

October 7, 2019

SUBMITTED VIA REGULATIONS.GOV

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

Re: Reconsideration of HUD's Implementation of the Fair Housing Act's Disparate Impact Standard, Docket No. FR-6111-P-02

To Whom it May Concern,

I write to you on behalf of the Metropolitan Planning Council (MPC) in response to the U.S. Department of Housing and Urban Development's ("HUD") notice ("Notice") concerning its interpretation of the disparate impact standard. For 85 years, MPC has made the Chicago region a better place to live and work by partnering with businesses, communities and governments to address the area's toughest planning and development challenges.

The existing disparate impact rule must be upheld because it is our best tool for uncovering forms of covert or unintentional discrimination, and upholds a critical function of the Fair Housing Act: challenging the structural inequalities that persist in housing and financial institutions that affect millions here in and around the Chicago Metropolitan Area and across the country.

To uphold our fundamental rights of fairness and equity, Metropolitan Planning Council, strongly oppose this attack on disparate impact and HUD's proposed changes to the existing rule.

Despite some improvements, the Chicago metropolitan area continues to be among the most segregated in the nation. And this segregation is no accident. Segregated cities were intentionally planned and supported by a myriad of federal and local laws and policies often in lockstep with many private housing industry practices including those of mortgage lenders, real estate appraisers, and insurance companies. Although the Federal Fair Housing Act of 1968 made many such policies and practices illegal, not enough has been done to deconstruct our intentionally created segregation.

Disparate impact has been a bedrock principle under the Fair Housing Act for more than four decades. Currently, the disparate impact standard gives our communities an important legal tool to fight insidious and difficult to detect forms of discrimination by allowing unjustified policies or practices that disproportionately harm people based on their race, color, ethnicity, religion, disability, family status, and gender to be challenged.

If the HUD proposed rule goes into effect, it will make it virtually impossible to bring claims of discrimination that impact our communities. For example, the proposed rule creates overly burdensome technical requirements for those that would mount a disparate impact legal challenge; includes glaring carve-outs for entire industries, such as insurance companies; and eliminates accountability for companies using third-party technologies, such as mortgage lenders using automated underwriting technology. In sum, the proposed rule places the profits of industries before people and communities, leaving many Americans with no path to justice when they experience illegal housing discrimination.

The Metropolitan Planning Council (MPC) works to shape a more equitable, sustainable and prosperous Chicago region. The MPC and its housing and community development team wish to uphold the current Disparate Impact Rule due to its power to protect vulnerable communities. This Rule is a powerful tool for the people to protect themselves against discriminatory practices often seen in marginalized communities. This issue is particularly urgent as we face a continued trend of segregation and discriminatory practices related to housing in the Chicagoland region. By protecting the Disparate Impact Rule as it stands today we are able to better protect the people of Chicago.

The Metropolitan Planning Council believes in and is committed to eliminating discriminatory policies and practices and we urge you to uphold HUD's current interpretation of the disparate impact rule. The existing disparate impact rule strengthens our communities and nation by allowing victims of all types of systemic discrimination to seek recourse and change policies and practices that limit their housing opportunities.

Thank you for the opportunity to comment.

Sincerely,

Juan Sebastian Arias
Manager
Metropolitan Planning Council