

Congress of the United States
Washington, DC 20510

July 14, 2017

The Honorable Benjamin Carson Sr.
Secretary
United States Department of Housing and Urban Development
451 7th Street SW
Washington, D.C., 20410

Dear Secretary Carson,

Congratulations on your confirmation as Secretary of Housing and Urban Development. We look forward to working with you to develop new solutions to the many challenges facing our country's housing sector.

As you know, the Department of Housing and Urban Development (HUD) issued compliance guidance in July 2015 on the Fair Housing Act (Title XIII of the 1968 Civil Rights Act). This "Affirmatively Furthering Fair Housing (AFFH) Final Rule," requires HUD grant recipients to examine their planning practices in an effort to curtail discrimination, and sets up a new database within HUD to collect regional and local demographic data on race, class, and English language proficiency, among other measures.

Under the AFFH rule, state and local governments may not receive federal grant money, including Community Development Block Grants (CDBGs), unless they *voluntarily* change their zoning laws to "affirmatively further fair housing." HUD will make discretionary judgments about whether jurisdictions have achieved this objective using data collected through a new mapping tool.

The rule would give jurisdictions roughly five years to remedy these so-called imbalances discovered by HUD. However, not all proposals will be approved to receive funding. The department may withhold federal funding from jurisdictions whose housing plans do not conform to "disparate impact theory." Under this theory, communities could be sued for illegal discrimination, with racial disparity statistics admissible as evidence.

We stand with you in opposing any and all instances of discrimination, but this rule does not actually help in that effort. Instead, it would extend reach of the federal government beyond its authority and could take away state and local governments' ability to make local zoning decisions.

Rather than undermining the autonomy of local housing authorities, we believe the federal government must empower local communities to tackle their own unique challenges, in compliance with the Fair Housing Act, without the threat of a new arbitrary federal mandate.

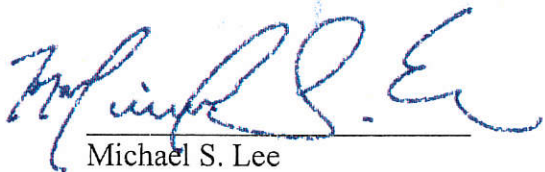
As we have already witnessed, this rule disproportionately places a heavier burden on smaller communities who could be denied funds unless they make radical, sweeping changes to their well-established zoning laws that are compliant with the Fair Housing Act. This rule simply represents a continuation of the previous administration's radical pursuit of using disparate impact theory to punish communities that are not as demographically diverse as they would have wished.

In a July 2015 *Washington Times* article, you rightfully stated that HUD was attempting to "legislate racial equality create consequences that often make matters worse." We share your perspective. Although the Supreme Court narrowly upheld disparate impact theory in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, et al.* (2015), we agree with you that "as with other mandated social-engineering schemes, the sort of unintended consequences Justice Samuel Alito alluded to in his dissent lurk in the shadows."

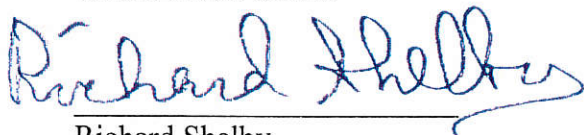
Moving forward, we respectfully ask that you use your authority to rescind the AFFH rule in its entirety. It is critical that we pursue real, sensible reforms to reduce poverty and improve the opportunities available to lower-income citizens at the local level.

We look forward to partnering with you to ensure justice and opportunity are preserved in every neighborhood across our great land.

Sincerely,



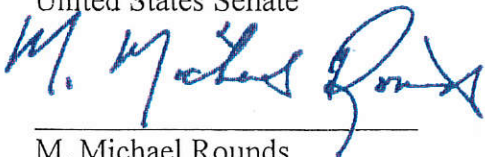
Michael S. Lee
United States Senate



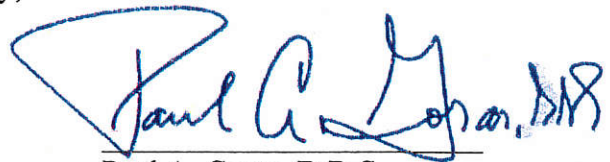
Richard Shelby
United States Senate



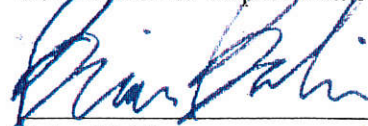
Tom Cotton
United States Senate



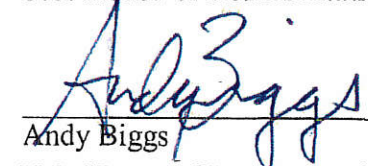
M. Michael Rounds
United States Senate



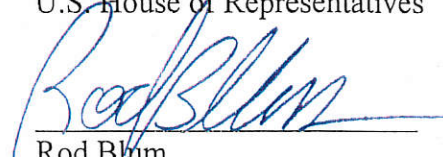
Paul A. Gosar, D.D.S.
U.S. House of Representatives



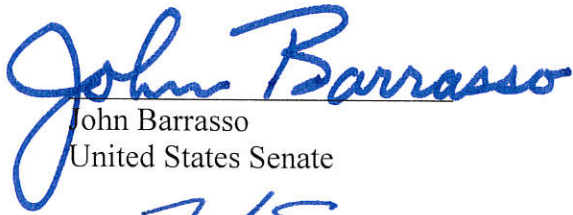
Brian Babin
U.S. House of Representatives



Andy Biggs
U.S. House of Representatives

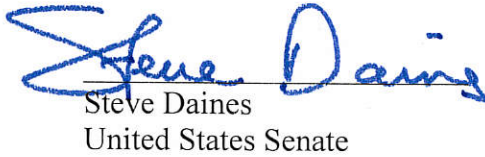


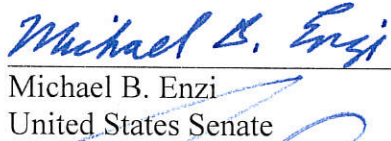
Rod Blum
U.S. House of Representatives

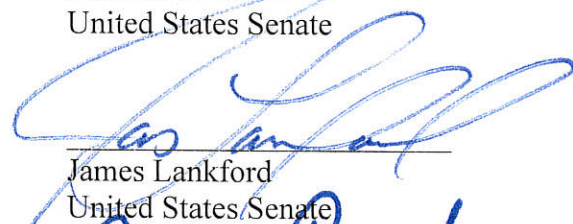

John Barrasso
United States Senate

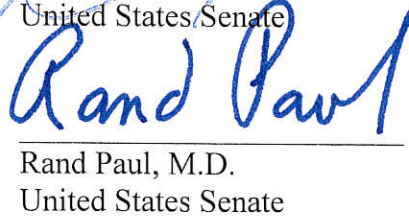


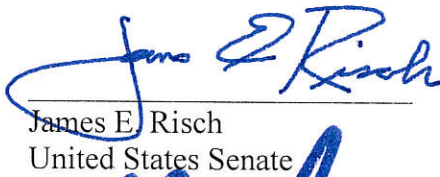
Ted Cruz
United States Senate

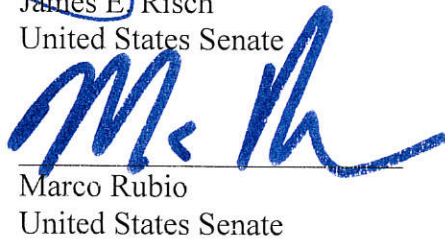

Steve Daines
United States Senate

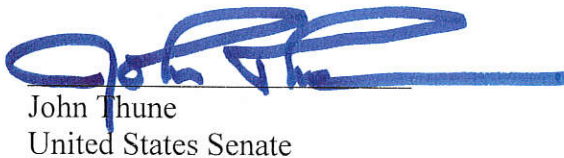

Michael B. Enzi
United States Senate

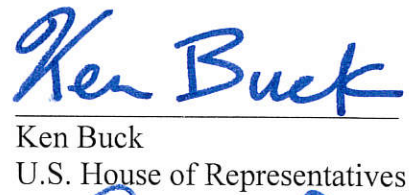

James Lankford
United States Senate

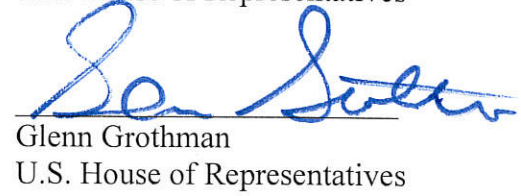

Rand Paul, M.D.
United States Senate

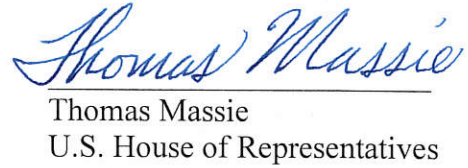

James E. Risch
United States Senate


Marco Rubio
United States Senate


John Thune
United States Senate


Ken Buck
U.S. House of Representatives


Glenn Grothman
U.S. House of Representatives


Thomas Massie
U.S. House of Representatives