January 23, 2017

The Honorable Michael Crapo  
Chairman  
U.S. Senate Committee on Banking  
Housing, and Urban Affairs  
534 Dirksen Senate Office Building  
Washington, D.C. 20510

The Honorable Sherrod Brown  
Ranking Member  
U.S. Senate Committee on Banking, Housing,  
and Urban Affairs  
534 Dirksen Senate Office Building  
Washington, D.C. 20510

Re: NAACP Legal Defense & Educational Fund, Inc. Letter in Opposition to the Nomination of Benjamin Carson to be Secretary of Housing and Urban Development

Dear Chairman Crapo and Ranking Member Brown:

On behalf of the NAACP Legal Defense and Educational Fund, Inc. (LDF), I write to express our opposition to the nomination of Ben Carson to be Secretary of Housing and Urban Development (HUD). Despite his many accomplishments as a noted neurosurgeon, he lacks the experience required to lead HUD. Moreover, Dr. Carson failed at his confirmation hearing to demonstrate that he is prepared to aggressively enforce federal housing law and HUD’s mission to fulfill our nation’s promise of equal opportunity in housing.

The NAACP Legal Defense & Educational Fund, Inc. (LDF) was founded in 1940 by Thurgood Marshall and is the nation’s first and foremost civil and human rights law organization. Since its inception, LDF has worked to combat racial segregation and promote racial integration in housing. One of Thurgood Marshall’s early victories in the Supreme Court
came in *Shelley v. Kraemer*, 334 U.S. 1 (1948), and *McGhee v. Spies*, 334 U.S. 1 (1948), which held that the state enforcement of racially restricted covenants violated the Equal Protection Clause. In the six decades that followed, LDF has continued to challenge public and private policies and practices that deny African Americans housing opportunities and isolate African-American communities. In many of these cases, the key enforcement mechanism was the Fair Housing Act of 1968 (FHA).

HUD’s “mission is to create strong, sustainable, inclusive communities and quality affordable homes for all” and “build inclusive and sustainable communities free from discrimination”1 The FHA, which HUD enforces, was passed by Congress in 1968, approximately a week after the assassination of Dr. Martin Luther King, Jr. In 1968, Congress recognized residential segregation as a critical problem that threatened to undermine America’s movement toward racial equality. Sadly, residential racial segregation has in recent years, increased in cities and counties across the country.2 The consequences of entrenched racial segregation are devastating for communities and families3 and for our country. Housing is

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critically important to the economic stability and upward mobility of families.4 Just two years ago, the United States Supreme Court recognized that

Much progress remains to be made in our Nation’s continuing struggle against racial isolation. In striving to achieve our “historic commitment to creating an integrated society,” Parents Involved, supra, at 797 (KENNEDY, J., concurring in part and concurring in judgment), we must remain wary of policies that reduce homeowners to nothing more than their race. But since the passage of the Fair Housing Act in 1968 and against the backdrop of disparate-impact liability in nearly every jurisdiction, many cities have become more diverse. The FHA must play an important part in avoiding the Kerner Commission’s grim prophecy that “[o]ur Nation is moving toward two societies, one black, one white—separate and unequal.” Kerner Commission Report 1. The Court acknowledges the Fair Housing Act’s continuing role in moving the Nation toward a more integrated society.5

The segregated landscape of this country is not the result of just the individual choices of individual families. It was created, supported and perpetuated by the federal government through policies such as redlining, mandated racially restrictive covenants and segregation in federal public housing, and racially discriminatory housing policies.6 Many of these practices were not discontinued until the passage of the Fair Housing Act in 1968. Thus, the Fair Housing Act entrusted the federal government with the responsibility of ensuring that states and localities take affirmative and clear steps to dismantle segregation and to promote housing policies that advance integration. The Department of Housing and Urban Development plays a vital role in enforcing


the Fair Housing Act in both letter and spirit. HUD’s responsibilities include expeditiously and thoroughly investigating race and national origin complaints, ensuring fair mortgage lending for homeowners, carrying out strategies to end homelessness and providing decent and safe public housing for eligible families, seniors, and people with disabilities. All of these policies are critical to achieving economic justice and advancement in this country.

Any prospective HUD Secretary must have a significant commitment to civil rights and fair housing, and an understanding of the complexities of housing policy. The new HUD secretary must also be prepared to continue to implement the new HUD rule advancing the FHA’s mandate to affirmatively further fair housing, “a major push against America’s deeply entrenched housing segregation.” The rule requires “local communities to assess their own patterns of racial and income segregation and make genuine plans to address them” in order to dismantle the legacy of “government and private-sector discrimination that has resulted in poor, segregated neighborhoods persisting to this day.”

Following his confirmation hearing before this Committee, we remain deeply concerned about the appointment of Dr. Carson to lead the agency charged with being the guardian of fair housing in this country. During his confirmation hearing, Dr. Carson was unable to respond adequately to these concerns and, in some cases, raised additional questions regarding his qualifications and commitment to fair housing. For example, when Dr. Carson was asked what “the best possible thing we can do for someone on government assistance,” he simply responded:

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8 See Id.
“Get them off it.” Dr. Carson’s callous response reflects his fundamental misunderstanding of HUD’s role in making housing policy. HUD’s primary responsibility is not to simply “get people off” of public assistance programs. HUD is responsible for ensuring all Americans have equal access to quality, affordable housing, which is a vital part of a dignified, healthy, fulfilling, and productive life.

Dr. Carson also testified concerning HUD’s role in enforcing the FHA and specifically the agency’s rule affirmatively furthering fair housing:

What I would encourage, I don't have any problem whatsoever with affirmative action or, at least, integration. I have no problem with that at all. But, I do have a problem with people on high dictating it when they don't know anything about what's going on in the area. We have local HUD officials and we have people who can assess what the problems are in their area and working with local officials can come up with much better solutions than a one size fits all cookie-cutter program from people in Washington, D.C.10

In fact, Dr. Carson’s assertions to the contrary, the rule specifically contemplates that implementation would emphasize engaging local communities and their priorities. However, importantly, the rule also sets standards and guidelines to support these communities in meeting their over forty-year obligation to reduce barriers to fair housing. Dr. Carson again failed to comprehend HUD’s central and vital role in ensuring fair housing and his testimony reflects a lack of commitment to ensuring proper implementation of the rule furthering fair housing. His testimony did not ameliorate his prior inflammatory remarks regarding fair housing and the

mission of HUD, describing the new HUD rule as a “government-engineered attempt[] to legislate racial equality” and a reflection of a history of “failed social experiments.”\textsuperscript{11}

During his confirmation hearing, Dr. Carson also raised questions about how fair housing laws would apply to members of the LGBTQ community. While agreeing the fair housing laws apply to “all Americans,” he cautioned against securing “extra rights,” testifying, “What I have mentioned in the past is the fact that no one gets extra rights. Extra rights means you get to redefine everything for everybody else. That to me doesn’t seem to be very democratic.”\textsuperscript{12} In 2012, HUD adopted the Equal Access Rule, forbidding discrimination against LGBTQ community members in housing authorities which receive HUD funding or are insured by the Federal Housing Administration.\textsuperscript{13} Dr. Carson’s statements call into question his commitment to enforcing housing protections of the LGBTQ community. Enforcing civil rights does not in fact diminish or undermine the rights of others and Dr. Carson’s testimony reflects a basic misunderstanding of how these laws are enforced and HUD’s role.

Finally, Dr. Carson’s lack of experience alone should be disqualifying for a position of this magnitude and should not be dismissed:

Housing and Urban Development has a budget of more than $50 billion. It deals with issues that affect millions of Americans in often intimate ways. It wields immense influence over the physical landscape of the country, from cities and suburbs to exurbs


\textsuperscript{13} See Equal Access in Accordance With an Individual’s Gender Identity in Community Planning and Development Programs, 24 C.F.R. § 5 (2016).
and rural hamlets. If he’s to run a functional agency, Carson needs to have actual knowledge and expertise.\textsuperscript{14}

Dr. Carson’s lack of qualifications stands in sharp contrast to his predecessors who had a shared sense of the importance of housing issues and HUD’s mission\textsuperscript{15} and most of whom at least possessed some government experience.\textsuperscript{16}

More than three million instances of housing discrimination occur each year, and the vast majority are unreported. When Americans are denied equal access to housing, it reduces the availability of good jobs, quality education, safe streets, and a clean and healthy environment, all of which are central to the American Dream. A strong and vigorous HUD, led by a competent Secretary committed to its mission, is critical to ensuring that dream is realized.

For the foregoing reasons, we strongly urge members of the Banking, Housing, and Urban Affairs Committee to reject Dr. Carson’s nomination to be Secretary of Housing and Urban Development. Thank you for your consideration and if you have any questions please do not hesitate to contact Todd A. Cox, Director of Policy.

Sincerely,

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Sherrilyn Ifill  
President and Director-Counsel  
NAACP Legal Defense and Educational Fund, Inc.
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\url{http://www.slate.com/articles/news_and_politics/politics/2017/01/ben_carson_future_hud_secretary_knows_nothing_about_hud.html}.

\textsuperscript{15}\textit{Id}.


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