

Equitable Development: Affirmatively Furthering Fair Housing and Policies for Inclusion



AFFORDABLE HOUSING CONFERENCE
HOME MATTERS
 IN FLORIDA



FAIR HOUSING: STATE SOLUTION & NATIONAL SETBACK



Topics

Inclusionary Zoning & HB7103

HUD's Latest AFFH Rule

State Solution

Inclusionary Zoning & HB7103

Multiple Objectives, One Solution



THE FLORIDA HOUSING COALITION



Inclusionary Zoning



20% affordable

80% market rate

THE FLORIDA HOUSING COALITION



Inclusionary Zoning

Units On-site

Units Off-site

Unit Buyout (In-Lieu)

Inclusionary Zoning

Applicable developments?

What percentage?

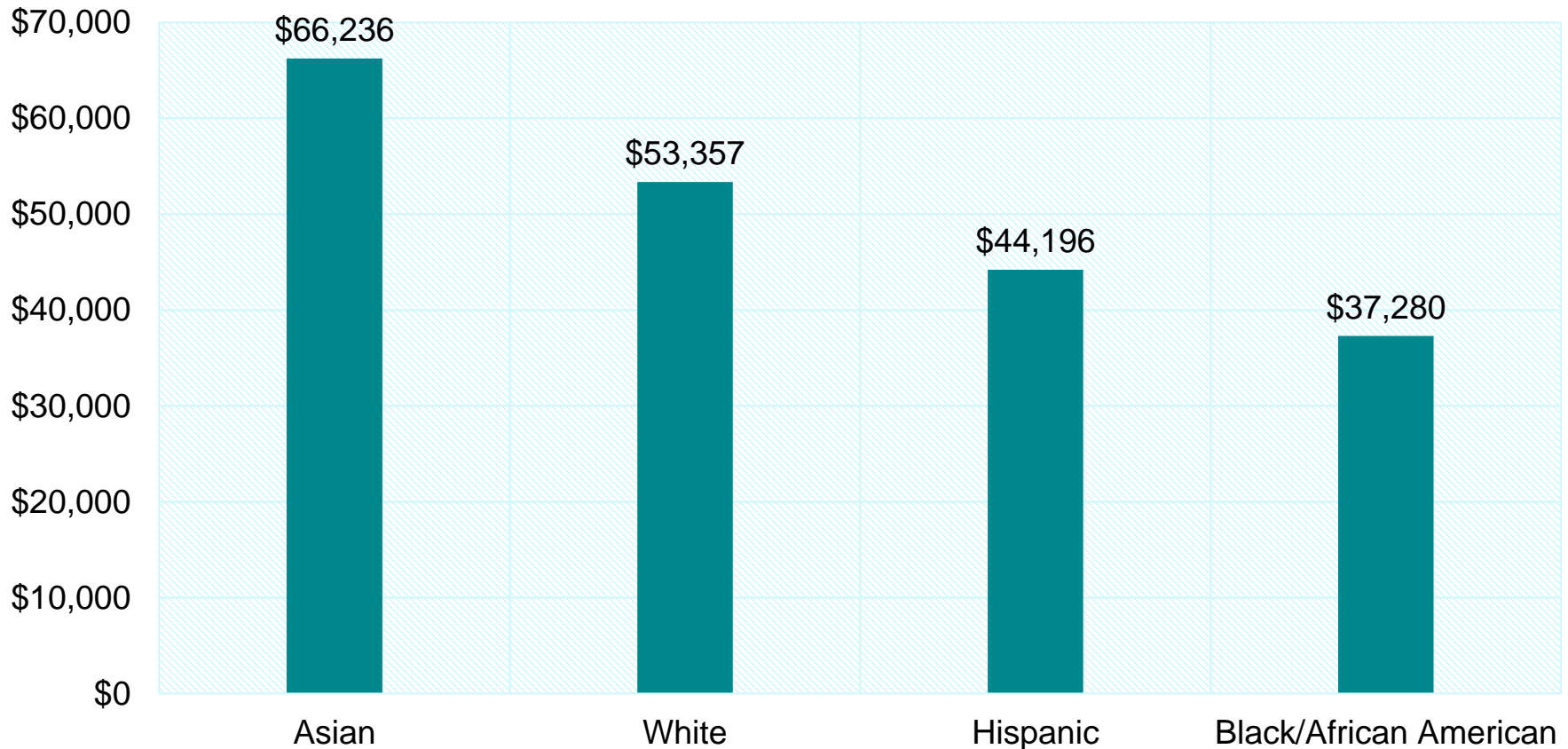
Market characteristics?

Affordable to whom?

Where?

IZ and Fair Housing

Median Household Income, State of Florida



Source: 2013-17 ACS, Table S1903

HB 7103

“An inclusionary housing ordinance may require a developer to provide a specified number or percentage of affordable housing ...or allow a developer to contribute to a housing fund or other alternatives...”

- HB7103, amending FS 125.01055/166.04151

HB 7103

“However, in exchange, a county/municipality must provide incentives to fully offset all costs to the developer of its affordable housing contribution.”

- HB7103, amending FS 125.01055/166.04151

HB7103 – Cost Offsets



Density bonus

Reducing or waiving fees

Other

HB7103 – Fee Waivers

“A county, municipality, or special district may provide an exception or waiver for an impact fee for the development or construction of housing that is affordable... It is not required to use any revenues to offset the impact.”

- HB7103, amending FS 163.31801

National Setback

HUD's Latest AFFH Rule

New AFFH Rule

“HUD’s Implementation of the Fair Housing Act’s
Disparate Impact Standard”

Published 8/19/2019

Docket No. FR-6111-P-02

Disparate Impact

An unintentionally discriminatory policy that adversely impacts an otherwise protected class of people

Existing framework

1. **Plaintiff** must prove an action actually or predictably results in a disparate impact on a protected class.
2. **Defendant** must demonstrate a legally sufficient justification by showing the practice is “necessary to achieve one or more substantial, legitimate, nondiscriminatory interests.”
3. **Plaintiff** can prevail by showing there is an alternative with a “less discriminatory effect.”

Proposed Framework

Plaintiff must demonstrate the policy/practice

1. ... is arbitrary, artificial, and unnecessary to achieve a valid interest or legitimate objective.”

Proposed Framework

The Plaintiff must demonstrate

2. ... a robust causal link between the policy and a disparate impact on a protected class.

Proposed Framework

The Plaintiff must demonstrate

3. ... the alleged disparate impact has an adverse effect on members of a protected class.

Proposed Framework

The Plaintiff must demonstrate
4. ...the alleged disparity is significant.

Proposed Framework

The Plaintiff must demonstrate

5. ...a direct link between the disparate impact and the complaining party's alleged injury.

Proposed Framework

Plaintiff must demonstrate the policy/practice ...

1. ... is arbitrary, artificial, and unnecessary to achieve a valid interest or legitimate objective.”
2. ... has a robust causal link between the policy and a disparate impact on a protected class.
3. ... the alleged disparity has an adverse effect on members of a protected class.
4. ...the alleged disparity is significant.
5. ...a direct link between the disparate impact and the complaining party’s alleged injury.

Special Highlights

HUD says the proposed framework...

“is intended to ensure that disparate impact liability is limited so employers and other regulated entities are able to make the practical **business choices** and **profit-related** decisions that sustain a vibrant and dynamic **free-enterprise system**.”

Special Highlights

HUD says, “the Fair Housing Act does not specifically relate to the business of insurance.”

Special Highlights

HUD says the standard does **not**...

“...require or encourage the collection of data with respect to protected classes and that the absence of such collection will not result in any adverse inference against a party.”

Special Highlights

HUD says **algorithmic models** can be defended through two means...

“(i) identifying the inputs used in the model and showing that these inputs are not substitutes for a protected characteristic and the model is predictive of risk...”

(ii) Showing that a recognized third party, not the defendant, is responsible for creating or maintaining the model; OR

(iii) Showing that a neutral third party has analyzed the model in question and determined ...” it meets the above.

AFFH Rule

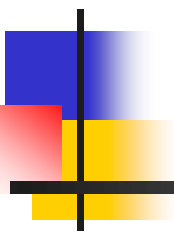
Comment due date: October 18, 2019

The FHC will submit a comment and notify members

Let's Talk

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727-310-1510



Equitable Development: Focus Affirmatively Furthering Fair Housing and Policies for Inclusion

Patricia A. Newton, Fair Housing Consultant





Overview



- Brief Overview of the Fair Housing Act
- 50+ Years of Fair Housing Publication
- Artwork - Murals
- Activity



The Civil Rights Act of 1968

Title VIII—The Fair Housing Act



- HUD has played a lead role in administering the Fair Housing Act since its adoption in 1968.
- The goal was to integrate our communities throughout this nation.
- Over 10,000 complaints are filed annually and disability is the highest complaint category.
- HUD study “How Much Do We Know?” – 14% of adult public believes they experienced discrimination.



The Fair Housing Act



The Fair Housing Act prohibits discrimination in the sale and rental of housing based on a person's:

- Race
- Color
- Sex
- National Origin
- Disability
- Religion
- Familial Status (presence of children under 18 years old)

Local Laws include: Marital Status, Gender Identity/Expression, Sexual Orientation, and Religious Affiliation



State and Local Enforcement Agencies

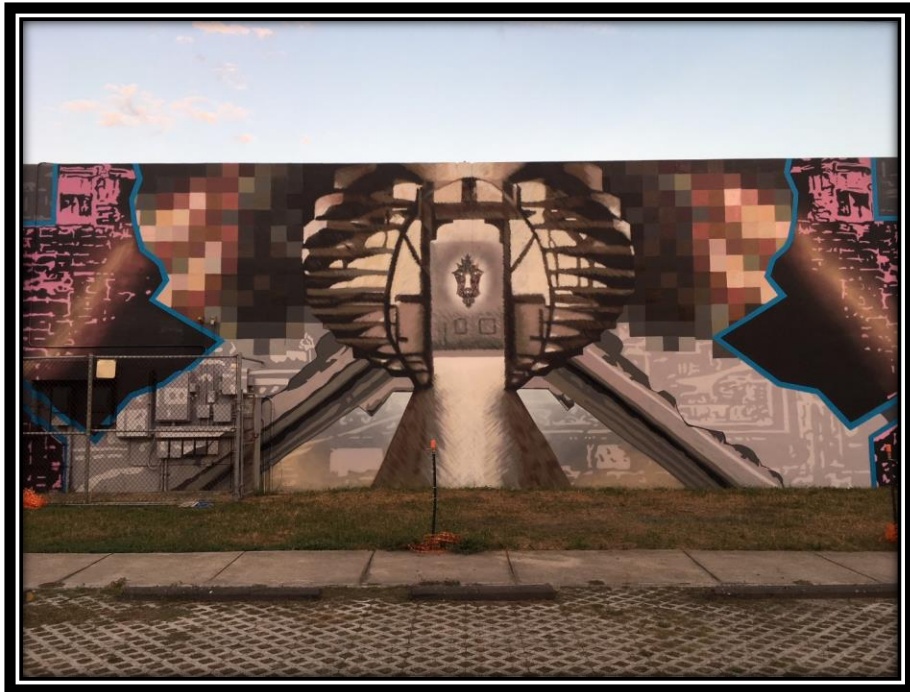


- Florida Commission on Human Relations
- Palm Beach County Office of Equal Opportunity
- Pinellas County Office of Human Rights
- Tampa Office of Human Rights
- Orlando Community Affairs and Human Relations
- Miami-Dade Commission on Human Rights
- Jacksonville Human Rights Commission
- Broward County Human Rights Section



Michael Parker

MURALS...



IN AND OUT



Activity Timeline

Brainstorming

- Neighborhood Liaison
- Parks & Recreation
- Economic Development
- Housing & Community Development
- Arts Program
- Project Start Date – January 2018



Action

- Meeting with Tampa Bay Times Manager
- Historian
- Contract/Funding
- Local Housing Authority
- Local Interviews
- Public Library



Result

- NIE – Publication April 21, 2019
- Mural Dedication April 29, 2019



Group Activity

Create an activity for your community that would affirmatively further fair housing.

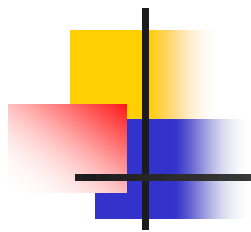
Use information from your Analysis of Impediments to Fair Housing Choice

Promote housing that is structurally accessible to, and usable by all persons.

Affirmatively
Furthering Fair
Housing

Foster compliance with the nondiscrimination provisions of the Fair Housing Act.

Promote fair housing choice for all persons, provide opportunities for inclusive patterns of housing occupancy regardless of race, sex, national origin, etc.



Thank You!

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For more information, contact:

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