

LINKS TO DOCUMENTS USED IN HUD PRESENTATION

Affirmatively Furthering Fair Housing (AFFH) has been a HUD provision for decades, as has the obligation to further that provision. However, until recently, AFFH was weakly enforced.

HUD's 2015 ruling called AFFH, tightens the legal obligations attached to specific HUD grants and applies the legal lessons learned in the HUD v Westchester case to create an enforcement mechanism.

HUD uses compliance reviews, the threat of fund withdrawal and the threat of various HUD and third party False Claims Act and Disparate Impact suits, to hold communities accountable. While most of these enforcement tools have been available to the agency for years, for the first time, they are being aggressively pursued.

Background on AFFH

- This is a [PowerPoint presentation by the civil rights law firmⁱ](#) of Relman, Dane & Colfax (RDC). It explains the New AFFH rule and relates it to the former Assessment of Impediments form. RDC is a civil rights powerhouse and litigated the landmark Westchester County case that gave birth to the idea of using False Claims Act lawsuits to compel communities to follow HUD's social and planning prescriptions.
- This is from [RDC's website explaining theⁱⁱ basis](#) behind AFFH. Notice in particular, the second paragraph. Local community activist groups are the 'stick', which enforces AFFH...

"What HUD produced is a Final Rule long on "carrots," but painfully short on "sticks." To compound that problem, HUD does not currently have—and is very unlikely to acquire—sufficient resources to police the compliance of 1200 block grant recipients and 3400 public housing agencies. Consequently, the promise of the **Affirmatively Furthering Fair Housing (AFFH) mandate is likely to be realized only in communities where grassroots and legal advocates mobilize and create their own enforcement strategies.** The success of the Final Rule will depend on this grassroots mobilization, on a community-by-community basis, all over the country. That means advocates, collectively, need to step up to the plate and provide the tools and resources for a sustained "ground game."

- This [RDC video explainsⁱⁱⁱ](#) the relationship between AFFH and the Westchester case.
- Here is HUD Secretary Shaun Donovan in a [2013 speech before the NAACP^{iv}](#) in Orlando, FL. He makes it clear that HUD will actively pursue grantees that fail to follow HUD's demands.

HUD AFFH Tools

- This is HUD's [Assessment of Fair Housing](#)^v (AFH), which replaces the old Assessment of Impediments (AI). In the document, notice the 77 references to comparing jurisdictional and regional data. The comprehensive plan you submit to HUD, to overcome "Contributing Factors" to discrimination or imbalance must compare your local jurisdiction's data to that of the region. How closely must they compare? How closely must your plans align? What happens if your community does not like the region's zoning laws and plans? What limits are placed on HUD to either directly or indirectly control local decisions and/or outcomes? Also, notice the "Contributing Factors". These must be addressed to remove discrimination.
- Here is [HUD's AFFH Rule Guidebook](#).^{vi} "Notice on page 11, it clearly states, "providing affordable housing is not synonymous with AFFH." It then goes on to describe what is expected of communities in broad terms that are never specifically defined, but involve nearly every aspect of community life. Also, notice there are no limits placed on what HUD can expect of your community, nor are there any protections for local autonomy nor local property rights.

Responses to HUD

- Douglas County, CO reviewed the Assessment of Fair Housing above and noted [these concerns in a letter to HUD](#).^{vii}
- Castle Rock, the county seat for Douglas County, CO, opted to reject HUD's CDBG funds. The recipients of the funds were concerned and wanted to know why Castle Rock decided to turn down the money. [This is Castle Rock's response to the groups](#).^{viii}

Legal

- This is the [Westchester V HUD settlement](#)^{ix} in 2015. (The Anti-discrimination Center of Metro NY sued Westchester under the FCA in 2006. That case was settled in 2009 at which time HUD entered and additionally sued for discrimination. That was settled in 2015. While no discrimination was found, HUD was able to increase the costs of the original settlement to Westchester.)
- This [is HUD's Compliance Review of Marin County, CA](#).^x Notice that on page 4 out of 9, they quote the Westchester case.
- This is [Marin County's Voluntary Compliance Agreement](#)^{xi} with HUD pursuant to the compliance review.
- Here is the [Westchester Housing Monitor's report](#)^{xii} to the court on March 17, 2016. Pay special attention to Section II Evaluation of the County's Statements about the Settlement." As you become more familiar with AFFH, you will realize that, County Executive Astorino is quite accurate in his warnings of the extent of HUD's ability to force high density housing on local communities and indirectly manage their zoning laws. The Monitor ignores these realities.

Related sources

This article, [American Murder Mystery](#)^{xiii} appeared in the Jul/Aug 2008 issue of The Atlantic. It details how a national police organization traces increased crime rates to the relocation of Section 8 Housing.

The Rhode Island Division of Planning is funded through HUD grants that fall under the AFFH rule. [In this video](#)^{xiv}, when the local town council questions a housing official about AFFH compliance, he refuses to answer.

For more documents related to AFFH go to [Sustainable Freedom Lab](#)^{xv}.

ⁱ <http://bit.ly/1TTOhfi>

ⁱⁱ <http://furmancenter.org/research/iri/essay/huds-new-affh-rule-the-importance-of-the-ground-game>

ⁱⁱⁱ <https://www.youtube.com/watch?v=yzYSH1KcuAQ>

^{iv} <http://bit.ly/1TtPMqh>

^v <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/AFFH-Assessment-of-Fair-Housing-Tool-1.pdf>

^{vi} <https://www.hudexchange.info/resources/documents/AFFH-Rule-Guidebook.pdf>

^{vii} <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/Douglas-County-Response-to-AFFH-1.pdf>

^{viii} <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/CASTLE-ROCK-LETTER-TO-HUD-GRANTEES-Apr.-5-2016.pdf>

^{ix} <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/Westchester-V-HUD-Final-Decision-9.25.2015.pdf>

^x <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/HUD-Compliance-Review-Marin-Jul-2009.pdf>

^{xi} <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/10-Marin-VCA-final-12-21-2010.pdf>

^{xii} <http://bit.ly/1Ub3f2W>

^{xiii} <http://www.theatlantic.com/magazine/archive/2008/07/american-murder-mystery/306872/>

^{xiv} <https://www.youtube.com/watch?v=GZ0orP2mCJY>

^{xv} <http://sustainablefreedomlab.org/resources/federal-agencies/hud/>