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February 5, 2020

U.S. House of Representatives  
Committee on Oversight and Reform  
Subcommittee on Civil Rights and Civil Liberties  
2157 Rayburn House Office Building  
Washington, D.C. 20515

RE: "A Threat to America's Children: The Trump Administration's Proposal to Gut Fair Housing Accountability," House hearing on February 5, 2020

Dear Subcommittee on Civil Rights and Civil Liberties:

Texas Housers has long understood the power of place in determining health, wellness, and opportunity for America's children. Promoting and enforcing fair housing is a key tool for ensuring that today's young people and generations of children of color to come have the resources and ability to overcome life's struggles and thrive at every opportunity.

This is why we are troubled with the Trump administration's multi-year effort to gut fair housing tools and regulations, especially the 2015 Affirmatively Furthering Fair Housing rule. We appreciate the subcommittee holding a hearing to understand how detrimental these actions are for the health and well-being of children in our communities.

Texas Housers is the state's foremost housing policy advocacy and research organization. We believe that all people should have a decent, safe home in a neighborhood of their choice, and that the voices of communities of color and low-income residents should be at the center of any policy decisions that impact them.

The Fair Housing Act of 1968 was signed into law to undo the devastating effects of government-sponsored segregation by outlawing racial discrimination in the sale and leasing of homes. Senator Mondale, a Senate sponsor of the Act, said in his signing statement, the purpose of the law was to replace racially segregated ghettos with "truly integrated and balanced living patterns."<sup>1</sup> To accomplish this goal, the law required the U.S. Department of Housing and Urban Development and all jurisdictions taking HUD grants to "affirmatively further fair housing." Though the integration mandate was always understood to be at the center of the Fair Housing Act, the AFFH provision went undefined until under the Clinton administration, when HUD began requiring a fair housing analysis, called the Analysis of

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<sup>1</sup> *Trafficante v. Metropolitan Life Insurance Co.*, 409 U.S. 205, 211 (1972) (quoting 114 Cong.Rec. 3422).

Impediments to Fair Housing Choice, from every grantee. Although HUD required jurisdictions to affirm that they had completed the analysis and committed to address discovered impediments, it did not require jurisdictions to turn in the analysis unless HUD received a complaint from the community. As a result of these loose enforcement standards, some jurisdictions did not complete any kind of analysis at all, while accepting millions of dollars in federal grants. A 2010 GAO analysis<sup>2</sup> found that this process was insufficient in recording fair housing issues and taking steps to address them and that HUD was not holding local grantees accountable for following fair housing law. In 2015 the Obama administration bolstered the provision with the Affirmatively Furthering Fair Housing (AFFH) rule. AFFH required jurisdictions that benefit from HUD grants to take meaningful actions toward addressing discrimination and residential segregation to promote inclusive, integrated communities. The rule sets forth guidelines and provides a tool for local and state officials to analyze patterns of housing segregation and establish actions to overcome them.

This clarification of the AFFH provision became a critical policy for the federal government – as well as community members and advocates – to hold local jurisdictions accountable for undoing decades of inequality they helped create. Across Texas, our organization has witnessed places including Dallas, Houston, Lubbock, Hidalgo County, and Galveston take millions of dollars in public funds and use them to further entrench the very same patterns of segregation that our government sponsored in the 1930s, as visible in maps by the Home Owners Loan Corporation.<sup>3</sup> In the brief time the 2015 rule was in effect, Texas Housers used the tool and the process as way for communities of color who have historically not had a voice in community planning engage with their local and federal government and have their experiences be heard, validated and documented.

The recent rule that HUD has proposed to replace the 2015 rule is a betrayal of the Fair Housing Act and our American commitment to civil rights for all. The proposed rule removes any mention of racial segregation and absolves grantees and the federal government from any obligation to examine racial inequality and form plans to undo those patterns of discrimination embedded in the built environment. It drastically reduces public engagement requirements from local jurisdictions, and leaves little room for impacted communities to voice their lived experiences with fair housing issues. Instead, HUD is defining fair housing as market-driven policies that encourage building more housing, going so far as to exempt business from environmental and labor protection requirements. This is not fair housing. It is important to remember that the Fair Housing Act 1968 was passed one week after the assassination of Martin Luther King Jr. The president and Congress made addressing racial discrimination and segregation the priority for this law. HUD is abandoning that spirit to the detriment of children of color and their communities.

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<sup>2</sup> Government Accountability Office, HUD Needs to Enhance Its Requirements and Oversight of Jurisdictions' Fair Housing Plans (Sept. 2010). Retrieved from: <https://www.gao.gov/new.items/d10905.pdf> on Feb. 4, 2020

<sup>3</sup> Digital Scholarship Lab at the University of Richmond, Mapping Inequality. Retrieved from <https://dsl.richmond.edu/panorama/redlining/sitemap.html> on Feb. 4, 2020.

In Texas, we do not have to search very hard for the impacts of squandering the opportunity to promote integrated, open communities. The city of Galveston, a popular tourist destination on the Gulf of Mexico, can be considered a case study of what happens when HUD does not hold a local jurisdiction accountable for taking affirmative steps toward undoing segregation. After Hurricane Ike hit in 2008, more than 600 units of public housing were destroyed and city leaders and white residents vowed to not rebuild those units, most of which served families of color. In 2010, because grassroots groups and advocates including Texas Housers spoke out, HUD forced the city to rebuild each unit and provided the funds to do so, as long as the city built them in integrated areas, away from environmental hazards or areas prone to flooding.

Ten years have passed and the number of black residents has slowly declined, many moving off the island as the city has done little to ensure that all residents of the island have access to healthy and safe housing.<sup>4</sup> Less than half of the public housing units have been rebuilt and the housing authority has asked HUD to allow local officials to build the housing in a way that further concentrates black families on the island near environmental hazards and in areas with concentrated poverty. It is clear that the lack of recent fair housing enforcement from HUD has contributed to these circumstances. In a 2018 regional Analysis of Impediments to Fair Housing Choice<sup>5</sup>, the process cities have reverted to after HUD suspended the 2015 rule, the region found that Galveston had the highest level of black-white segregation. The old process didn't require anything of Galveston given that finding, but had the 2015 rule been in place, the city would have had to have a robust plan in place to address the finding and HUD would have held the island accountable for results.

Under the proposed new rule, cities do not have to conduct fair housing analysis outside of "local insights"<sup>6</sup> and they do not have to discuss racial segregation at all in their "fair housing" certification. What has happened in Galveston will likely become more common across the country and could lead to further segregation, displacement of communities of color, and dangerous outcomes for generations of children of color.

In addition to the health, educational and financial harms that research has shown segregation has on children and families, children will also experience a toll on their mental health. The message HUD is sending to our nation's children is that their government, which boasts creating equal opportunity for all, will not do anything to address their experiences with inequality, and in fact condones the policies, mechanisms and public officials that create it.

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<sup>4</sup> Texas Tribune, "It's our form of apartheid": How Galveston stalled public housing reconstruction in the 10 years after Ike," April 16, 2018. Retrieved from <https://www.texastribune.org/2018/04/16/galveston-public-affordable-housing-hurricane-ike/> on Feb. 4, 2020.

<sup>5</sup> BBC Research & Consulting, Regional Analysis of Impediments to Fair Housing Choice: Harris County Excerpt, July 2018. Retrieved from <https://csd.harriscountytexas.gov/Documents/CP%20B%20Reginal%20AI%20to%20Fair%20Housing%20Choice%20Plan.pdf> on Feb. 4, 2020.

<sup>6</sup> Affirmatively Furthering Fair Housing, 85 Fed. Reg. 2041 (proposed January 14, 2020). Retrieved from: <https://www.federalregister.gov/documents/2020/01/14/2020-00234/affirmatively-furthering-fair-housing> on February 4, 2020.

If you have any additional questions about this issue as it relates to our work in communities across the state of Texas, please reach me at [christina@texashousing.org](mailto:christina@texashousing.org).

Sincerely,

Christina Rosales  
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Texas Housers