to lend to all communities, including low- and moderate-income (LMI) communities, and Black, Indigenous, and People of Color (BIPOC) communities.

Furthermore, PCRG believes in the moral obligation that all individuals, regardless of socioeconomic factors, are entitled to safe and affordable housing. The Department of Housing and Urban Development's (HUD) decision to issue a new AFFH, based on the lessons learned from the 2015 proposed rule, will be a critical tool for governments and public housing agencies in remediating the existing effects of housing discrimination and structural racism that have prevented so many from meeting those basic needs. In the proposed rule, HUD has identified the need to provide underserved communities with greater opportunities in addressing the fair housing issues that are most likely to impact their communities. The time has long since passed for HUD to promulgate a robust AFFH rule that fully seeks to implement the dual purpose of the Fair Housing Act. PCRG strongly supports the framework provided in the proposed rule and offers context and suggestions in response to questions posed by HUD in the following analysis.

Inequities in the Pittsburgh Market

While the Pittsburgh region has remained one of the more affordable metro areas in the United States, it still faces significant challenges for low- and very low-income renters, LMI homebuyers, and people of color as both renters and homebuyers. Following the 2020 U.S. Census results, the City of Pittsburgh experienced a decline in its Black population by 13.4% or 13,600 residents, since the 2010 census.¹ In further research, PCRG identified a significant loss in Black homeownership in the region from 2010-2014 to 2015-2019, at the citywide, countywide, and metropolitan level. Not only did Black homeownership decrease during this period, but it continued to decrease faster than the non-Hispanic white homeownership rate, contributing to one of the largest metro area Black-white homeownership gaps of comparable metro areas in the Midwest and Mid-Atlantic.² The inability to access equity through homeownership, as well as considerable differences in median household incomes between Black and non-Hispanic white households, has resulted in nearly 75% of all Black residents in Allegheny County living in the bottom half of median household income census tracts.³ This trend is incredibly disheartening as research from Opportunity Insights has shown that childhood location and socio-economic mobility can play a significant role in adult outcomes, including earning potential, educational attainment, incarceration rate, and many other outcomes.⁴

For renters in the region, Pittsburgh has an adequately supplied rental market for moderate-income earners (making over 80% of area median income). However, according to the most recent Comprehensive Housing Affordability Strategy (CHAS) dataset, there is a significant gap for low- and very-low-income renters. The number of very-low-income homeowners and renters increased by nearly 8,000 households, to 82,955 households making below 30% of AMI, from 2010-2014 to 2015-2019 in Allegheny County. Of those making less than 30% AMI, approximately 73.2% of households (60,715 households) are cost burdened at the 30% threshold. For renters specifically, Allegheny County has seen some progress for earners making between 30% AMI and 80% AMI, but still face exceptional challenges in the rental market, as seen in the table below.⁵

¹ Pittsburgh Community Reinvestment Group, "Taking Stock: A Decade in Decline for Black Homeownership in Pittsburgh." <https://www.pcr.org/black-homeownership-report>

² Ibid.

³ Ibid.

⁴ Raj Chetty, John Friedman, and Nathaniel Hendren (Opportunity Insights) Maggie Jones and Sonya Porter (U.S. Census Bureau), "The Opportunity Atlas: Mapping Childhood Roots of Social Mobility." https://opportunityinsights.org/wp-content/uploads/2021/12/atlas_summary.pdf

⁵ HUD Office of Policy Development and Research, Comprehensive Housing Affordability Strategy Data, Allegheny County, Pennsylvania, 2010-2014 and 2015-2019. <https://www.huduser.gov/portal/datasets/cp.html>

Household Income for Renters	Cost-burdened Renters (2010-2014)	Cost-burdened Renters (2015-2019)	Change (in percentage points)
Income <= 30% HAMFI	71.5%	72.6%	+ 1.1 pp
Income > 30% - <= 50% HAMFI	70.2%	67.0%	- 3.2 pp
Income > 50% - <= 80% HAMFI	34.1%	27.1%	- 7.0 pp
Income > 80% - <= 100% HAMFI	9.5%	8.4%	- 1.1 pp
Income > 100% HAMFI	3.6%	2.3%	- 1.3 pp
Total Households	42.1%	39.6%	- 2.5 pp

In order to make meaningful progress on fair housing goals, PCRG passionately believes that local and state governments, and public housing agencies need to affirmatively take steps to overcome segregation, promote fair housing choice and opportunities, and foster inclusive communities free from discrimination to protected classes. While recent local⁶ and state programs⁷ have been created to address some of these problems, more work is necessary to achieve the two primary functions of the Fair Housing Act. We consider the revised approach to the 2015 AFFH rule to make meaningful strides in creating fair housing goals and metrics that will advance the issues highlighted above. However, there are some areas that still need to be addressed in order to ensure that program participants are Affirmatively Furthering Fair Housing.

Streamlined Analysis without Undue Burden

In 2015, HUD released the final Affirmatively Furthering Fair Housing rule, which replaced the Analysis of Impediments to Fair Housing Choices (AI) as part of the Consolidated Planning process. As part of the 2015 AFFH rule, HUD program participants were required to answer approximately 100 questions to identify and prioritize Fair Housing issues. Additionally, program participants had to meet certain requirements for community engagement. Combining the answers to the questions posed by HUD and the responses from the community, HUD program participants were to create Assessments of Fair Housing (AFH) as a part of the Consolidated Plan and Annual Action Plan process. Failure to provide HUD with an adequate and actionable AFH would result in the loss of federal funds for the program participant. The intent of

⁶ The Urban Redevelopment Authority of Pittsburgh (URA) and Housing Authority of the City of Pittsburgh (HACP) recently created the [OwnPGH program](#), which allows for up to \$90,000 in grants and forgivable loans to first-time homebuyers with less than 80% area median income, under certain conditions including the preservation of affordable housing through sales to other 80% AMI households. The URA also operates the City’s [Housing Opportunity Fund](#), which includes nine separate programs aimed at homeownership and rental assistance, to households and in housing development and stabilization.

⁷ In 2022, Governor Tom Wolf signed into law the [Whole Home Repairs Act](#), which provides up to \$50,000 in grants or forgivable loans to LMI homeowners and small landlords with affordable units to address habitability and safety concerns.

the 2015 AFFH rule was well-meaning, however the resulting AFHs by program participants lacked quality.

Reducing Questions While Maintaining Fair Housing Goal Clarity

As part of the streamlined approach taken by HUD under the 2023 AFFH rule, HUD replaced the approximately 100 questions to determine Fair Housing issues with 7 content area questions for local and state governments and 5 questions for public housing agencies.

Local/State Governments	Public Housing Agencies
1. Demographics of the locality	1. Demographics of the housing agency
2. Issues of segregation and integration	2. Issues of segregation and integration within housing agency population
3. Identified Racially or Ethnically Concentrated Areas of Poverty (R/ECAPs)	3. R/ECAPs within the housing agency
4. Issues related to access to community assets	4. Issues related to access to community access and housing opportunity
5. Issues related to affordable housing opportunities	5. Identified local and state issues impacting fair housing within the public housing agency
6. Issues related to access to homeownership and economic opportunity	
7. Identified local policies and practices impacting fair housing	

The reduction of questions along with additional contextual assistance provided to HUD program participants should yield higher quality submissions as Equity Plans, a modified version of the AFH. However, PCRG is concerned about the reduction of analytical analysis and removal of identifying contributing factors to overcome systemic and longstanding inequities. While we do not believe in “requiring program participants to recite back to HUD what the HUD-provided data showed,”⁸ however, safeguards will need to be put in place by HUD technical assistance staff to ensure that program

⁸ AFFH Proposed Rule 2023, Equity Plan New (§ 5.154) pg. 68-70.

participants are still working to identify and remediate systemic and longstanding inequities.

Some specific areas that HUD should seek to define more clearly are related to “significant housing disparities” and to add more place-based protections for existing residents. In the proposed rule, HUD seems to conflate access to affordable housing and access to quality housing as if they are the same intended goal. This may be true in growing areas with relatively new housing stock, but it is not a guarantee, nor is it true for legacy cities in the Northeast, Mid-Atlantic, or Midwest, such as Pittsburgh.

According to a recent draft of the City of Pittsburgh’s Housing Needs Assessment, over 50% of the city’s deed-restricted housing stock exists in just 12 of 90 neighborhoods – of which only 3 neighborhoods are *not* HUD defined R/ECAP areas. Since 2010, many of these neighborhoods have seen significant investment and growth, which has led to claims of displacement by protected classes. This displacement has either led to residents leaving the region or being pushed further into R/ECAP neighborhoods that suffer from inadequate housing conditions and other negative factors such as exposure to community and gun violence, lower access to jobs and transportation opportunities, and more.

These significant disparities in housing opportunities can have profoundly negative impacts on health outcomes and child development in a myriad of ways. We believe that HUD is correct in trying to increase the availability of affordable housing, however the agency must ensure that it does not come at the cost of fair and healthy housing, nor at the cost of displacing residents from their homes. HUD should ensure that program participants are making it possible for residents and protected classes to stay in their neighborhoods, if they should choose to do so. This can be achieved through an enhanced place-based focus on measuring exposure to problems such as lead-based paints and waterlines, community violence, and other environmental hazards such as PFAS chemicals, also known as “forever chemicals.” It is possible to see how these could be addressed under some of the new core questions listed above. However, PCRG believes that HUD should explicitly define measuring and addressing “significant housing disparities” as its own core category.

Providing Enhanced Technical Assistance

HUD should specifically make considerations with regards to technical assistance for smaller local governments, insular area governments, and public housing agencies who may not otherwise have the capacity to adequately respond to the new framework. According to HUD’s analysis of the 2015 rule implementation:

Due to the complexity of the assessment required and the need to adhere to the specific format required, many program participants utilized outside contractors

to complete their AFHs, others misunderstood the questions asked, and some failed to identify fair housing issues or set meaningful goals to affirmatively further fair housing. Many submissions merely recounted what the HUD-provided data showed, rather than providing an analysis of the actual fair housing issues program participants' communities were and are facing. In some instances, this resulted in goals that consisted of a program participant merely continuing with actions that would maintain existing conditions rather than advancing equity for members of protected class groups and underserved communities.⁹

Specifically, this would be helpful to governments of localities with less than 50,000 to 75,000 residents who may not have the technical or personnel capacity to fully interpret AFFH-T and CHAS data, as well as an inability to rely on local residents and organizations to provide an adequate number of responses for local data and knowledge. While the ultimate goal of the Equity Plans must be to create actionable Fair Housing goals, they still must be rooted data-informed strategy and methodology. Additional considerations to the Equity Plan formulation that focuses on goals and fair housing outcomes, instead of prescribing specific content and length responses should reduce complexity and should also be beneficial to program participants.

HUD should clarify that outside sources, like consultants and contractors, are not necessary to complete an Equity Plan but instead provide a non-exhaustive list of useful sources like non-profit fair housing organizations, community groups, and universities or other instances of higher education. These types of organizations, which are likely to be required through community engagement anyway, will provide a keen and independent assessment of the Equity Plan process.

HUD already provides useful guidance on how to use their tools through the AFFH landing page, the HUDUSER data portal, and the HUD Exchange YouTube page. As is the case with many government data repositories, user guides and datasets are not always well defined or maintained. Links may sometimes no longer work, or direct to deprecated or otherwise outdated webtools. Through the existing technical assistance that HUD staff already provides, they should continue to solicit and evaluate feedback from program participants on how to reduce the complexity of the existing data tools.

HUD should not mandate the use of certain tables and maps but provide enough information and context so that program participants can use what is most relevant to them. Fair housing issues driven by community engagement and local knowledge are unlikely to perfectly align with census tracts and block groups. However, that does not mean that program participants should be free to ignore valuable insights that can be gained from analysis at that geographic level. PCRG has previously expressed the need to go beyond the data provided by HUD during the previous rulemaking process.

⁹ AFFH Proposed Rule 2023, II. B. pg. 26.

Without explicit instructions, program participants are likely to take an enumerated list of data sources as the quintessential element of analysis. The agency can overcome this by broadening question areas, improving HUD provided data and community engagement procedures, and creating better references to non-HUD provided data.

HUD Provided Data and Tool Enhancements

In the proposed rule, HUD has committed to maintaining and potentially expanding the AFFH-T Data and Mapping tool, and to provide additional tools as necessary to facilitate the fair housing analysis portion of the Equity Plan.¹⁰ HUD should consider working with the Consumer Protection Finance Bureau (CFPB) to include mapping of Home Mortgage Disclosure Act (HMDA) data to better understand lending discrimination and access to high opportunity housing within localities. CFPB has created a mapping tool for basic queries based on the newest iteration of HMDA data (from 2018 onward).¹¹ This could similarly be extended to small business lending data collected under Section 1071 of the Dodd-Frank Act.

As an organization founded to remediate the effects of redlining, HMDA data has been a crucial part of our advocacy agenda and would be beneficial to program participants in overcoming this longstanding inequity.¹² Providing HMDA data to program participants would facilitate better understanding of the inequities experienced by members of protected classes, specifically those of race, color, age, and sex and gender. Additionally, it may help program participants be more effective in improving access to community assets and housing-related opportunities for protected classes and historically underserved populations. These tools either exist, or are likely to exist, in the near future and HUD would better serve program participants by making them aware of the existence of these tools, if not actively including them in the AFFH-T suite of maps and tools.

Designing Best Practices for Community Engagement

One of the successes of the 2015 AFFH rule was the implementation of community engagement in the Assessment of Fair Housing planning process. As it translates to the new Equity Plan model, HUD has taken great consideration into seeking community engagement and facilitation best practices. Requiring program participants to hold meetings in various accessible locations, at different times of the day, to better facilitate participation from historically underserved communities will be key to this process.

¹⁰ AFFH Proposed Rule 2023, Equity Plan New (§ 5.154) pg. 71.

¹¹ Link to CFPB HMDA Mapping Tool: <https://ffiec.cfpb.gov/data-browser/maps/2021>

¹² PCRG annually conducts a mortgage lending study of Pittsburgh/Allegheny County. For more information, see our web version here: www.pcrgr-research.github.io

HUD should consider a minimum required number of meetings to be held based on a program participants size and scope that takes into account the locality (rural, urban, suburban) and modality of communication (in-person, online, hybrid). Considering that HUD is requiring certain conditions be met (the consideration of underserved communities, advocate groups, times of days to accommodate different work shifts), they should set a minimum threshold to solicit community engagement. HUD should require program participants to allow for some form of participation online. The City of Pittsburgh allows for online public comment through the “Engage Pittsburgh” platform that enables residents to ask questions and comment on various proposals. Each proposal includes relevant documents, city staff, external stakeholders, timelines, and more. The city conducts additional surveys through the platform. While this is not a substitute for in-person and virtual meeting spaces, it does provide residents and city employees alike supplementary opportunities to conduct outreach and engagement and should not be dismissed or discounted by HUD. While the agency should not mandate program participants the use of this platform type explicitly, HUD should require that all meeting documents, materials, public comments, and reports are available online in some form or fashion.

When possible, HUD should encourage program participants to include accommodations during community engagement sessions. While this approach may be limited by the size and scope of a particular program participant to produce things like real-time captioning, or sign-language interpreters – HUD should include a non-exhaustive list of alternatives that program participants can engage in. Additionally, HUD should consider requiring program participants to spend a certain dollar amount or percent of their HUD-related budget to ensure that financial costs are factored into the administration and facilitation of community engagement. This would be particularly helpful for larger program participants, such as the City of Pittsburgh. This would ensure that program participants are able to provide reasonable accommodations.

With regards to underserved populations and communities, HUD should strongly consider requiring advance notice of engagement events to ensure these populations and communities have sufficient time to participate. So long as it does not interfere with the submission process, HUD should require up to thirty days advanced notice for engagement sessions in underserved communities, or for events geared towards underserved populations outside of underserved communities. If this proves to be overly burdensome for program participants throughout the annual plan review, HUD should continue to work with program participants to issue further guidance or interpretative rules.

Creating Enhanced Accountability Through Equity Plan Transparency

HUD’s plan to increase accountability and transparency through publications of Equity Plans will be incredibly helpful to program participants and interested parties alike. This

will allow for the participants themselves, and the general public, to monitor for the accepted status and annual progress evaluation of a plan. The agency asks in question nine whether they should require a certain manner and format for Equity Plan submission.¹³ PCRG believes that submissions should be allowed in the manner that is easiest for the agency and participants, such as through a webpage or by email, and should contain a common word processing file extension such as a .doc, .docx, or .pdf format. HUD should also allow ancillary documents such as spreadsheets (XLSX and CSV), mapping tools (including .gdb, .lyr, .shp, .geojson, etc.), and other file types to be included at the participant's discretion.

The agency should use this online publication as a forum to solicit comments and complaints from the public regarding an approved or proposed plan. We believe that HUD is correct in their assessment that these comments should not supplant the tradition review process, as there are many existing engagement points in the Equity Plan formulation process. However, there should be monitoring and evaluation of the post-planning process to include further HUD guidance. That is why, as previously stated, we believe that HUD should require at least one post-planning community engagement session to explain the final Equity Plan proposal to residents and stakeholders.

Review Process Improvements Allow for Equity Planning Flexibility

One of the areas that HUD identified for improvement was the review process timeline for Equity Plan submissions and approval by HUD. PCRG had significant concerns which we shared in our letter with NCRG during the 2013 AFFH rulemaking process and subsequent final rule in 2015. We support expanding the review period for submitted plans from 60 days to 100 days, along with HUD's ability to further extend the review period so long as the program participant is working in good faith. HUD has acknowledged that issues with the lengthy questionnaire in the AFH analysis, along with a short review period resulted in every submission being accepted under the 2015 rule, even when plans were likely to continue or exacerbate fair housing issues.

Maintaining Penalties Ensures AFFH Compliance

Given that HUD has acknowledged their hesitance to revoke federal funding under the previous AFFH rule,¹⁴ PCRG supports the changes made to the review process for insufficient proposals, including the acceptance of a programmatic plan while rejecting an Equity Plan. PCRG agrees with the agency that a more flexible approach is necessary to ensure that communities are not at immediate risk of losing their HUD funding. The agency has ensured, through the use and publication of special

¹³ AFFH Proposed Rule 2023, IV Questions for Comments. 118.

¹⁴ AFFH Proposed Rule 2023, IV Questions for Comments. 127.

assurances and HUD's decision making, that program participants and the public will have ample opportunities to remediate any deficiencies in their plan prior to the termination of funding and refusal to grant financial assistance. HUD should consider requiring that program participants hold at least one meeting, preferably more, following the final drafting of the Equity Plan.

Summary

PCRG is encouraged by the actions that HUD has taken to revoke the ill-conceived Preserving Communities and Neighborhood Choice Rule and to offer this modified Affirmatively Furthering Fair Housing rule in its place. We see that this approach has taken into consideration many important lessons learned from the implementation of the previous AFFH rule and strikes a fair balance between analysis, engagement, review, and enforcement. PCRG has some reservations about the open-ended nature of the new Equity Plans, including the loss of certain prescriptive data analysis and review of past systemic barriers. However, we believe that the steps taken to encourage and prioritize fair housing solutions through streamlined analysis and robust community engagement will ultimately lead to higher quality proposals relative to the 2015 rule. We are encouraged by this proposed rule and look forward to working with our partners and stakeholders in preparation for HUD's final rule.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ernest Hogan', with a long horizontal flourish extending to the right.

Ernest Hogan
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