

July 8, 2021

Agenda Item 10.a.

**Regional Housing Technical Assistance Program Update –
Affirmatively Furthering Fair Housing**

Subject: Report on the Regional Housing Technical Assistance (RHTA) Program’s Affirmatively Further Fair Housing (AFFH) Module — Overview of Legislation, New Requirements, and Regional Products to assist Local Jurisdictions with Housing Element Updates

Background: Designed to combat discrimination in housing that the Civil Rights Movement highlighted at the national level, the federal Fair Housing Act was passed in 1968. The Act prohibits discrimination concerning the sale, rental, and financing of housing based on race, religion, national origin, sex, (and as amended) handicap and family status. Additionally, the Act requires federal housing and funding programs (and their recipients) to operate “in a manner affirmatively to further the purposes” of the Act. For decades, this “affirmatively furthering fair housing” requirement lacked specificity and was unenforced. In 2015, the Obama Administration introduced a new AFFH Rule which provided detailed guidance to entitlement jurisdictions for the first time. In 2018, California passed Assembly Bill 686, which implemented this same fair housing duty to most public agencies and added new requirements for the state-mandated Housing Element. Although the Trump administration revoked the federal AFFH Rule in 2020, local jurisdictions in California are still bound by the requirements via AB 686.

In late April 2021, the California Department of Housing and Community Development (HCD) published AFFH guidance which included a 94-page memo and mapping tool data viewer to assist jurisdictions in meeting their obligations under AB 686. The duty to AFFH falls within two broad categories: 1) administration of all housing and community development programs, and 2) new requirements for the Housing Element. The latter is the primary focus of the memo and ABAG’s technical assistance.

Report

AB 686 New Housing Element Requirements

HCD’s memo outlines AFFH Housing Element guidance across five core statute elements: (1) outreach, (2) assessment of fair housing, (3) site inventory, (4) identifying and prioritizing contributing factors, and (5) goals, policies, and actions.

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ABAG Housing Element Technical Assistance

ABAG's AFFH technical assistance will focus primarily on three of the core statutory elements where our work will have the greatest impact: the assessment of fair housing, the site inventory, and goals, policies, and actions. ABAG will also offer some assistance related to AFFH outreach obligations. The technical assistance module includes:

- *Assessment of Fair Housing.* ABAG staff have already provided a suite of regional data tools such as the Housing Needs Data Packets and Housing Element Site Selection (HESS) Tool, which have application for the assessment of fair housing. Staff plan to provide additional support by producing jurisdiction-level segregation and land use policy reports, drafting a data guidance workflow, and providing additional resources in the AFFH Housing Technical Assistance Library.
- *Site Inventory.* The Housing Element Site Selection Tool is the primary technical assistance product to assist with local site inventories. Staff plans to incorporate an additional module to the HESS Tool that allow local planning staff to apply an AFFH lens when evaluating potential sites.
- *Goals, Policies and Actions.* Staff plans to develop a “policy and programs toolkit” that links policies/programs to fair housing issues that may surface in the assessment of fair housing and contributing factors analyses. Rather than recreate a generic policy menu, our deliverable will offer a more tailored approach given increased scrutiny by HCD to ensure that local policies and programs are responsive to the enumerated fair housing challenges.
- *Outreach.* Our staff will play a meaningful though lesser role in providing guidance for the outreach element of AFFH. This work will be co-produced with the Legislation and Public Affairs Section and further supported by consultants. Staff expects to assist with outreach materials such as factsheets, and template staff reports and presentations that local staff can use in messaging to their stakeholders.

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Upcoming Products

Staff are actively developing a range of near-term deliverables and expect to release the follow technical assistance products over the summer and fall:


- **Fair Housing Messaging Materials** to include factsheets and a fair housing messaging guide.
- **Data Analysis Workflow** to include step-by-step instructions for referencing a wide variety of data sources for the assessment of fair housing.
- **Template Staff Reports and Presentations** that local staff can tailor for presentations to elected officials and other forms of stakeholder engagement.
- **Segregation & Land Use Analyses** to include a jurisdiction-level assessment of racial and housing-type segregation and the relationship with local land use regulations.

Issues: None

Recommended Action: Information

Attachments: A. HCD's AB 686 Housing Element Compliance Checklist
B. Presentation

Reviewed:


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