



STATE OF RHODE ISLAND & PROVIDENCE PLANTATIONS

HOUSE OF REPRESENTATIVES
OFFICE OF THE MINORITY LEADER
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PROVIDENCE
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BRIAN C. NEWBERRY
MINORITY LEADER
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November 5, 2015

Ms. June Sager Speakman
Town Council President
Town of Barrington
283 County Road
Barrington, RI 02806

Dear Council President and Fellow Council Members:

On behalf of the members of the House Minority Office, I am writing to draw your attention to HUD's AFFH rule – *Affirmatively Furthering Fair Housing*. We ask that you take a very close look at the rule before accepting any future funding from HUD's Sustainable Community grants for land use and new development of affordable housing.

The AFFH rule, approved in July 2015, provides local governments with a tool to mine data on a local level in order to identify barriers or "impediments" to fair housing that may exist in a particular community, district or region.

The Fair Housing Act is unambiguous regarding HUD's responsibility to further fair housing through its grant programs by mitigating impediments, which among other benchmarks, may include the locations of new developments for affordable housing. This means that any locality that accepts grant money (e.g. Community Development Block Grants) for the development of affordable housing must be cognizant of the implications of the AFFH rule.

HUD has made clear that it intends to rigorously enforce its mission to a greater degree than it has over the years by leveraging the AFFH rule.

HUD's enforcement may extend to determining if the actual locations of funded developments satisfactorily overcome any identified impediments to affirmatively further fair housing. If they do not then the obvious concern emerges - local zoning ordinances may not support what HUD deems to be the "fair" location for affordable housing leading to a direct threat to local sovereignty.

We urge all city and town council members, managers and planners to take into consideration the implicit obligations to comply with the recently restated expectations of the AFFH rule. The rule can be viewed online here: http://www.huduser.org/portal/affht_pt.html#final-rule.

Brian C. Newberry, Minority Leader
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It is worth noting the remark HUD Secretary Julian Castro made during an interview when asked whether AFFH regulations support doing away with 'land use laws at the local level'. He said, "...we won't be afraid to use the enforcement authority of the department." The interview can be read here:

http://shelterforce.org/article/4245/ishelterforce_i_exclusive_interview_with_hud_secretary_julian_castro/

HUD's recently published standards have caught the attention of national media outlets. A common theme emerged from that coverage – litigation. The stage has been set for potential lawsuits to be brought against cities and towns that accept new HUD funding but fail to accommodate for location of new development that meets the spirit and expectations of the AFFH rule.

As you know, concern with HUD's AFFH rule was sparked when the Statewide Planning Council authorized a new element of the state's official Guide Plan known as RhodeMap RI.

Presented as Rhode Island's updated "RI Rising" economic development plan, RhodeMap RI was funded by HUD and guided by its goals and expectations through its Sustainable Communities Initiative Grant process.

The Planning Council approved RhodeMap RI despite having received objections from many city and town councils concerned with the legal implications of the terms contained in the written agreements with HUD that the Planning Council signed, on behalf of Rhode Island's municipalities.

As state and municipal elected officials, we can work together to protect local sovereignty while steering clear of exposing our taxpayers to costly litigation with the federal government. We hope that our lines of communication remain open.

Sincerely,



Brian C. Newberry
House of Representatives
Minority Leader

Representative Michael W. Chippendale
Representative Doreen Costa
Representative Blake Filippi
Representative Anthony Giarrusso
Representative Robert Lancia
Representative Patricia Morgan
Representative Robert Nardolillo, III
Representative Justin Price
Representative Dan Reilly
Representative Sherry Roberts
Representative Joseph Trillo