



U.S. Department of Housing and Urban Development
Houston Field Office, Region VI
Office of Fair Housing & Equal Opportunity
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November 30, 2011

James D. Noteware
Director
City of Houston
Housing and Community Development
P.O. Box 1562, Houston, Texas 77251-1562

Subject: HUD's Office of Fair Housing and Equal Opportunity's Review of the City of Houston's Analysis of Impediments to Fair Housing Choice

Dear Mr. Noteware:

As recipients of federal funds, the city is required to comply with 42 U.S.C. 3608(d) and (e)(5) of the Fair Housing Act which requires that they administer their programs and activities relating to housing, demonstrating an effort to affirmatively further fair housing. With each funding cycle the city is required to certify to HUD that they are affirmatively furthering fair housing with the federal funds that they have been awarded in that program year. In order to properly assess the impediments to fair housing choice within the jurisdiction, the city is required to do fair housing planning.

HUD Funding

In Fiscal Year 2010, the city of Houston received \$32,769,402.00 in CDBG funds, \$14,066,375.00 in HOME, \$1,329,099.00 in ESG and \$7,793,944.00 in HOPWA. In addition to these awards, they received a one time amount of \$12,375,861.00 in HPRP, \$8,093,613 in CDBG-R and \$13,542,193.00 in NSP-1. In Fiscal Year 2011, the city received \$27,342,559.00 in CDBG, \$12,414,905.00 in HOME, \$1,327,628.00 in ESG and \$7,127,183.00 in HOPWA. Their one time award for NSP-3 was \$3,389,035.00. The city receives a substantial amount of money from HUD and engages in actions that are related to housing and urban development and therefore, is required to affirmatively further fair housing.

Fair Housing Planning Requirements

As part of the obligation to affirmatively further fair housing, the city is required to prepare an Analysis of Impediments (AI) to fair housing choice; take actions to overcome impediments; and maintain records of actions taken. Such analysis should include all affordable housing and funded programs in the jurisdiction, including homeownership and rental housing created with and without federal funding. The Fair Housing Planning Guide is a useful planning tool that should be used as part of this process.

The U.S. Department of Housing and Urban Development (HUD) has conducted a review of the current Houston AI to determine whether the city of Houston has affirmatively furthered fair housing choice by promoting affordable housing development outside areas of racial/ethnic minority concentration, analyzing and addressing participation by protected classes in funded programs, analyzing manifestations of discrimination in its programs and activities and in the private market and planned effective countermeasures and corrective actions, examining affirmative marketing strategies to avoid under-participation by protected groups, engaging in other actions that affirmatively further fair housing and that the city has retained records of its actions. After review of the Houston AI, the Department has determined that the AI's analysis is incomplete. The AI is incomplete because:

- 1) The AI does not identify as impediments actions known to the city that perpetuate segregation and restrict the availability of housing to African-Americans, Hispanics or to households with children. It does not identify actions to address patterns of existing segregation.
- 2) The AI does not specify an appropriate strategy or actions to overcome the shortage of affordable housing for African Americans, Hispanics, persons with disabilities, and families with children.
- 3) In addition, the AI does not identify any funding directed by the City toward fair housing enforcement or enforcement-related activities such as testing for 2010 nor is such funding proposed for subsequent years although high levels of discrimination were identified as an impediment to fair housing in the AI.

Data Regarding Segregation

In attempt to identify some of the impediments that the city currently faces, the AI relied upon several studies to obtain their quantitative data including the 2001 Houston Rental Audit, the 2000 HUD Nationwide Report on Housing Discrimination, 2005 Urban Institute Study on Discrimination, Houston Housing Survey of 2004, the 2010 Needs Assessment Survey and HMDA data. The AI does not contain any identification or analysis of the fact that Houston is one of the most racially segregated cities in the United States.

The 2010 census data demonstrates, considering the dissimilarity index, that Houston's level of segregation based on race is 68.6, making it the 13th most segregated city out of 200 of the largest cities in the United States. Houston's dissimilarity index for the White/Hispanic population is 60.4, making it the 8th most segregated city in this category, and its dissimilarity index for the White/Asian population is 41.8, making it the 21st most segregated city in the county for its Asian population.¹ Houston is the most racially segregated city in Texas, according to Census Scope.²

¹ America 2010, <http://www.sj.brown.edu/us2010/segregation2010/city.aspx?cityid=4835000>

² CensusScope, http://www.censusscope.org/us/s-48/rank_dissimilarity_white_black.html

This striking data is not identified, discussed, or analyzed in the AI. The AI lacks identification of the causes of these patterns of segregation and it lacks a strategy to address these patterns. This is a significant omission.

The AI also fails to discuss the challenges that protected classes face in seeking market rate and affordable housing outside of areas of minority concentration. The AI must be revised to discuss and describe actions that will address both strong patterns of segregation in the community, actions that will be taken to expand opportunities based on race and national origin in areas outside of racial and ethnic concentration, and actions that will be taken to reduce concentrations of race and national origin and support the expansion of opportunity in those areas.

The AI should include geodemographic data that will allow for review and analysis of past siting decisions for HUD assisted, tax credit and other affordable housing, and include an examination of the siting of such housing both in areas that are concentrated by race or national origin and by poverty and in less concentrated areas that offer higher opportunity. A spatial deconcentration analysis would be useful to identify the neighborhoods where housing for low and moderate income residents exist and how the city's placement of affordable housing may have served to promulgate racial segregation. A review of the extent to which placement of this housing has contributed to segregation should be included in the AI. In addition, the AI should identify areas of higher opportunity in less concentrated areas which will be targeted for future development of housing. Finally the AI should describe actions that may be taken to increase investments in areas that are concentrated by race, ethnicity and poverty, any plans for demolition or replacement of housing in those areas and plans for relocation of current residents, as well as ways to increase opportunity in those areas.

We also recommend that the AI quantify how much CDBG, HOME, ESG, and other HUD funding the city spent in impacted areas during the previous five year period with a comparison of the amount of money the city spent in non-impacted areas during the same time period. .

The AI should also examine the city's existing mechanisms for collecting data regarding the relative participation rate of protected classes in federally assisted properties including public and assisted housing and identify the patterns of over and under representation by race, national origin, and family size and, if necessary, identify affirmative marketing efforts to promote fuller participation where appropriate. If there is under participation by protected classes outside areas of concentration of minorities, this should be identified and properly addressed.

There is no data provided about or analysis of potential barriers to the development of housing in Houston. Examination of the transportation patterns and public transportation may provide helpful strategies for future siting of housing. Examination of the location of schools, especially those which are above average, may suggest neighborhoods for development of affordable housing, especially for families with children. Examination of environmental issues may suggest relocation of some existing housing and provide useful information about potential sites for future housing. Regarding environmental concerns, the city may wish to contact the Agency for Toxic Substances and consult the Disease Registry for evaluation of the proximity of affordable housing developments to toxic sites. In addition, the Department of Justice has a list of environmental hazards to determine proximity of such hazards to affordable housing.

PHA Data Collection and Analysis

The AI failed to include information on housing provided through Public Housing Authorities in the greater Houston area. The Houston Housing Authority's and Harris County Housing Authority's contribution to the production of affordable housing is substantial. The failure to analyze their impact on fair housing choice based on race, national origin, familial status and disability presents a significant gap in the analysis. The information assessed may determine if the public housing rental subsidy program or low income public housing programs are congregated in minority concentrated areas thus intensifying segregation and constricting residential choice. Under 24 CFR 903.7(o)(2)(ii) and (iii), the PHA is required to interface with the city's AI or through its own independent AI, by identifying any impediments to fair housing choice within the programs. Moreover, pursuant to Section 6 of the "PHA Certification of Compliance with the PHA Plans and Related Regulations": The PHA will affirmatively further fair housing by examining their proposed programs, identifying any impediment to fair housing choice within their programs, addressing those impediments in a reasonable fashion in view of the resources available and working with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing.

Data About Discrimination

The AI indicates that there is a substantial amount of housing discrimination occurring in Houston, stating "The lack of awareness of fair housing rights and the general tolerance of housing inequities contribute greatly to the problem"³ And the AI recommends aggressive enforcement. The AI also identified evidence of differential treatment in lending discrimination and practices which affect homeownership and evidence of discrimination based on race directed toward Katrina survivors. However, the AI lacks identification of actions to address the discrimination which it identified. Actions such as increased enforcement of fair housing laws, adoption of a substantially equivalent fair housing ordinance and local enforcement of fair housing rights, and implementation of a fair housing testing program funded by the City, as well as other strategies that will increase enforcement of fair housing laws should have been considered.

Data about Disability

The AI identifies discrimination against persons with disabilities and the need for accessible housing as impediments to fair housing. However, the AI does not identify the scope of the need for housing for persons with disabilities, including physical, mental or cognitive disabilities, it does not distinguish between the needs of these different populations for different types of housing and does not contain specific strategies to address the varying needs of these groups. Housing for people with disabilities should be made available in the most integrated setting possible. The AI should identify specific methods that the City is using to meet the housing needs for people with disabilities. Actions such as the passage and enforcement of a building code that results in construction of accessible housing, identification of ways to expand housing opportunities for persons leaving institutions, and creation of housing opportunities for persons with mental illness and cognitive disabilities should be considered.

³ AI, page 17.

Information about Access for Persons with Limited English Proficiency

The city did not provide any evidence that the AI was provided to persons who are non English speakers nor was there any evidence to show that materials or the public participation process was available to persons with disabilities. The AI also fails to show if there was any outreach done to include protected classes in the planning process. In light of the high percentage of Hispanics living in the Houston area, the city should identify the number and percentage of language minorities by population in the City and identify barriers to this population in accessing housing and urban development services provided in the city. The city may wish to develop a Language Access Plan, especially if under-participation in funded programs has been noted among persons with LEP (Limited English Proficiency).

Goals and Measureable Outcomes

The AI failed to provide quantifiable goals. The Analysis of Impediments should propose assessment tools for which the city could use to measure their progress. The AI does not reference that the city must create and maintain records to reflect their analysis and actions described in the AI. This information should appear in subsequent reports in the city's Annual Action Plan and in the CAPER. In the Action Plan, the city should indicate which impediments they intend to tackle in that particular funding year and what money will be allocated toward the particular impediment. In the CAPER, the city should refer back to the Annual Action Plan and indicate if it was able to follow through. If the department responsible for carrying out this plan failed, the report should indicate the reason.

The AI should identify organizations that the city could partner with in their endeavor to increase fair housing choice for city residents. This list should include a diverse group of organizations that could assist the city in various aspects of deficiencies spanning from accessible housing to predatory lending to the use of foreclosed single and multifamily properties to create more affordable housing, to suggest a few.

Other Potential Impediments To Be Considered by the City

1. **Municipal regulations including city ordinances.** The city of Houston has regulations and ordinances that should be reviewed for their impact on protected classes. They should be examined to identify the effect that they have on the city's efforts to integrate the city racially and mitigate the economic stratification that exists in certain neighborhoods. In addition, these landuse requirements should be examined to determine whether they present any barriers to the siting or operation of housing for persons with disabilities.
2. **Deteriorating housing stock in affordable neighborhoods.** The AI should include a detailed discussion of the existing housing stock in the city and the effects that such housing has on its neighborhoods and surrounding areas. The city has several housing structures that have been abandoned and the effect on the communities in close juxtaposition to this housing should be identified and appropriate actions to improve the quality of the stock included in this AI.
3. **Code enforcement.** The AI should examine if code enforcement is applied fairly to all communities and neighborhoods and consider the effects that the lack of fair applicability of enforcement codes could have on housing in certain communities in the city.

4. **Cost of land.** The report states that land costs are not affordable for most families. The AI does not identify statistical data to support this statement. Moreover, if the data supports this, then this should be identified as an impediment and discussed as such.
5. **Lack of landlords' awareness of disability rights.** The AI briefly discusses the problem of inaccessible housing. However, it fails to address the issue with respect to all forms of housing –public, assisted, and private market housing. Lack of awareness by landlords and housing providers, including public and assisted housing about the application of fair housing laws to housing may have a systemic impact on persons with disabilities. The need for increased education and enforcement in this area should be examined.
6. **Environmental issues** were not discussed in the AI. The AI should review the city's environmental issues and their pertinence to fair housing and their relationship to the siting of housing. In communities where environmental issues are a concern for areas that are racially or ethnically concentrated, jurisdictions should consider apportioning a certain percentage of CDBG funds yearly to those communities to mitigate the environmental problems.
7. **Steering.** The AI should include a discussion on the negative effects of steering by race and national origin in the private market and data should be included to enhance this discussion. Education and enforcement should be considered if this issue is found to contribute to housing segregation.
8. **Analysis of Foreclosures.** There should be a discussion on the analysis on foreclosures on housing patterns. The analysis should include the relationship that neighborhoods with higher foreclosure rates have to race and national origin, if any, to determine if these rates are directly proportional to each other and what effect this has on these communities and neighborhoods. The AI should also contain an analysis of the number of loan modifications being awarded to different races and ethnic groups throughout the city to determine if they are being made available on different terms based on the race or national origin of the borrower or the racial or ethnic concentration of the neighborhood. The AI should include any barriers identified as part of this analysis and actions designed to address both lending practices and the appropriate maintenance, marketing and potential use of foreclosed properties, depending on the results of the analysis.
9. **Public Schools.** The AI should include an analysis and discussion of the relationship between the location and quality of public schools and their relationship to housing choice. The discussion should include analysis of the segregation that exists in some schools and housing siting strategies that may assist to provide access to schools on a less segregated basis. .
10. **Historical racial/ethnic tensions.** The AI should include a discussion and analysis on any racial and ethnic tensions that exist throughout the city and any anticipated neighborhood or community opposition to the siting of affordable housing and strategies which the city will undertake to address these tensions. .
11. **Racial discrimination.** The AI should address how the evidence of racial discrimination may affect sales and rentals for persons of color throughout the city. The AI refers to a testing study on the treatment received by Katrina survivors and how differential treatment levels demonstrated an incidence rate for blacks of 66% as compared to Whites

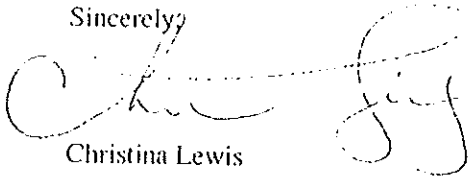
when inquiring about housing. But the report does not discuss the implications of this data nor indicate a plan for addressing the extent of this discrimination.

12. **Subprime Loans and Loan Pricing.** The AI should provide analysis on whether certain communities show a high percentage of subprime loans. Research should be included to discuss whether there is any evidence of loan pricing discrimination, e.g. higher fees, higher points, higher closing costs for persons in protected classes and identify actions that the city may take to address these issues if they have been identified.

The city's AI is incomplete and unacceptable because it fails to identify and address patterns of segregation based on race and national origin, identify appropriate actions to address identified housing discrimination, address access to housing and services for persons with disabilities and persons with limited English proficiency; it fails to contain actions to address the impediments it does identify and it lacks references to maintaining documents and records to document its actions in addressing the identified impediments. HUD will offer the city technical assistance in their effort to correct the deficiencies of the AI and meet compliance. I look forward to working with the city in improving their Analysis of Impediments in order to ensure compliance with AFFH Certifications.

I can be contacted directly at 713 718-3189.

Sincerely,



Christina Lewis
Houston FHEO Director

cc: Sandra Warren, Director – HUD CPD Houston
Garry Sweeney, Region VI Director – HUD FHEO