



February 7, 2017

The Honorable Mike Lee  
361A Russell Senate Office Building  
Washington, DC 20510

The Honorable Paul Gosar  
2057 Rayburn House Office Building  
Washington, DC 20515

Dear Senator Lee and Representative Gosar,

The National Housing Conference (NHC) believes that everyone in America should have equal opportunity to live in a quality, affordable home in a thriving community. We therefore write to express concerns with S.103/H.R.482, which as proposed would undermine efforts in states and localities to find more inclusive housing policies and fulfill their obligations under the Fair Housing Act of 1968.

Although the obligation to affirmatively further fair housing (AFFH) is long-standing, patterns of residential segregation have proved durable in many places. Because so much housing and land use policy is at the local and state level, changes and improvements must come from local and state decisions informed by the national context. HUD's fair housing rule creates a process that empowers local and state decision making by supplying data and describing a planning process that lets every place find its own path to design housing policy informed by community input.

The proposed bill would undermine this collaborative and incremental process of AFFH, despite the thorough input included in the rulemaking. The proposed rule was open for public comment for 90 days and the assessment tools for states, local governments, and public housing agencies were each open for multiple rounds of comments. The final rule provides an ongoing regulatory process of implementation and improvement. Communities will create an Assessment of Fair Housing on the same schedule that they would have followed to create an Analysis of Impediments (the previous planning requirement). Some communities have begun work already, which will provide an opportunity to further refine the new process.

The proposed consensus-based process in the legislation appears unworkable on its face, because the process will default to inaction. States and localities may have legitimate concerns with the new rule, and we encourage them to work with HUD to refine the rule using the existing regulatory process. Practical implementation will be the best means to improve planning processes, especially the regional collaborations that offer great hope for ways communities can share strength more widely. Defaulting to inaction, however, is not appropriate for a long-standing civil rights obligation.

Furthermore, we are concerned that language prohibiting the use of federal funds to "to design, build, maintain, utilize, or provide access to a Federal database of geospatial information on community racial disparities or disparities in access to affordable housing" in S.103/H.R.482 is unintentionally broad and would prohibit data collection necessary for baseline good government activities. The language in the bill appears to apply to the U.S. Census, the Home Mortgage Disclosure Act, the American Household



Survey, the American Community Survey, and other federal data sources. Without publicly available data, state and local governments would be unable to evaluate objective measures to make well-informed and data-driven policy decisions. Furthermore, federal policy decisions guided by these data collection would become less efficient or effective.

NHC therefore asks you to reconsider the Local Zoning Decisions Protection Act of 2017 (S.103/H.R.482), which we cannot support in its current form. To discuss further, please contact Ethan Handelman, Vice President for Policy and Advocacy at [ehandelman@nhc.org](mailto:ehandelman@nhc.org).

### **About the National Housing Conference**

The National Housing Conference educates decision makers and the public about housing policies and practices guided by a commitment that everyone in America should have equal opportunity to live in a quality, affordable home in a thriving community. NHC convenes and collaborates with our diverse membership of housing stakeholders including tenant advocates, mortgage bankers, nonprofit and for-profit home builders, property managers, policy practitioners, real estate professionals, equity investors and more to advance our policy, research and communications initiatives to effect positive change at the federal, state and local levels. Founded in 1931, we are a nonpartisan, 501(c)3 nonprofit organization. NHC's research team operated as the Center for Housing Policy until the organizations merged in 2013.

Sincerely,

A handwritten signature in black ink that reads 'Chris Estes'.

Chris Estes  
President and CEO

Cc: Senator Marco Rubio  
Representative Brian Babin  
Representative Andy Biggs  
Representative Marsha Blackburn  
Representative Rod Blum  
Representative Dave Brat  
Representative Ken Buck  
Representative Michael Burgess  
Representative Scott DesJarlais  
Representative Jeff Duncan  
Representative John J. Duncan Jr.  
Representative Trent Franks

Representative Glenn Grothman  
Representative David Joyce  
Representative Steve King  
Representative Thomas Massie  
Representative Tom McClintock  
Representative Ted Poe  
Representative Dana Rohrabacher  
Representative Pete Sessions  
Representative Jason Smith  
Representative Daniel Webster  
Representative Ted Yoho