PRRAC
Poverty & Race Research Action Council
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July 3, 2025

Secretary Scott Turner U.S. Department of Housing and Urban Development 451 Seventh Street, SW Washington, DC 20410

RE: [Docket No. FR–6533–P–01] – Rescission of Affirmative Fair Housing Marketing Regulations

Dear Secretary Turner,

The Poverty & Race Research Action Council (PRRAC) is a civil rights law and policy organization dedicated to addressing racial and economic segregation including the urgent need for policies that advance fair housing throughout the United States. Our work focuses on identifying and promoting effective strategies to overcome systemic inequities in housing and access to opportunity. PRRAC and the undersigned civil rights, housing justice, affordable housing, and public policy reform organizations submit this comment in strong opposition to the U.S. Department of Housing and Urban Development's (HUD) proposed rule to rescind the Affirmative Fair Housing Marketing (AFHM) regulations found in 24 CFR parts 108 and 200, subpart M.

This proposed rescission is arbitrary, capricious, and inconsistent with HUD's statutory duty under the Fair Housing Act (FHA) to affirmatively further fair housing (AFFH). This action is subject to judicial review under the Administrative Procedure Act (APA), specifically Sections 702, 703, and 706.

Background on the Affirmative Duty to Further Fair Housing and Affirmative Marketing

It is well documented that during the 19th and 20th centuries, government at all levels throughout the United States, alongside private actors and mortgage lending institutions, played an active role in creating and maintaining residential segregation which enshrined economic, social, and political inequalities for communities of color.[1] The FHA, codified as Title VIII of the Civil Rights Act of 1968, established a national policy of fair housing.[2] Beyond its provisions prohibiting discrimination related to the rental or sale of housing, the Act imposes a duty on the Secretary of Housing and Urban Development to "administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this [Fair Housing Act]."[3] This is not merely a mandate to refrain from discrimination, but a clear directive to take actions that undo historic patterns of segregation and ensure equal access to housing opportunity.[4] Courts have long interpreted this duty as requiring HUD and its grantees to

[1] Federal Reserve History, *Redlining* (June 2, 2023), https://www.federalreservehistory.org/essays/redlining.
[2] 42 U.S.C. § 3601.
[3] 42 U.S.C. § 3608(e)(5).
[4] *See Shannon v. Department of Housing and Urban Development*, 436 F.2d 809 (3d Cir.1970) (The Third Circuit ordered a remand of HUD's approval of a change in the nature of an urban renewal project so that HUD could

proactively address racial concentration and promote integration. The Supreme Court in *Trafficante v. Metropolitan Life Insurance Co*. identified the goal of Title VIII as the attainment of "integrated and balanced living patterns."[5] More recently, in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc*., the Court reaffirmed the FHA's "continuing role in moving the Nation toward a more integrated society."[6]

The FHA requires HUD and recipients of federal funds from HUD to administer their programs and activities in a manner to AFFH.[7] One way that HUD has implemented its obligation to AFFH is through Affirmative Fair Housing Market Plans (AFHMPs), which seek to address disparities in exposure to and information about housing options.[8] HUD's existing AFHMP regulations are a longstanding implementation of this affirmative duty.[9] The AFHMP regulations require owners seeking to participate in Federal Housing Administration mortgage insurance or Office of Multifamily Housing rental assistance programs to adopt AFHMPs with the goal of promoting fair housing choice and preventing the perpetuation of segregation.[10] This typically involves publicizing housing opportunities to groups that are underrepresented through media customarily used by those communities and through outreach to organizations grounded in those communities. Specifically, property owners must identify demographic groups that are "least likely to apply" to their units and target advertising and outreach to those communities.[11] These requirements do not dictate which tenants an owner must select for a unit but rather aim to ensure that individuals of similar income levels are aware of their housing choices regardless of protected characteristics.[12] This approach is needed to foster inclusive communities because the combination of implicit bias, intentional discrimination, and disparities in access to information fueled by word-of-mouth networks can lead to underrepresentation of certain groups in housing markets.

The Proposed Rescission of AFHMP is Arbitrary and Capricious

On Tuesday June 3, 2025, HUD published the proposed recission of the AFHMP regulations in the Federal Register.[13] The APA establishes the standard for judicial review of

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consider whether this change would lead to increased minority concentration in the inner city); *Otero v. New York City Hous. Auth.*, 484 F.2d 1122, 1134 (2d Cir. 1973) (The Second Circuit held that §3608(d)(5) requires the Secretary of HUD to consider the impact of proposed public housing programs on the racial concentration in the area and take action to "to fulfill, as much as possible, the goal of open, integrated residential housing patterns and to prevent the increase of segregation, in ghettos, of racial groups whose lack of opportunities the Act was designed to combat"); *N.A.A.C.P. v. Sec. of Hous. and Urb. Dev.*, 817 F.2d 149, 154 (1st Cir. 1987) ("[A] statute that instructs HUD to administer its grant programs so as "affirmatively to further" the Act's fair housing policy requires something more of HUD than simply to refrain from discriminating itself or purposely aiding the discrimination of others").

[5] 409 U.S. 205, 211 (1972) (quoting 114 Cong.Rec. 3422 (statement of Sen. Mondale)).

[6] *Tex. Dep't of Hous. & Cmty. Affairs v. Inclusive Cmtys. Project, Inc*., 576 U.S. 519, 546-47 (2015).

[7] 42 U.S.C. §§ 3601–19; 24 C.F.R. §§ 200.600 - 200.640.

[8] 24 C.F.R. §§ 200.600 - 200.640.

[9] *See* 42 U.S.C. §§ 3604, 3608(e)(5); 42 U.S.C. § 2000d; 42 U.S.C. § 504.

[10] *See Raso v. Lago*, 135 F.3d 11, 16 (1st Cir. 1998).

[11] *See* AFHM Plan for Multifamily Housing (HUD form), available at https://www.hud.gov/sites/documents/935-2a.pdf.

[12] *Id.*; Poverty & Race Research Action Council, *What You Need to Know about the Trump Administration's Attack on Affirmative Marketing (June 2025)* (June 4, 2025), https://www.prrac.org/what-you-need-to-know-about-the-trump-administrations-attack-on-affirmative-marketing/.

[13] Rescission of Affirmative Fair Housing Marketing Regulations, 90 Fed. Reg. 23491 (June 3, 2025).

certain types of agency actions, including agency rule recissions.[14] Section 706 of the APA empowers courts to "hold unlawful and set aside agency action, findings, and conclusions found to be... arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law."[15] There is a strong presumption of judicial reviewability that is codified in Section 701 of the APA and applies not only to "[a]gency action made reviewable by statute," but also to any other "final agency action for which there is no other adequate remedy in a court."[16] Any person "adversely affected or aggrieved by agency action,"[17] may ask a court to "set aside agency action ... not in accordance with law" or to "compel agency action unlawfully withheld."[18]

There are only two exceptions to the presumption in favor of judicial review of agency action. A court cannot review an agency's activities "to the extent that (1) statutes preclude judicial review; or (2) agency action is committed to agency discretion by law."[19] Neither of these exceptions apply here because there is no existing statute that precludes judicial review of HUD rule recissions nor is this an agency action that falls under the agency discretion since this proposed recission is subject to notice and comment procedures in accordance with 5 U.S.C. 553(b)(4).[20] Furthermore, where "a petition involves purely legal claims in the context of a facial challenge to a final rule, a petition is "'presumptively reviewable'."[21] In light of this presumption, a petitioner need not demonstrate individual hardship to demonstrate ripeness unless the agency identifies "institutional interests favoring the postponement of review."[22] In the proposed AFHMP recission, HUD does not identify any institutional interest that would require an exacting inquiry into hardship and *Abbott Laboratories* demonstrates that even the threat of enforcement is a sufficient hardship "because the law is in force the moment it becomes effective and a person made to live in the shadow of a law that she believes to be invalid should not be compelled to wait and see if a remedial action is coming."[23]

Courts apply the "arbitrary and capricious" standard of review when reviewing final agency action that is not precluded from review.[24] The Supreme Court in *Motor Vehicle Manufacturers Association v. State Farm Auto Mutual Insurance Co*. established that an agency rescinding a rule must provide a "reasoned analysis", explain its departure from prior policy, and show that there are "good reasons" for the new policy, addressing any factual findings that contradict prior policy and considering serious reliance interests.[25] HUD's proposed rescission

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[14] *Agency Rescissions of Legislative Rules (2025)*, https://www.congress.gov/crs-product/R46673.
[15] 5 U.S.C. § 706(2)(A).
[16] 5 U.S.C. §§ 701, 704.
[17] 5 U.S.C. § 702.
[18] 5 U.S.C. § 706.
[19] 5 U.S.C. § 701(a).
[20] Rescission of Affirmative Fair Housing Marketing Regulations, 90 Fed. Reg. 23491 (June 3, 2025).
[21] *Owner-Operator Indep. Drivers Ass'n, Inc. v. Fed. Motor Carrier Safety Admin*., 656 F.3d 580, 586 (7th Cir. 2011) (quoting *Sabre, Inc. v. Dep't of Transp.*, 429 F.3d 1113, 1119 (D.C. Cir. 2005)).
[22] *Id.*
[23] *Owner-Operator Indep. Drivers Ass'n, Inc. v. Fed. Motor Carrier Safety Admi*n., 656 F.3d 580, 586 (7th Cir. 2011) (citing *Abbott Labs. v. Gardner*, 387 U.S. 136, 150-154 (1967)).
[24] *Agency Rescissions of Legislative Rules (2025)*, https://www.congress.gov/crs-product/R46673.
[25] *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (quoting *Burlington Truck Lines v. United States*, 371 U.S. 156, 168 (1962)) (the Court explained that an agency "must examine the relevant data and articulate a satisfactory explanation for its action including a 'rational connection between the facts found and the choice made'").

fails this standard. HUD offers several justifications for rescinding the AFHMP regulations.[26] We address the primary legal arguments below.

I. HUD has authority for its existing regulations under the FHA and Executive Order 11063.

HUD's assertion that AFHMPs are not about preventing discrimination but requiring discrimination based on race directly contradicts decades of judicial interpretation of the FHA's affirmative duty.[27] As the First Circuit held in *NAACP v. Secretary of Housing and Urban Development*, HUD's § 3608(e)(5) mandate requires "something more of HUD than simply to refrain from discriminating itself or purposely aiding the discrimination of others."[28] This reasoning appears in *Shannon v. Department of Housing and Urban Development*, when the Third Circuit ordered a remand of HUD's approval of a change in the nature of an urban renewal project finding that the agency must utilize some institutionalized method to collect relevant racial and socio-economic information necessary for compliance with its duties under the 1964 and 1968 Civil Rights Act.[29] When tension arises specially between the AFHMP regulations and 42 U.S.C. § 1983*, Raso v. Lago* held that apartments buildings built and made desirable through federal subsidies, the government is not "required to show a compelling interest, or narrow tailoring of remedies, for a condition framed so as to secure *equal* treatment of applicants regardless of race."[30]

These judicial interpretations of the FHA are supported by the legislative history, which viewed ending discrimination as a means to the broader goal of truly opening the nation's housing stock to all, reversing trends toward "two separate Americas."[31] Courts have consistently found that a claim alleging that HUD failed to administer programs to AFFH was subject to judicial review under 5 U.S.C. § 706(2)(A).[32] In *N.A.A.C.P. v. Sec. of Hous. and Urb. Dev.*, the court concluded that the standard for reviewing HUD's pattern of behavior to "affirmatively ... to further" the FHA's policy purposes over time can be drawn directly from 5 U.S.C. § 706 and

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[26] Rescission of Affirmative Fair Housing Marketing Regulations, 90 Fed. Reg. 23491 (June 3, 2025).

[27] The Supreme Court itself has identified the goal of Title VIII as "replace[ment of] ghettos 'by truly integrated and balanced living patterns.'" *Trafficante v. Metropolitan Life Insurance Co.*, 409 U.S. 205, 211(1972) (quoting 114 Cong.Rec. 3422 (statement of Sen. Mondale)); *see also Gladstone, Realtors v.Village of Bellwood*, 441 U.S. 91, 99 (1979) (upholding standing under Title VIII where plaintiffs' only claim of injury was denial of the benefits of an integrated community); *Linmark Associates v.Township of Willingboro*, 431 U.S. 85, 95 (1977) (characterizing Title VIII as "a strong national commitment to promote integrated housing").

[28] *N.A.A.C.P. v. Sec. of Hous. and Urb. Dev*., 817 F.2d 149, 154 (1st Cir. 1987).

[29] *Shannon v. U.S. Dept. of Hous. and Urb. Dev*., 436 F.2d 809, 820-821 (3d Cir. 1970) ("Increase or maintenance of racial concentration is prima facie likely to lead to urban blight and is thus prima facie at variance with the national housing policy").

[30] *Raso v. Lago*, 135 F.3d 11, 16 (1st Cir. 1998).

[31] *See* 114 Cong.Rec. 2281 (1968) (statement of Sen. Brooke) (a purpose of Title VIII is to remedy the "weak intentions" that have led to the federal government's "sanctioning discrimination in housing throughout this Nation"); *id.* at 2526–28 (statement of Sen. Brooke) (reviewing history of federal fair housing efforts); id. at 9577 (statement of Rep. Cohelan) (decrying historical "neglect" of minorities); *id.* at 9595 (statement of Rep. Pepper) (lamenting government's slowness in establishing truly "equal" rights); *see also Clients' Council v. Pierce*, 711 F.2d at 1425 (holding that even if facts do not establish constitutional violation by HUD, they still establish violation of affirmative duty under Title VIII).

[32] *See N.A.A.C.P. v. Sec. of Hous. and Urb. Dev*., 817 F.2d 149, 157 (1st Cir. 1987); *Hahn v. Gottlieb*, 430 F.2d 1243, 1250-1251 (1st Cir. 1970).

reviewed for "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law."[33] The APA defines "agency action" to include "failure to act."[34]Accordingly, rescinding a regulation designed to implement this affirmative duty, based on a mischaracterization of the duty itself, constitutes an abuse of discretion and a "failure to act" in accordance with the law.

II. The existing AFHMP regulations are constitutional under the Due Process and Equal Protection Clauses.

To justify HUD's recission of the AFHMPs, the agency argues that the regulations require racial sorting and perpetuate stereotypes.[35] This argument grossly misrepresents the nature and purpose of affirmative marketing. AFHMP requirements direct marketing efforts to populations "least likely to apply" to ensure they are aware of opportunities, not to grant or deny them housing based on protected characteristics.[36] It is a *marketing* strategy informed by analysis of racial demographic data, not a *race-based* criterion for the allocation of scarce resources. It is important to note that AFHMPs do not exclusively consider potential applicants' race. Potential tenants of other FHA protected classes that are "least likely to apply" may be targeted for marketing, including disability and familial status, neither of which trigger a strict scrutiny review.[37] Courts have long held that HUD's AFFH obligations (and the AFHMP regulations as an extension of that duty) are consistent with the formal requirements of the Supreme Court's current equal protection jurisprudence, which distinguishes between permissible race-neutral policies aimed at addressing racial disparities and suspect racial classifications that grant or deny benefits or burdens based on race.[38]

The Supreme Court's decision in *Inclusive Communities* affirmed the applicability of disparate impact liability under the Fair Housing Act.[39] Justice Kennedy, writing for the majority, clarified that disparate impact framework does not raise serious constitutional concerns. Moreover, the Court articulated that in disparate impact suits, the consideration of statistics about the race of individuals does not effectuate a racial "classification" because such consideration of background information helps contextualize the discriminatory effects of housing practices and does not alone determine the outcome of any application for a unit.[40]

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[33] *N.A.A.C.P.*, 817 F.2d at 158.
[34] 5 U.S.C. § 551(13).
[35] Rescission of Affirmative Fair Housing Marketing Regulations, 90 Fed. Reg. 23491 (June 3, 2025).
[36] *See generally* 24 CFR Part 200 Subpart M; Poverty & Race Research Action Council, *What You Need to Know about the Trump Administration's Attack on Affirmative Marketing (June 2025)* (June 4, 2025), https://www.prrac.org/what-you-need-to-know-about-the-trump-administrations-attack-on-affirmative-marketing/.
[37] Explicit classifications based on these non-suspect class groupings are not subject to strict scrutiny. *See City of Cleburne, Tex. v. Cleburne Living Center*, 473 U.S. 432 (1985) (applying rational basis review of a case concerning disability).
[38] Blake Emerson, *Affirmatively Furthering Equal Protection: Constitutional Meaning in the Administration of Fair Housing*, 65 BUFF. L. REV. 163, 165, 189 (January 2017).
[39] 576 U.S. 519, 537 (2015).
[40] 576 U.S. 519, 521 (2015) ("While the automatic or pervasive injection of race into public and private transactions covered by the FHA has special dangers, race may be considered in certain circumstances and in a proper fashion. This Court does not impugn local housing authorities' race-neutral efforts to encourage revitalization of communities that have long suffered the harsh consequences of segregated housing patterns. These authorities may choose to foster diversity and combat racial isolation with race-neutral tools, and mere awareness of race in attempting to solve the problems facing inner cities does not doom that endeavor at the outset").

HUD argues that the Court's decision in *Students for Fair Admissions, Inc* makes the AFHMP regulations unconstitutional because "[r]equiring applicants to reach out to different racial groups, in different mediums, perpetuates the 'impermissible racial stereotype'."[41] However, nothing in the *Students for Fair Admissions* decision undermined the basis for upholding practices like affirmative marketing which do not determine housing allocation based on race. On the contrary, the Fourth Circuit has recently held in *Coalition for TJ* that the Fairfax County School Board's decision to change the admissions process with a new race-neutral admissions policy, which replaced a merit-based test with a holistic review process, did not have disparate impact on Asian American applicants nor did it violate the Equal Protection Clause.[42] The concurrence highlighted that the Supreme Court has never viewed increasing diversity as a constitutionally suspect motive and, "[i]n fact, the Court and individual Justices have spent more than three decades encouraging—and sometimes insisting—government officials do precisely that before considering race-conscious ones."[43]

Moreover, HUD's own AFFH guidebook advises that an "inappropriate goal would be the implementation of policies that limit occupancy of new housing to certain racial or ethnic groups."[44] Thus, HUD's claim that the AFHMP regulations require favoring some racial groups over others for outreach ignores that outreach and tenant selection are distinct and the fact that targeted marketing efforts are necessary to reach groups historically excluded or unaware of opportunities in certain markets. Ultimately, the targeted outreach outlined in the AFHM regulations is necessary to level the playing field and ensure that all individuals have a fair opportunity to apply for housing and prevent the perpetuation of segregation which are policy-based decisions that do not run afoul the Due Process and Equal Protection Clauses.

III. HUD promulgated the existing regulations pursuant to a clear delegation of authority from Congress.

Congress explicitly delegated authority to the Secretary of HUD to "make rules... to carry out" the FHA.[45] Courts have recognized HUD's rulemaking authority under the FHA, specifically in the context of discriminatory effects.[46] The AFHMP regulations are a direct implementation of the statutory mandate to AFFH, which is a core policy of the FHA.[47] This falls

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[41] Rescission of Affirmative Fair Housing Marketing Regulations, 90 Fed. Reg. 23491 (June 3, 2025); 600 U.S. 181, 220 (2023).
[42] *Coalition for TJ v. Fairfax Cnty. Sch. Bd.*, 68 F.4th 864, 871 (4th Cir. 2023), *cert. denied*, 218 L. Ed. 2d 71 (Feb. 20, 2024).
[43] *Id.* at 891.
[44] Emerson, *supra* note 38, at 189; U.S. DEP'T OF Hous. & URBAN DEV., *AFFIRMATIVELY FURTHER FAIR HOUSING RULE GUIDEBOOK* (2015) at 112, https://www.nhlp.org/wp-content/uploads/HUD-AFFH-Rule-Guidebook-Dec.-2015.pdf.
[45] *See* 42 U.S.C. §§ 3608(a), 3612, 3614a. The Supreme Court has cited HUD rules issued pursuant to its authority under the FHA. *See Inclusive Cmtys. Project*, 576 U.S. at 527–28, 542; *see also id*. at 566–67 (Alito, J., dissenting) (''Congress also gave [HUD] rulemaking authority and the power to adjudicate certain housing claims'').
[46] *Inclusive Cmtys. Project, Inc.*, 576 U.S. at 527, 546 (quoting Report of the National Advisory Commission on Civil Disorders 91(1968) (Kerner Commission Report at 1) (''[T]he [Fair Housing Act] must play an important part in avoiding the Kerner Commission's grim prophecy that '[o]ur Nation is moving toward two societies, one black, one white—separate and unequal'").
[47] HUD Multifamily Asset Management and Project Servicing (4350.1), Chapter 18, Affirmative Fair Housing Marketing Plan, https://www.hud.gov/sites/dfiles/Housing/documents/AFFIRMATIVE-FAIR-HOUSING-

squarely within the scope of permissible administrative rulemaking to implement a congressional directive.

IV. HUD's existing requirements do not impose any significant administrative burden on assisted property owners.

HUD's affirmative marketing requirements date back to the 1970s and have never been challenged in court.[48] HUD-assisted property owners have developed systems for efficiently complying with the existing AFHM requirements with minimal burden.[49] Ironically, engaging in affirmative marketing can help owners identify and eliminate discriminatory policies and practices before they occur, thereby reducing their risk of FHA liability and potential disparate impact suits. The 2024 the National Fair Housing Alliance's Fair Housing Trends Report recorded the largest-ever number of fair housing discrimination complaints.[50] Numerous reports and lawsuits have confirmed the escalating fair housing crisis and its longstanding connection to practices of discriminatory redlining and predatory lending practices.[51] As of 2023, 22.6 million renter households were "cost-burdened," meaning they spent more than 30 percent of their income on rent and utilities.[52] More than half of Black renters (57 percent) and Latino renters (53 percent) were cost-burdened, while about 45 percent of white renters were cost-burdened.[53] Furthermore, the racial homeownership gap remains wide and persistent. Currently, about 72 percent of white households own their home as compared to 51 percent of Latino households, and 44 percent of Black households.[54] Specifically, the current Black-White homeownership gap of 28 percentage points is higher than it was before passage of the Fair Housing Act in 1968 and housing discrimination was legal.[55] Thus, this data reveals the ongoing need for AFHMPs to decrease the likelihood of discrimination and litigation. Dismissing a rule that supports statutory compliance and can reduce litigation risk as an undue burden on "innocent" parties, particularly in the context of addressing systemic discrimination and segregation, is not a reasoned justification for rescission.

V. Stakeholders have reasonably relied on the existing requirements, which are lawful.

As demonstrated above, the regulation is consistent with the FHA's statutory mandate and decades of case law. Regulated entities and fair housing advocates have relied on these

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MARKETING-PLAN.pdf

[48] Poverty & Race Research Action Council, *What You Need to Know about the Trump Administration's Attack on Affirmative Marketing (June 2025)* (June 4, 2025), https://www.prrac.org/what-you-need-to-know-about-the-trump-administrations-attack-on-affirmative-marketing/.

[49] *Id.*

[50] National Fair Housing Alliance, *2024 Fair Housing Trends Report (2024)* (July 10, 2024), https://nationalfairhousing.org/wp-content/uploads/2023/04/2024-Fair-Housing-Trends-Report-FINAL_07.2024.pdf.

[51] Department of Justice, *Justice Department Secures Third Settlement with a Non-Depository Mortgage Company to Resolve Redlining Claims in Miami* (Jan. 7, 2025), https://www.justice.gov/archives/opa/pr/justice-department-secures-third-settlement-non-depository-mortgage-company-resolve.

[52] National Fair Housing Alliance, Comment Letter on 2025 Interim Final Rule titled, *Affirmatively Furthering Fair Housing Revisions* (May 2, 2025), https://nlihc.org/sites/default/files/2025-05-02_NFHA%20et%20al_Comment%20to%20HUD%20re%20AFFH%20Comment_FINAL2.pdf.

[53] *Id.*

[54] *Id.*

[55] *Id.*

longstanding requirements to understand and promote fair housing opportunities. The APA requires agencies to assess whether there were "serious reliance interests," determine if they were significant, and weigh them against competing policy concerns when changing course.[56] Under the arbitrary and capricious standard, an agency must "examine the relevant data and articulate a satisfactory explanation for its action"[57] and deal with any reliance interests on past policy and explain why they no longer work.[58] The courts must consider the lawfulness of an agency's decision on the basis of the reasons the agency gave, not on the basis of those it *might* have given.[59] HUD merely and baselessly asserts AFHMPs are unlawful. HUD's failure to adequately consider the reliance interests of those who benefit from or are guided by these regulations renders the rescission arbitrary and capricious.

Conclusion

At a time when housing affordability and racial justice are central concerns for millions in the United States, we urge HUD to move in the direction of progress, not retrenchment. The existing AFHMP rules are more than a regulatory requirement; they are a manifestation of HUD's obligation to dismantle discriminatory barriers to housing. Their rescission would represent a significant step backward in the United States of America's ongoing struggle for racial, economic, and housing justice. We strongly call on HUD to uphold its duty to fair housing by not finalizing the rescission of the AFHMP rules.

Thank you for your time and consideration.

Sincerely,

Brianna Sturkey, PRRAC
Audrey Lynn Martin, PRRAC
Thomas Silverstein, PRRAC

Alliance 85
ArchCity Defenders
Bazelon Center for Mental Health Law
Boston Tenant Coalition
Brancart & Brancart
California Coalition for Rural Housing
Central West Justice Center
Central West Justice Center
Chicago Housing Initiative
Chicago Lawyers' Committee for Civil Rights
Citizens' Housing and Planning Association (CHAPA)
Columbia Housing Center, Inc.

[56] *F.C.C. v. Fox TV Stations, Inc.*, 556 U.S. 502, 515 (2009).
[57] *State Farm Mut. Auto. Ins. Co.*, 463 U.S. at 43 (1983) (quoting *Burlington Truck Lines v. United States*, 371 U.S. 156, 168 (1962)).
[58] *S.E.C. v. Chenery Corp*., 332 U.S. 194, 204 (1947); *Fox TV Stations, Inc.*, 556 U.S. at 563.
[59] *Id.*

Community Development Network of Maryland
East Bay Housing Organizations
Empower Missouri
Equal Rights Center
Fair Housing Advocates of Northern California
Fair Housing Center of Central Indiana
Fighting Homelessness
George Washington University
Georgia Advancing Communities Together, Inc.
Hamburg Community Development
HOPE Fair Housing Center
Housing Action Illinois
Housing Action Illinois
Housing Alliance Delaware
Housing Alliance of Pennsylvania
Housing and Community Development Network of New Jersey
Housing Assistance Council
Housing California
Housing Choices
Housing Leadership Council of San Mateo County
Inclusive Communities Project
Indiana Coalition Against Domestic Violence
Individual
Innercity Community Development Corporation
Justice in Aging
Law Office of Toby Adams
Lawyers' Committee for Civil Rights Under Law
Legal Aid Justice Center
Legal Aid Society (New York City)
Legal Services Advocacy Project
Lisa Cooley
Long Island Housing Services, Inc.
Louisiana Fair Housing Action Center
Make the Road Pennsylvania
Maryland Center On Economic Policy
Mobility Works
National Community Reinvestment Coalition
National Fair Housing Alliance
National Housing Law Project
National Low Income Housing Coalition
National Women's Law Center
Nebraska Appleseed
Open Communities Alliance
Project Sentinel
Prosperity Indiana
Public Advocates Inc.

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Supportive Housing Network of New York
TCF Professional Services, LLC
Texas Housers
The Redress Movement
Virginia Housing Alliance
Washington Low Income Housing Alliance
Western Center on Law & Poverty
William E. Morris Institute for Justice