

The Fair Housing Challenge—How HUD’s CDBG Program Can Help

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Congress mandates that the US Department of Housing and Urban Development (HUD) affirmatively further fair housing. But many cities and counties that receive HUD grants enforce land use policies that prevent private property owners from providing abundant, low-cost housing. Not only are these cities and counties failing to promote fair housing, they often receive HUD subsidies such as Community Development Block Grants (CDBG).

HUD attempted to address this issue in its Affirmatively Furthering Fair Housing (AFFH) rule. However, the 2015 rule placed a heavy reporting burden on grantees and emphasized plans for reform rather than requiring actual reforms. As HUD is in the process of revising the AFFH rule, the agency has an opportunity to identify jurisdictions with severely exclusionary land use policies and to withhold CDBG from jurisdictions that choose not to deregulate.

FAIR HOUSING THROUGH FREE MARKETS

- Strict regulation is now the primary means of housing exclusion.
- HUD subsidies to exclusionary jurisdictions do not further fair housing.
- AFFH should consider market outcomes and enacted reforms, not plans.
- Withholding CDBG from the most exclusionary communities is politically feasible and will rarely harm low-income renters in those jurisdictions.

A TWO-PART TEST FOR CDBG ELIGIBILITY

Each “entitlement community” can qualify to continue receiving CDBG funds by passing either the market test or the policy test:

- Market Test: Answer “yes” to one of the following:
 - Is rent below average or falling?
 - Did the jurisdiction issue enough building permits to grow 5 percent over five years?
- Policy Test: Has the jurisdiction enacted substantial housing market deregulation in the past five years? We suggest 28 specific land use reforms that jurisdictions could implement to remain eligible for CDBG funds.

A LIMITED FEDERAL ROLE

The housing crisis can and must be solved by local and state policy deregulation. HUD can encourage this movement by granting CDBG funds to those jurisdictions that either allow their housing market to serve households of a wide range of incomes or implement concrete reforms to allow more housing construction.

Read more in our public interest comment: Salim Furth and Emily Hamilton, “Conditioning HUD Grants on Housing Market Outcomes Furthers Fair Housing” (Public Interest Comment, Mercatus Center at George Mason University, Arlington, VA, October 3, 2018).