

Background

Affirmatively Furthering Fair Housing Rule

The US Department of Housing and Urban Development announced its final rule this week regarding Affirmatively Furthering Fair Housing. The rule will take effect 30 days after it is published in the Federal Register. The rule is expected to be published the week of July 13.

The rule lays out requirements based on Section 808 (e)(5) of the Fair Housing Act which requires the Secretary of HUD to administer the Department's housing and urban development programs in a manner to "affirmatively further fair housing (AFFH)." Please note that the requirements to affirmatively further fair housing are not new, but have been in effect for decades. The rule defines "affirmatively furthering fair housing", and outlines a revised process for HUD review of state and local governments' steps to comply with the rules. Nothing in the rule directly impacts REALTORS®. It is important that REALTOR® Associations familiarize themselves with the requirements relating to an Assessment of Fair Housing and participate in the assessment process.

All jurisdictions receiving HUD housing funds, including CDBG funds, will be required to complete an Assessment of Fair Housing which replaces the former Analysis Impediments to Fair Housing Choice. Fair housing issues are not limited to discriminatory practices at the time of a transaction. REALTORS® understand that schools, transportation and land use decisions have an impact on the real estate market. The Fair Housing Assessment is designed to evaluate a wide variety of fair housing issues and develop strategies to address those issues. In the process, they must provide for and summarize meaningful public participation by all interested parties.

HUD does not prescribe specific actions a jurisdiction must take to address the fair housing issues it identifies, but it will evaluate whether the jurisdiction has identified and addressed all fair housing issues and whether the proposed actions will meaningfully address those issues. Participation by REALTORS® can both inform the discussions by bringing a broader understanding of the real estate market and serve to focus strategies on those actions that will have a meaningful impact on fair housing issues.

Several issues remain to be examined as HUD evaluates local and state Assessments. In particular, the interpretation and impact of HUD's definitions including those regarding segregation, inclusive or integrated communities, and disproportionate housing need will be monitored. In addition, as communities identify issues impacting housing choice some of those issues will be beyond the ability of a community or region to address.

To view HUD's summary of the rule, please visit:

<http://www.huduser.org/portal/sites/default/files/pdf/AFFH-Fact-Sheet.pdf>

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