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U.S. Department of Housing and Urban Development Agrees To Uphold Rule Ensuring Access To Housing In High Opportunity Areas Following Successful Lawsuit By Coalition of National Civil Rights Organizations

Judgment Entered For Plaintiffs in Open Communities Alliance v. Carson Ensures Greater Housing Opportunities For Low-Income Families

WASHINGTON, D.C. – The U.S. Department of Housing and Urban Development (HUD) recently agreed to abandon its attempt to delay a federal rule designed to provide greater housing opportunities for low-income renters. A federal court entered judgment in favor of the plaintiffs, who are represented by a coalition of civil rights organizations who filed suit against HUD last year.

As a result of the lawsuit and the [judgment entered](#), HUD is now implementing the Small Area Fair Market Rule (Small Area FMR), which promotes greater opportunity in housing choice for low income and minority families and greater residential integration. The coalition of civil rights groups [successfully challenged](#) HUD's decision to abandon the rule last year, with U.S. District Court Judge Beryl Howell in late December issuing a preliminary injunction requiring HUD to restore the rule. The judgment that Judge Howell entered on Friday confirms that HUD will not challenge the court's ruling.

“This is a win for low-income American families who deserve equal access to safe and affordable housing,” said Sherrilyn Ifill, President and Director-Counsel of the NAACP Legal Defense and Educational Fund, Inc. (LDF). “HUD must not delay restoring the Housing Choice Voucher program and we will continue to hold the Administration accountable. Blacks, Latinos and low-income Americans have an equal right to economic prosperity including the ability to choose where to live.”

The NAACP Legal Defense and Educational Fund, Inc. (LDF), Lawyers' Committee for Civil Rights Under Law, Relman, Dane & Colfax PLLC law firm, Poverty & Race Research Action Council (PRRAC) and Public Citizen Litigation Group brought the suit last year against HUD for suspending the Small Area FMR rule, which allows low-income families using housing vouchers to access a broader market of rental units. The suit was filed on behalf of two individuals who wanted to move to improved residential areas and the Open Communities Alliance, a Connecticut-based organization devoted to creating such opportunities for mobility.

In an opinion issued in December, Judge Howell ruled that HUD and Secretary Ben Carson unlawfully suspended implementation of the Small Area FMR rule without providing a reasonable justification for the delay. She also held that HUD failed to follow federal law requiring the Department to provide notice and an opportunity for public comment before acting.

“HUD’s announcement that it will drop its opposition to a carefully drafted fair housing rule is a victory for those working to promote greater access to housing opportunity for African American, Latino and low-income families across our country. The Small Area Fair Market Rent rule promotes greater opportunity in housing choice for low income and minority families and greater residential integration,” said Kristen Clarke, President and Executive Director of the Lawyers’ Committee for Civil Rights Under Law. “Our lawsuit challenging HUD’s action is crucial to today’s ongoing work to achieve a more racially integrated society. We will continue to turn to the courts to hold this administration accountable for actions that turn the clock back on important civil rights.”

HUD issued the Small Area FMR rule in 2016 after years of study and notice and comment. The rule changes the housing voucher formula in 24 carefully selected metropolitan areas, which collectively cover more than 200,000 voucher families. In those areas, voucher values that were previously calculated based on typical private rents for an entire area (despite enormous differences in the prevailing rents from neighborhood to neighborhood) now are to be based on fair market rents for each zip code. The new formula, in effect, raises the allowable rent amount for thousands of participating families should they choose to move to higher-rent, higher-opportunity areas.

“We expect HUD to implement this new program in good faith, and we are pleased to see that they have already issued guidance in response to the court’s ruling,” said Philip Tegeler, PRRAC’s Executive Director. “We look forward to working with local housing authorities to ensure that the program is as successful as it was intended to be.”

“HUD’s decision not to fight the court’s holding that the agency acted unlawfully by delaying this important rule assisting low-income families in securing affordable housing is welcome news. Unfortunately, the resolution of this case does not indicate that this administration has embraced the agency’s mission of creating strong, sustainable, inclusive communities and quality affordable homes for all. Instead, HUD recently delayed an important tool to assure compliance with the long-standing statutory duty to affirmatively further fair housing,” said co-counsel Allison M. Zieve, of Public Citizen Litigation Group.

“Entry of a judgment in Plaintiffs’ favor preserves an important housing program, allowing Voucher holders the chance to live and raise their children in high-opportunity neighborhoods,” said John Relman, managing partner of Relman, Dane & Colfax. “This litigation also sends an important message to the Trump Administration, that its lawlessness will be met with swift and powerful resistance from the civil rights community.”

A copy of the court’s order is available [here](#). The district court’s December 2017 order is available [here](#), and the court’s opinion is [here](#). The complaint, filed last October, is available [here](#).

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Founded in 1940, the NAACP Legal Defense and Educational Fund, Inc. (LDF) is the nation's first civil and human rights law organization and has been completely separate from the National Association for the Advancement of Colored People (NAACP) since 1957—although LDF was originally founded by the NAACP and shares its commitment to equal rights. LDF's Thurgood Marshall Institute is a multi-disciplinary and collaborative hub within LDF that launches targeted campaigns and undertakes innovative research to shape the civil rights narrative. In media attributions, please refer to us as the NAACP Legal Defense Fund or LDF.