Expanding Housing and Racial Equity, Community Stability, and Economic Security: A Map for the Biden Administration and the 117th Congress

November 12, 2020
The National Fair Housing Alliance calls upon the new Administration and the 117th Congress to coordinate and direct their most immediate efforts – on the first day, during the first 100 days, and during the first year – toward accomplishing four key goals.

1. Dismantling Residential Segregation, Offering Real Choice in Housing, and Creating Thriving Communities
2. Eliminating the Dual Credit Market and Creating Access to Sustainable and Affordable Credit for All
3. Strengthening the Nation’s Fair Housing and Fair Lending Enforcement Infrastructure
4. Creating Greater Fairness in the Housing and Financial Services Industries

Introduction

Our nation is facing a triple pandemic – the COVID-19 health epidemic, the ensuing economic recession, and the crisis of racism that has plagued us for centuries. These challenges are connected. They stem directly from structural barriers, like residential segregation, systemic racism, and the dual credit market that drive inequities in health, education, employment, wealth, credit access, and environmental impacts.

These structural barriers are also directly tied to place. Where you live matters. It determines so many aspects of your life, from where your kids go to school to your access to jobs and transportation, from whether you have access to fresh food and health care to your life expectancy and so much more. The public hold dear the belief that no one’s race, national origin, religion, gender, family status or disability should prevent them from obtaining safe, decent, affordable housing in the neighborhood of their choice. We also believe in equity and the idea that all neighborhoods should provide their residents with fair access to community resources. Fair housing is the foundation of an equitable society in which everyone has the opportunity to thrive.

Strong fair housing laws, aggressively enforced, are more important now than ever, as we reckon with our country’s long-standing structural racism and its impact on all aspects of our lives. The widespread inequities we see persist because, as a nation, we have lacked the will and failed to take the steps necessary to eradicate them and redress the harms they have caused. Over the last four years, fair housing has come under repeated attack, as the federal government has rolled back fair housing and other civil rights and failed to effectively enforce laws that protect us all. Our nation’s fair housing laws have never been fully enforced, but the recent attacks have greatly undermined our ability to remove unfair and discriminatory practices and barriers from the marketplace. This is why, still today, there are over 4 million instances of housing discrimination each year. The past four years of unremitting attempts to eviscerate our fair housing protections have contributed to increases in racial harassment and
other hate crimes committed in housing of all types. They have also contributed to increases in sexual harassment, housing instability, and the relentless racial wealth and homeownership gaps.

These challenges harm both individuals and communities. They restrict the economic power of underserved groups and contribute to their financial insecurity. But they have also made our nation less productive and competitive, and they have weakened our economy. We have lost trillions of dollars in economic growth due to systemic racial inequality. One study estimates that improving access to housing credit would have resulted in an additional 770,000 Black homeowners and $218 billion in sales and expenditures. Eliminating racial inequities in the U.S. could add $5 trillion of growth in our GDP over the next 5 years.¹ By not resolving centuries-long injustices, we are not only destroying members of our society, we are inhibiting the country’s ability to advance and be economically viable. By ensuring equality for those ill-served in our community, we enhance our collective prosperity.

As the next Administration and Congress begin their work to answer the public call for meaningful action to undo structural racism, they must unwind the damage done to the nation’s fair housing infrastructure, replace weak policies that fail to eliminate discrimination, and implement bold solutions to achieve equitable outcomes and ensure that everyone has access to safe, affordable housing in thriving, well-resourced neighborhoods. The next Administration and Congress must make the obligation to comply with the nation’s civil rights laws unequivocally clear to everyone and rebuild confidence among the public that their fair housing and lending rights will be vigorously enforced and protected.

1. Dismantling Residential Segregation, Offering Real Choice in Housing, and Creating Thriving Communities

**Executive Branch Actions**

**First Day Priorities**

- Reinstate HUD’s 2015 Affirmatively Furthering Fair Housing (AFFH) rule, and take steps to implement the Fair Housing Act’s AFFH mandate for ALL housing and community development programs throughout the federal government, as envisioned in the Fair Housing Act and Executive Order 12892.

**First 100 Days Priorities**

- Reinstate the Assessment of Fair Housing and data tools and other resources that provide jurisdictions and other entities the ability to fully engage in the AFFH process. Reinstate technical assistance programs and services using fair housing experts to assist entities in conducting meaningful Assessments of Fair Housing. This work should ensure entities can identify all barriers to fair housing—including addressing how residential segregation contributes to environmental, climate change, educational, employment, health, credit, transportation, and other disparities—and implement effective solutions to overcome them.

- Include more robust support for Shared Equity programs to support the development of affordable housing in the Government Sponsored Enterprises’ (GSEs) Duty to Serve Plans. Require the GSEs, including the Federal Home Loan Banks to increase standardization in the process for underwriting loans that support Shared Equity Programs, expand educational awareness of the programs, develop pilot programs to explore best practices, and help develop tools to increase their use.

**First Year Priorities**

- Begin updating the data and mapping tool and Assessment Tools for local governments and public housing authorities (PHAs) and finalize these resources for states and insular areas and small PHAs to use to comply with the AFFH rule and the Fair Housing Act.

- Require meaningful fair housing impact analyses in every effort to fill the nation’s affordable housing shortage. Reporting requirements are a critical step, but are not

---

2 This priority may require use of the Congressional Review Act and entail Congress’ use of this instrument to undo the 2020 AFFH Rule.
sufficient to change the location, types and cost of housing units available to households in the US.

- Prohibit lending institutions, housing providers, and other entities that operate in the housing space from accessing federal programs, subsidies, tax breaks, or other government assistance if they have been found in violation of the Fair Housing Act or Equal Credit Opportunity Act within the last five years.
- Require the Federal Home Loan Banks to develop programming to steepen their support of fair housing activities and affordable housing development.
- Significantly improve FHA’s 203(K) Rehabilitation Mortgage Insurance Program to make the process for securing a loan more consumer-friendly and efficient. Ensure borrowers can safely access the program, receive consultant referrals and more easily fulfill the requirements of the program.

**Congressional Actions**

**First 100 Days Priorities**

- Provide funding for 300 staff to implement key AFFH-related priorities, including equipping appropriate staff to provide technical assistance to entities required to complete Assessments of Fair Housing. These staff should be placed in the Offices of Policy, Development and Research; Fair Housing and Equal Opportunity; General Counsel; Community Planning and Development; and Public and Indian Housing.
- Provide funding for Qualified Fair Housing Enforcement Organizations, Public Housing Authorities, jurisdictions, and other stakeholders to receive quality training on the AFFH requirement and effectively engage in a meaningful, robust AFFH process as prescribed in the 2015 Affirmatively Furthering Fair Housing Rule and accompanying Assessment of Fair Housing tools.\(^3\)
- Expand and make permanent HUD’s Housing Mobility Demonstration.
- Include strong fair housing and lending accountability provisions in all housing and community development legislation, including all COVID-19 related legislation, and conduct oversight to ensure that such provisions are effectively enforced.
- Provide adequate funding to support the development of affordable housing opportunities to address the critical shortage of affordable housing units.
- Pass the [Neighborhood Homes Reinvestment Act](https://nationalfairhousing.org/affh/) to create a vehicle to produce equity investment dollars for the development and renovation of affordable housing units in distressed urban, suburban, and rural neighborhoods.

---

\(^3\) For more information on the Affirmatively Furthering Fair Housing process, see [https://nationalfairhousing.org/affh/](https://nationalfairhousing.org/affh/)
• Pass the National Land Bank Network Act of 2020 to ensure that land banks use best practices; operate transparently; develop partnerships and programming to drive community redevelopment forward; and access education, expertise, and research to strengthen the critical work of land banks in supporting equitable communities.

**First Year Priorities**

• Pass the Housing, Opportunity, Mobility, and Equity Act to require Community Development Block Grant and Surface Transportation Block Grant recipients to develop a strategy to support inclusive zoning policies, to allow for a credit to support housing affordability, to advance fair housing goals, and other activities to help create viable, thriving communities.

2. **Eliminating the Dual Credit Market and Creating Access to Sustainable and Affordable Credit for All**

**Executive Branch Actions**

**First Day Priorities**

• Rescind the Office of the Comptroller of the Currency’s (OCC) revised Community Reinvestment Act (CRA) regulation and require joint-rulemaking by all regulators with CRA authority to ensure consistent standards apply to all lenders.4
• HUD must provide guidance for lenders to assist in the creation of Special Purpose Credit Programs and other mechanisms to directly support homeownership and wealth building for members of protected classes that have experienced systemic discrimination and/or been underserved by the mainstream financial market.
• The Federal Housing Finance Agency must openly support and encourage the GSEs to establish a program to purchase loans originated through Special Purpose Credit Programs.
• Ensure the Consumer Financial Protection Bureau’s (CFPB) Qualified Mortgage (QM) Rule appropriately emphasizes fair lending compliance and recognizes the dangers of pricing discrimination within U.S. financial markets. The QM Rule must place a strong emphasis on fair lending compliance to comport with the requirement in the Dodd Frank Wall Street Reform and Consumer Protection Act that the Truth in Lending Act be amended “to assure that consumers are offered and receive residential mortgage loans on terms that reasonably reflect their ability to repay the loans and that are understandable and not unfair, deceptive or abusive.”5

---

4 This priority may require use of the Congressional Review Act.
5 15 U.S.C. 1639b(a)(2)
First Year Priorities

- The Federal Housing Finance Agency should encourage the significant expansion of the GSEs’ support for Small Dollar Mortgage Loan Programs.
- Require the GSEs and Federal Housing Administration to adopt credit scoring systems that have less discriminatory impacts than currently accepted scores that provide greater credit access to underserved groups.
- Require the GSEs and Federal Housing Administration to develop pilot mortgage programs that allow the use of non-traditional credit criteria like rental housing payment information, residual income, and housing payment shock and that include consumer default-prevention mechanisms to expand affordable credit access to underserved borrowers.
- All federal agencies involved in issuing or supporting the issuance of credit, including the GSEs, Federal Housing Administration, Department of Veterans Affairs, etc. must embrace innovative technologies designed to significantly reduce, and ultimately eliminate, bias in algorithmic-based systems.

Congressional Actions

First Year Priorities

- Establish a Racial Equity Fund to provide sustainable, affordable credit to borrowers impacted by historic and current discriminatory housing and lending practices and to close the racial wealth and homeownership gaps.
- Enact the Comprehensive Consumer Credit Reporting Reform Act, which would enhance consumers’ credit reporting rights, create more transparency in the credit reporting and scoring processes, and increase the accountability of those who develop credit scoring models.

3. Strengthening the Nation’s Fair Housing and Lending Enforcement Infrastructure

Executive Branch Actions

First Day Priorities

- Rescind the 2020 Disparate Impact rule, reinstate HUD’s 2013 Disparate Impact rule, and update any policy guidance which may rely on or incorporate a disparate impact analysis.
- Reinstate the enforcement powers of the CFPB’s Office of Fair Lending.
First 100 Days Priorities

- Work to resolve outstanding litigation brought by civil rights groups challenging the 2020 Disparate Impact rule.
- Reconstitute and expand the President’s Fair Housing Council outlined in Presidential Executive Order 12892 to affirmatively further fair housing, remedy the impacts of residential segregation, housing inequality, and structural racism in all Federal programs. Appoint the Vice President of the United States as the Chair of the Council. The Council should meet in the first quarter of the new Administration’s term.
- Re-establish agreements between HUD, the Department of Transportation, and the Department of Education to coordinate government-wide efforts to affirmatively further fair housing, and adopt similar agreements with the Environmental Protection Agency, the Department of Labor, the Department of Health and Human Services and any other federal agency with programs relating to housing and community development.
- Withdraw HUD’s 2020 proposed changes to its Equal Access Rule and reimplement the 2016 Equal Access Rule that protects LGBTQ people from discrimination in HUD-assisted housing and services.
- Withdraw HUD’s Mixed-Status Family Rule that would result in the displacement of 55,000 American children as well as increase housing instability and homelessness.
- Immediately hire highly qualified enforcement staff within HUD’s Office of Fair Housing and Equal Opportunity to fill all vacant career positions and propose the expansion of those staff to ensure at least 825 full time equivalent personnel and provide regular training and capacity-building for investigative staff for the next budget cycle.

First Year Priorities

- Prioritize systemic enforcement actions through the use of Secretary-initiated complaints to address key fair housing issues such as enforcement against discriminatory technology and predictive modeling systems used in the housing and financial services industries.
- Enhance the capacity of regulatory and enforcement agencies to conduct oversight, systemic investigations, and bring enforcement actions concerning the use of artificial intelligence and other technologies that enable or perpetuate housing or lending discrimination.
- Require consistent enforcement methodologies for HUD administrative complaint investigations across all HUD regions.
Congressional Actions

First 100 Days Priorities

- Reinstate the expanded Home Mortgage Disclosure Act data reporting requirements mandated by Dodd-Frank and which were weakened by the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018 (Pub. L. 115-174).
- Provide funding for at least 825 full-time equivalent personnel at HUD’s Office of Fair Housing and Equal Opportunity.

First Year Priorities

- Convert the Fair Housing Initiatives Program into an entitlement program that adequately funds Qualified Fair Housing Enforcement Organizations (QFHEOs) that currently exist and create new organizations in housing markets that do not have a QFHEO.
- Pass the Housing Fairness Act of 2019.
- Eliminate the Communication Decency Act’s Section 230 immunity which shields online platforms from being held liable for their architectural choices which violate the Fair Housing Act, Equal Credit Opportunity Act, and other civil rights statutes.

4. Creating Greater Fairness in the Housing and Financial Services Sectors

Executive Branch Actions

First Day Priority

- Withdraw the mis-named Executive Order 13950 and accompanying Office of Management and Budget Memorandum which seeks to prohibit Federal agencies, employees, contractors, subcontractors, and grantees from using so-called “divisive concepts” typified as “systemic racism”, “White privilege”, “unconscious bias”, “intersectionality”, “Critical Race Theory”, and other concepts tied to systemic racism and sexism. The Federal government should work immediately to resolve lawsuits brought by civil and human rights agencies challenging this dangerous EO and its attempt to gag and stifle the truth about structural racism, sexism and inequality in America.
- Elevate the Federal Housing Finance Agency’s Office of Fair Lending to ensure fair lending goals and principles play a more prominent role within the agency and the GSEs
are in full compliance with fair housing laws, including the AFFH provision of the Fair Housing Act.

First 100 Days Priorities

- Eliminate the GSEs’ Loan Level Pricing Adjustments added in the wake of the Great Recession.
- Adjust the GSEs’ Duty to Serve Plans to include an emphasis on Affirmatively Furthering Fair Housing in every goal and undertake activities to expand housing opportunities for groups disproportionately experiencing housing discrimination.
- Require the GSEs to adopt meaningful and significant goals to address credit access and housing inequities in Racially or Ethnically Concentrated Areas of Poverty in their Duty to Serve Plans.

First Year Priorities

- The FHFA’s Office of Fair Lending must release a comprehensive report on the GSEs’ compliance with the nation’s fair housing and lending laws.

Congressional Actions

First 100 Days Priorities

- Pass the Health and Economic Recovery Omnibus Emergency Solutions Act (HEROES) to ensure the public, particularly groups disproportionately impacted by the COVID-19 pandemic, can remain stably housed, receive health, food and other critical resources, and ultimately recover from the crisis. The CARES Act, passed after the COVID-19 pandemic was declared, does not provide even benefits to people in the nation, disproportionately favors higher-wealth households, exacerbates inequality and fuels housing instability.

First Year Priorities

- Pass the Equality Act of 2019 to codify LGBTQ and sex discrimination protections across all federal civil rights statutes.
- Pass the Fair Housing Improvements Act of 2019 to create servicemember, veteran, and source of income protections under the Fair Housing Act.
- Amend the “Duty to Serve” provisions of the Housing and Economic Recovery Act of 2008 to include “urban areas,” “underserved markets” as explicit categories in addition to “rural areas,” “manufactured housing,” “affordable housing preservation,” and “Residential Economically Distressed areas” in the Duty to Serve requirements of the GSEs.
Additional Resources and Background Materials


“Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing” - Presidential Executive Order 12892


For more information, please contact Jorge Andres Soto, NFHA’s Associate Vice President of Policy and Advocacy. at 202-898-1661 and Jsoto@nationalfairhousing.org.