

September 21, 2020

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Re: HUD Docket No. FR-6152-P-01, RIN 2506-AC53: Comments in Response to Proposed Rulemaking: Making Admission or Placement Determinations Based on Sex in Facilities Under Community Planning and Development Housing Programs

To whom it may concern:

I write on behalf of Minnesota Housing Partnership (MHP) in response to the Department of Housing and Urban Development's (HUD) proposed rule change published in the Federal Register on July 24, 2020 (RIN 2506-AC53; HUD Docket No. FR-6152-P-01) entitled, "Making Admission or Placement Determinations Based on Sex in Facilities Under Community Planning and Development Housing Programs." We urge that this proposed rule change be withdrawn in its entirety.

#### **Minnesota Housing Partnership (MHP)**

Minnesota Housing Partnership (MHP) strengthens development capacity and promotes systems change to expand opportunity, especially for those with the greatest need. We support, lead, and collaborate with a diversity of partners to stimulate innovation and drive positive impact in affordable housing and community development in Minnesota and beyond. We provide capacity building in rural communities and Native Nations, produce original research, and advocate for policies that advance affordable housing and strengthen communities. MHP has worked in dozens of communities across the country to support housing and community development needs in rural and Native communities.

#### **MHP's Fair Housing Engagement**

MHP has promoted fair housing through its policy agenda, research, and technical assistance work for decades. In comments to federal, state, and local agencies MHP has consistently fought to ensure fair housing law is protected, enforced, and expanded. Beginning in 2016, HUD contracted with MHP to support the engagement activities for the addendum to the Twin Cities region's 2014 Fair Housing Analysis of Impediments (AI). MHP facilitated a fair housing community advisory committee and a community engagement micro-grant program. MHP documented its involvement in the AI addendum engagement process, and the perspective of community member participants, with a July 2017 report titled "A New Approach to Fair Housing Community Engagement."

Since that time, MHP has worked to increase its capacity to address historic and ongoing discrimination. It has invested in organizational systems change to enhance its ability to address structural inequities in the housing ecosystem, improve outcomes for communities of color and indigenous communities, and ensure policies and programs do not impose unintended consequences on impacted communities.

#### **Importance of ensuring full and fair access to housing for the LGBTQ+ Community**

MHP recognizes that the proposed rule change is a part of the current administration's ongoing efforts to limit the rights and protections for the LGBTQ+ community, particularly transgender people. This Proposed Rule would strip protections for transgender and gender non-conforming people seeking HUD-funded shelter and is rooted in harmful and dangerous stereotypes about transgender persons, particularly transgender women.

HUD's anti-transgender proposal allows temporary, emergency single-sex shelters to ask someone to provide evidence of their sex "based on a good faith belief" that the person seeking shelter is not of the biological sex that the shelter serves. Adopting this "good faith belief" approach, as opposed to simply accepting someone's assertion of their own gender identity, invites sex stereotyping and invasive questioning by program staff. This proposed rule would grant single-gender shelters permission to close their doors to transgender people experiencing homelessness, an unacceptable result.

MHP believes that moving forward with this proposed rule change is egregious and cruel, and particularly so during a global pandemic when access to housing may mean the difference between life and death. By limiting access to safe and healthy shelters for transgender persons, HUD's rulemaking will create additional barriers for individuals to safely physically distance, self-isolate, and remain in good health. We note, as well, that transgender community members in need of shelter are already high risk from COVID-19.

MHP is committed to meeting the housing needs of Minnesotans. We have concern that thousands of Minnesotans are at risk of losing their homes, including many LGBTQ+ and transgender community members. According to the July 22 [Household Pulse Survey](#) for Minnesota, and Stout's analysis of this data:

- There are 132,000 potential eviction filings over the next 4 months in Minnesota
- An estimated 195,000 households are unable to pay rent and at risk of eviction
- More than 78% of African American Minnesotans have slight or no confidence they can pay rent next month

**In Minnesota, as across the country, transgender people are at high risk of physical and mental health harms, and even death, due to lack of housing.** According to the 2015 [US Transgender Survey](#), nearly one-third of transgender and gender non-binary people experience homelessness at some point in their life; about one-half of transgender and non-binary people who identify as Black, Middle Eastern, Multiracial, or undocumented experienced homelessness at some point in their life. These shocking statistics should drive public policy to ensure transgender people receive equitable health and housing protections, not the opposite. For the federal government to intentionally expose vulnerable community members to serious harm is an abdication of government's duty to protect the health and safety of our country's residents.

### **Minnesota values strengthening protections for transgender community members, not weakening them**

For over twenty years, the City of Minneapolis and the State of Minnesota have explicitly protected the rights of transgender and gender-nonconforming residents to be free from discrimination by prohibiting discrimination based on gender-identity, through provisions in the Minnesota Human Rights Act and the Minneapolis Civil Rights Act.

In *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020), the Supreme Court interpreted Title VII's prohibitions of discrimination based on sex as prohibiting discrimination against transgender individuals. HUD's proposed rule, allowing and even promoting discrimination by shelters based on gender identify violates Minnesota public policy prohibiting discrimination based on gender identify and flies in the face of the Supreme Court's common sense interpretation of discrimination on the basis of sex in *Bostock*.

### **Conclusion**

MHP opposes this proposed rule and urges HUD to withdraw it in its entirety.

Sincerely,



Elizabeth Glidden  
Director of Strategic Initiatives and Policy