September 22, 2020

Submitted via Regulations.gov

Regulations Division
Office of General Counsel
Department of Housing and Urban Development
451 Seventh St., SW
Room 10276
Washington, DC 20410-0500

Re: Docket No. FR-6152-P-01
Making Admission or Placement Determinations Based on Sex in Facilities Under Community Planning and Development Housing Programs

Gentlepersons:

The Housing Assistance Council (HAC) appreciates the opportunity to comment on the Making Admission or Placement Determinations Based on Sex proposed rule by the Department of Housing and Urban Development (HUD). A nonprofit organization, HAC has been helping local organizations build affordable homes in rural America since 1971. With nearly 50 years as a thought leader and voice for rural America, HAC believes that every person has a right to safe and affordable housing, no matter their gender identity. HAC strongly supports the existing equal access regulation and opposes amending it.

Transgender discrimination is a rural concern.

Transgender individuals live in small towns and communities across rural America. While accurate data on both the U.S. transgender population and on rural areas is woefully lacking, recent reports have suggested that the percentage of transgender individuals who live in rural areas is roughly equal to the percentage of the total U.S. population that lives in rural areas.\(^1\) In other words, transgender individuals are not underrepresented as a percentage of the total rural population.

Transgender rural residents frequently face the same challenges that many rural Americans face: stagnant, low incomes; lack of economic opportunity; and a dearth of affordable, safe housing options. In addition, as outlined in the Movement Advancement Project’s 2019 report, Where We Call Home: Transgender People in Rural America, rural transgender individuals also often face amplified discrimination as a result of the lack of support structures in their communities, an increased visibility

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within a smaller population, and fewer alternatives for necessities like housing and health care. And according to the Movement Advancement Project’s analysis of data from the 2015 U.S. Transgender Survey, rural transgender adults are far less likely than their rural neighbors to own their home, and are more likely to experience housing discrimination and homelessness.

The proposed rule would legitimize discrimination and put transgender people at risk.

Allowing shelter operators to rely not on an individual’s gender identity, but instead on their own “good faith belief” about an individual’s “biological sex,” invites sex stereotyping and invasive questioning by program staff. This change poses serious risks for people who do not conform to the binary stereotype of how male or female people look or act – legitimizing discrimination against not only transgender people, but also others who differ from someone’s idea of what feminine or masculine should be.

Any perceived risk to other residents when transgender individuals are admitted to shelters according to their gender identity is based on prejudice, not evidence. Research has found “that fears of increased safety and privacy violations as a result of nondiscrimination laws are not empirically grounded.” In fact, the reverse is true. Evidence collected by the National Center for Transgender Equality and others shows that transgender people face widespread physical and sexual violence on the street and in many aspects of life. More than a quarter of transgender people have faced a bias-driven assault and the rates are even higher for transgender women and people of color.

This rule change is not acceptable at any time, and it is particularly cruel now when the U.S. housing and homelessness crisis has been exacerbated by the coronavirus pandemic. When shelter providers bar transgender and gender-nonconforming people from access to shelter they will be at greater risk for COVID-19.

Conclusion

HAC urges HUD to reject the proposed rule and to preserve the 2016 Equal Access in Accordance with a Person’s Gender Identity in Community Planning and Development Programs regulation.

If you have questions or would like to discuss these comments further, please feel free to contact me.

Sincerely,

David Lipsetz
President and CEO

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2 Ibid.
3 Ibid.