



Center for Public
Representation

March 16, 2020

The Honorable Benjamin S. Carson, Sr., Secretary
U.S. Department of Housing and Urban Development
451 7th Street, SW
Washington, D.C. 20410

Re: HUD's Affirmatively Furthering Fair Housing Notice of Proposed Rulemaking, HUD2020-0011, RIN 2577-AA97

Dear Secretary Carson,

The Center for Public Representation (CPR) writes to express our strong opposition to the U.S. Department of Housing and Urban Development's (HUD) Affirmatively Furthering Fair Housing (AFFH) Notice of Proposed Rulemaking (NPRM). CPR is a national legal advocacy organization that promotes the full integration and community participation of people with disabilities. We signed on to the comments submitted by the Consortium for Citizens with Disabilities, but wanted to submit individual comments as well. We are deeply concerned by several aspects of the rule, but would like to highlight in particular our concerns regarding removal of language in the 2015 Rule related to the Americans with Disabilities Act (ADA) and the Supreme Court's *Olmstead* decision, and their requirements to ensure community integration for people with disabilities.

The 2015 rule contained important language that recognized the importance of community integration for people with disabilities in efforts to affirmatively further fair housing, which means providing people with the opportunity to live in the most integrated setting appropriate to their needs. That "most integrated setting" according to the rule "is one that enables individuals with disabilities to interact with persons without disabilities to the fullest extent possible, consistent with the requirements of the Americans with Disabilities Act and section 504 of the Rehabilitation Act of 1973." The rule also clarified that housing or services not provided "in the most integrated setting appropriate to an individual's needs" in accordance with the ADA and Section 504 constituted segregation.

Historically, this option to live in the most integrated setting appropriate has not been sufficiently available to people with disabilities and because of that, people have spent time unnecessarily living in institutions, isolated from their community and their families and state and local governments have spent money on more expensive institutional care rather than often cheaper community services. The 2015 rule recognized that reality and provided state and local governments and public housing authorities with guidance and technical assistance

that would begin to remedy that long-standing segregation and discrimination, giving those entities the tools they need to better comply with the *Olmstead* decision and the ADA.

The proposed rule removes this important language and makes no reference whatsoever to the *Olmstead* decision. If the proposed rule were to be finalized, it would no longer require that community integration be considered in fair housing planning, leaving people with disabilities at risk of being left out of fair housing plans and setting back efforts to promote communities that are truly inclusive.

We ask that you withdraw this proposed rule and reinstate the 2015 AFFH Rule, to ensure HUD's continued commitment to affirmatively furthering fair housing for people with disabilities and to make sure the rule furthers the goals of federal disability rights laws and the Supreme Court's *Olmstead* decision.

Sincerely,



Alison Barkoff
Director of Advocacy
abarkoff@cpr-us.org



Erin Shea
Policy Associate
eshea@cpr-us.org