

Threats to Housing under the New Administration

What will housing policy look like in a Trump Administration? While we cannot know with certainty yet, likelihoods exist. We have listed some here, along with what we can do as advocates to fight for our clients and our communities.

Fair Housing. What do we know about Ben Carson? In 2015, he penned an op-ed for *The Washington Times* entitled “Experimenting with Failed Socialism Again.” In it, he refers to HUD’s Affirmatively Furthering Fair Housing Rule and the Supreme Court’s decision upholding a disparate impact theory of liability under the Fair Housing Act “social engineering.” In his words: “These government-engineered attempts to legislate racial equality create consequences that often make matters worse. There are reasonable ways to use housing policy to enhance the opportunities available to lower-income citizens, but based on the history of failed socialist experiments in this country, entrusting the government to get it right can prove downright dangerous.” Thus, we can conjecture that HUD’s enforcement of AFFH and disparate impact will disappear.

What can we do?

- The duty to affirmatively further fair housing still exists in statute, and the plans are still required by regulation. This will hopefully continue to be the case. Accordingly, we must continue to advocate to entitlement jurisdictions, the state, and housing authorities to ensure they further fair housing.
- California’s Housing Element Law was designed to ensure that every city took on its fair share of affordable housing needs. These needs can often disproportionately affect members of protected classes. Now is the time to engage in the Housing Element process in your community, and for the state to strengthen the explicit fair housing requirements of the Housing Element Law.
- Litigate where appropriate. Join WCLP and NHLP’s monthly fair housing workgroup call to review potential cases and strategy.

Privacy. Donald Trump’s harsh anti-immigrant rhetoric has left millions of families unsure of their futures. Many advocates are concerned that the federal government will utilize data it has obtained to identify individuals that it can target for removal from the United States. In the housing world, this can play out in various ways. Landlords can threaten to call Immigration and Customs Enforcement to report individuals that they suspect of not having lawful immigration status in the United States. Under a Trump Administration, these threats, whether real or not, may gain a newfound power to coerce tenants and deprive them of their rights. Additionally, mixed status families may be dissuaded from applying for restricted forms of affordable housing for fear of misuse of their personal information.

What can we do?

- First, we can enforce existing law: Civil Code § 1940.3 prohibits landlords from inquiring about immigration status during the tenancy, unless necessary to determine ability to financially qualify for the unit; Penal Code § 519 penalizes extortion, including threats to report immigration status or suspected immigration status.
- Second, you can share your client's stories with Western Center; we are working with legislators to ensure that Californians' privacy is protected and that they are free from intimidation.
- Third, remember that a limited number of housing programs are restricted by immigration status. The Low Income Housing Tax Credit program and California programs, for example, are not. Enforce individuals' rights to live in that housing.
- For those programs that are restricted, HUD currently only has authority to use Social Security Numbers for verification purposes, but we will monitor whether that changes, or whether the lack of SSNs is being reported to other federal agencies.

Funding. Many threats to federal affordable housing funding – which far outweighs the amount of funding provided by California – exist. First, the future Administration's stated intention to cut domestic spending by 1% per year could lead to a loss of significant funding for affordable housing.

Second, the National Housing Trust Fund, which has only just begun to see funding flow could face a few threats. Congress could, through a budget reconciliation process, use NHTF money to offset the costs of its tax reductions for corporations, or to fill holes in the HUD budget. We could also see renewed appeals to eliminate the Trust Fund.

Third, in order to fund corporate tax cuts, the Low Income Housing Tax Credit could be eliminated. Even if it is not eliminated, many worry that the tax credits will no longer be desirable because corporations will no longer have any need for them. Indeed, California has already seen the tax credit market thrown into disarray since the election – causing *existing* projects to stall.

What can we do?

- There are many federal efforts under way to protect these programs, including requests for our client's stories. Visit the National Low Income Housing Coalition's website for more details.
- Advocate with local housing authorities to ensure that they are using their maximum authority to fully fund voucher programs and not resorting to policies that reduce voucher utilization or size in a manner that will harm our clients.
- Keep the housing that exists. Monitor whether the affordable housing in your community is nearing the end of its use restrictions (the requirements that it remain affordable). Work with preservation advocates to figure out ways to keep those developments affordable. Litigate to ensure that residents' right to remain or relocation rights are enforced.
- Engage with partners who are working to ensure the viability of the state tax credit market.

HUD Programs. In addition to financial threats, Paul Ryan's "A Better Way" blueprint proposes changes to housing programs that echo those made to welfare programs in the 1990s – work requirements, time

limits, and block grants. The blueprint explicitly states that Section 8, project-based Section 8, and public housing programs should have the same requirements as TANF. He also calls for a consolidation of programs such as the RHS rental assistance program and the Section 8 voucher program. However, the blueprint does call for increasing the mobility of vouchers, which may be at odds with future Secretary Carson's views.

What can we do?

- Engage with our public benefits colleagues for lessons learned.
- Support partners who are working to enact state protections and ensure the state does all it can to maximize benefits.
- Litigate where appropriate.

Consumer. We may face a dismantling of the Consumer Financial Protection Bureau, a repeal of the Dodd-Frank Act, and broader enforcement of arbitration clauses. All of these would have disastrous effects for tenants and homeowners facing foreclosure, mobilehome owners, and individuals living in private equity-owned rental properties.

What can we do?

- Even if federal consumer laws are rolled back, Californians can rely on the state's Unfair Business Practices Act and Rosenthal Fair Debt Collection Practices Act. Without the CFPB, more of the burden for enforcement will fall on individuals to enforce consumer protections, so advocates will have to litigate to enforce these laws.
- We can engage with our partners to seek increased protections from lawmakers in Sacramento.
- Push for our state AG to take strong leadership in enforcing current consumer laws.

Generally

- Share your stories with us. We cannot fight for protections if we do not know what is happening on the ground.
- Stay informed. Each of the organizations listed below will be working to do so.
- Stay engaged. Keep any eye out for announcements from Western Center regarding strategy sessions to protect our clients' rights to safe, inclusive, affordable housing. And do not hesitate to reach out to us.

To share your stories, ideas, or questions, please contact:

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Resources:

Western Center on Law and Poverty: <http://wclp.org/advocate-resources/housing/>

National Housing Law Project: www.nhlp.org

National Low Income Housing Coalition: <http://nlihc.org/>

National Consumer Law Center: <https://www.nclc.org/>