



July 8, 2025

The Honorable Eric Scott Turner
United States Secretary
Department of Housing and Urban Development
451 7th Street, S.W.
Washington, DC 20410

Dear Secretary Turner:

The undersigned national associations represent for-profit and non-profit owners, operators, developers, and property managers involved in the provision of rental housing, both affordable and conventional. In line with presidential priorities, we greatly appreciate your efforts to boost housing supply and reduce overregulation by the U.S. Department of Housing and Urban Development (HUD) which increase housing costs, including implementation of President Trump's recent Executive Order, *Restoring Equality of Opportunity and Meritocracy*.¹

Today, we are writing to you to learn more about HUD's plans to carry out the President's directive "to eliminate the use of disparate-impact liability in all contexts to the maximum degree possible to avoid violating the Constitution, Federal civil rights laws, and basic American ideals".² The rental housing industry strongly supports equal opportunity in housing, but we have long-raised concerns that an overly expansive view of disparate impact theory could drastically increase housing providers' fair housing liability for legitimate, nondiscriminatory business practices.

As background, in 2013, HUD issued its first disparate impact rule establishing the agency's interpretation of this legal standard for seemingly neutral housing policies that nonetheless have discriminatory effects on protected classes under the federal Fair Housing Act. In 2020, the Trump Administration revised the Rule to acknowledge the limitations of disparate impact liability imposed by courts subsequent to the development

¹ See Executive Order 14281 at <https://s3.amazonaws.com/fn-document-service/file-by-sha384/2b481f59b4c441588ef39c089227316a3ed6168c19dc7879613c9a5a4ab5188a96827eebddc01b5c46efe8199fcb2c09>.

² Id.

of the 2013 Rule – namely the Supreme Court’s decision in *Texas Department of Housing & Community Affairs v. Inclusive Communities Project, Inc. (Inclusive Communities)*, which established important guardrails around disparate-impact liability.

In 2023, the Biden Administration rescinded the 2020 Trump Rule and reinstated the 2013 Disparate Impact Rule which fails to acknowledge subsequent legal developments, undermines the use of necessary business practices, and creates new challenges to lowering housing costs and addressing the nation’s undersupply crisis.

Now, Executive Order 14281 seeks to curtail federal reliance on disparate impact liability and, among other efforts, directs federal agencies to identify “all existing regulations, guidance, rules, or orders that impose disparate-impact liability” and take appropriate action. As you finalize HUD’s plans to honor the President’s directive, we urge you to consider the following:

- Reinstatement of the Trump Administration Rule from 2020, which aligns HUD’s disparate impact rulemaking with the Supreme Court’s decision in *Inclusive Communities* (and other legal actions) and includes important safeguards for housing providers against litigation stemming from legitimate, nondiscriminatory policies.
- Rescind and revise all guidance and memoranda that rely on HUD’s 2013 Rule, including the “Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions”³ and the “Implementation of the Office of General Counsel’s Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate Related Transactions”⁴.

The coalition remains committed to working with you and the Administration to advance our shared housing goals to increase housing supply and address regulatory barriers that affect the availability and affordability of rental housing. We thank you for the opportunity to share our views and please call upon us if we can serve as a resource in this regard.

Sincerely,

Council for Affordable & Rural Housing

Institute of Real Estate Management

National Affordable Housing Management Association

³ See HUD’s April 2016 Guidance at https://www.hud.gov/sites/documents/hud_ogcguidappfhastandcr.pdf.

⁴ See HUD’s June 2022 Guidance at <https://www.hud.gov/sites/dfiles/FHEO/documents/Implementation%20of%20OGC%20Guidance%20on%20Applicati on%20of%20FHA%20Standards%20to%20the%20Use%20of%20Criminal%20Records%20-%20June%2010%202022.pdf>.

National Apartment Association

National Leased Housing Association

National Multifamily Housing Council

Cc: John Gibbs, Principal Deputy Assistant Secretary for Policy Development and Research, HUD