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Regulations Division
Office of the General Counsel
Department of Housing and Urban Development
451 Seventh Street SW, Room 10276
Washington, DC 20410-0500

February 13, 2026

Re: HUD's Implementation of the Fair Housing Act's Disparate Impact Standard, Docket No. FR-6540-P-01, RIN 2529-AB09

To the U.S. Department of Housing & Urban Development:

The undersigned organizations submit this comment in opposition to the U.S. Department of Housing and Urban Development's ("HUD") Notice of Proposed Rulemaking ("Notice") regarding the removal of HUD's Fair Housing Act's ("FHA") discriminatory effects regulations from the Code of Federal Regulations.

We are Illinois-based organizations committed to expanding and preserving the state's supply of affordable housing and ending homelessness, and include housing counseling agencies, homeless service providers, developers of affordable housing, fair housing advocates, and advocacy organizations, among others. Our collective work has helped make Illinois a welcoming, inclusive state, and we are dedicated to continuing our work until everyone can have a good place to call home.

Advancing fair housing and working to eliminate housing discrimination are critical to these efforts. From our collective years of community-based direct services, education and advocacy, we know that housing insecurity and homelessness do not impact everyone equally. Indeed, race, sex (including sexual orientation and gender identity), familial status, national origin, and disability strongly predict a person's risk of housing insecurity and homelessness. The solutions to addressing these risks are to increase the supply of quality, affordable housing in every community throughout the state, deepen and expand homelessness assistance, ensure that Housing Choice "Section 8" Vouchers and emergency rental assistance funds are available to keep people in their homes, support financial literacy and housing counseling, and ensure that laws and policies protect individuals from the kind of pervasive, but often hidden bias and discrimination that is inextricably tied to how housing policies and practices are actually implemented.

Individually and through numerous coalitions, the organizations listed below have supported a variety of fair housing policies and activities on behalf of protected groups, including:

- (1) supporting state legislation to include "source of income" protection as a protected class in the Illinois Human Rights Act, recognizing that persons with disabilities and

- people of color who rely upon Housing Choice “Section 8” Vouchers often face discrimination masked as opposition to their receipt of vouchers;
- (2) supporting litigation to challenge a variety of facially neutral policies that cause an adverse disparate impact, including a local government’s use of a crime-free program or nuisance property ordinance, the enforcement of exclusionary zoning policies that limit the amount of available affordable housing, policies that discriminate against Housing Choice “Section 8” Voucher holders, and policies that automatically deny admissions to persons with criminal records;
 - (3) supporting legislation to protect persons with criminal records from housing related discrimination, in recognition of the fact that the criminal legal system has unfairly targeted communities of color, making them vulnerable to discrimination based upon their contact with the criminal legal system;
 - (4) providing technical support and guidance to under-resourced communities in Illinois that seek assistance with finding resources to create a more diverse housing stock to meet their needs;
 - (5) supporting legislation to improve the Affordable Housing Planning and Appeals Act so that affordable housing developers have an opportunity to create affordable housing in predominately white communities where it is lacking;
 - (6) supporting a variety of state laws to protect survivors of gender-based violence, the vast majority of whom are women, from housing related discrimination and evictions;
 - (7) working to curb the discriminatory use of local crime-free housing policies and nuisance property ordinances, that overwhelmingly harm households of color, persons with disabilities, and women who are more likely to experience gender-based violence;
 - (8) supporting the Illinois Community Reinvestment Act so that financial institutions invest in communities where they do business and reform lending policies and practices that disparately negatively impact communities of color;
 - (9) advocating to limit the use of local policies that criminalize and penalize people for their unhoused status;
 - (10) pushing for the State of Illinois’ Qualified Application Plan to eliminate artificial barriers for affordable housing developers that permit localities to deny their applications for funding; and
 - (11) pushing at the state and federal level for there to be additional resources available to create more affordable housing, and more supports for unhoused populations so that the racial and disabilities disparities are diminished.

We believe that all of residents deserve to have access to the housing they need without facing unfair discrimination, including if it is manifested in the kinds of hidden, sometimes subtle forms of discrimination against which the disparate impact standard, as codified in HUD’s current regulation and based in over 50 years of legal precedent, has been successful in combatting. The existing disparate impact standard is a vital tool to ensure that state and local housing markets in Illinois operate in a manner that is free from discrimination. This, in turn, is fundamental to the social and economic vitality of our state and communities.

We oppose HUD's proposed removal of its discriminatory effects regulations, which furthers HUD's policy of refusing to fully enforce the Fair Housing Act with respect to claims based on discriminatory impact and other claims that the current administration disfavors. Maintaining HUD's clear articulation of the disparate impact standard in the current regulations, fully investigating all HUD-filed complaints that allege disparate impact discrimination, and adhering to Supreme Court and other judicial precedent are vitally important to our efforts to preserve and expand quality, affordable housing and to address housing discrimination in our communities. HUD's refusal to recognize binding Supreme Court precedent confirming that disparate impact is part of the Fair Housing Act makes it more difficult for us and our residents to challenge policies and practices that appear neutral on their face but are unjustified and have a disparate impact on the basis of protected class.

The current rule (24 C.F.R. § 100.500), as well as HUD's enforcement of it, has been critical for challenging a wide range of discriminatory housing policies that prevent fair access to housing. We have seen first hand how protections from facially neutral but nonetheless discriminatory policies have benefited those in need of equal access to housing and housing assistance, including:

- Providing protections for homeless service providers and the households they serve, who are often women with children, people with disabilities, and people of color, so that they can benefit from fair zoning and permitting processes when setting up local programs, including shelters and transitional housing;
- Limiting the impact of local crime-free policies and nuisance property ordinances and protecting persons with disabilities, who may have a disproportionate need to call the police, and survivors of domestic violence who faced eviction under policies that would penalize them for the violence they experienced or seeking police aid;
- Providing protection for home mortgage applicants when a bank charges unfair and excessive fees or rates to certain groups who seek loans, such as people of color, women, or people with disabilities are forced to take on risky or costly loans or not have access to financing;
- Providing protections from discriminatory appraisal practices that harm home owners of colors seeking to refinance their loans;
- Providing protection against predominately white localities that have rigid and exclusionary zoning policies that unreasonably limit the ability of affordable housing developers to build affordable housing in resource rich communities;
- Protecting against a landlord's refusal to rent to people using Housing Choice "Section 8" Vouchers or additional financial conditions placed on voucher holders, such as a co-signer; and
- Protecting renters against the arbitrary use of strict rental admissions screening criteria, including credit checks, and minimum income policies that disproportionately harm renters of color and persons with disabilities.

We need to maintain the ability to root out policies that appear neutral on their face but discriminate based on protected class – policies that the existing disparate impact standard has helped to uncover. Moreover, disparate impact's focus on less discriminatory alternatives

encourages housing providers, localities, and others to adopt less arbitrary and restrictive practices while still meeting their business needs. Eliminating disparate impact under the Fair Housing Act would allow localities, insurance companies, large landlords, financial institutions, and other major corporations to engage in covert discriminatory practices with impunity.

Accordingly, HUD's existing rule should not be eliminated. Instead, HUD must return to full enforcement of the Fair Housing Act as required by law, including disparate-impact claims, to remove unnecessary and discriminatory barriers to housing choice that communities around the country continue to experience.

Thank you for the opportunity to comment.

Housing Action Illinois