



**COMMENT LETTER
HUD'S PROPOSED CHANGES TO THE AFFIRMATIVELY FURTHERING FAIR
HOUSING RULE**

March 16, 2020

Office of the General Counsel
Rules Docket Clerk
Department of Housing and Urban Development
451 Seventh Street SW, Room 10276
Washington, DC 20410-0001

Via regulations.gov

RE: HUD's Proposed Changes to the Affirmatively Furthering Fair Housing Rule,
Docket No. FR-6123-P-02

I am writing on behalf of the District of Columbia Office of the Tenant Advocate in response to HUD's proposed changes to the Affirmatively Furthering Fair Housing rule. We oppose several of the provisions in the proposed rule, including the change to the definition of "affirmatively furthering fair housing," the inclusion of rent control as an "inherent barrier to fair housing choice," and the negative consideration of potentially beneficial local housing regulations in ranking jurisdictions' performance.

The mission of the Office of the Tenant Advocate (OTA) is to provide technical advice and other legal services to District of Columbia tenants regarding disputes with landlords; to educate and inform the tenant community about tenant rights and rental housing matters; to advocate for the rights and interests of District renters in the legislative, regulatory, and judicial contexts; among other things.

First and foremost, OTA opposes the proposed change in the definition of "affirmatively furthering fair housing." The proposed change eliminates from the definition any reference to "segregated living patterns" or "racially and ethnically concentrated areas of poverty." The new definition, "advancing fair housing choice within the program participant's control," does not charge jurisdictions with taking meaningful actions to reverse or eliminate segregation or concentration of poverty, both of which exist across the United States as well as within the District of Columbia.

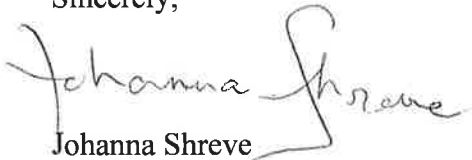
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Second, OTA disagrees with the inclusion of “[a]rtificial economic restrictions on the long-term creation of rental housing, such as rent controls[]” in the rule’s list of “inherent barriers to fair housing choice.” Under the proposed rule, if a jurisdiction identifies one of these items as an obstacle to be addressed, it would not be required to provide an accompanying explanation of how addressing that “obstacle” affirmatively furthers fair housing. Including rent control on this list encourages jurisdictions to curb or end rent control policies which, rather than presenting a “barrier” to fair housing, preserve the long-term affordability of rental housing that would otherwise be subject to steep rent hikes at the whims of housing providers.

Finally, OTA opposes the proposal to consider “the amount of additional burden local regulations place on the housing market by unduly increasing housing costs” as a factor in ranking jurisdictions for the purposes of various incentives. Question for Comment 17 to the proposed rule suggests that HUD might use this as a factor in ranking jurisdictions. The rankings would be used for the purposes of awarding “preference points on Notices of Funding Availability (NOFAs) or eligibility to receive additional program funds due to reallocations of recaptured appropriated funds and other forms of regulatory relief.” Discouraging local regulations that may factor into the cost of housing, such as safety- and health-related regulatory regimes, may disincentivize jurisdictions from regulating housing in ways that may factor into the price of housing but are nonetheless beneficial.

Sincerely,



Johanna Shreve

Chief Tenant Advocate for the District of Columbia