

# HUD's Proposed Rule on Affirmatively Furthering Fair Housing

A presentation for  
NCDA Region 1 (New England)  
Bridgeport, Connecticut  
November 14, 2013

# Proposed Rule on Affirmatively Furthering Fair Housing

- ▶ Issued in the Federal Register on July 19, 2013
- ▶ Comments were due September 17, 2013
- ▶ HUD received 1024 comments
- ▶ Comments can be viewed at:  
<http://www.regulations.gov>
- ▶ Proposed Rule and supplementary materials are available on the HUD/PD&R website at:  
[http://www.huduser.org/portal/affht\\_pt.html](http://www.huduser.org/portal/affht_pt.html)

# Proposed Rule on Affirmatively Furthering Fair Housing

## Why HUD issued the Rule

- ▶ “... the fair housing elements of current housing and community development planning are not as effective as they could be... and do not sufficiently promote the effective use of limited public resources to affirmatively further fair housing.”
- ▶ “The proposed rule does not mandate specific outcomes for the planning process.”
- ▶ “Instead, recognizing the importance of local decision making, it established basic parameters and helps guide public sector housing and community development planning and investment decisions to fulfill their obligation to affirmatively further fair housing”

# Proposed Rule on Affirmatively Furthering Fair Housing

## Major Provisions of the Rule

- ▶ Replaces the Analysis of Impediments (AI) with a new Assessment of Fair Housing (AFH)
- ▶ HUD provides standard data that program participants must consider in their AFH
- ▶ Incorporates Fair Housing planning into the Consolidated Plan and PHA Annual Plan processes. Initial AFH must be submitted to HUD 270 days before start of the program year (October 1 for July 1 grantee) that a new Con Plan is due and at least every 5 years thereafter.

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## Major Provisions of the Rule (continued)

- ▶ Encourages/facilitates regional approach to Fair Housing. Allows grantees to opt in to a regional AFH.
- ▶ Local governments developing an AFH must consult with all the groups required for Con Plan plus “any community and regionally-based organizations that represent protected class members or advance fair housing laws.”
- ▶ Must make the data HUD provides available to the public as part of the Citizen Participation process for developing the AFH

# Proposed Rule on Affirmatively Furthering Fair Housing

## HUD Fair Housing Data

- ▶ **Racially/Ethnically–Concentrated Areas of Poverty** (census tracts with 40 or higher poverty and non–white population of 50% or more)
- ▶ **Segregation** (Dissimilarity index, Isolation index, Predicted Racial/Ethnic Composition Ratio)
- ▶ **Community Asset Indicators** (Neighborhood School Proficiency Index, Poverty Index, Job Access Model, Labor Market Engagement Index, Environmental Health Hazard Exposure Index, Transit Access, Access or Exposure to Community Assets)
- ▶ **Disproportionate Housing Needs** – similar to e–Con Plan

# Proposed Rule on Affirmatively Furthering Fair Housing

## Data Documentation

- ▶ [http://www.huduser.org/portal/publications/pdf/FR-5173-P-01\\_AFFH\\_data\\_documentation.pdf](http://www.huduser.org/portal/publications/pdf/FR-5173-P-01_AFFH_data_documentation.pdf)

## Prototype Geospatial Tool

- ▶ [http://www.huduser.org/portal/affht\\_pt.html#dataTool-tab](http://www.huduser.org/portal/affht_pt.html#dataTool-tab)

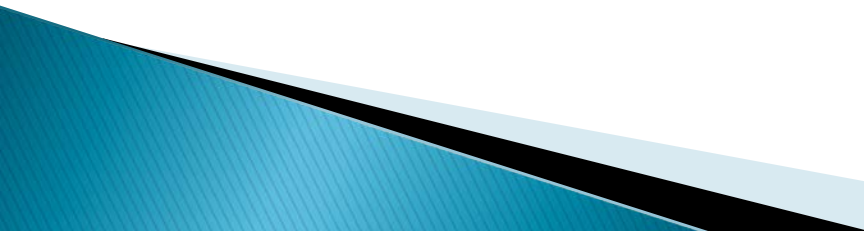
## Instructions for Geospatial Tool

- ▶ [http://www.huduser.org/portal/publications/pdf/affht\\_instructions.pdf](http://www.huduser.org/portal/publications/pdf/affht_instructions.pdf)

## Regulatory Impact Analysis

- ▶ [http://www.huduser.org/portal/publications/pdf/FR-5173-P-01\\_Affirmatively\\_Furthering\\_Fair\\_Housing\\_RIA.pdf](http://www.huduser.org/portal/publications/pdf/FR-5173-P-01_Affirmatively_Furthering_Fair_Housing_RIA.pdf)

# NCDA/NACCED Comments on the Proposed Rule

- ▶ Comments were prepared by NCDA and the National Association for County Community and Economic Development (NACCED)
  - ▶ Endorsed by the US Conference of Mayors (USCM), the National Association of Counties (NACO) and the National Association of Local Housing Finance Agencies (NALHFA)
  - ▶ NCDA/NACCED comment letter is posted on the NCDA website
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# NCDA/NACCED Comments on the Proposed Rule

## General Comments

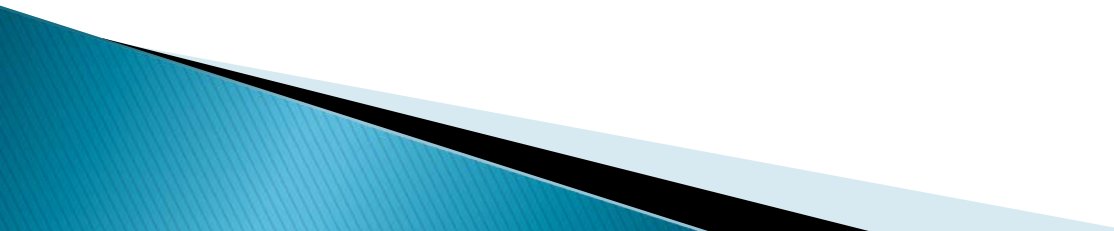
- ▶ HUD should issue an Interim Rule rather than a Final Rule so there is another opportunity to comment
- ▶ HUD should provide an opportunity to comment on the template to be used to assess the AFH – wasn't provided in the proposed rule.
- ▶ Eliminate the redundancy between the AFH and Con Plan by making the AFH a template within eCon Plan.

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## General Comments

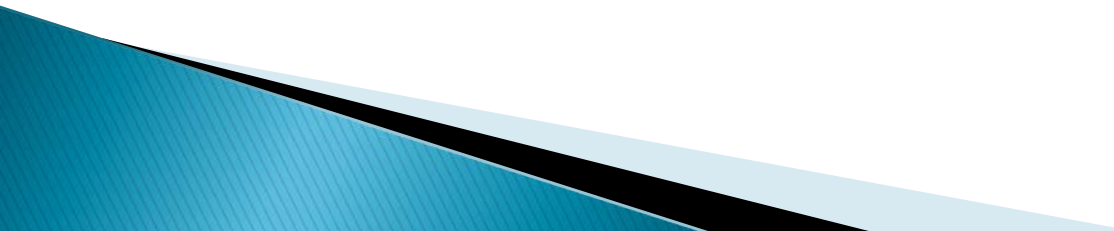
- ▶ HUD should make considering data on access to education, employment, transportation, environmental health, etc. optional - outside Fair Housing scope.
- ▶ HUD should allow an abbreviated or streamlined AFH for small grantees and grantees that only receive CDBG
- ▶ HUD should waive the requirement to submit an AFH for grantees that have recently completed an Analysis of Impediments

# NCDA/NACCED Comments on the Proposed Rule

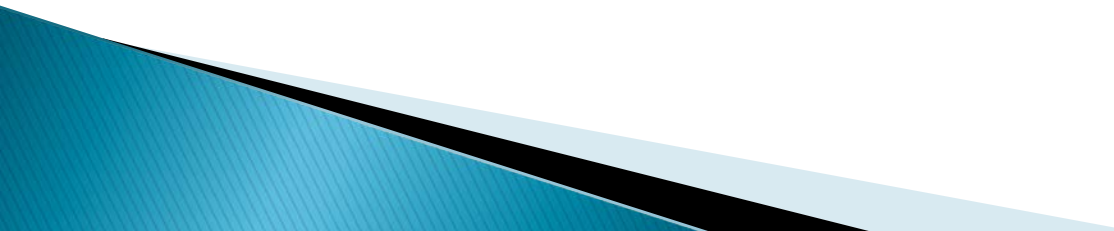
- ▶ HUD CPD should be consulted/involved in the review of AFHs, not just HUD FHEO.
  - ▶ HUD should issue draft of the standards they plan to use for review & approval of AFH. Allow grantees opportunity to comment.
  - ▶ HUD should provide grantees with opportunity to review and comment on data and measures before issuing data for use in preparing AFHs.
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# Other Comments on the Rule

See [Regulations.gov](https://www.regulations.gov)

- ▶ Anti-Discrimination Center (Westchester County case)
  - ▶ NAACP Legal Defense and Educational Fund
  - ▶ Poverty & Race Research Action Council et. al.
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And now for something completely different....



# #7 The Larch

