NNIP Camp Session #3

Friday April 8, 2016

Affirmatively Furthering Fair Housing (AFFH), Implications for NNIP

Leader: Tom Kingsley

Attendance: Wascalus, Britton, Terpstra, Killeen, Cruz, Holzer, Cohen, Cowan, Merrick, Milk, Pritchard, Shon, Denton, Matson, Abraham, Lucas, Groesbeck, Pettit

Note taker: Pitingolo

[Begin 10:15am]

Kingsley: AFFH is going to change many cities and NNIP should be in the center and know what’s going on. There are protected classes and it’s illegal to discriminate. Anyone who gets money from HUD had to affirmatively furthering fair housing. HUD had an approach in the past. Everyone, including HUD, knows it wasn’t effective. Justice Kennedy last July upheld the concept of disparate impact that HUD assumed all along but now in a clear statement the disparate impact principle is now embodied in the law. Actions that lead to disparate impact of these protected classes are illegal regardless of the intent to discriminate. So if zoning is discriminatory it has that effect. Things won’t change overnight; we’re talking about decades of doing it one way.

The new rule, each jurisdiction involved has to prepare an assessment of fair housing analysis. There is a framework provided called the assessment tool. Right now HUD is providing the bulk of the data. You don’t even need your own data. HUD is required to receive these documents and accept them or reject them. AFFH itself isn’t the document that is really linked to the power chain. It’s not clear when HUD is going to do actual compliance. It’s not clear what criteria are or how HUD decides. That’s probably on purpose from HUD’s point of view.

Merrick: I know that HUD for grants they give for planning are asking for ACS data that have high margins of error, without the MOE that are meaningless. What do we do about that?

Kingsley: It’s a topic I want to talk about. A key element is racial or economic areas of poverty. Disparities and access to opportunity looks at groups and asks if they are in high/low opportunity areas, are the schools good. For housing, looking at housing need in relation to the market and a critical analysis of fair housing enforcement capacity. Put that all together and the contributing factors are identified. You have to also say what your goals and priorities are.

My view from looking at the HUD provided maps and tables is that it’s quite possible that the data is clunky. People are having problems in drawing some of it down. In some instances they’re drawing ACS data with very large margins of error. Some of that is troubling but NNIP historically has asked how to get to good data. Sometimes you have to start with bad data and work with it to get it to where you need. A lot of the data is standard stuff from ACS and Census that you already have. There are indices that are available that you can draw down and use. They are well oriented to policy issues that are important. The schedule depends on what already exists for submitting the 5 year plan.

Pettit: I’ve emailed everyone who is near one of the HUD sites. If you haven’t heard from me then your city probably isn’t one of them.

Kingsley: I didn’t add the list to my handout but that’s a good point.

Merrick: Is the data national?

Kingsley: Yes, for everybody. Suppose you’re a small suburban jurisdiction and you get hit with this obligation to prepare one of these things and it’s talking about broad forces that created segregation. HUD knows it’s a challenge and their response is that you should start right away and talk to all of the jurisdictions nearby and prepare a metropolitan wide.

Cowan: What if the other municipalities don’t cooperate?

Kingsley: That’s a likely outcome. There are multiple different paths. I know 2 places that have already done this and have done great job. The first was the council of governments in Baltimore. They took more than they were obligated to do. They have analysis of impediments going back years. They have cross jurisdiction buy in. They have gone all the way under sustainable communities to have a region wide plan of action. A lot of people have bought into it. Not everyone but a lot. There are also regions where no one has bought into it. Some people in Westchester just don’t want to take the HUD money. There is a wide range. Every CDBG restriction and every public housing authority has got to do one of these in the 21 areas by 2019. HUD will provide some guidance and will get better over time but right now they don’t have the capacity to go country wide.

MARC in KC along with Baltimore to my knowledge are in great shape to take this to the regional level and make sense out of it. What they’ve done is for AFFH. Frank Lenk is now working with HUD people to translate this into AFH for KC.

I’d like to spend the rest of the time to ask you to let me know what you think the potentials are for doing this in your regions. Not all of you are NNIP partners but if you are what at the prospects for getting involved.

Wascalus: I imagine the public housing authorities in MSP are going to work together. We’re pretty data rich so there will be a role for either Cura or the Fed or they’ll be able to use data beyond what is available to them to enrich the analysis.

Britton: We have a housing summit schedule and we’re bringing in Megan S and I think we’ve probably got access to the data. The housing authority is on our board and provides funding. Austin is a mess and we have to do regional because that’s where the gap is.

Terpstra: In Cook County there are 130 municipalities, then add more counties in the MSA and I can’t imagine how it’s going to play out.

Cowan: The region spans 3 states. The town near where I live banned the discussion of affordable housing. Some just don’t care. Regionalism is going to be a challenge.

Kingsley: There has been regional housing in Chicago.

Cowan: Some cities simply don’t want this. Evanston will come up with their own plan. They don’t want it and don’t care.

Cruz: St. Louis is city vs. county and then 2 states. It’s hard to bring people to the table when they think it’s a waste of time.

Killeen: I’m based in a department with housing and they are very small staffed. The regional thing is that we are trying to do Raleigh, Durham, Chapel Hill regional. The council of governments would be a good place for this. There is a smart growth committee that convenes around housing and jobs mismatches. That group will be a good place to bring this conversation.

Milk: On the housing authority this falls into my work. We still need to reach out to other housing authorities to seal the deal with regional. We have some collaboration. None of us alone can analyze the data let alone do anything about it. I have a list of organizations that NNIP might provide assistance to. HUD suggests using local data and I can’t do that so NNIP can play a role. On the question of regional, there’s a role to play around a framework that makes sense. We need an umbrella to tie us together. If a 3rd party can craft that it would speed up adoption. If any of the organizations can manage community participation that would be valued. Community input will not be uniformly positive. The HUD maps online do a good job of identifying some things but not the opportunity neighborhoods. There’s some logic models around how you define what an opportunity neighborhood is. Does it depend on how you’re serving. That could be guided by a 3rd party.

Pettit: There’s a question about what needs to be done for the plan vs. regional planning. What does the city need to fill out and turn in is hard enough. Fancy mobility analysis will be low on the list unless you’ve already done it. We are having conversations with national foundations and asking what local data would make sense to supplement for a given theme. It seems dull and obvious to me but it’s what foundations say is needed. I could see framing that as low hanging fruit. Here’s crime data… here’s some more advanced stuff you can do. The housing authority knows about mobility because of Section 8. There could be some internal analysis about where clients are moving. Expectations for fancy analysis are low. If people can use the basic analysis we’ll be way better off than before. If it brings up ideas about what advanced analysis is needed, that’s good.

Merrick: We theoretically have a functioning regional government. It’s seen as having a Portland agenda from all the non-Portland cities. Even though they have analytic capacity it’s resisted by everyone except Portland. They set policy that has no teeth and is disregarded. Where we have had a role is precisely in the space where they know everyone hates them. We are seen as a neutral convener who does neutral analysis.

Pritchard: I would see the regional piece as baby steps. I don’t see the city doing it with the county. But there is potential of two adjoining cities. This is similar to what healthcare has to do. What are the things that worked and failed. I think you said the training was done by HUD for the first group but there is potential

Matson: We strongly disagree that we need to move low income people into places where you define as high opportunity. So we may not be invited to take part over that.

Britton: We have really run up against that. People don’t want to leave their neighborhoods, even for a “better” one. They’re staying at a level of poverty and limited opportunity by choice.

Milk: My reading of the rule is to create a balanced approach, either mobility or place based development.

Kingsley: What should NNIP do? We can revisit this in six months. One thing is to keep you informed about all of this. We can ask our partners to keep us informed about what’s going on. Even if you’re not one of the original cities, they are going to start thinking about the long-term.

Pettit: Rob, make a note to have a camp session in Cleveland on defining opportunity neighborhoods.

[End 11:15am]