



Written by [Raven Clabough](#) on June 16, 2015

HUD Seeks to Address “Inequality” in Wealthy Neighborhoods Through Regulations

The federal government continues to reach far beyond its constitutional parameters by proposing regulations to increase diversity in wealthy neighborhoods. Officials at the Department of Housing and Urban Development argue that a [new rule](#) entitled “[Affirmatively Furthering Fair Housing](#)” would simply clarify obligations under the Fair Housing Act of 1968, but critics view it as another example of federal overreach.



The Hill reports, “The regulations would use grant money as an incentive for communities to build affordable housing in more affluent areas while also taking steps to upgrade poorer areas with better schools, parks, libraries, grocery stores and transportation routes as part of a gentrification of those communities.”

According to HUD’s Notice of Proposed Rulemaking on Affirmatively Furthering Fair Housing, the proposed rule is to ensure that public housing agencies, as well as local governments and states receiving Community Development Block Grants, HOME Investment Partnerships, Emergency Solutions Grants, and Housing Opportunities for Persons With AIDS are properly adhering to the Fair Housing Act. In order to do so, the proposal entails the completion of an assessment of fair housing (AFH). Program participants would then be required to incorporate the findings from the AFH into subsequent housing plans: the Consolidated Plan, which would “describe how the priorities and specific objectives of the jurisdiction would further fair housing,” and the Action Plan, which specifies “actions to be taken during the next year that address fair housing issues identified in the AFH.” The proposal identifies four goals of the AFH:

The AFH focuses program participants’ analysis on four primary goals: improving integrated living patterns and overcoming historic patterns of segregation; reducing racial and ethnic concentrations of poverty; reducing disparities by race, color, religion, sex, familial status, national origin, or disability in access to community assets such as education, transit access, and employment, as well as exposure to environmental health hazards and other stressors that harm a person’s quality of life; and responding to disproportionate housing needs by protected class. HUD would provide all program participants with nationally uniform data on these four areas of focus as well as outstanding discrimination findings. Once program participants have analyzed the HUD data, as well as local or regional information they choose to add, they would identify the primary determinants influencing fair housing conditions, prioritize addressing these conditions, and set one or more goals for mitigating or addressing their determinants.

The AFH is subject to HUD approval, which is granted only if it does not violate fair housing or civil rights laws, as deemed by HUD. According to *The Hill*, the regulations would apply to roughly 1,250 local governments.

Failure to comply would risk federal block grants, which critics argue is virtual blackmail. Fox News



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Critics point to the case of Westchester County, N.Y., which has been locked in a battle with HUD since it [settled in a lawsuit](#) brought by the nonprofit Anti-Discrimination Center over the county's lack of affordable housing units. The 2009 settlement, which HUD helped broker with the Justice Department, mandated the affluent county spend \$50 million of its own money to build units, most of which would be in predominantly white neighborhoods. The county and HUD have been arguing ever since over compliance, with Westchester claiming HUD has been changing the rules along the way. As a result, HUD has repeatedly [withheld annual funding from the county](#).

"It's an overreach on our liberties to live and work and move to wherever we want," declared Representative Paul Gosar (R-Ariz.), who has led the efforts against the proposal, sponsoring an amendment to the House HUD spending bill Wednesday, blocking any future funding for the new rule.

"American citizens and communities should be free to choose where they would like to live and not be subject to federal neighborhood engineering at the behest of an overreaching federal government," Gosar stated, adding,

[The rule] tells us how we can live, where we go to school, how we will vote, what this utopian type of neighborhood should look like. These rules want to manipulate the way American neighborhoods look.

But defenders of the rule claim it is about fairness and leveling the playing field. "This rule is not about forcing anyone to live anywhere they don't want to," insisted Margery Turner, senior vice president at the left-leaning Urban Institute. "It's really about addressing long-standing practices that prevent people from living where they want to. In our country, decades of public policies and institutional practices have built deeply segregated and unequal neighborhoods."

However, liberty-lovers have pointed out that regulating to address inequality is misguided. As [observed](#) by the CATO Institute, inequality is just a symptom of economic problems, which result from a number of issues, including "awful public schools dominated by teachers unions," broken families that are plagued by unemployment, substance abuse and criminality perpetuated through government programs, and ineffectively harsh drug laws. Likewise, a complicated tax code that features loopholes and favors cronyism and a free market that is stifled by regulation all conspire to create the economic problems that contribute to inequality. Using the Fair Housing Act to correct inequality is merely attempting to put a band-aid on broken leg.

Still, supporters of the proposal claim that the rule would help alleviate some housing discrimination issues. But Hans von Spakovsky, a fellow at the conservative Heritage Foundation, notes that such a rule does not deemphasize race in an effort to alleviate discrimination, but rather emphasizes it. He asserted that the Obama administration "too race conscious." "It's a sign that this administration seems to take race into account on everything," Spakovsky said.

Tyler Durden of Zero Hedge characterized the proposal as an attempt to "create a wealth-adjusted community utopia."

If passed, the proposal would have far-reaching consequences beyond its alleged aims, including empowering HUD with authority over local zoning laws. Gosar asserts it would allow the agency the power to dictate what types of homes can be built where, and who may live in them.



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Gosar also warns that the rule had the potential to depress property values as cheaper homes crop up in wealthy neighborhoods, raise taxes, and even influence elections as more minorities are funneled into Republican-leaning neighborhoods.

The Supreme Court is expected to make a decision on a housing discrimination case in the coming weeks. The case concerns whether Texas violated the Fair Housing Act by disproportionately awarding low-income housing tax credits to developers who own properties in poor, minority-dominated neighborhoods. The court is being asked to weigh in on whether government policies that unintentionally create a disparate impact for minority communities violate federal laws against segregation. That decision could influence the future of HUD's proposed rule.



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