



June 3, 2015

RE: ACLU Opposes Gosar Amendment to H.R. 2577, the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act of 2016

Dear Representative:

On behalf of the American Civil Liberties Union (“ACLU”), we write to urge you to **oppose Rep. Paul Gosar’s Amendment to the fiscal 2016 Transportation, Housing and Urban Development, and Related Agencies (“T-HUD”) Appropriations Act**. A recorded vote on this amendment is anticipated on the House floor tomorrow.

Vote NO on Representative Gosar’s Amendment to H.R. 2577

Rep. Gosar’s amendment would prohibit the Department of Housing and Urban Development (HUD) from using funds to finalize, implement, and enforce its Fair Housing Act regulation promoting inclusive communities and access to opportunity for all people. HUD has proposed and received comments to its Affirmatively Furthering Fair Housing regulation (FR-5173-P-01) and its Affirmatively Furthering Fair Housing Assessment Tool (FR-5173-N-02), and is nearing its release of final rulemaking.

The ACLU recommends opposing the amendment for the following reasons:

- **The Gosar Amendment would prevent HUD from fulfilling its statutorily mandated requirement of affirmatively furthering fair housing.** When the Fair Housing Act was enacted as Title VIII of the Civil Rights Act of 1968, Congress explicitly stated that it is “the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States.”¹ A unanimous Supreme Court enunciated the fundamental principles that guide all Fair Housing Act decisions: the Act as a whole is “broad and inclusive,” implements a “policy that Congress considered to be of the highest priority,” and must be given “a generous construction” to achieve the policy.² Indeed, the intention of the Fair Housing Act was not only to prohibit discrimination,³ it was to promote “open, integrated residential housing patterns and to prevent the increase of segregation, in ghettos, of racial groups whose lack of opportunities the Act was designed to combat.”⁴

¹ 42 U.S.C. § 3601.

² *Trafficante v. Metro. Life Ins. Co.*, 409 U.S. 205, 93 S.Ct. 364, 367 -368 (1972); *see also, Arlington Heights II*, 558 F.2d 1283, 1289, citing, inter alia, *Linmark Associates, Inc. v. Township of Willingboro*, 431 U.S. 85, 97 (1977) (“Congress has made a strong national commitment to promoting integrated housing”) & *Griffin v. Breckinridge*, 403 U.S. 88, 97 (1971) (U.S. Supreme Court has interpreted civil rights statutes broadly).

³ 42 U.S.C. 3601 et seq.

⁴ *Arlington Heights II*, 558 F.2d at 1289 (citation omitted).

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- **The Gosar Amendment flies in the face of our nation’s efforts to expand opportunity and fairness for all.** The Fair Housing Act supports the policy of the United States to promote diverse and inclusive communities free from discrimination. Unfortunately, the United States remains deeply segregated by neighborhood.⁵ The Affirmatively Furthering Fair Housing (AFFH) regulation and AFFH Assessment Tool would allow HUD to better comply with the imperative of the Fair Housing Act⁶ – that the U.S. government take direct and concrete steps to promote and support integration in housing and proactively hold jurisdictions accountable for their failures to do the same. The Gosar Amendment, however, would bar HUD from finalizing and implementing its AFFH regulation, as well as the AFFH Assessment Tool that would help implement the AFFH rule, and will hinder progress towards equality for all American families by blocking HUD from providing much needed help to state and local governments.
- **The Gosar Amendment would prevent HUD from providing helpful guidance to cities and counties for existing obligations – making the process easier and less expensive.** The Fair Housing Act makes it clear that any jurisdiction receiving federal housing and community development funds must demonstrate that it is spending those funds fairly and equitably. The AFFH regulation imposes no new obligations; it simply explains in greater detail the options that localities have for living up to the commitment that they’ve already made. Similarly, the AFFH Assessment Tool provides guidelines for evaluating whether or not participants are making meaningful progress toward furthering fair housing. HUD is making it easier and less expensive to meet this commitment by providing new sources of data and guidance. Cities and towns do not have to seek HUD funds for their projects, but when they do, they have an obligation to taxpayers to further fair housing and access to quality housing of their choice.
- **The Gosar Amendment would obstruct HUD’s efforts to provide all children a chance to live in neighborhoods with good schools and the resources to thrive.** All families—whatever they look like and wherever they come from—deserve the equal opportunity to seek a home and fair treatment in any neighborhood. Poor children who grow up in a high-opportunity neighborhood have are more likely to earn higher incomes as an adult than poor children who do not grow up in a high-opportunity neighborhood,⁷ but high-opportunity neighborhoods are often inaccessible to poor children of color. HUD’s AFFH rule and AFFH Assessment Tool would work to essentially create more high-opportunity neighborhoods and to ensure that communities are not segregated by race, income, or any other factor.

ACLU strongly urges the House to vote NO on the Gosar Amendment to H.R. 2577.

For more information, please contact Jennifer Bellamy, Legislative Counsel, at (202) 715-0828 or jbellamy@aclu.org.

Sincerely,



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⁵ Dustin A. Cable, *The Racial Dot Map*, WELDON COOPER CTR. FOR PUB. SERV., <http://demographics.coopercenter.org/DotMap/index.html> (last visited Jun. 3, 2015).

⁶ Section 808(e)(5) of the Fair Housing Act (42 U.S.C. 3608(e)(5)) requires that HUD programs and activities be administered in a manner affirmatively to further the policies of the Fair Housing Act.

⁷ Raj Chetty, Nathaniel Hendren, and Lawrence F. Katz, *The Effects of Exposure to Better Neighborhoods on Children: New Evidence from the Moving to Opportunity Experiment*, THE EQUALITY OF OPPORTUNITY PROJECT (May 2015), available at http://www.equality-of-opportunity.org/images/mto_paper.pdf.