

# **Affirmatively Furthering Fair Housing: Key Terms**

## **Affirmatively Furthering Fair Housing (AFFH)**

The duty to Affirmatively Further Fair Housing means taking “meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.”<sup>1</sup> Affirmatively furthering fair housing includes “taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.”<sup>2</sup> Importantly, the AFFH obligation extends to “all of a program participant’s activities and programs relating to housing and urban development.”<sup>3</sup>

## **Analysis of Impediments to Fair Housing Choice (AI)**

The AI is the fair housing analysis that HUD required certain HUD funding recipients to complete prior to the creation of the Assessment of Fair Housing. HUD funding recipients must still comply with prior existing requirements regarding the AI until their first AFH submission.<sup>4</sup>

## **Assessment of Fair Housing (AFH)**

A fair housing planning process that certain HUD funding recipients must complete as part of their obligations under HUD’s AFFH Rule, issued in 2015.<sup>5</sup>

## **Assessment Tool**

The questions and accompanying instructions that jurisdictions, public housing authorities, and states will have to answer as part of their completion of the

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<sup>1</sup> 24 C.F.R. § 5.152 (definition of “Affirmatively furthering fair housing”).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *See e.g.*, 24 C.F.R. § 5.151.

<sup>5</sup> *See* 24 C.F.R. § 5.154(d) for a description of the required content for the AFH; *see also* 24 C.F.R. § 5.152 (definition of “Assessment of Fair Housing”) (defining the AFH as “the analysis undertaken pursuant to [the AFFH Rule] that includes an analysis of fair housing data, an assessment of fair housing issues and contributing factors, and an identification of fair housing priorities and goals, and is conducted and submitted to HUD using the Assessment Tool.”).

Assessment of Fair Housing (AFH).<sup>6</sup> HUD is developing several Assessment Tools, with each Tool featuring questions geared toward certain types of funding recipients (e.g., local governments, housing authorities, states).

### **Consolidated Plan (ConPlan)**

A “HUD-approved housing and community development plan written by states and local communities to assess local housing needs and markets and to plan the use of local and federal housing and community development resources that will address these needs.”<sup>7</sup> The ConPlan outlines “how a jurisdiction will use its Community Development Block Grant (CDBG), HOME, Emergency Solutions Grant (ESG) and Housing Opportunities for Persons with AIDS (HOPWA) funds for affordable housing and community development.”<sup>8</sup>

### **Contributing Factor (Fair Housing Contributing Factor)**

A factor that “creates, contributes to, perpetuates, or increases the severity of one or more fair housing issues.”<sup>9</sup> Contributing factors include factors such as source of income discrimination or lending discrimination. Assessment of Fair Housing goals are made to overcome contributing factors and fair housing issues.<sup>10</sup>

### **Fair Housing Issue**

A condition that “restricts fair housing choice or access to opportunity.”<sup>11</sup> For the purposes of the Assessment of Fair Housing, fair housing issues include segregation, racially/ethnically concentrated areas of poverty, disproportionate housing needs, significant disparities in access to opportunity, and evidence of discrimination/violations of civil rights law or regulations regarding housing.<sup>12</sup> Assessment of Fair Housing goals are made to overcome contributing factors and fair housing issues.<sup>13</sup>

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<sup>6</sup> 24 C.F.R. § 5.152 (definition of “Assessment Tool”).

<sup>7</sup> NHLP, *HUD Housing Programs, Tenants’ Rights*, 901 (4th ed. 2012) (Glossary and Common Acronyms).

<sup>8</sup> *Id.*

<sup>9</sup> 24 C.F.R. § 5.152 (definition of “Fair housing contributing factor”).

<sup>10</sup> *Id.* (definition of “Fair housing contributing factor”).

<sup>11</sup> *Id.* (definition of “Fair housing issue”).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* (definition of “Fair housing contributing factor”).

## **Local Data**

Local data consist of “metrics, statistics, and other quantified information” that are relevant to the geographic area being analyzed; statistically valid; can be found “through a reasonable amount of search”; “readily available” at low/no cost; and necessary to complete the AFH.<sup>14</sup>

## **Local Knowledge**

Information that: relates to the relevant geographic area being analyzed; is relevant to and necessary for the AFH; and is known/becomes known to the HUD funding recipient.<sup>15</sup> Note that the definition of local knowledge is quite general, and that local knowledge is an important supplement to the national-level data provided by HUD and to any local data that may be available for the purposes of completing the AFH.

## **PHA Plan**

The PHA Plan is “is a comprehensive guide to public housing agency (PHA) policies, programs, operations, and strategies for meeting local housing needs and goals.”<sup>16</sup> The PHA Plan process consists of the Five-Year Plan and the Annual Plan.<sup>17</sup> The Five-Year Plan due date informs the due date for a PHA’s AFH submission<sup>18</sup> (though other factors can influence the timing of a PHA’s AFH submission as well). Note that Qualified PHAs<sup>19</sup> only have to submit a Five-Year Plan, and do not have to submit an Annual Plan.<sup>20</sup>

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<sup>14</sup> *Id.* (definition of “Local data”).

<sup>15</sup> *Id.* (definition of “Local knowledge”).

<sup>16</sup> “Public Housing Agency (PHA) Plans,” HUD Website, available at:

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/public\\_indian\\_housing/pha](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/pha)

<sup>17</sup> *Id.*

<sup>18</sup> 24 C.F.R. § 5.160(a)(1)(i)(D)-(E). Note that Qualified PHAs (defined below) have a different initial AFH submission timeline than non-qualified PHAs.

<sup>19</sup> The term “qualified PHA” refers to PHAs: (1) for which the total number of public housing units plus the number of Section 8 vouchers equals 550 or fewer; (2) that are not designated as “troubled” PHAs; and (3) that have not had a failing Section 8 Management Assessment Program (SEMAP) score within the last year. 24 C.F.R. § 5.152 (definition of “Qualified public housing agency (Qualified PHA)”).

<sup>20</sup> 42 U.S.C.A. § 1437c-1(b)(3) (West 2016).