



FAIR HOUSING

YOUR MONTHLY UPDATE TO HOUSING NEWS, INFORMATION AND EVENTS

October 2018

MHI Calls on HUD to Eliminate Discriminatory Zoning

As was noted in last month's edition of MHI's Fair Housing Update, the Department of Housing and Urban Development ("HUD") is taking a second look at the regulation known as "Affirmatively Furthering Fair Housing" ("AFFH").

MHI has taken that opportunity to call on HUD to eliminate discriminatory zoning that would restrict or eliminate manufactured housing from a community's stock of affordable housing by revising a directive it issued back in 1997.

In its letter, MHI says it "... strongly encourages HUD to broadly exercise its existing power, especially when land use planning excludes (or code enforcement targets) manufactured housing in communities and such action has a direct or disparate discriminatory impact on protected classes of persons."

In explaining the history of

legislation creating today's HUD Code, MHI argues it, "has consistently argued that HUD should use its preemptive authority in a manner consistent with Congressional intent. The amended AFFH is yet another area of HUD jurisdiction where its use is not only appropriate but mandated by Congress."

Finally, MHI stresses the importance of this action by stating, "HUD cannot solve affordable housing in America until manufactured housing is included in the formula. And, manufactured housing will not be in the formula until HUD revises the 1997 Directive."

When announcing the rule making, HUD Secretary Ben Carson said, "HUD believes very deeply in the purposes of the Fair Housing Act and that states, local governments, and public housing authorities further fair housing choice."

But Carson added, "HUD's 2015 rule often dictated unworkable requirements and actually impeded the development and rehabilitation of affordable housing."

"It's ironic that the current AFFH rule, which was designed to expand affordable housing choices, is actually suffocating investment in some of our most distressed neighborhoods that need our investment the most," Carson continued. "We do not have to abandon communities in need. Instead, we believe we can craft a new, fairer rule that creates choices for quality housing across all communities."

If HUD were to revise its zoning directives, local jurisdictions would be forced to consider how zoning that discriminates against manufactured housing impacts affordable housing for classes of persons protected by the Fair Housing Act.



Excerpts from MHI's Letter to HUD

“Manufactured homes are the most affordable homeownership option in the market today and the largest form of unsubsidized affordable housing in the country.”

“Manufactured housing offers affordability and quality to consumers because of technological advancements, cost savings, and efficiencies associated with the factory-built process. This affordability enables first-time homebuyers, retirees and growing families to obtain housing that is cheaper than purchasing a site-built home and much of the time even more cost effective than renting an often smaller or older home or apartment unit.”

“MHI's comments will address the amended AFFH from the perspective of representing the only form of unsubsidized affordable housing in America – manufactured housing.”

“...MHI strongly encourages HUD to broadly exercise its existing power, especially when land use planning excludes (or code enforcement targets) manufactured housing in communities and such action has a direct or disparate discriminatory impact on protected classes of persons. As stated in previous comment letters to HUD, MHI believes HUD should be more proactive and develop enhanced policies pursuant to the powers granted to it in the 2000 Manufactured Housing

Improvement Act. In the context of AFFH, HUD's authority should be used to prevent the use of land use planning to exclude (or code enforcement to target) manufactured housing in communities, particularly where such action has a direct or disparate discriminatory impact on protected classes of persons.”

“MHI believes Congress codified ‘affordability’ as a standard for HUD's authority to act.”

“MHI has consistently argued that HUD should use its preemptive authority in a manner consistent with Congressional intent. The amended AFFH is yet another area of HUD jurisdiction where its use is not only appropriate but mandated by Congress.”

“HUD cannot solve affordable housing in America until manufactured housing is included in the formula. And manufactured housing will not be in the formula until HUD revises the 1997 Directive. MHI believes it to be within HUD's jurisdiction and authority to revise the 1997 Directive to be consistent with the changes Congress made via the Amended Act and that HUD should do so in the context of the amended AFFH rule-making process.”

If you have any questions regarding Fair Housing or would like back issues, please contact MHI's Senior Vice President of State and Local Affairs and General Counsel, Rick Robinson at rrobinson@mfghome.org.

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