**Instructions on Using the Gender-Based Violence Comment Template for**

**HUD’s Affirmatively Furthering Fair Housing (AFFH) Proposed Rule**

The material that follows is a gender-based violence template comment letter opposing the Department of Housing and Urban Development’s (HUD) [efforts](https://www.federalregister.gov/documents/2020/01/14/2020-00234/affirmatively-furthering-fair-housing) to undermine the 2015 [Affirmatively Furthering Fair Housing Rule](https://www.federalregister.gov/documents/2015/07/16/2015-17032/affirmatively-furthering-fair-housing). HUD’s proposed rule would undermine efforts to require local jurisdictions and local PHAs to examine their policies and practices that perpetuate unequal housing opportunities for survivors of domestic and sexual violence.

More information can be found at the [Fight For Housing Justice](https://www.fightforhousingjustice.org/affh) webpage.

**What Can Advocates Do?**

We urge advocates, organizations, and all interested individuals to submit comments opposing HUD’s Proposed AFFH Rule. Advocates have drafted this template outlining the Proposed Rule’s impact on survivors of gender-based violence.

**We hope to get as many comments filed in opposition to the Proposed Rule as possible by** **March 16, 2020.**

Please complete the two following action items:

1. Click the “File” dropdown to either “download” or “make a copy” of the template so you can create a unique comment opposing the rule. Make sure to delete these instructions and the “last updated” date so that your comment letter begins with the date you are submitting your comment, followed by the “submitted via regulations.gov” line. Save your comment as a PDF document, then upload and submit it through the [Regulations.gov](https://www.regulations.gov/comment?D=HUD-2020-0011-0001) website by March 16, 2020. Use the highlighted prompts to fill in information, stories, or analysis about the importance of housing access and impact of the proposed rule on your work, clients, and communities. Once completed, please share a PDF version with Linda Morris ([lindam@aclu.org](mailto:lindam@aclu.org)) or Sandra Park ([spark@aclu.org](mailto:spark@aclu.org)) of the ACLU Women’s Rights Project.
2. Please engage your partners, impacted individuals, and others in the comment-writing campaign by sharing these materials, posting on social media, and emailing your contacts directly. You can use the [materials created on the Fight For Housing Justice webpage](https://www.fightforhousingjustice.org/affh-resources).

**Try to make your letter around 30% different from the template to ensure it counts as a unique comment.** Please feel free to shorten the template to reduce the required amount of added content and/or include content that falls within your organization’s focus area(s).

For background and additional templates, visit the Fight For Housing Justice [resources webpage](https://www.fightforhousingjustice.org/affh-resources).

If you have questions, please reach out to Linda Morris ([lindam@aclu.org](mailto:lindam@aclu.org)) or Sandra Park ([spark@aclu.org](mailto:spark@aclu.org)) of the ACLU Women’s Rights Project, or contact Renee Williams ([rwilliams@nhlp.org](mailto:rwilliams@nhlp.org)) of the National Housing Law Project.

**Template Last Updated:** February 28, 2020

March [XX], 2020

**SUBMITTED VIA REGULATIONS.GOV**

Office of the General Counsel, Rules Docket Clerk

Department of Housing and Urban Development

451 Seventh Street SW, Room 10276

Washington, DC 20410-0001

**Re:** **HUD's Proposed Rule on Affirmatively Furthering Fair Housing, Docket No. FR 6123-P-02**

To Whom It May Concern:

I write to you on behalf of [INSERT YOUR AFFILIATION – I.E., AN ORGANIZATION, COMMUNITY, OR YOURSELF] and as an advocate for survivors of [gender-based violence/domestic violence/sexual violence] in response to the Department of Housing and Urban Development’s (“HUD”) proposed rule on Affirmatively Furthering Fair Housing (“AFFH”). The existing AFFH Rule is crucial for advancing housing access for survivors of gender-based violence. The Proposed Rule will fundamentally weaken the implementation of a key fair housing mechanism that promotes diverse, equitable, and inclusive communities. We/I strongly oppose any changes to the existing AFFH Rule and urge HUD to withdraw the Proposed Rule in its entirety.

[**Description of Organization and the Scope of Organization’s Work:** State your organization’s mission statement. Describe your organization and the work that your organization does. Highlight any major projects or services that relate to housing and gender-based violence. Example: “Our organization provides direct services, outreach, and education to low-income survivors of gender-based violence facing barriers to safe and stable housing. Our organization, for example, provides shelter and transitional housing services to survivors of domestic violence and sexual assault in the XXX region.”]

[**Description of Clients/Communities Served:** Describe the clients or communities that you serve. Include the demographics of your clients and communities, if possible—including race, color, familial status, national origin, disability, and/or gender. Example: “Our organization serves survivors of sexual violence, the vast majority of whom are women. Of our clients, 33% are African American; 23% are Latinx; 15% are white; 5% are Asian; and 24% are multi-racial.”]

Housing is key to the well-being of survivors of gender-based violence. [**Needs of and Barriers Faced by Clients/Communities Served:** Explain the particular needs and barriers faced by your clients – while focusing on housing-related challenges, but also including how housing stability is important for access to good jobs, educational opportunities for children, etc. Highlight the role that access to safe and stable housing plays in your clients’ lives. Explain why barriers to fair housing would harm your clients or community. Example: “Our clients are often transitioning from temporary shelter and seeking permanent housing. In that process, many clients face barriers to securing housing as a result of their history of abuse.”]

Since its enactment in 1968, the Fair Housing Act has imposed a duty on all federal agencies and their funding recipients to affirmatively further fair housing.[[1]](#footnote-1) In 2015, HUD implemented the AFFH Rule as an important mechanism for tackling segregation and addressing fair housing issues that were previously unaddressed. Before the suspension of the AFFH Rule’s implementation, the Assessment Tool for Local Governments (LG2017) developed under the 2015 AFFH Rule listed “[d]isplacement of and/or lack of housing support for victims of domestic violence, dating violence, sexual assault, and stalking,” as a possible contributing factor for fair housing issues that jurisdictions had to at least consider when crafting their Assessments of Fair Housing.[[2]](#footnote-2) Similarly, HUD’s PHA Assessment Tool listed a contributing factor related to the displacement and lack of housing support for survivors.[[3]](#footnote-3)

1. **HUD’s Proposed Rule Will Undermine Access to Safe and Stable Housing for Survivors of Domestic Violence, Sexual Assault, and Other Forms of Gender-Based Violence—the Vast Majority of Whom Are Women.**

Domestic violence is a primary cause of homelessness for women and children in the United States.[[4]](#footnote-4) Over 90% of homeless women report having experienced domestic abuse or sexual violence in their lives, while over 50% of homeless women report that domestic violence was the immediate cause of their homelessness.[[5]](#footnote-5) Access to housing is absolutely critical for survivors, as lack of safe and affordable housing options is regularly reported as a primary barrier to escaping abuse.[[6]](#footnote-6) Homelessness can also be a precursor to additional violence, because a survivor is at the greatest risk of violence when separating from an abusive partner.[[7]](#footnote-7) [Add any region-specific or community-specific information on the connection between housing stability/homelessness and domestic violence. Feel free to include quantitative or qualitative/anecdotal information of how housing comes up in your organization’s work.]

HUD has recognized housing discrimination against domestic violence survivors as a significant fair housing issue,[[8]](#footnote-8) as women account for over 80 percent of domestic violence survivors.[[9]](#footnote-9) The harmful effects of housing instability are compounded for Native American women and women of color, who face both increased barriers to housing and disproportionate rates of violence.[[10]](#footnote-10) Housing discrimination against domestic violence survivors also implicates other protected classes. The rate of violence against women with disabilities, for example, is three times higher than the rate of violence against women without disabilities.[[11]](#footnote-11) Additionally, LGBTQ+ individuals experience high rates of domestic violence, while 71% of survivors reported that they were denied shelter because of barriers related to gender identity.[[12]](#footnote-12) [Include any additional data or anecdotal information specific to your community/client population that reflects how intersecting identities may pose increased barriers to housing].

Advocates have utilized the 2015 Rule’s Assessment of Fair Housing framework to identify barriers to accessing stable housing and other services for survivors:

* **Nuisance Ordinances.** The existing AFFH Rule has been used to identify policies and practices that displace or otherwise result in the lack of housing support for survivors of domestic violence, sexual assault, and stalking.[[13]](#footnote-13) For example, survivors of domestic violence face a heightened risk of eviction due to municipal ordinances that penalize tenants from seeking police or emergency assistance—often known as “crime-free” or nuisance ordinances. Such laws may disproportionately impact survivors of domestic violence in violation of the Fair Housing Act. As noted above, under the existing AFFH Rule’s Assessment Tools, jurisdictions must examine such policies and their disparate impact on members of protected classes, including women. Elimination of nuisance and crime-free ordinances can be a strategy of affirmatively furthering fair housing.[[14]](#footnote-14) Under the proposed rule, however, jurisdictions and PHAs will be able to complete their AFFH certifications without even considering policies that discriminate against survivors of domestic violence. [Share your interest in this issue, and why this is urgent to you.]
* **Need for Safe Housing and Access to Community Resources.** The framework provided by the existing AFFH Rule has provided the space for jurisdictions to recognize and discuss barriers to community resources (including safe, stable housing) for domestic violence survivors and their families.[[15]](#footnote-15) [Share your interest in this issue, and why this is urgent to you].

1. **The Proposed Rule Will Fail to Protect Housing Access for Families With Children, Including Survivors with Children.**

The effects of HUD’s Proposed Rule will be particularly severe for women with children, who face additional barriers due to unjust housing policies and practices that disproportionately harm families with children. Such barriers are further compounded for survivors of domestic and sexual violence who have children. In fact, more than half of female domestic violence survivors live in households with children under the age of 10.[[16]](#footnote-16) Access to safe and affordable housing options is critical to prevent homelessness for survivors and their children as they try to escape abusive relationships.[[17]](#footnote-17) [Include any additional details regarding families and children in your community area or client populations, including demographic information or examples of the types of housing-related barriers that your clients face as a result of having children].

The existing AFFH Rule is a powerful tool for dismantling barriers to housing faced by families with children due to overly restrictive policies, such as exclusionary housing and zoning policies. Policies that impose overly exclusionary requirements—such as single-family zoning laws—disproportionately harm families with children.[[18]](#footnote-18) Such policies significantly limit housing opportunities for families with children and often have the harshest consequences for low-income women of color. [Include any data or anecdotal evidence from your community/client population that illustrate how unjust occupancy requirements have presented barriers to housing for survivors of gender-based violence.]

**[We/I believe(s)] in and [are/am] committed to combatting segregation and housing discrimination, and we urge you to uphold HUD’s existing AFFH Rule.**

HUD’s Proposed Rule would undermine fair housing responsibilities and require no analysis of disparities in housing for women (including survivors of domestic violence), and other members of protected classes. [To include a more detailed account of the Proposed Rule’s changes, pull content from the [Fight for Housing Justice webpage](https://www.fightforhousingjustice.org/affh-resources) materials].

Women of all backgrounds, including survivors of gender-based violence, should feel protected under the Fair Housing Act. HUD’s Proposed Rule directly contradicts HUD’s mission to affirmatively further fair housing and prevent discrimination against protected groups. [We/I] urge HUD to immediately withdraw the Proposed Rule and instead advance housing policies that proactively address segregation and promote housing access for all.

[Include any additional remarks or statements on the importance of housing access for survivors or other marginalized groups.]

Thank you for the opportunity to share my perspective. Please contact [insert contact name and information] regarding these comments.

Sincerely,

[Name]

[Title, if relevant]

[Organization, if relevant]

1. 42 U.S.C. § 3608(e)(5). [↑](#footnote-ref-1)
2. U.S. Department of Housing & Urban Development, Assessment of Fair Housing Tool for Local Governments (LG 2017) (currently not in use), available at: <http://web.mit.edu/afs/athena.mit.edu/org/f/fairhousing/background/Assessment-of-Fair-Housing-Tool-For-Local-Governments-2017-01.pdf>. [↑](#footnote-ref-2)
3. U.S. Department of Housing & Urban Development, Assessment of Fair Housing Tool for Public Housing Agencies (PHA2017) (currently not in use), available at: <http://web.mit.edu/afs/athena.mit.edu/org/f/fairhousing/background/Assessment-of-Fair-Housing-Tool-For-Public-Housing-Agencies-2017-01.pdf>. [↑](#footnote-ref-3)
4. *See* ACLU Women’s Rights Project, *Domestic Violence and Homelessness* (2006), <http://www.aclu.org/pdfs/dvhomelessness032106.pdf>; *see also* U.S. Conference of Mayors, *A Status Report on Hunger and Homelessness in America’s Cities: A 25-City Survey* (Dec. 2014), <https://www2.cortland.edu/dotAsset/655b9350-995e-4aae-acd3-298325093c34.pdf>. [↑](#footnote-ref-4)
5. Monica McLaughlin & Debbie Fox, National Network to End Domestic Violence, *Housing Needs of Victims of Domestic Violence, Sexual Assault, Dating Violence, and Stalking* (2019), <https://nlihc.org/sites/default/files/AG-2019/06-02_Housing-Needs-Domestic-Violence.pdf>. [↑](#footnote-ref-5)
6. *See* Charlene K. Baker et al., *Domestic violence, housing instability, and homelessness: A review of housing policies and program practices for meeting the needs of survivors*, 15 Aggression & Violent Behavior 430, 430–39 (2010), <https://b.3cdn.net/naeh/416990124d53c2f67d_72m6b5uib.pdf>. [↑](#footnote-ref-6)
7. *See id.* at 431.  [↑](#footnote-ref-7)
8. *See, e.g.*,U.S. Dep’t of Hous. & Urban Dev., *Assessing Claims of Housing Discrimination against Victims of Domestic Violence under the Fair Housing Act (FHAct) and the Violence Against Women Act (VAWA)* (Feb. 9, 2011), <https://www.hud.gov/sites/documents/FHEODOMESTICVIOLGUIDENG.PDF>. [↑](#footnote-ref-8)
9. U.S. Dep’t of Justice, Office of Justice Programs, *Bureau of Justice Statistics Crime Data Brief: Intimate Partner Violence, 1993-2001* (Feb. 2003). [↑](#footnote-ref-9)
10. *See* McLaughlin & Fox, *supra* note 2, at 1; *see also* Carolyn M. West & Kalimah Johnson, National Online Resource Ctr. on Violence Against Women, *Sexual Violence in the Lives of African American Women* (Mar. 2013), <https://vawnet.org/sites/default/files/materials/files/2016-09/AR_SVAAWomenRevised.pdf>; Smith, S.G., et al., *National Intimate Partner and Sexual Violence Survey (NISVS): 2010-2012 state report* (Apr. 2017), <https://www.cdc.gov/violenceprevention/pdf/NISVS-StateReportBook.pdf>.  [↑](#footnote-ref-10)
11. American Civil Liberties Union et al., *Domestic Violence & Sexual Assault in the United States: A Human Rights Based Approach & Practice Guide* (Aug. 2014), <https://www.law.columbia.edu/sites/default/files/microsites/human-rights-institute/files/dv_sa_hr_guide_reduce.pdf>. [↑](#footnote-ref-11)
12. National Coalition of Anti-Violence Programs, *Lesbian, Gay, Bisexual, Transgender, Queer, and HIV-Affected Intimate Partner Violence in 2015* (2016), <http://avp.org/wp-content/uploads/2017/04/2015_ncavp_lgbtqipvreport.pdf>. [↑](#footnote-ref-12)
13. City of Ithaca, NY, *Goal Summary: Assessment of Fair Housing 2017*, <http://www.cityofithaca.org/DocumentCenter/View/7134/Ithaca-Assessment-of-Fair-Housing-AFH-Goal-Summary-Table-32918?bidId=>. [↑](#footnote-ref-13)
14. U.S. Department of Housing and Urban Development, Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Enforcement of Local Nuisance and Crime-Free Housing Ordinances Against Victims of Domestic Violence, Other Crime Victims, and Others Who Require Police or Emergency Services, at 13 (Sept. 13, 2016). [↑](#footnote-ref-14)
15. *See e.g.,* City of Baton Rouge and Parish of East Baton Rouge Draft Assessment of Fair Housing, Public Draft, at 160-61 (Feb. 5, 2020) (identifying displacement and lack of housing support for survivors as significant contributing factor for disproportionate housing needs for women, and noting the lack of housing for survivors of sexual assault but the availability of other resources such as supportive services for sexual assault survivors), available at: <https://www.brla.gov/DocumentCenter/View/8730/Fair-Housing-Assessment-Draft-2-5-20>; City of Philadelphia and the

    Philadelphia Housing Authority, Assessment of Fair Housing, at 300-01 (Dec. 23, 2016), available at: <http://fairhousingrights.org/wp-content/uploads/2017/12/afh-2016-for-web.pdf> (outlining large demand for services, including emergency shelter, for survivors). [↑](#footnote-ref-15)
16. Marielsa Bernard, *Domestic Violence’s Impact on Children*, 36-JUN Md. B.J 10, 12 (May/June 2003). [↑](#footnote-ref-16)
17. Meris L. Bergquist, Esq., *After the Violence: Using Fair Housing Laws to Keep Women and Children Safe at Home*, 34-SPG Vt. B.J. 46, 46–47 (Spring 2008). [↑](#footnote-ref-17)
18. *See id.*; *see also Rhode Island Comm’n for Human Rights v. Graul*, 120 F. Supp. 3d 110, 125–27 (D.R.I. 2015); *United States v. Badgett*, 976 F.2d 1176, 1178–79 (8th Cir. 1992). [↑](#footnote-ref-18)