

**JOHN ANTHONY**

# AGENCY TYRANNY

How to **STOP** HUD's Devastating Attack on  
Property Rights



© 2016 John Anthony

Produced by Sustainable Freedom Lab LLC

For more information please visit:  
[www.sustainablefreedomlab.org/Agency-Tyranny](http://www.sustainablefreedomlab.org/Agency-Tyranny)

This work is licensed under a Creative Commons Attribution-Non-Commercial-NoDerivatives 4.0 International License.

#### You are free to:

**Share** — copy and redistribute the material in any medium or format

The licensor cannot revoke these freedoms as long as you follow the license terms.

#### Under the following terms:



**Attribution** — You must give **appropriate credit**, provide a link to the license, and **indicate if changes were made**. You may do so in any reasonable manner, but not in any way that suggests the licensor endorses you or your use.



**NonCommercial** — You may not use the material for **commercial purposes**.



**NoDerivatives** — If you **remix, transform, or build upon** the material, you may not distribute the modified material.

**No additional restrictions** — You may not apply legal terms or **technological measures** that legally restrict others from doing anything the license permits.

# Table of Contents

<b>Introduction</b>	<b>3</b>
<b>I Attacks on Personal Property Rights</b>	<b>5</b>
Vancouver Action Plan	6
The Beginning of Sustainable Development	9
Crushing the Concept of Private Property	8
<b>II Origins of Regionalism and Sustainable Development in America</b>	<b>15</b>
UN’s Marxist Ideals Codified in US Regulatory Law	16
Regional Sustainability Grows as Community Choices Whither	19
<b>III Federal Agencies and the Birth of HUD’s AFFH</b>	<b>23</b>
Increasing the Power of Federal Agencies	24
HUD’s Untapped Authority	25
Westchester County and the Launch of AFFH	26
<b>IV How HUD’s AFFH Devastates Property Rights</b>	<b>29</b>
AFFH Hidden from the Public	31
A Tricky Review Process	32
HUD’s Fair Housing Assessment – Instrument of Coercion	34
Setting the Table for a Civil Rights Lawsuit	38
Coercing Communities to Join a Region	38
Lawsuits, Lawsuits, Lawsuits...	42
<b>V Stopping AFFH</b>	<b>47</b>
Harvesting the Delay	48
Talking to Lawyers	50
The Ultimate Solution – Just Say “no”	56
<b>Closing Note</b>	<b>57</b>

# Agency Tyranny

## (How to Stop HUD's Devastating Attack on Property Rights.)

### Introduction

Americans value their private property rights. Yet, for decades, those rights have been under attack. Now, a new ruling from HUD places our property at greater risk than ever before. To understand the scope of today's risk, we first need to take a closer look at how we got here.

Property rights come in three forms. State, communal and private property. State owned property, as exists under communism, abolishes private ownership through the imposition of force and violence.

Communal property requires extensive policing to assure that each community member lends equal efforts to the property in which they are entitled to an equal share. Ultimately, communal systems render it difficult for its members to rise much above subsistence living<sup>1</sup>



After the Pilgrim's disastrous experiment with communal property in 1620 – 23, it was little wonder private property, in which individuals own and control their own property, became the preferred form in our country for centuries.

Founder Thomas Jefferson not only believed in private property rights...

*“It is not too soon to provide by every possible means that as few as possible shall be without a little portion of land. The small landholders are the most precious part of a state.”<sup>2</sup>*

...he rejected the idea that only the wealthy should own land. Jefferson believed that ownership led to prosperity for all...

*“[The] unequal division of property occasions the numberless instances of wretchedness which is to be observed all over Europe.”<sup>3</sup>*

And John Adams declared that...

*“The moment the idea is admitted into society that property is not as sacred as the law of God, and that there is not a force of law and public justice to protect it, anarchy and tyranny commence”<sup>4</sup>*

That moment is here.



# **Attacks on Personal Property Rights**

In July of 1776, our ancestors signed the Declaration of Independence, which, with our Constitution, positioned the state as a servant to protect the life, liberty and property of the people.

Little did the signers know that just 200 years later an event would occur that would begin the unraveling of all they had pledged their “lives, fortunes and sacred honor” to protect.

That story begins on October 24 of 1945. The United States’ Senate had just approved formation of The United Nations. Following the aftermath of WWII, President Franklin Roosevelt convinced a skeptical public to support the body by promising the UN was our country’s best means “to prevent future war”<sup>5</sup>.

However, less than a year later, while returning soldiers looked to the GI Bill for education, training and new home mortgages, the UN worked on an agenda, far different from preventing “future wars.”

## **Vancouver Action Plan**

In 1946, the General Assembly adopted a resolution to promote and create research leading to standards for Housing and Town Planning<sup>6</sup>. This new resolution was the precursor to the Vancouver Declaration on Human Rights and Vancouver Action Plan presented in June of 1976<sup>7</sup>.

The meeting in Vancouver, Canada established the UN’s definition of the relationship between man and property. The accompanying action plan represented what was at the time, the most extreme violation of individual property rights in US History.

The Preamble to land in the Action Plan began...

*1. Land, because of its unique nature and the crucial role it plays in human settlements, cannot be treated as an ordinary asset, controlled by individuals and subject to the pressures and inefficiencies of the market. Private land ownership is also a principal instrument of accumulation and concentration of wealth and therefore contributes to social injustice; if unchecked, it may become a major obstacle in the planning and implementation of development schemes. Social justice, urban renewal and development, the provision of decent dwellings-and healthy conditions for the people can only be achieved if land is used in the interests of society as a whole<sup>8</sup>.*

Under the United Nation's proposal, land could not be "controlled by individuals," instead; it had to benefit "society as a whole." If there were any doubts as to the UN's intentions, they were clarified in the next paragraph.

*2. Instead, the pattern of land use should be determined by the long-term interests of the community, especially since decisions on location of activities and therefore of specific land uses have a long-lasting effect on the pattern and structure of human settlements. Land is also a primary element of the natural and man-made environment and a crucial link in an often delicate balance. Public control of land use is therefore indispensable to its protection as an asset and the achievement of the long-term objectives of human settlement policies and strategies<sup>9</sup>.*

"Public control of land use is therefore indispensable to its protection as an asset and the achievement of the long term objectives of human settlement policies and strategies."



The Vancouver Action Plan proposed that the world's governments control the land for the purposes of "social justice", "development schemes" and "society as a whole".

## The Vancouver Action Plan



64 Recommendations for National Action  
Approved at Habitat: United Nations Conference  
on Human Settlements, Vancouver, Canada  
31 May to 11 June 1976

### D. Land (Agenda item 10 (d))

#### Preamble

1. Land, because of its unique nature and the crucial role it plays in human settlements, cannot be treated as an ordinary asset, controlled by individuals and subject to the pressures and inefficiencies of the market. Private land ownership is also a principal instrument of accumulation and concentration of wealth and therefore contributes to social injustice; if unchecked, it may become a major obstacle in the planning and implementation of development schemes. Social justice, urban renewal and development, the provision of decent dwellings and healthy conditions for the people can only be achieved if land is used in the interests of society as a whole.

2. Instead, the pattern of land use should be determined by the long-term interests of the community, especially since decisions on location of activities and therefore of specific land uses have a long-lasting effect on the pattern and structure of human settlements. Land is also a primary element of the natural and man-made environment and a crucial link in an often delicate balance. Public control of land use is therefore indispensable to its protection as an asset and the achievement of the long-term objectives of human settlement policies and strategies.

If enacted, the plan would reverse 200 years of individual rights and return America to the failed communal attempts of our Pilgrim Fathers.

Normally, a United Nation's action plan would mean little to the US. Except that, in this case, a delegation from Washington, DC, including future EPA Director, William K. Reilly signed off on the plan.

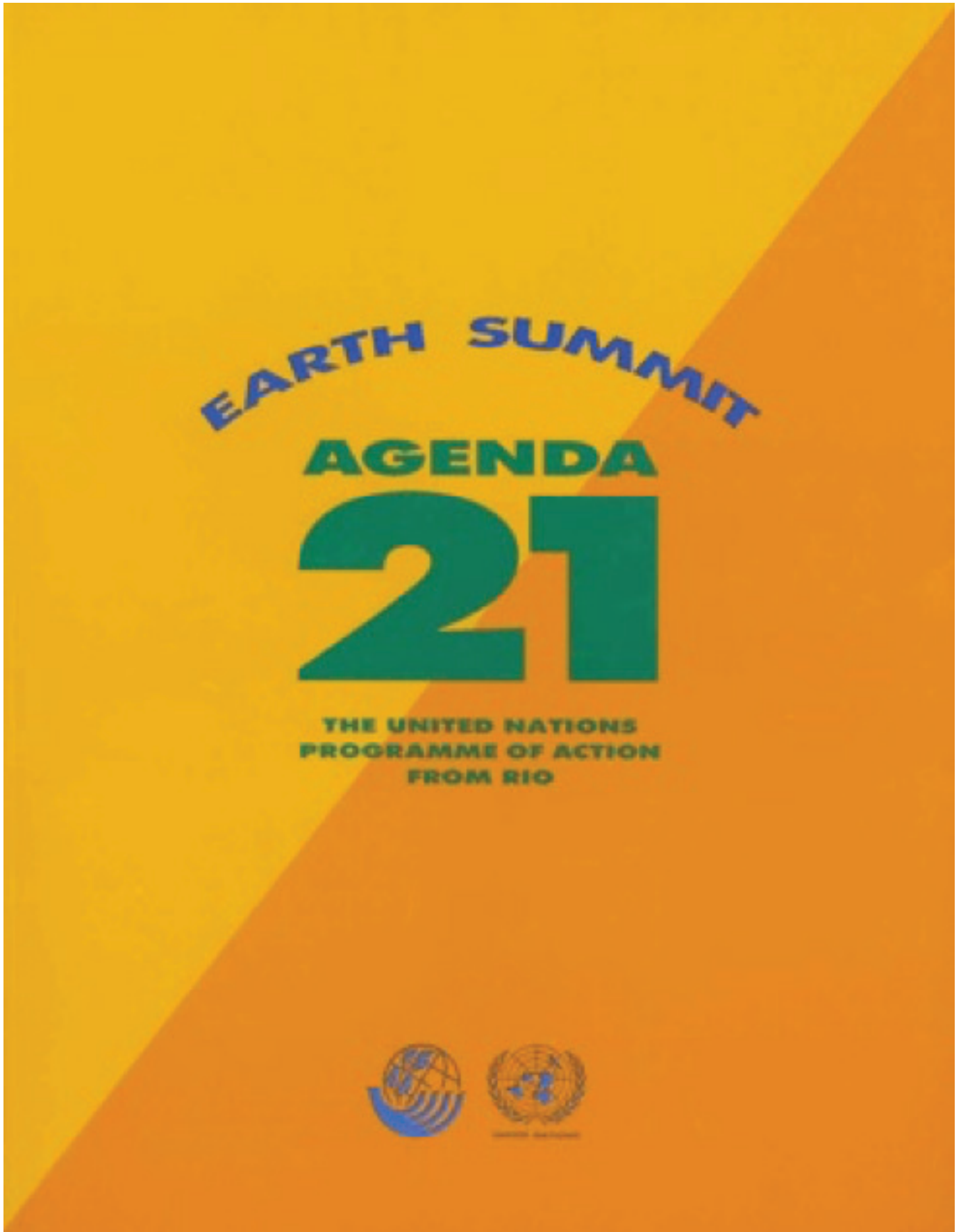
## **The Beginning of Sustainable Development**

This turning point in the UN's "peace" goal was followed in 1987 by a commission report entitled, "Our Common Future", or the Brundtland Report, that tackled protection of the environment<sup>10</sup>.

The report concluded, "Poverty is a major cause and effect of global environmental issues." The solution was to transfer the wealth of industrialized nations, namely America, to poorer countries. Much of that wealth was in the form of private property.

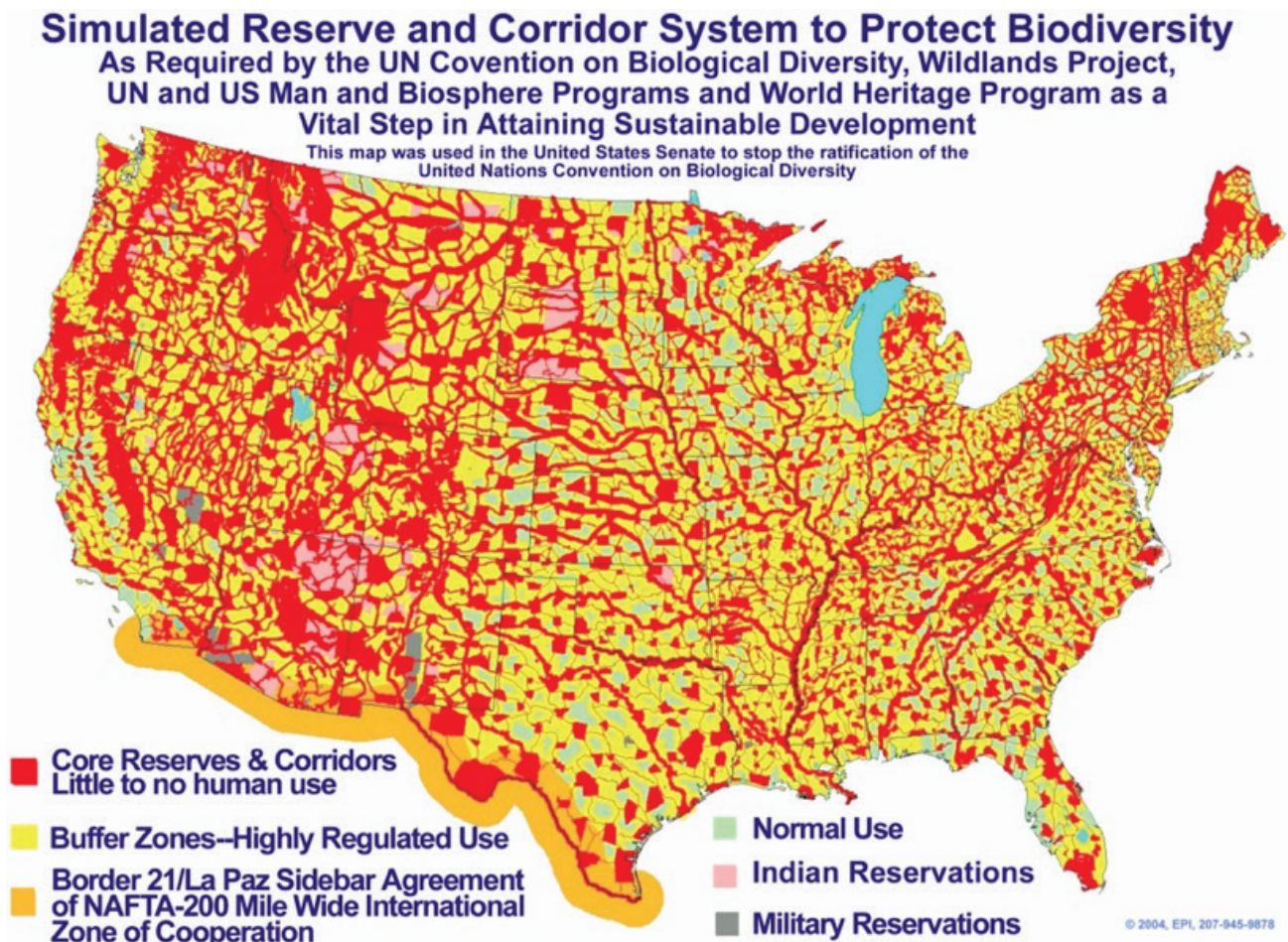
The program was called "Sustainable Development" and was defined by the UN as "Development that meets the needs of the present without compromising the ability of future generations to meet their own needs."<sup>11</sup>

Unfortunately, this meaningless catchall of a definition obscured the reality that, for their plan to work, the State had to control the use of private property. This was exactly the proposal in the 1976 Vancouver Plan of Action.



Five years later, in June 1992, these globalist ideals coalesced in a 2-week meeting in Rio de Janeiro called the UN Earth Summit. The outcome was a 40-chapter plan of action to manage the world's resources, healthcare, education and private property called, Agenda 21.

Plans called for the expansion of “Sustainable Development” globally. The “Wildlands Project,<sup>12</sup>” part of the UN’s Biological Diversity Treaty, which ran concurrently to Agenda 21, proposed the relocation of Americans into regional human habitats. Most of our nation remained off limits for normal use.



(The “Wildlands” Map, created by Dr. Michael Coffman, based on the UN’s Biological Diversity Treaty.)



Though President Bill Clinton signed the Biological Diversity Treaty in 1993, the Senate refused to ratify it after Dr. Michael Coffman presented the “Wildlands Map” on the Senate floor. Taken from UN documents, the map illustrates how America would look, if the plan came to fruition.

With its Core Reserves and Corridors with little to no human activity, the “Wildlands Project” relegated people to inhabiting government-defined regions.

As you will see in the next section, even though the Senate failed to ratify the United Nation’s Biological Diversity Treaty, regional sustainable development, as it came to be called, was alive and well. But, the United Nations was not the only group attempting to pry Americans away from their private property rights.

## **Crushing the Concept of Private Property**

Political historian, David Upham writes that, “Progressives in the twentieth century have in large part aimed at turning the American people away from their traditional attachment to property rights.”

*“Within intellectual circles, Progressives have tended both to acknowledge that the Founders attached great significance to property rights and to denigrate them precisely for this attachment. The harsher critics, beginning with Charles Beard, ascribed to the Founders selfish motives in establishing a constitution that provided generous protections for private property; his claim was that the principal goal of such a constitution was to protect the wealthy elite against the democratic majority.”<sup>13</sup>*

President Franklin Roosevelt tried to convince Americans that our Founders believed more in socialist programs like his New Deal than in rigid property ownership. He claimed that property rights were malleable.

*“Outside intellectual circles, however, the popular rhetoric of the Progressives has not openly attacked the Founders for their attachment to property rights; rather, it has denied they had such an attachment. Franklin Roosevelt, eager to convince the public that the New Deal was not so new, but actually a “fulfillment of old and tested American ideals,” often argued publicly that the Founders did not understand property rights to be as important as other individual rights. In one campaign speech, Roosevelt remarked that Jefferson had distinguished between the rights of “personal competency” (such as freedom of opinion) and property rights; while the former were inviolable, the latter should be modified as times and circumstances required.<sup>14</sup>”*

Leftist historian, Howard Zinn, in his ubiquitous 1980 academic text, “A People’s History of the United States,<sup>15</sup>” even blames private property for the “oppression” of women.

*“Societies based on private property and competition, in which monogamous families became practical units for work and socialization, found it especially useful to establish this special status of women, something akin to a house slave in the matter of intimacy and oppression, and yet requiring, because of that intimacy, and long-term connection with children, a special patronization, which on occasion, especially in the face of a show of strength, could slip over into treatment as an equal. An oppression so private would turn out hard to uproot.<sup>16</sup>”*



Zinn's book is arguably one of the most influential in our nation. Since its debut, "A People's History of the United States" has been a staple of high schools and colleges and sold over 1 million copies. Actor Matt Damon even quoted from Zinn's book in his 1997 movie, "Good Will Hunting."<sup>17</sup>



# **Origins of Regionalism and Sustainable Development in America**

The US House of Representative never approved Agenda 21<sup>18</sup> nor did the US Senate ratify the UN Biodiversity Treaty<sup>19</sup>. That, however, did not protect American property owners from the movement away from private property rights.

The UN's agenda continued, albeit a bit more slowly, through executive actions.

## **UN's Marxist Ideals Codified in US Regulatory Law**

One year after the Rio Earth Summit, President Bill Clinton, exasperated at the refusal of Congress to approve the UN's programs, decided to go it alone.

In 1993, he formed the President's Council on Sustainable Development (PCSD). Its purpose was to advance the ideas of Agenda 21 and the Biodiversity Treaty and gain buy-in from stakeholders who would later implement the UN's version of Sustainable Development in the United States<sup>20</sup>.

To assure continuity with the UN's program, the President formed a committee that seated the very people who wrote Agenda 21, at the same table with Federal Agency employees. EPA, HUD and the Department of Commerce members served side-by-side with directors of international groups like the World Resources Institute, Environmental Defense Fund and the Natural Resources Defense Council.<sup>21</sup> Together, the committee created a 10-point list of National Goals that matched the anti-private property objectives of Agenda 21<sup>22</sup>.

The PCSD reported its progress to the United Nations.<sup>23</sup>

It was not long before the committee's ideas made their way into regulatory law.

By 1998, the UN's Sustainable Development goals from the 1992 Earth Summit were codified in the Federal Register and had become the law of the land.<sup>24</sup>

The EPA's Sustainable Development Challenge Grant Program included the goals of advancing Agenda 21 and the ideas of the President's Council on Sustainable Development.

*The formerly rejected "Wildlands Project," designed to migrate Americans into controlled regions; and the Vancouver Action Plan's goal to increase government's control over private property, were jointly transformed into America's "Regional Sustainable Development" movement. (Read this paragraph again!)*

Throughout the next decade sustainability, regionalism and Smart Growth planning flourished in every state.

In 2002 HUD partially funded the American Planning Association to create boilerplate Smart Growth legislation that reflected the government's plans.

The "Growing Smart Legislative Guidebook" recommended governments use 'takings' legislation to confiscate the property of individuals who failed to change their property to conform to government schemes<sup>25</sup>. Planners consider the "amortization of non-conforming uses" clause an option that localities may or may not use. But, all of

the options in the guidebook restrict rather than expand private property rights<sup>26</sup>.

Marcia Seidner, US EPA Region 2, 290 Broadway, 26th Floor, New York, NY 10007-1866, (212) 637-3590, seidner.marcia@epa.gov, States & Territories: NY, NJ, PR, VI  
Annette N. Hill, US EPA Region 4, OPM, 61 Forsyth Street, SW, Atlanta, GA 30303, (404) 562-8287, hill.annetten@epa.gov, States: AL, FL, GA, KY, MS, NC, SC, TN  
Karen Alvarez, US EPA Region 6, Fountain Place, Suite 1200, 1445 Ross Avenue, Dallas, TX 75202-2733, (214) 665-7273, alvarez.karen@epa.gov, States: AR, LA, NM, OK, TX  
Dick Sumpter, US EPA Region 7, 726 Minnesota Avenue, Kansas City, KS 66101, (913) 551-7661, sumpter.richard@epa.gov, States: KS, MO, NE, IA  
Debbie Schechter, US EPA Region 9, 75 Hawthorne Street (CMD-7), Francisco, CA 94105, (415) 744-1624, schechter.debbie@epa.gov, States & Territories: CA, NV, AZ, HI, AS, GU  
David Schaller, US EPA Region 8, 999 18th Street, Suite 500, Denver, CO 80202-2466, (303) 312-6164, schaller.david@epa.gov, States: CO, MT, ND, SD, UT, WY  
Anne Dalrymple, US EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101, (206) 553-0199, dalrymple.anne@epa.gov, States: AK, ID, OR, WA

#### SUPPLEMENTARY INFORMATION:

##### Purpose

EPA intends these competitive grants to be catalysts that challenge communities to invest in a more sustainable future, recognizing that sustainable environmental quality, economic prosperity, and community well-being are inextricably linked. The Sustainable Development Challenge Grant program is an important opportunity for EPA to award competitive grants that leverage private and other public sector investment in communities (ranging in size from neighborhoods to cities to larger geographic areas such as watersheds or metropolitan areas) to build partnerships that will increase the capacity of communities to ensure long-term environmental protection through the application of sustainable development strategies.

##### Overview of the Sustainable Development Challenge Grant Approach

The grant program encourages communities to recognize and build upon the fundamental connection between environmental protection, economic prosperity and community well-being. Accomplishing this linkage

requires integrating environmental protection in policy and decision-making at all levels of government and throughout the economy. The SDCG program recognizes the significant role that communities have and should play in environmental protection. The program acknowledges that sustainable development is often best designed and implemented at a community level and encourages projects that can be replicated in other communities. This program also requires grantees to implement a stakeholder process to identify measurable milestones to assess progress toward integrating environmental and economic goals and community well-being.

Achieving sustainability is a responsibility shared by environmental, community and economic interests at all levels of government and the private sector. This emphasis on strong community involvement requires a commitment to ensuring that all residents of a community, of varying economic and social groups, have opportunities to participate in decision-making and benefit from successful sustainable development activities. Only through the combined efforts and collaboration of governments, private organizations and individuals can our communities, regions, states, and nation achieve the benefits of sustainable development. In keeping with this philosophy, the EPA will implement this program consistent with the principles of Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (February 11, 1994). Projects funded must ensure that no person(s) is subjected to unjust or disproportionate environmental impacts. We encourage submissions from Empowerment Zones and Enterprise Communities.

##### Linkages to Other Initiatives

The EPA initiated the SDCG program as a pilot effort in 1996 and funded ten of the 600 proposals for a total of \$500,000. In 1997, the Agency received 962 proposals requesting \$38,000,000 in assistance and selected 45 of the proposals for funding at a total of approximately \$5,000,000. Project descriptions are available via the Internet at <http://www.epa.gov/ecocommunity>.

EPA and its state and local partners continue to refine how environmental protection is accomplished in the United States. The Agency recognizes that environmental progress will not be achieved solely by regulation. Innovative attitudes of regulatory

agencies combined with individual, institutional, and corporate responsibility, commitment and stewardship will be needed to assure adequate protection of the earth's resources. The Sustainable Development Challenge Grant program is consistent with other community-based efforts EPA has introduced, such as the Brownfields Initiative, Environmental Justice Small Grants Program, Project XL, the President's American Heritage Rivers Initiative, Watershed Protection Approach, Transportation Partners, the Smart Growth Network, the Community-Based Environmental Protection Approach, and the Sustainable Urban Environment effort. The Sustainable Development Challenge Grant program is also a step in implementing "Agenda 21, the Global Plan of Action on Sustainable Development," signed by the United States at the Earth Summit in Rio de Janeiro in 1992. All of these programs require broad community participation to identify and address environmental issues.

Through the Sustainable Development Challenge Grant program, EPA also intends to further the vision and goals of the President's Council on Sustainable Development (PCSD), created in 1993 by President Clinton. EPA is coordinating existing urban environmental programs within the Agency and with other federal, state and local agencies. The President charged the Council, composed of corporate, government, and non-profit representatives, to find ways to "bring people together to meet the needs of the present without jeopardizing the future." The Council has declared this vision:

"Our vision is of a life-sustaining Earth. We are committed to the achievement of a dignified, peaceful and equitable existence. We believe a sustainable United States will have a growing economy that equitably provides opportunities for satisfying livelihoods and a safe, healthy, high quality of life for current and future generations. Our nation will protect its environment, its natural resource base, and the functions and viability of natural systems on which all life depends." (February 1996)

The Sustainable Development Challenge Grant program furthers this vision by encouraging community initiatives that achieve environmental quality with economic prosperity through public and private involvement and investment.

##### Examples of Potential Projects

EPA welcomes proposals for many types of projects, as demonstrated in the projects funded in the previous two years. The following are examples of the types of projects EPA could consider for

(From the Federal Register August 24, 1998. Notice the reference to Agenda 21 and the President's Council on Sustainable Development.)



# Regional Sustainability Grows as Community Choices Whither

In 2009, President Obama formed the Partnership for Sustainable Communities that merged the resources of HUD, DOT and the EPA to further push federal planning initiatives on local communities.<sup>27</sup> Much of that planning involved forcing communities to adopt the government's "Livability Principles" or face the loss of grant money.<sup>28</sup>

<sup>29</sup>

While sounding beneficial on the surface, the Livability Principles actually force families into dense communities, trade valuable private property for public parks and shared spaces, and reduce the community's ability to use their own automobiles.

HUD's 2010 "Sustainable Communities Regional Development Planning Grant Program" made it clear, if your community took the grant money, you had to meet "mandatory outcomes from the creation of a regional plan for sustainable development."<sup>30</sup> These outcomes often required recipients to alter their comprehensive plans, zoning laws and land use regulations, often against community wishes.

In spite of the governments' increasing encroachments on property rights, the more communities became addicted to HUD grant money, the harder it was to decline and the deeper they slipped into compliance.

As sustainable development, the embodiment of federal control grew, so too did regionalism, the embodiment of condensed living.



Cities like Seattle WA, Portland, OR, and Boulder, CO formed regions and surrounded their cities with growth boundaries that controlled how much property could be developed and where people could live<sup>31</sup>.

Contrary to planner's claims that growth boundaries improve living conditions, in Portland, OR, the 2010 US census reveals a much different story. After 10 years of Regional Smart Growth planning, rising living costs forced over 10,000 minorities to flee their homes in the heart of the city for lower cost living elsewhere.<sup>32</sup>

Nearly all regional planning schemes like San Francisco's Plan Bay Area, New York's Capital Region Sustainability Plan and Twin Cities Region have one element in common. Unelected council members manage the regions by controlling the land use and zoning laws.

Thrive 2055 is a proposed region that would cover 16 counties in TN, GA and AL<sup>33</sup>. In addition to melting away local political boundaries, Thrive 2055, for the purposes of planning their single region, would erase state's boundaries.<sup>34</sup> This move creates severe jurisdictional issues in which state's governors could be compelled to follow the dictates of a regional council rather than their voters. When Thrive 2055 planners talk about "pulling people together," they are talking about the collectivization of what are now independent communities.

Nowhere in their colorful materials do Thrive 2055 planners discuss protection of private property rights.

Regional council members have immense authority to override local land use regulations and zoning laws, the very foundation of private

property rights. Since nearly all council members are appointed, not elected, local property owners have little recourse when the council passes a regulation that alters their ability to use their own property as they choose.

But by the new millennia, many Americans were awakening to the dangers of lost property rights. One seminal point was in King County Washington.

In 2004, King County passed an ordinance called the 65 – 10 Rule that forced homeowners with over 5 acres of property to return 65% of their land to its natural vegetative state<sup>35</sup>.

Citizens were outraged at the taking of property with nothing in return. In the wake of the wrangling to pass the ordinance, local community members formed the Citizens' Alliance for Property Rights. (CAPR)<sup>36</sup> Working with the Pacific Legal Foundation, CAPR sued King County.<sup>37</sup>

After five years of intense legal maneuvering, in March of 2009, the Washington Supreme court officially struck down what some termed "one of the most extreme assaults on property rights in the U.S."<sup>38</sup>

CAPR is not the first property rights group. Citizens' voices have emerging all over the country as people realize that regionalism and the strings attached to government grants are a slow path to the indentured America described in the Vancouver Action Plan decades ago.

But, the government is persistent. As we will see in the next section, private property rights are at more risk than ever.



# **Federal Agencies and the Birth of HUD's AFFH**

By combining HUD, DOT and the EPA into a single Partnership for Sustainable Communities, President Obama force-multiplied the regulatory power of these massive agencies.

## **Increasing the Power of Federal Agencies**

The move embedded HUD's Livability Principles, which directs local zoning choices toward regions and densified communities with smaller parcels of land, in all three agencies<sup>39</sup>.

By claiming the change made it more efficient for government to protect the environment, social equity and the economy, most Americans paid little attention to its effect on private property.

The executive branch's new ability to impose demands on local communities was nearly unprecedented.

The Department of Transportation, redirected their funds toward "livability and sustainability improvements." These initiatives create "opportunities to connect mixed income housing with transit or economic development initiatives to locate new jobs within a region along highly accessible multimodal corridors."<sup>40</sup>

None of these initiatives shows regard for individual property rights. Many are collectivist solutions that are at the expense of private property.

The EPA changed their decision-making process. Rather than base their actions and decisions on research and science, in 2012 the agency incorporated feel-good "sustainability" as the basis for their

decision-making. To assure no mistake about their intent, the agency defines “sustainable” by quoting the UN’s 1987 Brundtland Report, *Our Common Future*.<sup>41</sup>

The EPA’s Clean Power Plan will devastate energy producers and make electricity unaffordable for many families. Yet, when asked by Congress for the science behind their actions, EPA Director Gina McCarthy could not produce it<sup>42</sup>. In 2015, based on nothing but “sustainability,” the EPA deemed itself authority over all of the waters of the US, including backyard ponds and dried-up streambeds. Opponents have called this a severe “blow to American’s property rights.”<sup>43</sup>

As agencies issue more grants, communities find themselves with fewer and more restrictive choices.

HUD’s Community Challenge Planning grants use various ‘strings’ to coerce communities into adopting “inclusionary zoning ordinances” and land acquisition, altering building codes and boosting construction of mixed-use and affordable housing. In this grant, HUD uses a point system weighted in favor of the Livability Principles to enable applicants to win the funds. The only way to get the grant is to comply with HUD’s restrictive Livability demands<sup>44</sup>.

## **HUD’s Untapped Authority**

By 2011, the administration realized that together, the 1964 Civil Rights Act and the 1968 Fair Housing Act, gave HUD controlling authority the agency had barely tapped.



For years, HUD awarded Community Development Block Grants (CDBG) to recipients for a wide range of community needs<sup>45</sup>. While HUD provided recipients with guidelines for using the funds, in general, the agency believed local communities were better equipped to decide what to do with the money than the federal government.

As a result, many of the more stringent requirements of affirmatively furthering fair housing, as required since the Fair Housing Act, were only sporadically enforced.

For example, many recipients never knew that once they accepted HUD CDBG funds for a project related to fair housing or urban development, the government could then control how recipients spent all other moneys related to these projects, whether public or private.

Though mostly ignored, this rule has been in HUD's Fair Housing Planning Guide since 1996<sup>46</sup>.

A New York lawsuit was about to change all of that.

## **Westchester County and the Launch of AFFH**

In 2009, HUD intervened in a False Claims Act lawsuit brought against Westchester County by the Anti-Discrimination Center of Metro New York\* (ADC) three years earlier. ADC argued that for several years, the county had made false statements on its HUD grant applications by agreeing they had met their obligation to “affirmatively further fair housing” and removed all barriers to minority discrimination.<sup>47</sup>

The courts decided against Westchester, ordering them to return \$30 million in HUD funds and build 750 new affordable homes, most in white and wealthier areas. The court further decided that, since Westchester had a very small African-American community, the county would have to market in nearby counties to import minority families.

Outraged, in 2009 the county sought HUD's assistance to lessen the settlement.

Rather than assist the county, HUD saw this as an opportunity to become more aggressive. They imposed additional burdens on Westchester including that the required minority homes be built near "above average" schools and that a court appointed monitor should oversee the county's implementation of the plan.

The case was finally resolved in September of 2015 and HUD won on most counts.<sup>48</sup>

*\*Note: The law firm of Allen, Relman, Dane and Colfax represented ADC in this case. As a leading plaintiff's civil rights law firm, you will find them quoted throughout this report.*

There are three relevant points in this case.

First, the court ordered Westchester to pay \$30 million from their own county budget to build 630 of the minority homes and affirmatively further fair housing.

Second, HUD failed in their attempt to prove that Westchester engaged in any discrimination.

As the court notes :

*“It bears emphasizing that this decision does not mean that any of Westchester County’s municipalities violated the Fair Housing Act or engaged in discrimination on the basis of race. In short, there has been no finding, at any point, that Westchester actually engaged in housing discrimination.”*

This is a critical point. Even though the discrimination charges failed, the False Claims Act charges were spectacularly successful.

The third is the most important lesson for other HUD entitlement communities. **The attorneys used Westchester’s False Claims Act lawsuit as a test case to use in bringing other HUD recipients into compliance with AFFH.**

After the 2009 settlement, then HUD deputy secretary Ron Sims made HUD’s intentions clear :

*“We’re clearly messaging other jurisdictions across the country that there has been a significant change in the Department of Housing and Urban Development, and we’re going to ask them to pursue similar goals as well,”* <sup>49</sup>

HUD wasted no time pursuing those “goals”. Westchester’s False Claims Act (FCA) settlement became the foundation for a new HUD ruling, Affirmatively Furthering Fair Housing and other cities were already in the agency’s sights.

**IV**

# **How HUD's AFFH Devastates Property Rights**

Affirmatively Furthering Fair Housing is a term HUD has used for decades. On July 16, 2015, AFFH became the basis for a new rule adding severe strings to housing and urban development grants.

These new stipulations shake the very foundation of private property ownership.

As important as private property is to individual freedom, most landowners must still balance their rights between those of other members of the community. If your neighbor installs a 450' tall windmill on his property, it can create noise pollution, increased danger, and reduce the value of neighbors' home.

That is why local land use and zoning laws are so important. They resolve issues locally to protect both individual property owners and the community.

Because these laws directly affect where and how you will live, the value of your home and what it will cost to maintain, it is vital for community members to keep decisions at the local level and to keep a watchful eye over the local officials who make them.

HUD is about to change that.

Under their new, Affirmatively Furthering Fair Housing regulation, if public officials or public housing authorities accept HUD grants that effect fair housing or urban development, your community can lose its control over local zoning and land use, and be forced to join a region, even if that is against your community's wishes. In some cases, the government can even coerce communities into reversing voters' decisions.

The reasoning behind HUD's heavy-handedness seems logical on the surface.

The Civil Rights Act of 1968, often called the Fair Housing Act, was a follow up to the original 1964 Civil Rights Act. The 1968 legislation was Congress' response to the assassination of civil rights leader Martin Luther King.

The purpose of the Fair Housing Act was to end housing discrimination against minority groups.

In HUD's words, "the Fair Housing Act protects people from discrimination when they are renting, buying or securing financing for any housing."<sup>50</sup>

Congress passed several Fair Housing related laws. In 1974, Community Development Block Grant program expanded HUD's role by providing funds for communities to build and restore affordable housing.<sup>51</sup>

In spite of the advances in providing affordable housing, by 2013, the Obama administration concluded HUD had not done enough to eliminate America's "legacy of housing discrimination and segregation."

The President believed that HUD had not been aggressive enough in managing how local communities spend the federal grant money.

## **AFFH Hidden from the Public**

To address this, in April of 2013 HUD announced its proposal to



create a massive new integration plan that would target the recipients of HUD housing funds in over 1200 communities.<sup>52</sup> That plan was called Affirmatively Furthering Fair Housing.

Because of the plan's political volatility, the administration shielded it from public view for over a year. They withheld the proposal from the spring 2012 Unified Agenda announcement and again from the fall 2012 Unified Agenda. The Office of Management and Budget finally released the proposal to the public on December 21, 2012, during the Christmas holiday, after government operations had shut down. Because of the timing of the release, AFFH received little notice.<sup>53</sup>

The administration published the proposed rule in the Federal Register, July 19, 2013 and public comments ended September of 2013. (An additional period of comments ran from January 15, 2015 to February 17, 2015.) HUD received over 1000 comments from supporters and opponents of the plan.<sup>54</sup>

## **A Tricky Review Process**

In spite of the extended comment period, a review of HUD's responses in the Federal Register reveals that the agency engaged in deceptive assurances to opponents' concerns.

*For example, when commenters wrote, "HUD's rule is an effort to impede local control on zoning," the agency replied, "This rule does not impose any land use decisions or zoning laws on any local government."*

*However, HUD reverses their assurance several paragraphs later when it states the agency will “assist recipients to adjust their land use and zoning laws to meet their legal obligation to affirmatively further fair housing.” In other words, it is technically true that HUD does not impose new zoning laws themselves; instead, they “oblige” you to impose them.<sup>55</sup>*

Affirmatively Furthering Fair Housing is not a HUD grant. Rather, it adds additional requirements to what you can and cannot do with funds received from other HUD grants. The effected grants are :

- Community Development Block Grant (CDBG)
- HOME Investment Partnerships (HOME)
- Emergency Solutions Grants (ESG)
- Housing Opportunities with Persons with Aids (HOPWA)

It is vital for public officials, community members, and especially property owners, to understand that a recipient’s obligation to affirmatively further fair housing does not stop with the grant money. According to the Fair Housing Planning Guide,

*The recipient’s strategies and actions “will be accomplished primarily by making investments with federal and other resources.”*

Attorneys Allen, Relman, Dane and Colfax explain :

*“Although the grantee’s AFFH obligation arises in connection with the receipt of Federal funding, its AFFH obligation is not restricted to the design and operation of HUD-funded programs at the State or local level. The AFFH obligation extends to all housing and housing-related activities in the grantee’s jurisdictional area whether publicly or privately funded.”<sup>56</sup>*

If your community accepts a HUD grant to build affordable housing and a private citizen donates money to improve the parks in your community that private money falls under the affirmatively furthering fair housing obligation.

## **HUD's Fair Housing Assessment – Instrument of Coercion**

As mentioned earlier, under AFFH, HUD can force your community to alter your land use and zoning laws, overturn voters' decision and coerce your community into joining a region.

Here is how the coercion occurs.

Under HUD's new rule, it is no longer sufficient for communities who accept AFFH related grant money to refrain from discrimination. They must take 'meaningful actions' to end it. According to the ruling, grant recipients must take...

*“proactive steps to address the issues of segregation and related barriers, particularly as reflected in racially and ethnically concentrated areas of poverty.”<sup>57</sup>*

To assure recipients take these steps, HUD requires grant applicants to complete an Assessment of Fair Housing (AFH) as part of the application process.<sup>58</sup> This assessment replaces the older Assessment of Impediments (AI) and requires far more community data. HUD estimates completion of the form will require approximately 200 hours, though some communities claim it can take substantially longer.

Completion of the AFH involves a house-by-house analysis of community data including race, ethnicity, and concentrated areas of poverty, Limited English Proficiency, persons with disabilities and more.

Next, the AFH requires a full listing of community resources. These include “proficient” schools, jobs, transportation, housing, parks and recreational activities.

Finally, you will itemize any barriers that could make it harder for protected groups to access the community resources. HUD even provides a list of 40 barriers, or “contributing factors” recipients must agree to reduce or eliminate to qualify for the grant.

Some “contributing factors” are as commonplace as community opposition to affordable housing; your community’s current zoning laws, or the failure of your community to cooperate with a region. HUD not only expects you to remove these barriers, they expect you to find and resolve even more.

*“Beyond the HUD-provided data, provide additional relevant information, if any, about disparities in access to opportunity in the jurisdiction and region affecting groups with other protected characteristics. The program participant may also describe other information relevant to its assessment of disparities in access to opportunity.”<sup>59</sup>*

Allen, Relman, Dane and Cofax make it clear that HUD expects applicants to identify all impediments experienced by all protected classes, and must keep records of this analysis:

*“– Whether created by public or private sector, impediments must be analyzed*

*“– Impediments may include actions or policies that discriminate on the basis of protected class, whether by way of intentional discrimination or disparate treatment*

*“– A recipient is not excused from such an analysis by identifying the “greatest” or “most challenging” impediment; it must analyze everything it finds”<sup>60</sup>*

HUD expects recipients to do more than complete the AFH. They expect deep community participation. According to HUD’s directions...

### **III. Community Participation Process**

*1. Describe outreach activities undertaken to encourage community participation in the AFH process. Identify media outlets used and include a description of efforts made to reach the public, including those representing populations that are typically underrepresented in the planning process such as persons who reside in areas identified as R/ECAPs, persons who are limited English proficient, and persons with disabilities.*

*2. How successful were those efforts at eliciting community participation?*

*3. Summarize all comments obtained in the community participation process. Include a summary of any comments or views not accepted and the reasons why.<sup>61</sup>*

In addition, the new Assessment of Fair Housing has other serious effects.

Douglas County CO, has received HUD CDBG for years. They strive to be inclusive and a model of the type of community HUD desires.<sup>62</sup>

However, when the county first reviewed HUD's Assessment of Fair Housing Tool, commissioners were surprised at what it contained. Castle Rock, Co, a town in Douglas, seeing the restrictions, rejected the HUD grant money for 2016.

Meanwhile, Douglas County conducted a thorough review of the Tool and concluded HUD's Assessment of Fair Housing will "negate the county's rights" and "seriously hamper our ability to...manage local affairs..."<sup>63</sup>

They noted that organizations such as NACo, NAHRO, NACCED, and NCDA submitted concerns during the initial 60-day comment period (ending November 25, 2014) that went largely unaddressed.

*"The Tool does not clearly define the intent of what it means to affirmatively further fair housing.*

*"The information and definitions provided are vague, subjective and therefore open to interpretation."*

*"After reviewing the contributing factors identified in the Tool we find many to be contradictory in nature. Addressing one contributing factor may actually create barriers to furthering fair housing in another contributing factor."*<sup>64</sup>



## Setting the Table for a Civil Rights Lawsuit

HUD expects you to invite civil rights advocates, affordable housing developers, community development organizations and any interested members of the public, to participate in identifying potential areas of discrimination.

*In completing the AFH, each contributing factor you identify is a potential area of discrimination. **You are identifying potential discriminatory areas side-by-side with the very civil rights and activist groups most inclined to sue your community for discrimination.***

It is hard to impress enough how effectively **the mere process of applying for these AFFH related funds sets the table for a costly civil rights lawsuit.**<sup>65</sup>

## Coercing Communities to Join a Region

Throughout the Assessment of Fair Housing Tool, HUD mentions the word regions over 70 times. This is for good reason. Though HUD never says as much, by creating your required plan to remove the contributing factors to discrimination, you are automatically self-annexing into a region. Here is how it happens.

Applicants must use HUD's own data tables, and their jurisdictional and regional trend maps to design your plan to remove the barriers and create an "integrated and balanced lifestyle."<sup>66</sup> (HUD does allow applicants to provide their own data, but must approve it first.)

## Affirmatively Furthering Fair Housing Tool

Step 1: Pick your state.

CA

Step 2: Pick your jurisdiction

Madera (CDBG)

Marin County (CDBG, HOME)

Menifee (CDBG)

Merced (CDBG, HOME)

Region: **San Francisco-Oakland-Hayward, CA**


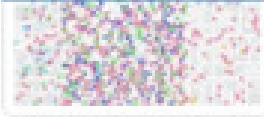

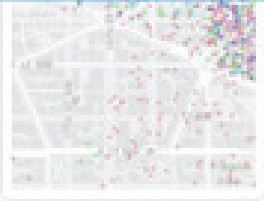


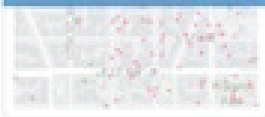
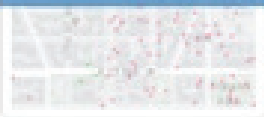
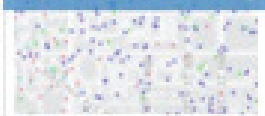



Jurisdiction

Region

Choose a Map

### Affirmatively Furthering Fair Housing Tool

Choose a Map :

<b>Map 1 - Race/Ethnicity</b> 	<b>Map 2 - Race/Ethnicity Trends</b> 	<b>Map 3 - National Origin</b> 	<b>Map 4 - LEP</b> 
<b>Map 5 - Publicly Supported Housing and Race/Ethnicity</b> 	<b>Map 6 - Housing Choice Vouchers and Race/Ethnicity</b> 	<b>Map 7 - Housing Burden and Race/Ethnicity</b> 	<b>Map 8 - Housing Burden and National Origin</b> 
<b>Map 9 - Demographics and School Proficiency</b> 	<b>Map 10 - Demographics and Job Proximity</b> 	<b>Map 11 - Demographics and Labor Market</b> 	<b>Map 12 - Demographics and Transit Trips</b> 

[Back](#) [Go to Map](#)

(Tables from HUD's AFFH Enterprise Geographic Information System [eGIS])<sup>67</sup>

Notice how each location selection in the left box includes a jurisdictional and regional map choice.<sup>68</sup> This is important because HUD requires you to compare each set of your jurisdictional demographics to the comparable data of the accompanying region.

After you select either “jurisdiction” or “region”, up pops (see right box,) another selection of 17 different demographic sets for your jurisdiction and region.

## **V. Analysis**

### **A. Demographic Summary**

1. Describe demographic patterns in the jurisdiction and region, and describe trends over time (since 1990).

### **B. Fair Housing Issue Analysis**

#### **1. Segregation/Integration**

##### **1. Analysis**

- a. Describe and compare segregation levels in the jurisdiction and region. Identify the racial/ethnic groups that experience the highest levels of segregation.
- b. Explain how these segregation levels have changed over time (since 1990).

(From HUD’s Assessment of Fair Housing Tool.)<sup>69</sup>

Now notice in the excerpt above from the AFH Tool, the repeated instructions to compare your data to that of the region. In each step, you are required to merge your demographics with those of the region. This merged information is what you must use to create your Consolidated Plan to submit to HUD to receive the grant money.

*By requiring your community to compare its demographics with those of the region, HUD assures that your land use and zoning laws are coordinated with theirs.*

*This is the plan your community must submit to HUD and agree to implement.*

*At this point, your community's individual zoning choices are gone. The merged planning activity automatically annexes your community into the larger region's future.*

The results are breathtaking. In these two steps, completing the Assessment of Fair Housing and using HUD's Assessment Tools to complete your Consolidated Plan, your community has surrendered its control over local zoning and land use and been annexed into a region, all with no choice and no vote. Failure to implement the plan can result in lawsuits from HUD or a third party.

The legal intimidation does not stop there.

## **Lawsuits, Lawsuits, Lawsuits...**

In a July 16, 2013 speech for the NAACP, HUD Sec. Shaun Donovan made it clear; HUD will be "stepping up fair housing enforcement."<sup>70</sup>

*"There are no stones we won't turn. There are no places we won't go. And there are no complaints we won't explore in order to eliminate housing discrimination."*

As noted earlier, in the Federal Register HUD says it "will assist

recipients to adjust their land use and zoning laws to meet their legal obligation to affirmatively further fair housing.”<sup>71</sup>

The “legal obligation” HUD refers to is the applicants’ agreement to affirmatively further fair housing. But the wording is trickier than in the past. The specific clause reads...

*Your jurisdiction agrees to “take no action materially inconsistent with its obligation to affirmatively further fair housing.”*

According to Law 360, Affirmatively Furthering Fair Housing...

*“Sets the stage for a false claims lawsuit against fund recipients.”*

*“Perhaps most significantly, each jurisdiction is required to submit a certification that it will affirmatively further fair housing, “which means that it will take meaningful actions to further the goals identified in the [assessment of fair housing] ... and that it will take no action that it is materially inconsistent with its obligation to affirmatively further fair housing.”*

The article continues...

*These actions can be “likened to the bases for False Claims Act lawsuits filed by the U.S. Department of Justice.”<sup>72</sup>*

HUD lawsuits are real and growing.

Before the New York court even announced their August 2009 Westchester settlement, HUD had already begun a compliance review of Marin County for failure to affirmatively further fair housing<sup>73</sup>



Like Westchester County, Marin was another tony community with 80% white population and HUD decided it needed integration.

After a year, legal notices and negotiations, the community acquiesced to sign a Voluntary Compliance Agreement.<sup>74</sup> Among other stipulations, Marin agreed to...

*“...promote interest in living in Marin County among underrepresented groups that reside in or commute from adjacent counties”*

*“On an annual basis for 5 years, Marin must provide HUD a report on the minority attendance at public meetings including the time and date, location race and ethnicity of attendees.”<sup>75</sup>*

HUD even told the County Board items that needed to be on the agenda and what the vote outcome must be...

*“...undertake actions that would led to the County’s Board of Supervisors declaring it is the policy of the County to encourage private developers to undertake analysis of expected participation rates, and to affirmatively market to those protected classes including racial or ethnic minorities...”<sup>76</sup>*

When a grant recipient fails to affirmatively further fair housing, HUD can respond with a compliance review, loss of the grant money or lawsuits. **Third parties can initiate lawsuits, as can the very same people you invited to participate in your community’s Fair Housing Assessment.**

Here is an example:

In August of 2015, a developer proposed building 69 affordable housing units for the New Towne development on Rockford, IL. The town council, county board and the public voted to build 49 instead. The developer redrew his plans in a way that guaranteed the plans would advance, in spite of community opposition.

Community members witnessed high crime rates with previous public housing projects and were not anxious to repeat the problem. A rowdy town meeting followed and the vote was postponed. Two weeks later, the town voted for the smaller number of units.<sup>77</sup>

Less than 90 days later, the town received notice of a HUD compliance review. In it, HUD alludes to the comments made at the town meeting that triggered the investigation.

Rockford was threatened with a civil rights investigation, possible failure to affirmatively further fair housing and told that any violations of the Fair Housing Act relative to land use or zoning laws would be reported to the Department of Justice.<sup>78</sup>

Under pressure, public officials did an embarrassing turnaround, caved to HUD and reversed the community's vote.<sup>79</sup>

HUD is receiving increasing numbers of third party AFFH related complaints and lawsuits are forcing communities into line. In 2011, HUD charged more cases than in the entire preceding decade.<sup>80</sup>

Administrative actions include these locations:

- Suffolk County, NY
- Sussex Cty, DE
- Danville, IL

- Jefferson Parish, LA
- Waukesha Cty, WI
- Marin Cty, CA

Here is a list of lawsuits:

- Westchester County, NY (False Claims Act)
- Texas Dep't. of Housing (Disparate impact)
- Oyster Bay, LI (Housing discrimination)
- Nassau County, NY (CDBG, HOME)



# Stopping AFFH

Sustainable Freedom Lab fully supports affordable housing and the elimination of discrimination against all classes wherever it occurs. But, these are issues best settled by communities, churches and even state governments.

What we disagree with are programs that take advantage of poverty and discrimination to advance utopian agendas. By confiscating the property rights of those who can afford it now, the government assures there will be less for all Americans to aspire to later. It is impossible for more families to enjoy the American dream when others conspire to diminish it.

HUD's Affirmatively Furthering Fair Housing, even if offered with the best of intentions, merely attempts to improve the lives of a few community members, by controlling the choices of everyone. AFFH represents the single greatest attack on private property, local rule and individual sovereignty in US history. For all of these reasons, we must never allow AFFH into our communities.

With time and a strategy that works, AFFH can be stopped. We have both.

## **Harvesting the Delay**

As noted earlier, HUD has shrouded AFFH in delaying tactics and suppression since its inception. HUD also delayed requiring communities to use the Assessment of Fair Housing Tool.

The AFH Tool is the keystone that makes AFFH work. Without the AFH Tool, you remove HUD's enhanced ability to manipulate

communities through threats of scurrilous lawsuits.\*

HUD's delays provide time to alert communities to the impending dangers.

\*Note: Stopping the AFH Tool, does not eliminate a community's obligation to affirmatively further fair housing. That obligation has been contained in HUD grants for decades. It is only since 2009 that the requirement has been more stringently enforced. That is why you see increased lawsuits dated even before HUD announced the AFFH rule. HUD has promised even more strict enforcement in future years.

Stopping the Assessment Tool does eliminate unnecessary increased legal liabilities and buys communities the time to devise ways to cease applying for AFFH-related HUD grants altogether.

Once officials and community members acquiesce to enmeshing themselves in completion of the AFH Tool, the acceptance of HUD's demographic standards, and the regional comparison, it is unlikely they can be convinced to untangle from HUD's grasp.

HUD knows, from feedback during the rule's comment period that AFFH is very unpopular in many communities. Rolling the full program out during an election year would be unwise to an administration that wants to keep the seat of power in its party. According to the Federal Register, applicants are not required to complete the AFH Tool at least until after October 4, 2016.

*"For purposes of this Assessment Tool, no AFH will be due before October 4, 2016."<sup>81</sup>*



HUD's own website is even more circumspect about when the AFH Tool will be required...

*“Until program participants are required to submit an AFH under the AFFH rule, the program participant must continue to conduct an analysis of impediments in accordance with existing HUD regulations.”<sup>82</sup>*

We do know that HUD will not begin exposing communities to the true meaning of the AFH Tool until October 2016 at the earliest. That provides a tremendous advantage.

## Talking to Lawyers

Municipal attorneys are the key to stopping communities from applying for AFFH-related grants.

Local officials rely on legal expertise to make decisions. It is one thing for a community member or even a handful of officials to explain the dangers of AFFH. Unfortunately, to many public officials, ‘business as usual’ often speaks louder than community interests do.

However, legal advice is in a different category. If your officials understand if they accept certain grants, they face the real likelihood of high stakes litigation, they will very often back away.

When your county attorney says, “AFFH will make our community vulnerable to a massive federal or third party lawsuit,” officials open their eyes.

It does not matter how much grant money HUD dangles in front of your community. A single lawsuit can consume every bit of the grant check and force your community into debt for years paying off the litigation costs. (In Westchester County's settlement, the court ordered the county to return \$30 million of HUD money AND spend another \$30 million on affordable housing. This could be devastating to a community.)

Here is what to do :

### **Step one :**

Get to know your public officials. Attend meetings and take a similar-minded official to lunch to talk about local issues. Find out if the official knows the attorney that represents your community. If not, work to find a like-minded official who does.

### **Step two :**

Boost your own knowledge. Watch the video, "[AFFH in Five Minutes](#)." This video contains an easy to understand explanation of the rule and its effect on the community. Review it several times until you have a good understanding of what AFFH is and how it enables the government to dictate local land use, zoning laws and force your community into a region.

Learn more about AFFH by Googling "Stanley Kurtz: affirmatively furthering fair housing." Kurtz has written a host of articles on AFFH and all are worth reading.

Finally, familiarize yourself with the documents in "Attorney's Packet"

at the end of this section. I have written an explanation next to each and it helps to look over them so, when you meet with your town attorney, you can easily refer to the document you need.

### **Step three :**

Show the video at a public meeting for all of your officials. The video and a brief explanation take less than 10 minutes. Open your presentation with the following comment:

*“Thank you for giving me the time to present this information. I’d like to make one point clear right up front. I have no idea who on this board is a Democrat or a Republican or anything else, and I don’t care. We will agree on some points and disagree on others, and that is fine. What does matter to me is that, our elected officials have 100% of your authority to make decisions for our community. Right now, that authority is at risk, and that is why I would like to show this video.” (Show the presentation.)*

After the presentation, answer questions, and then agree to meet with individual officials to cover more details.

### **Step four :**

Next, at the same meeting, talk to your friends on the board and get an introduction to the attorney, who will most likely be there. If so, introduce yourself and set a time to meet for lunch with the attorney and official. If the attorney is not there, ask one of your public official friends to schedule a lunch meeting that includes the official and the attorney and yourself.

**Step five :**

Attend lunch with your community attorney and official. Bring the Attorney's Packet to leave with the attorney.

Don't be worried about legal jargon. The items in the packet provide most of the information the attorney will need to realize that AFFH sincerely presents a legal trap for any community that applies for the money.

**Step six :**

Continue to develop your relationship with the attorney and officials. If you fail to follow through, there is a good chance the officials and the attorney will forget or dismiss what you have said. Obtain the email addresses of all relevant parties. Share new articles and information on new HUD compliance reviews and lawsuits related to grant recipients.

For up to date information about AFFH and to connect with a network of informed attorneys, officials and community members, join our Property Value Defense Network,

<http://sustainablefreedomlab.org/property-value-defense/>

Eventually the board will vote on whether or not to apply for a grant such as HUD's Community Development Block Grant. This is the big moment. It is your objective to see that the board rejects any attempt to apply to HUD for AFFH related funds.

## **Attorney's packet :**

Download the following documents and place in a 3-ring binder to share with your attorney.

[AFFH Final Rule \(http://goo.gl/NSPGQh\)](http://goo.gl/NSPGQh) This is HUD's final AFFH rule as it appears in the Federal Register. It also contains the public's comments.

[HUD Sets Stage for FCA Claims Law 360 \(http://goo.gl/QDxptW\)](http://goo.gl/QDxptW) This brief article emphasizes HUD's intention to use the Fair Claims Act to sue for recipients if they fail to affirmatively further fair housing. This is pro-consumer type literature and is respected by attorneys as most of the entries are written by other legal firms.

[Legal analysis of AFFH \(http://goo.gl/7s1tKJ\)](http://goo.gl/7s1tKJ) This legal summary is written by Allen, Relman, Dane & Colfax, one of the nation's most prestigious civil rights law firms. ARDC is the firm that sued Westchester County and won. While ARDC favors AFFH, the summary lets attorneys see exactly the type of attorneys their community may have to confront if they accept HUD funds, then fail to comply. This is powerful!

[Douglas County CO response to AFFH \(http://goo.gl/gBW0OK\)](http://goo.gl/gBW0OK) Douglas County has analyzed HUD's Assessment of Fair Housing Tool in depth. Their comments to HUD clearly show how jurisdictions lose local control over zoning if they accept the grant money. This is another strong piece for attorneys to read.

[Rockford, IL Civil Rights Compliance Review \(http://goo.gl/d2LCsx\)](http://goo.gl/d2LCsx) In "AFFH in Five Minutes" I mention that HUD forced a compliance review on the City of Rockford because they voted to build 49 instead of 69 housing units. (So much for local rule!) Here is that compliance review.

You will notice it mentions possible "civil rights violations", "failure

to affirmatively further fair housing” and a threat to submit their findings to the Department of Justice. What is most outrageous is that HUD engaged Rockford, because they did not like the way the officials spoke at their town meeting.

[AFFH PowerPoint Overview by HUD \(http://goo.gl/Eteh13\)](http://goo.gl/Eteh13) This is HUD’s explanation of AFFH and has good detail. I suggest reviewing this to learn more about AFFH.

[AFFH PowerPoint Overview by Oregon Fair Housing \(http://goo.gl/L0hGkB\)](http://goo.gl/L0hGkB) Please do not overlook this! Michael Allen of Allen, Relman, Dane & Colfax law firm created these slides. They are astonishing. You will realize just how serious HUD is about lawsuits when you look through the slides. They even warn you in one slide, ignore HUD’s rules “at your own peril.”

[Westchester V HUD Final Decision \(http://goo.gl/25XL7x\)](http://goo.gl/25XL7x) This is the lawsuit that sparked the entire AFFH ruling. Remember, AFFH is an old term; the ruling of the same name is new. Originally, HUD wanted to prove Westchester guilty of discrimination. When that failed, they fell back on the courts original decision that Westchester had failed to eliminate barriers to discrimination. In the county’s grant application, they said they had removed barriers. That statement became the false claim in the false Claims Act charge. It is basis for the new AFFH rule, and is the reason why grant applicants must sign a statement agreeing that they will “take no action materially inconsistent with our obligation to affirmatively further fair housing.” They are being set up for a lawsuit if they fail to do exactly as told.

[AFFH Assessment of Fair Housing Tool \(http://goo.gl/n5He0b\)](http://goo.gl/n5He0b) This is the document jurisdictions must complete to receive their HUD money.



It mentions regions 77 times. The comments that Douglas County sent to HUD in the document above, are based on their analysis of this AFH Tool. In here, you will see the 40 Contributing Factors communities must overcome to stop segregation and discrimination.

## **The Ultimate Solution – Just Say “no”**

In their “Westchester County V HUD” decision, the Second Circuit Court of Appeals offered a solution to HUD’s tactics. The court assumes that applicants for federal grants have read and understood the obligations before signing the agreement.

Therefore, the court wrote, quoting Chief Justice John Roberts,

*“If a party objects to a condition on the receipt of the federal funding, its recourse is to decline the funds.”<sup>83</sup>*

Under Affirmatively Furthering Fair Housing, the government’s demand for “balanced and integrated living patterns” forces communities into regional living, impedes local rule and supersedes community decisions.

Public officials must say “NO” to regionalism and “NO” to HUD grants affected by Affirmatively Furthering Fair Housing.

## Closing Note

It is impossible to overstate the threat that the Affirmatively Furthering Fair Housing rule presents to homeowners and local autonomy.

Just as the Affordable Care Act placed US healthcare firmly under the control of the government; and as Common Core snatched our children's education from parents and school boards and placed it in the grasp of federal bureaucrats; so too does AFFH place property rights and local rule under Washington's relentless management.

The government's promises of balanced and integrated lifestyles necessitate the loss of people's ability to live how and where they choose and can afford. There is no balance when federal politicians and bureaucrats tip the scales.

The fight to stop AFFH, is the fight to hold onto everything that makes America the land of opportunity. Without the freedom to live and move where, and travel how you choose, you will be forever under increasingly restrictive obligations and regulations conjured up by nameless faces hundreds or even thousands of miles away.

It is not too late to stop the advance of state control and even reverse the damage.

## **About the author -**

---

John Anthony, Founder of Sustainable Freedom Lab, LLC, is a nationally acclaimed speaker, researcher and writer. He is a leading expert on globalist impacts on local affairs and the effects of federal agency regulations on personal lives and property rights. Mr. Anthony's Property Value Defense Network informs public officials and attorneys nationwide of the dangers of regulatory laws. His workshop, Shattering America's Trance, teaches conservatives effective techniques for cross-political communications and will soon be available as an on-line course.

## Sources

---

1. <http://www.hoover.org/research/how-private-property-saved-pilgrims>
2. <http://www.let.rug.nl/usa/presidents/thomas-jefferson/letters-of-thomas-jefferson/jefl41.php>
3. Ibid.
4. John Adams, A Defence of the Constitution of Government of the United States of America (Philadelphia: William Young, 1797), Vol. III, p. 217, "The Right Constitution of a Commonwealth Examined."
5. <https://history.state.gov/milestones/1937-1945/un>
6. <http://research.un.org/en/UN70/1976-1985>
7. [http://unhabitat.org/wp-content/uploads/2014/07/The\\_Vancouver\\_Declaration\\_1976.pdf](http://unhabitat.org/wp-content/uploads/2014/07/The_Vancouver_Declaration_1976.pdf)
8. Ibid.
9. Ibid.
10. [https://en.wikisource.org/wiki/Brundtland\\_Report](https://en.wikisource.org/wiki/Brundtland_Report)
11. <http://www.worldbank.org/depweb/english/sd.html>
12. [https://www.youtube.com/watch?v=9vW9ORaIR\\_w](https://www.youtube.com/watch?v=9vW9ORaIR_w)
13. <http://fee.org/articles/the-primacy-of-property-rights-and-the-american-founding/>
14. Ibid.
15. <http://www.historyisaweapon.com/zinnapeopleshistory.html>
16. <http://www.historyisaweapon.com/defcon1/zinnint6.html>
17. [https://www.youtube.com/watch?v=\\_2cSB70ZjuM](https://www.youtube.com/watch?v=_2cSB70ZjuM)
18. <https://www.youtube.com/watch?v=XUBwIjWH7ew>
19. <http://nwri.org/the-wildlands-project/un-biodiversity-treaty-and-the-wildlands-project/>
20. <http://clinton2.nara.gov/PCSD/>
21. <http://clinton2.nara.gov/PCSD/Members/index.html>
22. <http://clinton2.nara.gov/PCSD/Overview/index.html>
23. <http://www.un.org/esa/agenda21/natlinfo/countr/usa/inst.htm>
24. <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/EPA-Fed-Reg-Challenge-Grant-program-1998.pdf>

25. [https://www.huduser.gov/Publications/pdf/growingsmart\\_guide.pdf](https://www.huduser.gov/Publications/pdf/growingsmart_guide.pdf)
26. <http://www.heritage.org/research/reports/2002/07/forfeiting-the-american-dream#9>
27. <http://community-wealth.org/strategies/policy-guide/hud-dot-epa.html>
28. [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/economic\\_resilience/Six\\_Livability\\_Principles](http://portal.hud.gov/hudportal/HUD?src=/program_offices/economic_resilience/Six_Livability_Principles)
29. <https://www.law.cornell.edu/cfr/text/24/570.496>
30. <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/HUD-NOFA-2010-Sustainable-Communities-Regional-Planning-Grant-Program-Excerpts.pdf>
31. <http://plannersweb.com/2013/08/urban-growth-boundaries/>
32. <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/Portlands-dwindling-diversity.pdf>
33. <http://thrive2055.com/About/Interactive-Map.aspx>
34. <https://vimeo.com/129805303>
35. [http://old.seattletimes.com/html/opinion/2001931464\\_tobynixon18.html](http://old.seattletimes.com/html/opinion/2001931464_tobynixon18.html)
36. <http://capr.us/>
37. <http://www.pacificlegal.org/page.aspx?pid=3965>
38. <http://citizenreviewonline.org/wa-state-supreme-court-rules-against-critical-areas-ordinance-freeze-on-private-property/>
39. <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/EPA-HUD-DOT-Partnership-for-Sustainable-Communities.pdf>
40. [http://www.fhwa.dot.gov/livability/state\\_of\\_the\\_practice\\_summary/research02.cfm](http://www.fhwa.dot.gov/livability/state_of_the_practice_summary/research02.cfm)
41. <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/EPA-The-Path-Forward.pdf>
42. <https://science.house.gov/news/press-releases/smith-criticizes-epa-standing-secret-science>
43. <http://thehill.com/opinion/op-ed/234685-epa-water-rule-is-blow-to-americans-private-property-rights>
44. <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/HUD-NOFA-2011-Community-Challenge-Grant-Program.pdf>

45. [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/communitydevelopment/programs](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs)
46. <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/Fair-Housing-Planning-Guide.pdf>
47. <http://www.heritage.org/research/reports/2012/01/huds-mandatory-minority-relocation-program>
48. <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/Westchester-V-HUD-Final-Decision-9.25.2015.pdf>
49. Wall Street Journal, "Social Engineering in Suburbia," Sep't. 19, 2011 p A 16
50. [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/FHLaws/yourrights](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/FHLaws/yourrights)
51. <http://www.civilrights.org/fairhousing/laws/federal.html>
52. <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/HUD-UNVEILS-MASSIVE-INTEGRATION-PLAN.pdf>
53. Ibid.
54. <file:///C:/Users/Owner/Downloads/Affirmatively%20Furthering%20Fair%20Housing%20Reopen%20Comments.pdf>
55. <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/AFFH-in-Federal-Register.pdf>
56. <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/Legal-analysis-of-AFFH.pdf>
57. <http://www.regulations.gov/#!documentDetail;D=HUD-2013-0066-0001>
58. <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/AFFH-Assessment-of-Fair-Housing-Tool-1.pdf>
59. Ibid.
60. <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/Legal-analysis-of-AFFH.pdf>
61. Ibid.
62. <http://www.douglas.co.us/community/partners-and-providers/community-development-block-grant/>
63. <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/Douglas-County-Response-to-AFFH-1.pdf>

64. <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/AFFH-Assessment-of-Fair-Housing-Tool-1.pdf>
65. <http://sustainablefreedomlab.org/2015/08/25/how-hud-will-legally-en-slave-your-community/>
66. <http://egis.hud.gov/affht/>
67. Ibid.
68. Ibid.
69. <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/FFH-Assessment-of-Fair-Housing-Tool-1.pdf>
70. [http://portal.hud.gov/hudportal/HUD?src=/press/speeches\\_remarks\\_statements/2013/Speech\\_071613](http://portal.hud.gov/hudportal/HUD?src=/press/speeches_remarks_statements/2013/Speech_071613)
71. <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/AFFH-in-Federal-Register.pdf>
72. <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/HUD-Sets-Stage-For-FCA-Claims-Law360.pdf>
73. <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/HUD-Compliance-Review-Marin-Jul-2009.pdf>
74. <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/10-Marin-VCA-final-12-21-2010.pdf>
75. Ibid.
76. Ibid.
77. <http://usofarn.com/2015/11/25/hud-launches-civil-rights-and-fair-housing-investigation-against-rockford-city-council/>
78. <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/Rockford-IL-Civil-Rights-Compliance-Review.pdf>
79. <http://www.rrstar.com/article/20151125/NEWS/151129622>
80. <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/HUD-Sets-Stage-For-FCA-Claims-Law360.pdf>
81. <http://sfl.golddustwebsolut.netdna-cdn.com/wp-content/uploads/2015/11/AFH-Tool-in-Fed-Reg-12.31.2015.pdf>
82. <https://www.hudexchange.info/programs/affh/>
83. [http://www.supremecourt.gov/opinions/12pdf/12-10\\_21p3.pdf](http://www.supremecourt.gov/opinions/12pdf/12-10_21p3.pdf)