

Nassau Urban County Consortium Fair Housing Conference

Location: 1550 Franklin Avenue, Mineola
Date: September 19, 2013
Time: 10:00 a.m. – 12:00 p.m.



Edward P. Mangano
Nassau County Executive

John Sarcone
Director
Office of Community Development



What is AFFH?

AFFH = Affirmatively Furthering Fair
Housing

This means the commitment to **eliminate
impediments to fair housing choice**

Why Affirmatively Further Fair Housing?

To receive HUD funds, Nassau County must certify that its consortium members affirmatively further fair housing. Two additional certifications are necessary: Title 6 and FHA.

Urban County Consortium Requirements

- All members of the an urban county consortium are individually required to AFFH
- If a municipality fails to AFFH then the entire consortium risks non-compliance

Goal of AFFH

The Goal of AFFH is therefore to **eliminate housing discrimination** and to **reverse and eliminate segregation.**

Historically, segregation results from:

- Redlining
- Blockbusting
- Predatory lending
- Steering
- Gentrification/disinvestment
- Discriminatory zoning/building codes

But More Importantly ..

Segregation is not only unfair, but it is economically and socially draining

Communities that work to AFFH:

- see economic revitalization in formerly depressed areas
- see reductions in crime and other negative social outcomes

Combating Segregation

- Only by actively working to reverse existing segregation/discrimination can a grant recipient secure an AFFH certification
- A HUD grant recipient must demonstrate that it goes above and beyond standard fair housing compliance and show that it also actively works to eliminate segregation and housing discrimination

Segregation

- Is therefore both an impediment to Fair Housing Choice and the end result of other impediments
- Combating segregation is therefore central to AFFH

What is an impediment to fair housing choice?

Any public or private-sector action or policy which inhibits an individual's ability to choose where to live *because of that individual's protected class status.*

Protected Classes

Under the combined Federal, State, and local Nassau laws, the following classes are considered protected:

- Race
- Color
- National origin
- Religion
- Sex
- Familial status
- Disability
- Marital status
- Age (over 18)
- Sexual orientation
- Ethnicity
- Source of income

HUD's Proposed AFFH Rule

- New rule regulating how grantees are to comply with fair housing requirements
- Better guidance on the scope of the required assessment
- HUD expects grantees to:
 - ✓ improve compliance
 - ✓ reduce costs associated with data collection
 - ✓ streamline the analysis
 - ✓ synchronize the assessment process with the consolidated planning process

Under HUD's Proposed Rule:

The AI is replaced by a new **Assessment of Fair Housing**

Four steps in the AFH process:

1. Data Delivery – HUD will provide the County with data
2. Local Analysis – the County will prepare an AFH with 3 parts:
 - 1) Executive Summary
 - 2) The Analysis
 - 3) Fair Housing Priorities and Goals
3. Review & Response by HUD
4. Incorporate into the Consolidated Plan and the Annual Action Plan

Examples of Impediments: Public

- **Public housing placement**
 - Is it being built in already segregated communities?
- **Section 8 voucher usage**
 - Is voucher use limited to certain areas?
- **Lack of community support for fair housing**
- **Land-use controls**
 - Does zoning limit the construction of affordable housing in certain areas?

Examples of Impediments: Private

■ Limited housing choice:

- Do tests show that minorities are being limited in housing options?

■ Mortgage discrimination

■ Real estate advertisement strategies

- Do the images or language in ads aim to steer protected classes toward certain areas?

Fair Vs. Affordable Housing

- Affordable Housing becomes a Fair Housing issue when it is shown that a lack of Affordable Housing is preventing integration—or that the concentration of Affordable Housing is encouraging segregation
- When protected classes are shown to be disparately impacted by the lack/concentration of Affordable Housing = Fair Housing issue

Responsibilities of the County and Consortium Communities

- Conduct a thorough and honest AFH
- Ensure that municipalities receiving CDBG are AFFH
 - Enforce the right to deny money if they fail to do so
 - AFFH obligations applies to all money spent on housing so long as the county accepts HUD funds

Responsibilities of the County and Consortium Communities (cont.)

- Do not put all the affordable housing in segregated neighborhoods
- Ensure that your community knows where to direct Fair Housing complaints
 - Nassau County Commission on Human Rights
 - Long Island Housing Services
 - NYS Division of Human Rights

Tools and Tips for the County and Consortium Communities (cont.)

- Ensure that all housing funded with State or Federal funds has an **Affirmative Marketing Plan** advertising the AFFH units to minority populations, specifically those of the surrounding counties and those least likely to apply for the housing

Tools and Tips for the County and Consortium Communities (cont.)

- Ensure that local zoning is progressive in terms of affordable and inclusionary housing provisions
 - Provide opportunities for multi-family /rental housing for both families and seniors
 - Consider incentive provisions that promote inclusionary affordable housing units
 - Provide opportunities for two-family housing and accessory apartments
- The key is having opportunities for the development of affordable housing in non-minority communities

Nassau County's Fair Housing Law and Nassau County Resources

Kevin Crean, Deputy Director
Office of Housing and Community
Development

Martha Krisel, Esq.
Office of the Nassau County Attorney

Affirmatively Furthering Fair Housing: Proposed Rule

Friday, July 19, 2012

“Through this rule, HUD commits to provide states, local governments, PHAs, the communities they serve, and the general public with local and regional data on ethnically concentrated areas of poverty, access to key community assets, and disproportionate housing needs based on classes protected by the Fair Housing Act. From these data, program participants should be better able to evaluate their present environment to assess fair housing issues, identify the primary determinants that account for those issues, set forth fair housing priorities and goals, and document these activities.” [I. Executive Summary]

Affirmatively Furthering Fair Housing: Proposed Rule

Friday, July 19, 2012

“To facilitate this new approach, HUD will provide states, local governments, insular areas, and public housing agencies (PHAs), as well as the communities they serve, with data on patterns of integration and segregation; racially and ethnically concentrated areas of poverty; access to education, employment, low poverty, transportation, and environmental health, among other critical assets; disproportionate housing needs based on the classes protected under the Fair Housing Act; data on individuals with disabilities and families with children; and discrimination” [Summary]

Affirmatively Furthering Fair Housing: Proposed Rule

Friday, July 19, 2012

Assessment of Fair Housing (AFH) replaces the Analysis of Impediments which HUD considered inadequate

Affirmatively Furthering Fair Housing: Proposed Rule

Friday, July 19, 2012

- “From these data, program participants will evaluate their present environment to assess fair housing issues, identify the primary determinants that account for those issues, and set forth fair housing priorities and goals.” [Summary]

Affirmatively Furthering Fair Housing: Proposed Rule

HUD Data

- The proposed Rule does not include a timeline for distribution of the data to be supplied, nor is it clear what level the data will cover (township, village, school district, census tract?)
- OCD is required to make AFH-related data available to the public, public agencies, and other interested parties.[§91105(b)(1)(i)]

Affirmatively Furthering Fair Housing: Proposed Rule

HUD Data (from Summary of Proposed Rule)

- will report on: “existence of racially concentrated areas of poverty (RCAP) in their jurisdiction” by census tract
- “The neighborhood school proficiency index uses school-level data on the performance of students on state exams to describe which neighborhoods have more proficient elementary schools and which have less proficient elementary schools.”
- “A job access index summarizes the accessibility of a given residential neighborhood as a function of its distance to all job locations.”

Five-Year Consolidated Plan

HUD Merged Separate Application/Funding
Cycles into Coordinated Process

1st – FFY 1999 - 2004

2nd – FFY 2005 – 2009

3rd – FFY 2010 – 2014

NEXT – FFY 2015 – 2019

5 Year Planning Process

Citizen Participation

- 3 Public Hearings
- Meetings with Various Stakeholders
- Public Comments
- Fair Housing Symposium

Meetings With Various Stakeholders to Assess:
Housing & Community Development Needs

Homeless

Non-Homeless

Special Needs

Housing Authorities

Barriers to Affordable Housing

Community Development Needs

Five-Year Consolidated Plan

Collaborative Process aimed at identifying a unified vision for community development actions to be undertaken during the Five Year Period

Includes:

- **Strategic Plan**
 - Analysis of data and needs
 - Establishes priorities and goals for Five-Year Period
- **Fair Housing Plan/Analysis of Impediments**
- **Annual Action Plan**
 - Activity/Project Information for Year 1

Plan Components

- Housing Needs
 - Owner vs. Rental
 - Public Housing and Assisted Housing
 - Special Needs Housing
 - Homeless
- Analysis of Impediments to Fair Housing choices
- Lead Based Paint
- Community Development Needs

Plan Components

- Anti Poverty Strategy
 - No Wrong Door
 - Housing Choice Voucher Programs
- Housing and Community Development Priorities
- Housing and Community Development Resources
- Plan Coordination

Affirmatively Furthering Fair Housing

- Definition at §5.152
- ...means taking steps proactively to address significant disparities in access to community assets, to overcome segregated living patterns and support and promote integrated communities, to end racially and ethnically concentrated areas of poverty, and to foster and maintain compliance with civil rights and fair housing laws.
- For participants subject to this subpart, these ends will be accomplished primarily by making investments with federal and other resources, instituting strategies, or taking other actions that address or mitigate fair housing issues identified in an assessment of fair housing and promoting fair housing choice for all consistent with the policies of the Fair Housing Act.

§5.162 Review of AFH

- “The AFH will be deemed accepted 60 calendar days after the date that HUD receives the AFH, unless before that date HUD has provided notification that that HUD does not accept the AFH. In its notification, HUD must inform the program participant in writing of the reasons why HUD has not accepted the AFH and the actions that the jurisdiction may take to address these reasons.”

§5.162 Review of AFH

- “New Assessment Tool (Handout) – “The final product would be refined based upon review and support by HUD, and then incorporated into housing and community development plans”.
- Again from New Assessment Tool: “The AFFH goals identified in the AFH would be used to inform the strategies and actions of the Consolidated Plan, the Annual Action Plan, the PHA Plan, and the Capital Fund Plan.”

TIMING OF SUBMISSION OF AFH

AFH is to be submitted on the same cycle as a jurisdiction's Consolidated Plan.

For Nassau County that means submission by the summer of 2015.

- Initial AFH submission is to be submitted to HUD “at least 270 calendar days before the start of the program participant’s program year.” [”§5.160(a)]

TIMING OF SUBMISSION OF AFH

- §5.160 “(b) Late Submission. An accepted AFH, or portion thereof, **is a precondition for approval of a consolidated plan.**
- ...If a consolidated plan program participant fails to submit an AFH in a timely manner, HUD may establish a date after AFH acceptance for the jurisdiction to submit its consolidated plan, but in no event past the August 16 deadline provided in 24CFR 91.15. **Failure to submit a consolidated plan by August 16 of the federal fiscal year for which funds are appropriated will automatically result in the loss of the CDBG funds to which the jurisdiction would otherwise be entitled.”**

TIMING OF SUBMISSION OF AFH

- Nassau County FY Start Date Sept. 1, 2015
- 270 days prior March 1, 2015
- 60 day HUD Review Period May 1, 2015
- too late for adjustments to be made to application process and/or funding priorities

SUBMISSION OF AFH ON REQUIRED SCHEDULE

Earliest Nassau County would be advised of acceptance or any HUD issues would be May 1st, which is too late for adjustments to be made to application process and/or funding priorities.

Better to submit initial AFH by Nov. 1, 2013 – 60 day review period concludes Jan. 1, 2015 allowing time to make adjustments to program prior to starting the County's regular Action Plan process

AFH PREPARATION PROCESS

HUD Data, when received will be shared with all consortium members.

NC OCD will meet with consortium members in an informal consultation process to review compliance with HUD Fair Housing Criteria.

AFH PREPARATION PROCESS

Meetings will be held with local PHAs

Fair Vs. Affordable Housing

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Responsibilities of the County and Consortium Communities

- Conduct a thorough and honest AI
 - ✓ Use public meetings and/or outside consultants to paint an honest picture of the situation in county
 - ✓ Regional housing markets do not stop at county borders – be wary of greater regional housing needs
 - ✓ Partner with Fair Housing advocacy groups in drafting AI / Action Plan etc.

Responsibilities of the County and Consortium Communities (cont.)

- Conduct a thorough and honest AI
 - ✓ Ensure that the AI includes both **public** and **private** impediments
 - ✓ Identify all impediments experienced by all protected classes
 - ✓ Encourage public participation in the development of the AI – allow for forums where public fair housing grievances can be discussed

Responsibilities of the County and Consortium Communities (cont.)

- Do not put all the affordable housing in segregated neighborhoods
- Ensure that municipalities receiving CDBG are AFFH
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 - AFFH obligations applies to all money spent on housing so long as the county accepts HUD funds

The Role of the Nassau County Planning Commission

Sean E. Sallie, AICP

Nassau County Department of Public Works
– Planning Division

Martha Krisel, Esq.

Office of the Nassau County Attorney

Nassau County Planning Commission Municipal Zoning Referral Process

McKinney's General Municipal Law § 239-m

§ 239-m. Referral of certain proposed city, town and village planning and zoning actions to the county planning agency or regional planning council; report thereon; final action

3. Proposed actions subject to referral.

- (i) adoption or amendment of a comprehensive plan pursuant to section two hundred seventy-two-a of the town law, section 7-722 of the village law or section twenty-eight-a of the general city law;
- (ii) adoption or amendment of a zoning ordinance or local law;
- (iii) issuance of special use permits;
- (iv) approval of site plans;
- (v) granting of use or area variances;
- (vi) other authorizations which a referring body may issue under the provisions of any zoning ordinance or local law.

Referral Turnaround

Staff presents
referral to NCPC.

NCPC
recommendation:

**LOCAL
DETERMINATION**

MODIFICATION

DENIAL

Municipality refers
zoning/planning
application to
NCPC Staff

Staff reviews
application
and
schedules on
next
available
NCPC
meeting

Staff prepares
resolution and
forwards to
municipality
[within 2 days of
NCPC Hearing]

30
Days

Typical Zoning Referral Calendar

APPLICABILITY

Zoning and Planning-related actions that are within 500' of

- City/Town/Village Boundary
- State/County ROW's
- State/County Parkland
- County Drainage Channel / Stream
- State/County Building or Institution

HOUSING-RELATED ACTIONS SUBJECT TO REFERRAL TO THE COMMISSION:

- *Site Plan Applications (multi-family)*
- *Rezoning Applications*
 - *Text Amendments*
 - *Map Amendments*
- *Variance Applications (parking)*
- *Special Use / Exception Permits*
- *Comprehensive Plans*
- *Moratoria*
- *Subdivision (Village / City)*

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SECTION

Special Pe

Nassau County
Urban County Consortium
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Q & A