

September 2, 2025

The Honorable Russell Vought
Director
Office of Management and Budget
725 Seventeenth Street, NW
Washington, DC 20503
MBX.OMB.OIRA.ICRComments@omb.eop.gov

The Honorable Scott Turner
Secretary
U.S. Department of Housing and
Urban Development
451 Seventh Street, SW
Washington, DC 20410
SecretaryTurner@hud.gov

Re: ICR Comment: OMB Control #2529-AB09: HUD's Implementation of the Fair Housing Act's Disparate Impact Standard (FR-6540) (Final Rule)

Dear Director Vought and Secretary Turner:

The National Fair Housing Alliance® (NFHA™)¹ and the undersigned civil rights and consumer advocacy organizations urge the Office of Management and Budget (OMB) and the U.S. Department of Housing and Urban Development (HUD) to preserve the 2024 regulation prohibiting “disparate impact” discrimination (2023 Disparate Impact Rule), which appropriately ensures that landlords, lenders, and others use the fairest policy available to provide housing and lending opportunities for all. Without any public notice and comment, HUD has sent a “Final Rule” entitled “HUD’s Implementation of the Fair Housing Act’s Disparate Impact Standard” to the OMB’s Office of Information and Regulatory Affairs (OIRA) for review before publication.² While the text of this purported final rule has not been made public to permit us to review and comment, contrary to the requirements of the Administrative Procedure Act, it has the same title as the final rule that HUD published in 2020 and we assume that it similarly would weaken the disparate impact standard by seeking to eliminate the ability to bring disparate impact claims under the Fair Housing Act. If promulgated, the new Final Rule would unfairly shut out many people from achieving the American Dream of safe, stable, affordable housing of their choice during a time when the nation faces a fair and affordable housing crisis.

As described more fully below, we strongly urge OMB and HUD to preserve the 2023 Disparate Impact Rule because:

- **The disparate impact standard is a common sense legal tool.**
- **HUD’s 2023 Disparate Impact Rule appropriately reflects decades of legal precedent.**

¹ The National Fair Housing Alliance® (NFHA™) is the country’s only national civil rights organization dedicated solely to eliminating all forms of housing and lending discrimination and is the trade association for over 170 fair housing and justice-centered organizations and individuals across the United States and its territories.

² <https://www.reginfo.gov/public/do/eoDetails?rid=1049512>

- **Watering down HUD's 2023 Disparate Impact Rule will undoubtedly violate the law.**
- **The disparate impact standard ensures fair, thriving markets.**

The Disparate Impact Standard Is a Common Sense Legal Tool

The Fair Housing Act's "disparate impact" standard is a common sense legal tool designed to achieve the **American Dream of safe, stable, affordable housing free from discrimination**. We all know that discrimination is not always obvious. For this reason, for over half a century, courts have recognized the use of the disparate impact standard to root out discrimination. For example, let's say a **landlord** has a policy requiring tenants to have a full-time job. The policy does not say "no people with disabilities." But this policy may have a harmful impact on people with disabilities, who are more likely to have part-time jobs. Under the disparate impact standard, unless the landlord can show that requiring a full-time job is actually necessary to ensure payment of the rent, the landlord would have to use a different policy (such as income requirements) that still ensures rental payment but is fairer to people with disabilities. That's just common sense.

Below are additional examples of using the disparate impact standard as a common sense legal tool to ensure fair housing opportunity for all:

- To reduce fraudulent claims, a **homeowner's insurance company** has a policy of not insuring homes valued at less than \$150,000. This policy does not consider the condition of the property and disproportionately excludes Latino homeowners in the area who may have less expensive homes due to lower household wealth. Unless the insurance company can show that the policy actually reduces fraud, the company will need to use a different policy (such as fraudulent claim history) that still reduces fraud but is fairer to Latino homeowners.
- To reduce the risk of nonpayment, a **landlord** has a policy requiring a continuous employment history. This policy disproportionately excludes women who may have left the workforce at one time to care for a child or parent. Unless the **landlord** can show that the policy is necessary to ensure payment, the landlord will need to use a different policy (such as recent job history) that still ensures on-time payments but is fairer to women.
- To reduce the risk of delinquency or default, a **lender** has a policy of requiring that mortgage loan applicants have a credit score that is higher than what is required by the lender's investors. This policy disproportionately excludes Black mortgage loan applicants who may have lower credit scores because they have less household wealth³ and the score does not reflect their rental payment history. Even if the lender can show that the very high credit score threshold correlates to some risk factors, the lender will need to change the policy if there is another policy (such as using rental housing payment data or bank cash-flow analysis) that still reduces risk but is fairer to Black mortgage loan applicants.

Eliminating disparate impact discrimination benefits everyone by removing unfair barriers that don't have a legitimate purpose. For example, while discriminatory job requirements may disproportionately harm renters with disabilities, eliminating those requirements benefits all renters who would otherwise have been excluded by those unnecessary policies.

³ Thurgood Marshall Institute of the NAACP Legal Defense Fund, Inc. and the Institute on Assets and Social Policy at Brandeis University, *The Black-White Racial Wealth Gap* (2019), <https://tminstitutelfd.org/wp-content/uploads/2019/11/FINAL-RWG-Brief-v1.pdf>.

See [Appendix A](#) for cases using the disparate impact standard.

The disparate impact standard is also critical to addressing the nation's current fair and affordable housing crisis. America is facing a fair housing crisis as discrimination complaints skyrocket⁴ and the Black-White homeownership gap remains as wide as it was before passage of the Fair Housing Act in 1968.⁵ People are also facing record-breaking housing costs that plague the nation's renters, homebuyers, and homeowners and put safe, stable, affordable housing out of reach for many households.⁶ Finally, the fair and affordable housing crisis is exacerbated by landlords, lenders, and others using black-box artificial intelligence and other technology, such as tenant screening and dynamic pricing tools, to further deny housing opportunities or arbitrarily and unfairly increase housing costs.⁷ It seems that HUD is planning to abandon America during this crisis, rather than using the common sense disparate impact analysis to ensure housing opportunity for all.

HUD's 2023 Disparate Impact Rule Appropriately Reflects Decades of Legal Precedent

In addition to being common sense, the disparate impact standard has been upheld by courts for over half a century as a critical legal tool to ensure fair opportunities. The Supreme Court first upheld the use of the disparate impact analysis in 1971⁸ and then again in 2005⁹ and 2015.¹⁰

In 2013,¹¹ and then again in 2023,¹² HUD properly codified the disparate impact standard that has prevailed in the courts and has been used by regulators—including HUD—for decades. The rule provides the legal standard and burden of proof as follows:¹³

1. The plaintiff has the burden of proving that a challenged practice caused or predictably will cause a discriminatory effect.
2. Then the defendant has the burden of proving that the challenged practice is necessary to achieve one or more substantial, legitimate, nondiscriminatory interests of the defendant.
3. The plaintiff may still prevail upon proving that the defendant's interests could be served by another practice that has a less discriminatory effect.

HUD's 2023 Disparate Impact Rule has worked. It has fostered fairer housing and lending markets by providing landlords, lenders, localities, and others with the incentive to search out less discriminatory alternatives to

⁴ National Fair Housing Alliance, *2025 Fair Housing Trends Report* (July 2024), <https://nationalfairhousing.org/resource/2024-fair-housing-trends-report/>.

⁵ National Association of Realtors®, *2025 Snapshot of Race and Homebuying in America* (2025), https://cms.nar.realtor/sites/default/files/2025-03/2025-snapshot-of-race-and-home-buying-in-america-03-17-2025.pdf?gl=1*1j5wexp*_gcl_au*MTgxODA3OTc4NC4xNzQ4NzE3NDM2.

⁶ Joint Center for Housing Studies of Harvard University, *The State of the Nation's Housing 2024* (2024), https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_The_State_of_the_Nations_Housing_2024.pdf.

⁷ See, e.g., Heather Vogell, *America's Largest Landlord Makes Deal With DOJ to Settle Price-Fixing Claims in RealPage Case*, Pro Publica (Aug. 12, 2025), <https://www.propublica.org/article/greystar-realpage-doj-settlement-landlords-apartments-software>.

⁸ *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971).

⁹ *Smith v. City of Jackson, Mississippi*, 544 U.S. 228 (2005).

¹⁰ *Texas Dept. of Housing and Community Affairs, et al., v. The Inclusive Communities Project, Inc.*, 576 U.S. 519 (2015).

¹¹ HUD, *Final Rule: Implementation of the Fair Housing Act's Discriminatory Effects Standard*, 78 Fed. Reg. 11460 (Feb. 15, 2013).

¹² HUD, *Final Rule: Reinstatement of HUD's Discriminatory Effects Standard*, 88 Fed. Reg. 19450 (March 31, 2023).

¹³ Edited for brevity, see the full rule at 24 C.F.R. § 100.500.

meet their business interests. At the same time, it does not force any entity to modify practices that are necessary to accomplish legitimate non-discriminatory purposes. This clear standard has been straightforward to apply and has struck the proper balance between competing interests. By using the disparate impact tool, businesses have expanded their markets, improved practices, and reaped economic benefit.

HUD's previous attempt to weaken the disparate impact standard was met with broad opposition and was struck down by a federal court. In 2019, HUD proposed to amend the 2013 Disparate Impact Rule (which was largely identical to the 2023 version) to make it almost impossible to bring disparate impact claims under the Fair Housing Act.¹⁴ But that effort was met with strong opposition from national civil rights and consumer advocates;¹⁵ local, community-based fair housing groups;¹⁶ academics;¹⁷ and top industry leaders.¹⁸ By the time the comment period ended in October 2019, over 45,000 comments were submitted to HUD expressing concerns about the proposed rule. Notwithstanding such broad opposition, in September 2020, HUD issued its final rule to severely weaken and undermine the disparate impact standard under the Fair Housing Act.¹⁹ However, in October 2020, a federal court issued a nationwide preliminary injunction to halt implementation of that rule.²⁰

In 2021, HUD published a proposed rule to re-codify the 2013 rule.²¹ In 2023, after considering public comments, HUD reinstated the substance of the 2013 rule and rescinded the 2020 rule.²²

So, we've been down this road before. Time and again, the courts and the public have supported HUD's 2023 Disparate Impact Rule as the proper interpretation of the disparate impact standard.

Rolling Back HUD's 2023 Disparate Impact Rule Will Undoubtedly Violate the Law

Weakening the protections of HUD's 2023 Disparate Impact Rule will undoubtedly violate the Fair Housing Act as well as the Administrative Procedure Act. HUD may be erroneously basing its new Final Rule on recent executive orders, including an executive order purporting to ban the use of the disparate impact standard

¹⁴ HUD, *Proposed Rule: Implementation of the Fair Housing Act's Disparate Impact Standard*, 84 Fed. Reg. 42854 (Aug. 19, 2019).

¹⁵ The [National Fair Housing Alliance](#), [The Leadership Conference on Civil and Human Rights](#), the [NAACP Legal Defense and Educational Fund](#), the [Lawyers' Committee for Civil Rights Under Law](#), the [Poverty Race and Research Action Council](#), the [American Civil Liberties Union](#), and the [Center for Responsible Lending](#) submitted robust comments and mobilized a campaign to preserve the use of the disparate impact doctrine under the Fair Housing Act.

¹⁶ See, e.g., Comment by the Fair Housing Advocates of Northern California, <https://www.regulations.gov/comment/HUD-2019-0067-3626>

¹⁷ See, e.g., Comment by Professor Heather Abraham, Civil Rights Clinic, Georgetown University Law Center, <https://www.regulations.gov/comment/HUD-2019-0067-3001>.

¹⁸ NFHA Press Release, *Civil Rights Groups Commend Top Mortgage Lenders and Industry Leaders for Urging HUD to Reconsider Disparate Impact Rule* (July 15, 2020), <https://nationalfairhousing.org/civil-rights-groups-commend-top%E2%80%AFmortgage-lenders-industry-leaders-for-urging-hud-to-reconsider%E2%80%AFdisparate-impact%E2%80%AFrule/> (commending Bank of America, Quicken Loans, Citigroup, Wells Fargo, and the National Association of Realtors® for sending letters to HUD raising concerns that the rule would make it more difficult to challenge illegal discrimination).

¹⁹ HUD, *Final Rule: Implementation of the Fair Housing Act's Disparate Impact Standard*, 85 Fed. Reg. 60288 (Sept. 24, 2020).

²⁰ *Mass. Fair Hous. Ctr., et al. v. HUD*, 496 F. Supp. 3d 600 (D. Mass. 2020), <https://lawyersforcivilrights.org/wp-content/uploads/2020/10/Nationwide-PI-Against-HUD.pdf>.

²¹ HUD, *Proposed Rule: Reinstatement of HUD's Discriminatory Effects Standard*, 86 Fed. Reg. 33590 (June 25, 2021).

²² HUD, *Final Rule: Reinstatement of HUD's Discriminatory Effects Standard*, 88 Fed. Reg. 19450 (March 31, 2023).

(Disparate Impact Executive Order).²³ An executive order cannot overturn federal court decisions or the Fair Housing Act; cannot deprive people of their legal rights; or insulate landlords, lenders, or others from legal liability.²⁴ Nor can federal agencies rewrite federal statutes by rescinding regulations. So while the Disparate Impact Executive Order communicates the current administration's intent to refrain from using the disparate impact standard in their civil rights enforcement, disparate impact remains the law of the land. Weakening HUD's 2023 Disparate Impact Rule would violate the Fair Housing Act and multiple court decisions, including Supreme Court decisions.

Any final agency action that tries to weaken or eliminate disparate impact liability would be arbitrary and capricious under the Administrative Procedure Act (APA). When the first Trump administration attempted to significantly weaken existing disparate impact regulation under the Fair Housing Act, several organizations immediately sued, and a federal district court in Massachusetts preliminarily enjoined the new rule shortly thereafter.²⁵ The court stated, "There can be no doubt that the 2020 Rule weakens, for housing discrimination victims and fair housing organizations, disparate impact liability under the Fair Housing Act."²⁶ The court ultimately issued a preliminary injunction, holding that the plaintiffs were likely to succeed on the merits of the claim that the changes to HUD's 2013 Disparate Impact rule were "arbitrary and capricious" in violation of the APA.²⁷ A similar scenario could play out again.

Moreover, it appears that HUD is attempting to issue a Final Rule without notice and comment, which would further strengthen an APA claim. Without any public notice and comment, HUD has sent a "Final Rule" entitled "HUD's Implementation of the Fair Housing Act's Disparate Impact Standard" to OMB for review before publication.²⁸ Courts have consistently rebuffed agency attempts to repeal rules without satisfying the APA's notice and comment requirement.²⁹ For example, the D.C. Circuit has stated that the APA "expressly contemplates that notice and an opportunity to comment will be provided prior to agency decisions to repeal a rule."³⁰ Moreover, the APA "mandate[s] that agencies use the same procedures when they amend or repeal a rule as they used to issue the rule in the first instance."³¹ All of HUD's prior rulemakings on disparate impact under the Fair Housing Act proceeded through notice and comment; it is unclear on what basis HUD can dispense with that process now.

Meanwhile, private parties and state attorneys general can and will continue enforcing the Fair Housing Act regardless of the administration's desire to weaken its protections. Consumers can continue to assert their rights under the Fair Housing Act and courts will continue to enforce protections against disparate impact, which existed before HUD's 2013 rule. Absent significant changes in existing case law, any attempted rule

²³ Executive Order, *Restoring Equality of Opportunity and Meritocracy* (April 23, 2025), <https://www.whitehouse.gov/presidential-actions/2025/04/restoring-equality-of-opportunity-and-meritocracy/>.

²⁴ See NAACP Legal Defense and Education Fund, Inc., *Executive Orders 101* <https://www.naacpldf.org/what-are-executive-orders/>.

²⁵ *Mass. Fair Hous. Ctr., et al. v. HUD*, 496 F. Supp. 3d 600 (D. Mass. 2020), <https://lawyersforcivilrights.org/wp-content/uploads/2020/10/Nationwide-PI-Against-HUD.pdf>.

²⁶ See *id.*

²⁷ See *id.*

²⁸ <https://www.reginfo.gov/public/do/eoDetails?rrid=1049512>

²⁹ See Bethany A. Davis Noll and Denise A. Grab, *Deregulation: Process and Procedures That Govern Agency Decisionmaking in an Era of Rollbacks*, 28 Energy Law Journal, 269, 274 (2017), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3073416 (collecting cases).

³⁰ *Consumer Energy Council of Am. v. FERC*, 673 F.2d 425, 446 (D.C. Cir. 1982), *aff'd*, 463 U.S. 1216 (1983) (rejecting FERC's argument that notice and comment prior to promulgation was sufficient for revocation as well).

³¹ *Perez v. Mortg. Bankers Ass'n*, 575 U.S. 92, 101 (2015).

changes would not minimize actual legal risk faced by housing and financial services providers. Furthermore, rescinding the disparate impact rule will create unnecessary regulatory uncertainty for housing and financial services providers. Given this reality, many industry stakeholders are planning to continue to comply with the disparate impact standard.³²

The Disparate Impact Standard Ensures Fair, Thriving Markets

Abandoning HUD's duty to protect people in America from disparate impact discrimination in housing will ultimately harm the nation as a whole. Former Federal Reserve Chair Alan Greenspan observed that, quite simply, discrimination distorts markets and is bad for business:

*To the extent that market participants discriminate, they erect barriers to the free flow of capital and labor to their most profitable employment, and the distribution of output is distorted. In the end, costs are higher, less real output is produced, and national wealth accumulation is slowed. By removing the non-economic distortions that arise as a result of discrimination, we can generate higher returns to both human and physical capital.*³³

Often the best way to weed out facially-neutral but nonetheless discriminatory practices in housing markets – and thus improve those markets for everyone – is for market participants to pursue disparate impact claims where appropriate. The ability to pursue disparate impact claims, therefore, is essential to the efficient operation of housing markets and to combating public or private actions that distort those markets.

Studies have shown that discrimination restricts markets and causes economic inefficiencies, while fair practices for all benefits businesses and municipalities.³⁴ If one component of the housing and lending ecosystem is not fulfilling its fair housing obligations, the resulting inequality distorts all housing and lending markets. Families and people will be deprived of participating in the American dream of safe, stable, affordable housing; businesses will lose profits; and jurisdictions will operate ineffectively and to the detriment of their residents.³⁵ Society thrives when our laws are followed and there are sound and consistent regulations that comply with the law.

³² See Nathan Place, *Banks Slow to Follow Trump's Lead on Disparate Impact*, American Banker (May 1, 2025), <https://www.americanbanker.com/news/why-trumps-order-on-disparate-impact-may-have-little-effect>.

³³ Alan Greenspan, Remarks before the Annual Conference of the National Community Reinvestment Coalition, Economic Challenges in the New Century (March 22, 2000), <http://www.federalreserve.gov/boarddocs/speeches/2000/20000322.htm>.

³⁴ See, e.g., K.J. Arrow, K. J. , *What Has Economics to Say About Racial Discrimination?*, Journal of Economic Perspectives, (1998) (demonstrating that discrimination leads to inefficiencies in resource allocation and market performance).

³⁵ See, e.g., Dana M. Peterson & Catherine L. Mann, *Closing the Racial Inequality Gaps: The Economic Cost of Black Inequality in the U.S.*, Citigroup (2020), <https://www.citigroup.com/global/insights/closing-the-racial-inequality-gaps-20200922>.

Conclusion

The disparate impact standard is a common sense legal tool to ensure housing opportunity for all and is especially needed during this nation's escalating fair and affordable housing crisis. We trust that you will uphold HUD's legal obligations and reject any effort to roll back these fundamental and critical protections.

Sincerely,

NATIONAL ORGANIZATIONS

National Fair Housing Alliance
American Association of People with Disabilities
Americans for Financial Reform Education Fund
Asian Law Caucus
Autistic Self Advocacy Network
Bazelon Center for Mental Health
Center for LGBTQ Economic Advancement & Research (CLEAR)
Center for Public Representation
Consumer Federation of America
Disability Rights Education and Defense Fund
Integrated Community Solutions, Inc.
Japanese American Citizens League
Justice in Aging
JustLeadershipUSA
JustUs Coordinating Council
The Kelsey
Lawyers' Committee for Civil Rights Under Law
League of United Latin American Citizens (LULAC)
NAACP Legal Defense and Educational Fund, Inc.
The National Coalition for Asian Pacific American Community Development (National CAPACD)
National Coalition for the Homeless
National Community Reinvestment Coalition
National Consumer Law Center (on behalf of its low-income clients)
National Disability Rights Network (NDRN)
National Employment Law Project
National Health Law Program
National Hispanic Media Coalition
National Homelessness Law Center
National Housing Law Project
National Low Income Housing Coalition
National Partnership for Women and Families
National Urban League
National Women's Law Center
NETWORK Lobby for Catholic Social Justice
The Partnership for Inclusive Disaster Strategies
PFLAG National
Revolving Door Project

STATE/LOCAL ORGANIZATIONS

Arizona

William E. Morris Institute for Justice

California

California Center for Movement Legal Services

Disability Rights California

Fair Housing Advocates of Northern California

Housing and Economic Rights Advocates

Housing Rights Center

Law Office of Gary W. Rhoades

The Public Interest Law Project

Rise Economy

Western Center on Law & Poverty

Colorado/Nebraska/North Carolina/Wisconsin

The Redress Movement

Connecticut

Connecticut Fair Housing Center

Connecticut Legal Services

DC/Maryland/Virginia

Equal Rights Center

Illinois

HOPE Fair Housing Center

Housing Action Illinois

Legal Action Chicago

The Network: Advocating Against Domestic Violence

Louisiana

Louisiana Fair Housing Action Center

Maryland

Gibson-Banks Center for Race and the Law, University of Maryland Francis King Carey School of Law³⁶

Public Justice Center

³⁶ The Gibson-Banks Center submits this letter on its own behalf and not on behalf of the University of Maryland Francis King Carey School of Law, the University of Maryland, Baltimore, the University System of Maryland, or the State of Maryland.

Massachusetts

Greater Boston Legal Services (on behalf of client BTC)

Massachusetts/Rhode Island

Legal Key Partnership for Health and Justice

Minnesota

Housing Justice Center

Metropolitan Interfaith Council on Affordable Housing (MICAHA)

Our Spring Lake Store, LLC

Missouri

ArchCity Defenders, Inc.

Nebraska

Nebraska Appleseed

New Hampshire

NH Legal Assistance

New Jersey

New Jersey Citizen Action

New York

Long Island Housing Services, Inc.

Virginia

Legal Aid Justice Center

APPENDIX A - EXAMPLES OF CASES USING THE DISPARATE IMPACT STANDARD

Disparate impact has been cognizable under the major federal civil rights laws for over half a century and has been used to challenge policies that unnecessarily restrict opportunities for tenants, borrowers, property owners, local residents, employees, and others. In several instances, the claims were brought by the administration - e.g., HUD or the U.S. Department of Justice - to ensure fair housing opportunities for all.

Tenants

- *HUD v. Mountain Side Mobile Estates P'Ship*, No. 08-92-0010-1, 1993 WL 307069 (Hud Sec'y July 19, 1993), *aff'd* in relevant part, 56 F.3d 1243 (10th Cir. 1995) (HUD determined that a three-person-per-dwelling maximum occupancy policy in a **mobile home community** had a discriminatory effect on families with children and submitted a brief to the Tenth Circuit in support of this position and the court agreed with HUD's position).
- *Rhode Island Commission for Human Rights v. Graul*, 120 F. Supp. 3d 110, 123-24 (D.R.I. 2015) (granting partial summary judgment to plaintiffs in case challenging **landlord's** policy of prohibiting more than two persons in an apartment, which had a disparate impact on the basis of familial status and explaining that a prima facie case requires only identifying a neutral policy that causes an adverse impact).
- *Alexander v. Edgewood Management Corp.*, No.15-01140, 2016 WL 5957673, at *2-3 (D.D.C. July 25, 2016) (denying motion to dismiss disparate impact claims related to **landlord's** policy of rejecting rental applicants based on criminal history).
- *Sams v. Ga West Gate LLC*, No. cv-415-282, 2017 WL 436281, at *5 (S.D. Ga. Jan. 30, 2017) (denying motion to dismiss disparate impact claims based on **landlord's** policy barring residency for any individual who had felony or misdemeanor convictions within 99 years and explaining that pleading requires only identifying a policy that causes disparities).
- *Paige v. New York City Housing Authority*, No. 17-cv-7481, 2018 WL 3863451, at *3 (S.D.N.Y. Aug. 14, 2018) (denying motion to dismiss disparate impact claims against a **housing authority** based on failure to inspect lead paint that would adversely impact families with children and explaining that the plaintiff need only plead identification of a policy that causes discriminatory effect).
- *Reyes v. Waples Mobile Home Park Limited Partnership*, 903 F.3d 415 (4th Cir. 2018) (confirming that the *Inclusive Communities* case did not change disparate impact law).
- *Fortune Society v. Sandcastle Housing Development Fund Corp.*, 388 F. Supp. 3d 145, 172-173 (E.D.N.Y. 2019) (denying summary judgment against disparate impact claim based on **landlord's** criminal records ban on tenants and explaining that prima facie case requires showing only outwardly neutral practice that caused adverse impact).
- *Connecticut Fair Housing Center v. Corelogic Property Solutions, LLC*, 369 F. Supp. 3d 362, 377-78 (D. Conn. 2019) (denying motion to dismiss disparate impact claim against entity offering a **criminal tenant screening product** and explaining that prima facie case requires only a neutral practice that causes adverse impact).

Borrowers/Property Owners

- *United States v. Countrywide Financial Corp.*, No. 2:11-CV-10540-PSG-AJW (C.D. Cal. 2011), *United States v. Wells Fargo*, No. 1:12-cv-01150-JDB (D.D.C. 2012) (DOJ pursued disparate impact claims on behalf of Black and Latino borrowers who were targeted by **lenders** with toxic, sub-prime loans and steered to pay more than similarly-situated White borrowers for the same products).

- *National Fair Housing Alliance v. Travelers Indemnity Co.*, 261 F. Supp. 3d 20 (D.D.C. 2017) (held that plaintiffs sufficiently pleaded that failure to provide **insurance** to landlords that rent to Section 8 voucher holders had a disparate impact on African Americans and women).
- *City of Philadelphia v. Wells Fargo & Co.*, No. 17-cv-2203, 2018 WL 424451, at *4 (E.D. Pa. Jan. 16, 2018) (denying motion to dismiss disparate impact claims against a **lender** based on discriminatory mortgage lending and explaining alleging a claim requires only identifying a specific policy that causes a disparity).
- *Prince George's County, Md. v. Wells Fargo & Co.*, ---F. Supp. 3d---, 2019 WL 3766526, at *10 (D. Md. Aug. 9, 2019) (denying motion to dismiss disparate impact claim against a **lender** as a result of discriminatory equity-stripping mortgage lending scheme and describing that first step only requires plaintiff to plead the existence of a policy that causes a disparate impact).

Local Residents

- *United States v. City of Black Jack*, 508 F.2d 1179 (8th Cir. 1975) (the Nixon Administration utilized disparate impact liability to challenge a **city's** ostensibly race-neutral zoning ordinance that had a discriminatory effect on Black people and that would perpetuate segregation).
- *Texas Dep't of Housing & Community Affairs v. Inclusive Communities Project, Inc.*, 576 U.S. 519 (2015) (holding that "disparate-impact claims are cognizable under the Fair Housing Act" and that Congress ratified disparate impact liability when it amended the Act in 1988 to clarify and strengthen its enforcement mechanisms).
- *Winfield v. City of New York*, No. 15-cv-5236, 2016 WL 6208564, at *5 (S.D.N.Y. Oct. 24, 2016) (denying motion to dismiss disparate impact claims based on community preference in **city** affordable housing program and explaining that prima facie case requires only identifying a neutral policy that causes adverse impact).
- *MHANY Management, Inc. v. County of Nassau*, 819 F.3d 581 (2d Cir. 2016) (holding that a majority-White **town's** zoning decision precluding multifamily houses and meaningful development of affordable housing violated the Fair Housing Act by perpetuating segregation and that the *Inclusive Communities* case did not change disparate impact law).
- *National Fair Housing Alliance v. Federal National Mortgage Ass'n*, 294 F. Supp. 3d 940, 947 (N.D. Cal. 2018) (denying motion to dismiss disparate impact claims based on failure of **Fannie Mae** to perform basic maintenance on foreclosed properties in minority neighborhoods and explaining that prima facie case requires identifying a policy that causes disparities).

Potential Employees

- *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971) (recognizing the disparate impact standard and stating that "[w]hat is required by Congress is the removal of artificial, arbitrary, and unnecessary barriers to **employment** when the barriers operate invidiously to discriminate on the basis of racial or other impermissible classification").