



ACHIEVING THE SPIRIT
OF FAIR HOUSING? :
MISSED
OPPORTUNITIES IN AI

‘Affirmatively Furthering’ is not new



- The Fair Housing Act obligates HUD “[to] do more than simply not discriminate itself; it reflects the desire to have HUD use its grant programs to assist in **ending discrimination and segregation**, to the point where the supply of genuinely open housing increases.”
- NAACP, Boston Chapter v. Sec'y of Hous. & Urban Dev., 817 F.2d 149, 154 (1st Cir.1987)

But fair housing is a long-deferred dream



- Dr. Martin Luther King


While legislation may not change the hearts of men, it does change the habits of men when it's vigorously enforced... There's legislation in Congress right now dealing with the whole question of housing and equal administration of justice ... And this problem has to be dealt with - some through legislation, some through education, but it has to be dealt with in a very concrete and meaningful manner.

“The Other America” - 1968

Identification and analysis of impediments to fair housing choice

- Detecting discrimination + ‘awareness’
- Meaningfully addressing racial segregation
- Identifying regulatory barriers with a FH lens
- Fault / responsibility

Detecting discrimination 'awareness' + education



- Discriminators avoid detection
- Do community service providers know FH?
- Appropriate education vs. testing and enforcement

Meaningfully addressing racial segregation



- Metrics: What is segregated?
 - ▣ RCAPs in Oregon?
 - ▣ White isolation is segregation

Meaningfully addressing racial segregation

- *There are census blocks in Multnomah County where people of color are concentrated, defined as over 51 % of the population, but no communities in Multnomah County are exclusively segregated except for areas that are primarily white.*
- 2000-2010 Portland black-white segregation
 - Dissimilarity down by 30 ppt
 - White isolation 77.8 → 74.4
 - White exposure to Blacks 6 → 6.5

Identifying regulatory barriers with a FH lens



- Evidence?
 - Disparate impacts on protected classes
 - Historical background
 - Events including contemporary statements by decision-making body
 - Procedural and substantive departures from the norm
 - Legislative or administrative history

Identifying regulatory barriers with a FH lens

- Assessment of existing regulatory framework of comprehensive plans, neighborhood plans, zoning codes and ordinances
 - With comparison to best practices for reducing regulatory barriers

By-right uses in residential zoning?

	R-0*	R-2*	R-3*	R-5*	R-6	R-7.5	R-10	R-15	WR	DD*
Dwelling - One family	Y	N	Y	Y	Y	Y	Y	Y	Y	Y
Dwelling - Two Family	Y	N	Y	Y	N	N	N	N	N	N
Dwelling - Group	Y	N	Y	Y	N	N	N	N	N	N
Dwelling - Multiple	Y	N	Y	Y	N	N	N	N	N	Y
Single Family Detached Dwellings & Accessory Structures	Y	Y	Y	Y	N	Y	Y	Y	N	N
Secondary Dwelling Unit (1/lot)	Y	N	Y	Y	Y	Y	Y	Y	N	Y
Zero Lot line Dwellings	Y	Y	Y	Y	Y	Y	Y	Y	N	Y
Duplexes	Y	Y	Y	Y	N	N	N	N	N	Y

Identifying regulatory barriers with a FH lens



Neighborhood plan language as a barrier

“the Neighborhood Association believes that single-family dwellings represent an ever-shrinking island that needs to be preserved...An applicant for a plan and zoning map change to multi-family designation shall be strictly required to demonstrate substantial evidence of the public need for the change...the Association shall encourage property owners and builders not to develop properties to maximum density through discussions at required land use meetings”

Identifying regulatory barriers with a FH lens



- Who knows ?
 - ▣ Neighborhood activists and NIMBYs...
 - ▣ Planners...

- ▣ Those serving protected classes, including nonprofit developers?
 - Asking “identify regulatory barriers” does not work

Not my fault!



- I don't receive HUD funding so I don't have to...
- Some other jurisdiction or entity is supposed to...
- I can't make them do it....or make us do it

But is it my responsibility?



- Involving all institutions and jurisdictions responsible for planning and development
 - ▣ Not siloing AI/FHP in housing and CD
- Engaging partners on their own terms
- Naming impediments and meaningful goals