

**Talking Points for Gustavo Velazquez
Assistant Secretary for Fair Housing and Equal Opportunity
Mortgage Bankers Association Annual Convention
San Diego, California
October 20, 2015**

Thank you, Ken, for that gracious introduction.

Yesterday HUD Secretary Julián Castro spoke about the role homeownership plays in creating vibrant communities where hard-working families can thrive and what HUD is doing to build on the progress we're making in this area, so it is truly an honor for me to talk about my office's efforts to ensure that the housing opportunities the Secretary described are available to every family equally.

I especially appreciate having the chance to address a few of the issues that are of particular interest to your members – such as the recent Supreme Court ruling in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*, and the publication of HUD's Affirmatively Furthering Fair Housing final rule.

No doubt, the recent Supreme Court ruling and publication of the final AFFH rule are two of the most significant civil rights related developments that have occurred in decades.

For those of us who work in civil rights, we consider both to be great victories for a nation that was founded on the principles of justice and equality.

More important – we believe that both have tremendous potential to move the needle that measures equality in housing and access to opportunity in a positive direction.

Why does this matter? It matters because without equality of opportunity, many minorities, recent immigrants, and persons for whom English is a second language will not be able to fully participate in this great democracy.

As bankers and other leaders in the real estate finance industry, you are acutely aware of the fact that not every segment of America's population has had the same chance to take advantage of all this nation has to offer.

The consequences of this type of inequality and lack of access are readily apparent.

Today we see a growing gap between the rich and the poor, between those who have and those who don't, particularly when it comes to educational attainment, health outcomes, and economic upward mobility.

And when we look at intergenerational mobility – the extent to which economic and social outcomes for a child are determined by their own efforts rather than their circumstances at birth, we see that this important indicator is lower in the U.S. than most similarly wealthy countries.

Overall, children born in the bottom 25% of family incomes have a 46.6% chance of being in the bottom as an adult. And when we look at race, there are large disparities. For white children born in the bottom quartile, there is a 32.3% chance of remaining there, while black children have a 62.9% chance.

Racial disparities are also apparent when we look at homeownership. After taking into account income, marital status, age, and education, as

well as an MSA's propensity for homeownership, African Americans are 17 percentage points less likely to be owners than non-Hispanic whites. For those of Mexican ethnicity or national original, the gap is 6 percentage points. And since the dream of homeownership is not bound by race or ethnicity, these disparities point directly to intergenerational wealth differences and lack of access to credit.

At the same time, the over reliance on an applicant's FICO score, without alternatives that have the same racial implications, have impacted the ability of blacks and Hispanics to qualify to become homeowners.

But we believe that these indicators present an opportunity for financial institutions to look at how they conduct business and take steps to ensure that every person seeking a loan product is treated equally and fairly.

If our nation is to truly become the country our forefathers envisioned, we must demonstrate that we live by our principles.

I don't think this is a difficult concept to identify with. In fact, when you get down to it, we all want the same basic things for our families: a safe, affordable place to call home, a good education for our kids, and access to transportation and jobs.

Too often, however, a child's zip code determines their future.

That's why we believe that the Affirmatively Furthering Fair Housing Initiative HUD is in the process of implementing is so critical.

When the Fair Housing Act became law in 1968, it not only focused on providing redress and justice for people subjected to direct housing discrimination. It also required that the country take proactive, or

affirmative, steps to overcome patterns of segregation and foster inclusive communities, free from barriers that restrict access to opportunity based on protected classes.

So the obligation to affirmatively further is not new. But now we have a rule that makes it easier for cities, states, and other funded entities to meet that obligation.

The final AFFH rule provides states, 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.

This is not about big government taking away a municipality's local control and local governance.

We will also be providing municipalities with the information, tools, guidance, and support they need to improve integrated living patterns, overcome historic patterns of segregation, reduce bureaucracy, and find their own path to bridging racial divides, creating equal housing, and connecting people to opportunity.

We know that this kind of approach works. We've seen compelling examples of families whose lives have been empowered by being afforded the chance to move out of densely populated, high poverty areas to communities with greater opportunity.

But we know that mobility alone is not the total solution. We know that place-based strategies that encourage investment in areas of minority concentration so families living there do not remain at the bottom of the economic ladder are important, too.

The combination of mobility and investment is what we refer to as the balanced approach.

Access to greater opportunity, however, is not possible if certain groups of people continue to be subjected to discriminatory practices, especially when it comes to lending. No individual or family should be denied access to loan products because of what they look like or where they come from or what language they speak.

The action we took in the recent Associated Bank and Midland States Bancorp “redlining” cases demonstrate our commitment to addressing this type of discrimination. And HUD will continue to investigate lenders’ policies and practices, including FHA-approved lenders, to ascertain whether they discriminate unlawfully.

In fact, we recently strengthened our focus in this area by entering into a Memorandum of Understanding with the Consumer Financial Protection Bureau. The MOU provides for increased coordination of efforts between our agencies on lending discrimination matters under the Fair Housing Act and the Equal Credit Opportunity Act and will help ensure more consistent enforcement while preventing the duplication of efforts.

And we see other forms of lending discrimination, including women being denied mortgage loans because they are on maternity leave and persons with disabilities being required to provide personal medical information in order to qualify for a loan.

I know this is an area that can be a little confusing, but the Fair Housing Act prohibits discrimination based on sex and familial status, and that includes individuals who have or are expecting a child. And while it’s OK for lenders to ask a person with disabilities for a proof of income letter, lenders don’t have the right to inquire about or request documentation

concerning the nature of the disability or the medical condition of the borrower.

So even as we are squarely focused on working with industry, our fair housing partners, and the advocacy community to find new strategies for increasing opportunity, we know that we have to remain vigilant in our enforcement efforts.

That's why the recent Supreme Court ruling at the end of June, upholding disparate impact analysis as being a part of the Fair Housing Act is so significant.

The ruling reaffirms previously established legal precedent that policies and practices that have an unjustified discriminatory effect on certain protected groups, such as Hispanics and African Americans, are illegal under the Fair Housing Act.

In addition, the Supreme Court's ruling is entirely consistent with the Discriminatory Effects Rule HUD issued in 2013, which reaffirmed HUD's longstanding interpretation that the Fair Housing Act authorizes disparate impact claims.

The remainder of the Court's opinion – which consists of a discussion regarding limitations on the application of disparate impact liability that have long been part of the legal standard – does not conflict with HUD's final rule.

So we see the ruling as a chance for lending institutions to see where they stand in the wake of the ruling and take it upon themselves to do what they can to improve greater access to opportunity.

As the Court noted, "disparate impact has always been properly limited in key respects."

Indeed, nothing in the Court's opinion casts any doubts on the validity of HUD's final rule. To the contrary, the Court cited the final rule twice in support of its analysis.

And HUD is not alone in its interpretation of the Court's ruling. Both the Board of Governors of the Federal Reserve System and the Consumer Financial Protection Bureau, which enforces the Equal Credit Opportunity Act, has indicated their intention to continue applying the disparate impact doctrine.

But, again, this is not about HUD supporting race-driven policies. This is about working toward ensuring that all of us who play a role in and have a vested interest in housing promote race neutral policies that create greater access to opportunity for all.

How and when we will apply the disparate impact doctrine will be determined on a case-by-case basis, but in general I can say that it will be applied when appropriate as we work to move the nation toward a more integrated society through housing choices that are open and fair.

It won't be easy but I believe that together we can make significant progress in that direction.

Thanks again for inviting me and I look forward to answering any questions you might have later.