

**Talking Points for Gustavo Velasquez  
Assistant Secretary for Fair Housing and Equal Opportunity  
Council of Large Public Housing Authorities  
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Good morning.

Thank you, Steve, for that generous introduction. [Stephen Norman is CLPHA's president and the executive director of the King County Housing Authority.]

And thank you for allowing me to be a part of your annual fall membership meeting.

As HUD's Assistant Secretary for Fair Housing and Equal Opportunity, I appreciate having the opportunity to talk about my office's efforts to enforce the nation's fair housing laws and the work we're doing to ensure that every resident of this nation is able to obtain the housing of their choice, free from discrimination.

More important, I welcome the chance to talk about the intersection of fair housing and the difficult decisions you make every day as directors, commissioners, and staff of public housing agencies.

In a nation suffering from a shortage of decent, clean, and safe affordable housing, the type of housing that you provide is a critical source of housing for low-income individuals and families, so it is more important than ever that no one is locked out because of what they look like or where they come from or what language they speak, or because they have a disability.

Housing is what enables individuals to have a sense of dignity and to feel grounded. It is the bedrock that provides a sense of security and consistency.

But housing is about much more than bricks and mortar, or having a roof overhead.

Housing is what allows a family to feel connected to a neighborhood or community. It is the anchor that provides families with the stability that allows them to lead thriving, productive lives and build a better tomorrow.

Not only that. Where a family lives determines where their children go to school, the number and quality of community assets they will be able to take advantage of, and the jobs they will have access to.

HUD Secretary Julián Castro often talks about his vision of an America where the playing field is level for all. This is part of his vision for good reason. 47 years after the Fair Housing Act was passed and 50 years after HUD was created, discrimination persists. Every day in our nation someone is denied their right to have a home of his or her own choosing.

For us to realize the vision of leveling the playing field and further advancing freedom of choice in housing, it will be necessary for all of us in the business of housing to join forces, and work toward opening communities to choice, inclusion and equal opportunity.

That's why the Affirmatively Furthering Fair Housing rule that was published a few months ago and released by Secretary Castro in Chicago is so pivotal.

When the Fair Housing Act became law in 1968, it not only focused on providing redress and justice for groups of people who for decades had been subjected to blatant and often dehumanizing housing discrimination. It also required that the country take proactive, or affirmative, steps to promote fair housing in every city and town.

So despite the distortions you may have heard or read, AFFH is nothing new. I even read in one newspaper article that 83% of likely voters reject AFFH!

The Affirmatively Furthering Fair Housing rule encompasses the spirit of the Fair Housing Act, which called on the country to take meaningful actions to overcome patterns of segregation and foster inclusive communities, free from barriers that restrict access to opportunity based on protected characteristics.

The Congressional record is clear. The Kerner Commission, which was appointed by President Johnson, famously warned that the nation was headed toward two societies, “one black, one white – separate and unequal.”

Then out of the tragic assassination of Dr. Martin Luther King came the passage of the Fair Housing Act as a way to heal the nation and move the nation forward.

While great social progress has been made since the Fair Housing Act became the law of the land, for too long, and for too many people, housing options – and in turn, access to good schools, transportation and jobs – have been limited by race, gender, religion, national origin, familial status, and disability.

The resulting disparity has had alarming consequences in people’s lives. In fact, the share of blacks in the poorest fifth of income distribution is

only slightly lower today than it was in 1971, and the share in the richest fifth is only slightly higher.

And it's not just the numbers. You only need to look at the recent unrest in Ferguson, Missouri, Baltimore, Maryland, and other cities around the country to see the debilitating effects of being locked for decades in minority concentrated, economically depressed urban neighborhoods.

A persistent lack of opportunity is erosive and can only lead to policies and practices that weaken communities.

The final rule represents a modern approach to AFFH and provides municipalities, housing authorities, and other entities that receive HUD funding with a planning framework so that on their own they can set realistic, attainable fair housing goals, assess the opportunities they have to proactively eliminate obstacles to housing choice, and set a plan in place to advance the national policy of fair and inclusive housing that will be the most effective for them.

To make the AFFH process easier for jurisdictions, we are developing an assessment template that will help them to understand and identify local barriers to fair housing choice and disparities in access to opportunity.

This is where the rubber meets the road – how we operationalize AFFH.

The tool is still being developed, including a PHA-specific version, but I can say that it will allow funding recipients to address integration and segregation, including segregation based on familial status and disability; concentrations of poverty; disparities in access to community assets; and fair housing enforcement and outreach.

We are also providing nationally uniform data and a geospatial tool that will show segregation by census tracts and neighborhoods; help funding recipients determine the application of limited English proficiency guidance; and help you to analyze the location of public housing in relation to patterns of segregation.

And because we know that there will be a lot of questions, particularly in the beginning, about how to complete the fair housing assessments, we will provide technical assistance and other support funded entities will need throughout the AFFH process.

So that, essentially, is what the Affirmatively Furthering Fair Housing rule is. It is an opportunity to conduct assessments of fair housing under a different framework. Under a new partnership that is intended to make the assessment process easier, not harder, and inform larger investment strategies.

What AFFH is not is a form of unwanted social engineering.

Every family wants a fair shot at the opportunity to live in a community of their choosing without having to face discrimination. But while fair housing policies have been the law of the land for 47 years, and continue to be a widely-held value across our nation, we haven't always done all we could to serve the fundamental American principle of equal opportunity for all.

With this new rule we are saying that we are going to provide communities with the fair housing tools they need so that no community falls through the cracks because it didn't have support or guidance from HUD as they address their fair housing challenges.

Neither is the rule an example of top-down, Washington-based decision making taking away a municipality's local control and local governance.

For instance, zoning is – and should remain – a local power.

The rule also does not mean quotas for minority housing.

The rule is about expanding opportunity for all people. In fact, a community that simply instituted quotas would actually risk violating the Fair Housing Act.

Another question we sometimes hear is why the rule is even needed in view of the recent Discriminatory Effects Supreme Court ruling.

The Supreme Court's ruling upheld a legal principle that is a critical enforcement tool for addressing both intentional and unintentional discrimination.

It was always our position that the Fair Housing Act included the disparate impact doctrine, but now that the Court has vindicated our position we have the legal affirmation needed to move the nation toward a more integrated society by providing families with housing choices that are open and fair.

The AFFH rule serves as the vehicle for this effort and embodies this commitment to equality and opportunity.

And because the attainment of a job often goes hand-in-hand with greater opportunity, the effective implementation of HUD's Section 3 program has become more critical as we work to increase self-sufficiency among low-income persons and award contracts to businesses that hire them.

In August, we re-launched the Section 3 Performance Evaluation and Registry System, which facilitates a more efficient process for submitting annual reports that show Section 3 outcomes in the form of employment and job training opportunities housing authorities provide to low-income residents, and the dollar amounts of contracts awarded to eligible businesses.

At that time we informed you that 2013 and 2014 reports should be entered into the system by October 30, but given the difficulty many agencies have experienced in accessing the reporting system, we intend to announce an extension of that deadline.

As of two weeks ago, more than 1,400 businesses had self-certified their eligibility for preference in contract bid solicitations from direct recipients of HUD funding covered by Section 3.

These contracts would include construction, rehabilitation or public infrastructure-related projects sponsored by state and local governments or entitlement communities and other HUD grantees. For PHAs, these contracts include all of the above, plus contracts for operations and maintenance.

We encourage you to utilize the registry to notify potentially qualified businesses about upcoming contracting opportunities. We also ask that you help us spread the word about the recently developed mobile app for smartphones that allows businesses to view contract solicitations on their mobile devices.

And the final thing I'll say about our efforts in this area is that HUD is in the process of finalizing a proposed Section 3 rule.

The public comment period closed on May 26 and we received more than 300 comments from your members, HUD grantees, businesses, industry representatives, and housing advocates about different aspects of the proposed rule. That lets us know that there is a tremendous amount of interest in the rule and how it might affect the way you conduct business.

Specifically, many of you expressed concerns regarding how greater oversight and compliance requirements might add additional administrative and regulatory burdens that could make the program more complex.

We've also heard from individuals who represent smaller housing authorities who believe that because they don't receive large amounts of HUD funding and don't generate a significant number of jobs or contracts, they shouldn't be required to comply with the regulation.

These are all valid concerns and the reason we should continue to engage in ongoing dialogue.

We not only hear your concerns – we are committed to implementing measures that reduce burdens associated with complying with the program which may not require publication of a final rule, particularly the reporting requirements.

In the preamble to the rule we indicated our commitment to reducing burdens that would make it more difficult for housing authorities to participate in the program and that's a commitment we will keep as we work together to create greater job and economic opportunities for low-income individuals and the businesses that hire them.



In the coming months we will be sending out a notification letting you know where we are with respect to issuing a final Section 3 rule, so please be on the lookout for it.

I also look forward to working with you to address the shortage of affordable housing in our nation.

There's no magic bullet for solving the affordable housing crisis, but we are working hard to tackle the problem through HUD's Rental Assistance Demonstration, what we refer to as RAD, the Department's rental housing preservation strategy.

For decades, local housing officials tasked with preserving public housing and creating new affordable units have been constrained by tight federal budgets and tough economic conditions.

In a nation where the number of affordable housing is critically low, this is an issue that had to be addressed.

The Administration created RAD as a comprehensive and innovative strategy that offers a long-term solution to preserving and enhancing the country's crucial affordable housing stock. In many ways, RAD jump starts AFFH.

Without it, the nation can expect to lose thousands of public housing units each year through demolition or sale. In the last 15 years, the country has already lost at least 170,000 affordable homes to sale or demolition and there is a backlog of more than \$26 billion in capital needs for public housing.

RAD turns the funding issue on its head. That's because RAD allows public housing authorities and owners of other HUD-supported properties to access private financing to rehabilitate and preserve

existing affordable housing—expanding opportunity in communities across the nation.

Over the past 30 years, owners have used HUD project-based Section 8 rental assistance contracts to leverage billions in public and private investment in order to make property improvements—while safeguarding the long-term affordability of rental properties.

RAD opens this door to public housing authorities and private owners of certain legacy HUD properties.

Under RAD, PHAs and owners of legacy properties may convert their existing HUD funding to a long-term project-based Section 8 rental assistance contract, using the proven Section 8 model to harness new resources—such as debt and equity financing—for affordable housing preservation and recapitalization. To date, RAD has allowed local communities to raise almost \$1 billion in new capital.

Critics incorrectly believe this conversion of public housing into the project-based Section 8 model is akin to privatization. While private developers participating in RAD will gain an ownership/equity interest in public housing developments, I want to emphasize that public housing authorities will retain a controlling interest in these units to ensure they remain affordable for up to 40 years...and beyond.

For each unit of affordable housing we can preserve through RAD, there is a family that has a safe and decent place to call home. It's clear that in an environment in which public resources will never be able to meet the increasing unmet capital needs of public housing, government must tap into the power of the private market to preserve and expand our affordable housing stock.

So, far from privatizing public housing, RAD is an innovative public-private partnership that preserves a segment of the housing market that is in short supply.

Going forward, HUD's fiscal year 2016 budget calls for the current 185,000 cap on eligible units to be eliminated and we have requested \$50 million to fund a targeted expansion of the RAD program to public housing properties that cannot feasibly convert to long-term Section 8 rental assistance contracts at existing funding levels, specifically those located in high-poverty neighborhoods, so stay tuned for news about that once the Department has a final budget.

In addition to our focus in this area, we are committed to protecting the rights of women who have been the victims of discrimination, especially in the area of harassment and domestic violence.

Just yesterday we published for public comment a proposed rule that would formalize standards for victims of harassment in housing to bring claims under the Fair Housing Act. The proposed rule is titled "Quid Pro Quo and Hostile Environment Harassment and Liability for Discriminatory Housing Practices under the Fair Housing Act."

While no formal regulation has been in place, HUD and courts have long held that harassment in housing or housing-related transactions on the basis of race, color, national origin, religion, sex, disability, and familial status is prohibited under the Fair Housing Act.

So the proposed rule is extremely important because it specifies how claims of "hostile environment" and "quid pro quo" harassment would be evaluated in both private and publicly assisted housing.

At the same time, we are working collaboratively with others at HUD and the rest of the Federal government to protect housing rights under the Violence Against Women's Act.

Having a safe, stable home is critical to helping survivors of domestic violence start a new chapter of their lives, free from violence.

That's why I am especially pleased that earlier this year HUD published a proposed rule to commence the process of fully implementing the Violence Against Women Act Reauthorization of 2013.

VAWA 2013 expanded the housing protections for victims of domestic violence previously authorized in 2005 in several ways, including applying VAWA to nearly all HUD housing, as well as USDA rural housing and Low-Income Housing Tax Credit properties.

While the core protections of VAWA 2013—prohibition on denying or terminating housing assistance on the basis that an applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking— apply without rulemaking, other requirements of VAWA 2013 had to first be submitted for public comment, and the proposed rule addresses those requirements.

The proposed rule, among other things, would include “sexual assault” as an action covered by VAWA protections; establish a definition for “affiliated individual;” and establish a reasonable period of time during which a tenant may establish eligibility to remain in housing in cases where the tenant’s household is divided due to domestic violence, dating violence, sexual assault, or stalking.

The proposed rule also proposes to establish what constitutes a safe and available unit to which a victim of domestic violence, dating violence, sexual assault, or stalking can be transferred on an emergency basis; and establishes what documentation, if any, should be required of a tenant seeking an emergency transfer to another assisted unit.

Recent cases have demonstrated the tremendous need for such protections.

In the state of Maryland we charged a case and in Pennsylvania we settled a case. In the Maryland case, our investigation found that the woman was served an eviction notice because the police were called after she and her son were stabbed by her then-boyfriend.

In the Norristown, Pennsylvania, we reached a settlement agreement with that township settling allegations that the township violated the Fair Housing Act when it enacted ordinances that held landlords responsible for evicting tenants cited for “disorderly behavior,” including domestic violence, or risk being fined or losing their rental license. Under the agreement, the township repealed the ordinance and paid \$495,000 to a named victim.

And this past February we reached a similar agreement with the city of Berlin, New Hampshire, settling allegations that the city had enacted an ordinance requiring landlords to evict tenants cited three or more times for “disorderly action,” which included domestic violence incidents. Under that settlement the city amended its ordinance to make it clear that the ordinance is not to be used against victims of reported incidents of domestic violence.

Punishing the innocent survivors of domestic violence by cutting off their housing assistance is a form of discrimination in itself and only serves to harm them further.

We still have work to do in this area, as well as the other areas I have talked about, and the challenges ahead will be considerable. But I

believe that if we commit ourselves to the ideals that flow through our civil rights laws, we can accomplish much.

This is our obligation. But more important – this is our opportunity.

I want to be a partner with you in the efforts I've described today. I know you are dealing with a lot, so we want to hear from you about the particular challenges you are facing and how we can overcome them together.

As we move further into the 21<sup>st</sup> Century, let us replace the limiting effects of doubt with a renewed belief that our combined efforts can create a nation where everyone, everyone, has the same chance to succeed in life.

Thank you very much.