

# Upholding the Legacy of the Civil Rights Movement

## to Ensure Access to Opportunity

By Ben Toro-Spears, Technical Advisor, Florida Housing Coalition

Many people, even if unable to list the seven protected classes under the Fair Housing Act, know that it prohibits discrimination against certain protected classes of people across a broad swath of activity related to housing. It prevents a leasing office from telling a white man there's plenty of availability, then 30 minutes later telling a Hispanic man there's nothing left. It also protects people living with a disability or a mother trying to find safe, secure shelter for her children. In all, the seven protected classes at the Federal level are: race, color, national origin, religion, sex, disability and familial status.

The Assessment of Fair Housing is a new process, but its basis in the Fair Housing Act is not. The Fair Housing Act offers two layers of protection in housing: the first layer of protection is at the individual level, the second is focused on discriminatory systems which have a disproportionate impact on the protected classes. The Assessment of Fair Housing (AFH), at its heart, recognizes that it is the responsibility of everyone - including our government - to consider these discriminatory systems and affirmatively address those barriers to fair housing choice.

This article first delves into the background of the requirement to affirmatively further fair housing, and second, explores how principles codified in the AFH are a positive step forward for the affordable housing and community development industry. When done right, the AFH has the power to lift the economic, social and cultural prospects of an entire region.

### On Affirmatively Furthering Fair Housing

There has been some controversy around the idea that government must affirmatively further fair housing. Part of the controversy has been rooted in a belief that the requirement is new, or manufactured by an overreaching Federal government. The truth is that the requirement to affirmatively further fair housing has been in the Fair Housing Act since the day it was signed in 1968. What is new, however, is HUD's requirement that all jurisdictions which receive HUD CPD funds must complete an Assessment of Fair Housing - a process which replaces the old means of affirmatively furthering fair housing, the Analysis of Impediments (AI). A further controversy around the affirmatively furthering

fair housing requirement is a belief that it forces local governments to engage in social engineering to achieve the goals of the Fair Housing Act. The reality is that local governments are empowered to make decisions that make sense locally, but are also required to examine barriers to fair housing choice in a standardized way. This ensures consistency across jurisdictions in the implementation of the Fair Housing Act, and ensures that no tax revenues are used in a manner inconsistent with the tenants of the Fair Housing Act. The end result of this increased level of rigor in applying the Fair Housing Act is greater efficiency and equality in the deployment of public funds.

Why does this matter? It matters because we as an industry now know that systems and policies can impose consequences for protected classes under the Fair Housing Act. This understanding places additional burden on recipients of public subsidy to ensure that decisions are made in a way that affirms the right to safe, decent housing for everyone, regardless of their individual characteristics.

This idea of systems-level protection under the Fair Housing Act deserves further attention, because it is not facially evident how a system, or even what systems, could have an impact on fair housing choice.

### Systemic Barriers to Fair Housing Choice

Take a look at trends in lending discrimination, seen over the span of 5, 10, or even 70 years. Or consider concentrations of poor families, a vast majority of them people of color, and what that does to their long-term prospects. There

is a long list of systems, both in history and in practice today, that have imposed unintended consequences. These consequences include: restrictive covenants, historic patterns of land use segregation, the practice of redlining that preceded the Community Reinvestment Act, unintended discriminatory benefit trends in the GI Bill, widespread disinvestment in predominantly minority urban neighborhoods and simultaneous unprecedented investment in majority-White suburban communities, a long history of painful changes to public housing, concentrations of public subsidies for affordable housing in areas with lower land costs, and a host of broad economic trends which disproportionately impacted the protected classes under the Fair Housing Act. This list is long, and to fully understand the complexities behind each would require an entire course.

We can see the damage of these historic and contemporary systems in neighborhoods across the country: segregation by both income and race/ethnicity, disinvestment in communities of color, and unequal

access to opportunities. For decades, our country has faced persistent affordable housing shortages, neglected neighborhoods, and shortages of key community amenities. We all suffer when neighborhoods disintegrate, when houses collapse from neglect, when families live in moldy homes that affect their health and when a mother spends four hours on the bus every single day to get to her job on the other side of town.

This collective failure to address these challenges imposes real costs. The consequences of our inability to eliminate blight and lift families from poverty results in missed income, missed tax revenue, missed family stability, missed generations of children flourishing as adults. And while we recognize these issues as a problem to be fixed, as a nation we have had uneven success at fixing them.



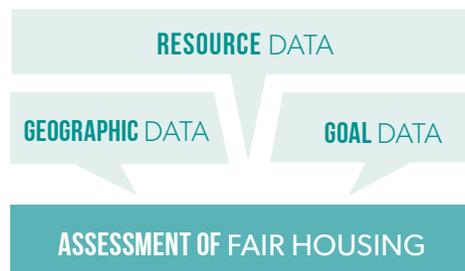
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## Guiding Principles in the Assessing Fair Housing

The AFH takes a new approach to tackling these problems. Given the reality of persistent and concentrated poverty, lack of opportunity, and perpetual shortages of affordable housing, we should welcome improvements to our planning processes.

The AFH improves on affordable housing and community development planning in four primary ways. The first is using data to identify and scale fair housing issues in the region, the second is facilitating dialogue between communities, social service providers and government agencies, the third is looking at issues in the context of access to opportunities like healthcare, transportation and schools, and the fourth is prioritizing the most important issues facing a region and targeting for success.



## A Final Point

In the world of affordable housing, community development and fair housing, we often get lost in the details of program design, implementation, and bureaucracy. We live in a world of acronyms, insider knowledge, and a "get it

done" attitude that sometimes loses sight of the big picture. The purpose of the Fair Housing Act cannot be lost in the day-to-day. The right to shelter in a community of opportunity is a fundamental right, which must be made available to everyone, regardless of their race, ethnicity, the color of their skin, religion, national origin, sex, familial status, or disability. As he was signing the Fair Housing Act, that day in April, 1968, President Lyndon Johnson said: "Now, with this bill, the voice of justice speaks again."

But we must remember, the Fair Housing Act is nothing but a piece of paper without proper implementation. Without rigorous attention to the need for government to affirmatively further fair housing, local challenges will persist into the future. Our cities and neighborhoods, the value of our homes, and the future prospects of entire generations of Americans depends on it. HNN