

Faith &
Credit
Roundtable



October 18, 2019

Office of General Counsel Rules Docket Clerk
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410-0001

Re: HUD's Implementation of the Fair Housing Act's Disparate Impact Standard, Docket No. FR-6111-P- 02, RIN 2529-AA98, Document Number 2019-17542

Woe to those who enact unjust decrees and draft oppressive legislation to deprive the impoverished of justice and rob my people's poor of their rights, looting widows and preying on orphans! (Isaiah 10:1-2)

Dear Secretary Carson:

As pastors and faith leaders¹, our sacred text teaches us to care for our neighbors and see the dignity of all of God's people. Of all the issues confronting Americans, none is more basic than that of housing. Whether renting or owning a home, every family needs a place to come home to at the end of the day. It is where our children are raised, meals are prepared, and family milestone moments are celebrated.

It is also true that everyday Americans are now struggling to keep and/or find homes they can afford. As housing prices rise faster than incomes, an increasing number of people grapple with challenges of how hard it is to keep their loved ones safe. When the additional and illegal burden of housing discrimination emerges, the lives of many people worsen. Despite federal legal guarantees against housing discrimination, violations confront many who thought their housing rights had been permanently secured. Beyond people of color, housing discrimination is also felt by people with disabilities, women and domestic violence survivors, families with children, and the LGBTQ community. According to the National Fair Housing Alliance, each year 4 million instances of housing discrimination occur and most go unreported.² This ongoing and persistent discrimination requires the use of the disparate impact standard to fully enforce the Fair Housing Act (FHA) of 1968.³

The Fair Housing Act became law following the assassination of Dr. Martin Luther King Jr., who was a strong advocate of open and fair housing. Dr. King understood that fair housing was an essential requirement for ensuring that our nation's communities could be truly integrated. In his 1961 speech, titled "*Equality Now: The President Has the Power*", Dr. King outlined how the federal government participated directly and indirectly in housing discrimination with the Federal Housing Administration,

¹ The Faith & Credit Roundtable is an interfaith coalition of faith denominations, ministries and leaders that seek to end the abuses caused by predatory lending and advance fairness in the financial services sector. Please direct all questions on this comment to Rev. Dr. Willie Gable, Co-Chair, revgable@earthlink.net and Stephen K. Reeves, Co-Chair, sreeves@cbf.net.

² National Fair Housing Alliance, Making Every Neighborhood A Place of Opportunity, 2018 Fair Housing Trends Report, available at <https://nationalfairhousing.org/wp-content/uploads/2018/04/NFHA-2018-Fair-Housing-Trends-Report.pdf>.

³ 42 U.S.C. 3601.

Public Housing Administration, Urban Renewal Administration, and Veterans Administration Loan Program.³ Dr. King shared that most of the existing federal government housing programs had anti-discrimination clauses but did little to end segregated housing: “It is a known fact that FHA continues to finance private developers who openly proclaim that none of their homes will be sold to Negroes.”⁴ He even called for President Kennedy to appoint a Secretary of Integration.⁵ None of this history was lost as President Johnson and Congress signed into law the Fair Housing Act just seven days after Dr. King’s death, as cities across America burned.

Justice Kennedy’s words reflected an appreciation for this history in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project* (2015)⁶, which was issued on the heels of the killings of Mike Brown in Ferguson, Missouri and Freddie Gray in Baltimore, Maryland as our nation was once again ripe with racial unrest. Kennedy stated: “The FHA 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.’ The Court acknowledges the Fair Housing Act’s continuing role in moving the Nation toward a more integrated society.”⁷

HUD’s existing disparate impact rule is an integral tool to ensuring fair housing for all Americans. It has helped to create fairer and more accurate housing and lending policies. It has also coincided with growth in lenders’ bottom lines. With the support of taxpayers’ dollars, the banking industry has rebounded since the housing crash of 2008 and reports billions of dollars in record profits every quarter. FDIC-insured institutions reported aggregate net income of \$60.7 billion in the first quarter of 2019, up \$4.9 billion (8.7%) from a year earlier. Community banks—which represent 92% of insured institutions—reported net income of \$6.5 billion in the first quarter, up \$595 million (10.1%) from a year earlier.

Yet, the story is far different for individuals, families and whole communities. In low-income communities and communities of color across the nation, homeownership has not recovered from the far-reaching damage of the Great Recession. The Great Recession wiped out 30 years of homeownership gains for African-Americans and Latinos. It exacerbated the already large racial homeownership gap, with today’s Black homeownership rate lower than when the Fair Housing Act passed more than 50 years ago.⁸ The current homeownership rate for Black families is only 40.6 percent, as compared to 73.1 percent for white families.⁹ According to a report by Demos, if homeownership rates were the same for whites and people of color, we would see a decrease in the racial wealth gap by 31 percent for African-Americans and 28 percent for Latinos.¹⁰

³ King, Martin Luther, Jr. *A Testament of Hope, The Essential Writings and Speeches of Martin Luther King, Jr.*/edited by James Melvin Washington, 1st HarpersCollins Publishers, New York, NY, (1986) pp. 152-159.

⁴ Id.

⁵ Id.

⁶ 135 S. Ct. 2507.

⁷ 135 S.Ct. 2525-26. Kerner Commission Report 1.

⁸ Troy McMullen and Jason Henry, The ‘Heartbreaking’ Decrease in Black Homeownership, Washington Post, February 28, 2019, available at <https://www.washingtonpost.com/news/business/wp/2019/02/28/feature/the-heartbreaking-decrease-in-black-homeownership/>.

⁹ Dana Olsen, Race Gaps in Homeownership Rates and Home Equity Have Widened During the Decade-Long Economic Expansion, Redfin, July 31, 2019, available at <https://www.redfin.com/blog/black-americans-homeownership-rate/>.

The median Black family today owns \$3,600— just 2 percent of the \$147,000 of wealth the median white family owns.¹¹ The median Latinx family has assets worth \$6,600 — just 4 percent as much as the median white family.¹² In other words, the median white family has 41 times more wealth than the median Black family and 22 times more wealth than the median Latinx family.¹³ If current trends continue, it could take as long as 228 years for the average Black family to reach the level of wealth white families own today.¹⁴ For the average Latinx family, matching the wealth of white families could take 84 years.¹⁵ Today, disparities in homeownership are a key contributor to the ongoing racial wealth gap and home equity still plays a central role in shaping family wealth for the middle class. These disparities are the result of the previously referenced discrimination fostered by our federal government that Dr. King spoke of in his speech.

As our nation celebrates the Quad-Centennial of the first enslaved Africans to arrive in what would become modern day America, it is morally wrong and a mistake to forget that our nation’s banking and securities systems developed with slavery as a foundation.¹⁶ This foundation along with historic and ongoing discrimination requires that we add and not eliminate tools that can help all Americans live in communities of opportunity with the ability to thrive. By requiring lenders, landlords, insurance companies and towns to apply their policies equitably to all, disparate impact is a critical tool to counteract our nation’s legacy of inequality.

Your proposed rule shifts the burden of proof in cases of discrimination from the powerful to the vulnerable, undoing decades of legal precedent and diminishes opportunities for hardworking families to live in a society free of discrimination. We prayerfully request that you reconsider it. We also remind you of Dr. King’s words:

“Power without love is reckless and abusive, and love without power is sentimental and anemic. Power at its best is love implementing the demands of justice, and justice at its best is power correcting everything that stands against love.”

Sincerely,

¹⁰ Tanvi Misra, Why America’s Racial Wealth Gap is Really a Homeownership Gap, Demos, March 12, 2015, available at <http://www.demos.org/news/why-americas-racial-wealth-gap-really-homeownership-gap>.

¹¹ Chuck Collins, Dedrick Asante-Muhammed, Josh Hixie, and Sabrina Terry. “Dreams Deferred: How Enriching the 1 Percent Widens the Racial Wealth Divide” *Institute for Policy Studies*. January 2019. <https://ips-dc.org/racial-wealth-divide-2019/>.

¹² Id.

¹³ Id.

¹⁴ Id.

¹⁵ Id.

¹⁶ Matthew Desmond, In Order to Understand The Brutality Of American Capitalism, You Have to Start On The Plantation, *New York Times Magazine*, August 14, 2019, available at <https://www.nytimes.com/interactive/2019/08/14/magazine/slavery-capitalism.html>.

National Faith Organizations

National Baptist Convention, USA, Inc.
Cooperative Baptist Fellowship
Presbyterian Church (U.S.A.), Office of Public Witness
Social Justice for United Missionary Baptist Association
Florida Council of Churches
Bend the Arc Jewish Action
Project Green
Rainbow Push Coalition
Samuel DeWitt Proctor Conference, Inc.

State/Regional Faith Organizations

Granite State Organizing Project in New Hampshire
Missionary Oblate JPIC
The Ohio Council of Churches, Ohio
Missouri Faith Voices, Missouri
Carolina Jews for Justice

Individual Faith Leaders

Rev. William A. Sterrett
Pastor
Amicable Congregational United Church of Christ
Tiverton, RI

Rev. Dr. Frederick D. Haynes, III
Pastor
Friendship West Baptist Church
Dallas, TX

Rev. Dr. Rodney M. Hunter
Wesley Memorial UMC
Richmond, VA

Pastor Lloyd D. Fields, SR
Communities Creating Opportunity
Greater Gilgal Missionary Baptist Church

Sheila Gilbert
Society of Saint Vincent DePaul

Rev. Dr. Jack Sullivan Jr.
Executive Director
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Deltona, FL

Rev. Terri Byrd
Coordinator
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Rev. Dr. Cassandra Gould
Executive Director
Missouri Faith Voices
Jefferson City, Missouri

Rev. James T. Golden
11th Episcopal District
Social Action Director
African Methodist Episcopal Church
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Rev. Glencie Rhedrick
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Rev. Jesse Jackson, Sr.
President and Founder
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