LCR | LAWYERS FOR CIVIL RIGHTS BOSTON

December 19, 2025

The Honorable Michelle Wu
Mayor of Boston
1 City Hall Square, Suite 550
Boston, Massachusetts 02201-2043

Adam Cederbaum, Esq.
Corporation Counsel
City of Boston Law Department
City Hall, Room 615
Boston, MA 02201

Re: Boston's Fair Housing Obligations

Dear Mayor Wu and Attorney Cederbaum:

Lawyers for Civil Rights (LCR) writes in urgent response to the U.S. Department of Housing and Urban Development's (HUD) December 11, 2025 letter to the City of Boston, which purports to initiate a "Secretary-Initiated Fair Housing Investigation."[1] In the letter, HUD perversely alleges that Boston's efforts to overcome the City's enduring legacy of racial inequality violate the Fair Housing Act, framing these initiatives as a so-called "fair housing" concern.[2] HUD cites Boston public statements, initiatives, and programs that target housing opportunities to individuals or communities of color, distorting them as purported evidence of the City's "racialist ambitions."[3]

As set forth below, the City's efforts do not—and cannot—violate the Fair Housing Act because they are *required* by the Fair Housing Act. Boston must do more, not less, to address deep-rooted housing inequality and harmful segregation for communities of color. As an organization with a long history of enforcing the Fair Housing Act and vindicating the rights of people of color who face discrimination and exclusion in housing, Lawyers for Civil Rights cautions the City against rolling back or limiting its ongoing efforts. Doing so would violate the fair housing rights of Boston residents of color and expose the City to significant legal liability. LCR has already heard from residents and community groups concerned that the City may re-prioritize or divert its efforts to appease HUD's unhinged view. LCR will closely monitor the

[1] https://www.hud.gov/sites/default/files/Main/documents/Letter-FHEO-Fair-Housing-Act-Investigation.pdf.
[2] *Id.*
[3] *Id.*

City's response to ensure adherence to well-established law and to guard against capitulation to HUD's abominable interpretation of the Fair Housing Act.

I. The Fair Housing Act's History and Legal Mandate

The Fair Housing Act's mandate cannot be divorced from its history. Congress enacted the Act in response to findings of housing inequalities specifically for Black and other non-white communities, and of segregation leading to separate and unequal conditions for communities of color.[4] As courts have long recognized, the Fair Housing Act thus has an "explicit focus" on those individuals and communities "who have traditionally been victims of discrimination in housing."[5]

To that end, and in recognition of the work necessary to overcome deeply entrenched—and government-driven—housing inequality and racial segregation, Congress included a provision in the Fair Housing Act requiring HUD and its grantees, like Boston, to "affirmatively" further fair housing.[6] This provision "impose[s] an obligation to do more than simply not discriminate,"[7] it requires "steps to promote fair housing (an affirmative obligation)."[8] Indeed, LCR[9] successfully sued HUD for violating this obligation when it *failed to require* Boston to build more affordable integrated public housing to address a housing emergency that disproportionately impacted black families.[10]

As summarized by the federal court in Boston: "It could not be clearer from the statute, the legislative history, and the caselaw construing it that [the affirmatively furthering fair housing] provision was intended to benefit … people in desperate need of access to fair housing, minorities and the poor."[11]

II. The City of Boston's Fair Housing Obligations

The City of Boston is bound by the Fair Housing Act's prohibition on housing discrimination, and as a HUD grantee, it carries the same obligation to affirmatively further fair housing.[12] Boston

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[4] *See Texas Dep't of Hous. & Cmty. Affs. v. Inclusive Communities Project, Inc.*, 576 U.S. 519, 529, 135 S. Ct. 2507, 2516, 192 L. Ed. 2d 514 (2015) (The Commission found that "nearly two-thirds of all nonwhite families living in the central cities today live in neighborhoods marked by substandard housing and general urban blight." And that both open and covert racial discrimination prevented black families from obtaining better housing and moving to integrated communities. The Commission concluded that "our Nation is moving toward two societies, one black, one white—separate and unequal.") (citation modified).

[5] *Wallace v. Chicago Hous. Auth.*, 298 F. Supp. 2d 710, 719 (N.D. Ill. 2003), *on reconsideration in part*, 321 F. Supp. 2d 968 (N.D. Ill. 2004).

[6] *See N.A.A.C.P. v. Sec'y of Hous. & Urb. Dev.*, 817 F.2d 149, 154 (1st Cir. 1987).

[7] *Id.*

[8] *Langlois v. Abington Hous. Auth.*, 234 F. Supp. 2d 33, 72 (D. Mass. 2002).

[9] LCR was then named The Boston Lawyers' Committee for Civil Rights Under Law.

[10] *N.A.A.C.P., Bos. Chapter v. Kemp*, 721 F. Supp. 361, 365 (D. Mass. 1989).

[11] *Langlois*, 234 F. Supp. 2d at 72.

[12] *See, e.g.*, *Langlois*, 234 F. Supp. 2d at 73 (D. Mass. 2002) ("When viewed in the larger context of Title VIII, the legislative history, and the case law, there is no way—at least, none that makes sense—to construe the boundary of the

rightly recognizes how its legacy of pervasive racial discrimination in housing against Black and Latino communities through "redlining, blockbusting, racial covenants, and discriminatory lending practices" continues to foster "major disparities" in access to homeownership for residents of color and racial segregation across the region.[13] Black and Latino residents are more rent-burdened, more likely to be evicted, and more likely to experience homelessness.[14] Boston has also not done enough to ensure sufficient affordable housing opportunities for families of color.[15] As the Boston Globe highlighted in an article titled *A Brand New Boston, Even Whiter Than the Old*,[16] Boston's legacy of racism endures, as exemplified by the recent botched development of the Seaport:

> Imagine a fresh start — a chance for Boston to build a new urban neighborhood of the future, untouched by the bigotry of the past.
> …
> And what happened? One of the city's whitest neighborhoods was born.
> …
> How white? This white: Lenders have issued only three residential mortgages to black buyers in the Seaport's main census tracts, out of 660 in the past decade. The population is 3 percent black and 89 percent white with a median household income of nearly $133,000, the highest of any Boston ZIP code, according to recent US census estimates.

Because housing inequality for communities of color in Boston "continues to widen"[17] and harmful racial segregation is still endemic,[18] the City is required to target resources and take affirmative action to overcome this inequality specifically for those communities. Indeed, these enduring disparities are evidence that Boston needs to be doing more to provide housing opportunities for communities of color than the efforts cited in HUD's letter. Any backtracking of

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duty to affirmatively further fair housing as ending with the Secretary [of HUD]."); *Wallace*, 298 F. Supp. 2d at 719; *Anderson v. Jackson*, No. CIV.A.06 3298, 2007 WL 458232, at *4 (E.D. La. Feb. 6, 2007).

[13] City of Boston, *Boston Housing Strategy 2025*, 22 (December 2023), https://content.boston.gov/sites/default/files/file/2024/02/Final_Boston%20Housing%20Strategy%202025%20(2)_0.pdf.

[14] *Id.* at 9 and 17; Mayor Michelle Wu, *City of Boston Assessment of Fair Housing*, 77 (January 22, 2022), https://www.boston.gov/sites/default/files/file/2024/04/City-of-Boston-Assessment-of-Fair-Housing-2023.pdf.

[15] *See, e.g.*, Katherine Levine Einstein and Maxwell Palmer, *2022 Greater Boston Housing Report Card: Who Can Win the Lottery? Moving Toward Equity in Subsidized Housing*, 71, https://www.tbf.org/-/media/tbf/reports-and-covers/2022/october/gbhrc2022_interactive_web.pdf (Black and Latino families are "particularly affected by an insufficient supply of subsidized housing.").

[16] Andrew Ryan, *A Brand New Boston, Even Whiter Than the Old*, Boston Globe (Dec. 11, 2017), https://apps.bostonglobe.com/spotlight/boston-racism-image-reality/series/seaport/.

[17] The Boston Foundation, *2024 Greater Boston Housing Report Card*, 6, https://www.tbf.org/-/media/tbf/reports-and-covers/2024/gbhrc-2024/2024gbhrc-digital-sm.pdf.

[18] *See, e.g.*, *City of Boston Assessment of Fair Housing*, *supra* note 14 at 4, 6, 9 (detailing Boston's continuing legacy of segregation and discrimination and noting that Boston remains one of the most residentially segregated large metropolitan regions in the country); University of California, Berkeley: Othering & Belonging Instit., *The Roots of Structural Racism Project: Most to Least Segregated Cities*, https://belonging.berkeley.edu/most-least-segregated-cities (Boston is a "high segregation" city, ranked as a top 20 most segregated city in the country).

its existing efforts would therefore expose the City to significant risk of legal liability, including under Fair Housing Act and M.G.L. c. 151B.

III. Boston's Legal Risks

The Supreme Court has recognized that Congress intended for a "broad and inclusive" interpretation of the Fair Housing Act.[19] To that end, the Fair Housing Act prohibits both intentional discrimination and facially neutral practices that have a disparate impact on individuals and communities of color.[20] Decisions to limit housing opportunities where race played just "some role" can constitute intentional discrimination,[21] as can decisions "effectuating" the discriminatory desires of others, including by succumbing to political pressure.[22]

Boston has explained how the strategies and policies cited in HUD's letter further the Fair Housing Act's goals by attempting to reduce disparities in housing opportunity for residents of color and racial segregation.[23] Any decision to succumb to HUD pressure and effectuate its perverse interpretation of the Act would therefore amount to a deliberate, race-based deprivation of necessary housing opportunities for individuals and communities of color—an intentional violation of the Fair Housing Act.[24]

Similarly, because Boston's targeted policies are aimed at remedying existing racial disparities for individuals and communities of color, any rollback or redirecting of efforts away from these communities would have a predictably discriminatory effect of exacerbating or perpetuating those disparities, which also violates the Fair Housing Act.[25]

Finally, Boston's decision to weaken or withdraw policies that affirmatively further fair housing would in turn prevent Boston from complying with this Fair Housing Act obligation,[26] leaving the City vulnerable to litigation from individuals impacted by this failure.[27]

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[19] *Trafficante v. Metropolitan Life Ins. Co.*, 409 U.S. 205, 209, 93 S.Ct. 364, 34 L.Ed.2d 415 (1972).
[20] *.nclusive Communities*, 576 U.S. at 545–46.
[21] *Hallmark Devs., Inc. v. Fulton Cnty., Ga.*, 466 F.3d 1276, 1283 (11th Cir. 2006).
[22] *Id.*
[23] *See, e.g.*, *Boston Housing Strategy 2025*, *supra* note 13, and *City of Boston Assessment of Fair Housing*, *supra* note 14.
[24] *See, e.g.*, *Hallmark*, 466 F.3d at 1283.
[25] *Macone v. Town of Wakefield*, 277 F.3d 1, 8 (1st Cir. 2002); *Louis v. Saferent Sols., LLC*, 685 F. Supp. 3d 19, 37 (D. Mass. 2023) ("A plaintiff can make out a claim for disparate impact by showing that a defendant's actions actually or predictably result in racial discrimination." (quoting *Barrow v. Barrow*, No. CV 16-11493-FDS, 2017 WL 2872820, at *3 (D. Mass. Jul. 5, 2017))).
[26] Boston should also consider its legal risk under the False Claims Act for potential false certifications stemming from any such decisions. *See, e.g.*, *U.S. ex rel. Anti-Discrimination Ctr. of Metro New York, Inc. v. Westchester Cnty., New York*, 495 F. Supp. 2d 375, 377 (S.D.N.Y. 2007).
[27] *See, e.g.*, *Langlois.*, 234 F. Supp. 2d at 37 (allowing local residents to sue HUD grantee housing authority for violating its affirmatively furthering fair housing obligation when it failed to target housing opportunities to minority and low-income families); *Wallace*, 298 F. Supp. 2d at 719; *Anderson*, No. CIV.A.06 3298, 2007 WL 458232, at *4.

Boston's risk of liability under the Fair Housing Act applies in equal force to Massachusetts' anti-discrimination law, M.G.L. c. 151B. The Supreme Judicial Court has discussed the harmony between the two statutes: their purposeful enaction, broad construction, and similar prohibitions.[28] M.G.L. c. 151B. adopted the Fair Housing Act's analytical framework for disparate impact claims, thus these claims under both statutes "rise or fall together."[29]

IV. Conclusion

While we appreciate Boston's statement that it will "never abandon" its commitment to fair and affordable housing,[30] this commitment requires the City to take even more urgent and deliberate efforts. Over half a century ago, Congress decided to remedy our shameful history of racial discrimination against individuals and communities of color through the Fair Housing Act. The City's commitment is therefore not just aspirational, it is mandatory. Lawyers for Civil Rights unequivocally rebukes HUD's investigation and encourages Boston to further its important—and legally required—work to reduce housing inequality and racial segregation in the City.

Respectfully,

Jillian Lenson, Esq.
Lawyers for Civil Rights

[28] *See Burbank Apartments Tenant Ass'n v. Kargman*, 474 Mass. 107, 125, 48 N.E.3d 394, 409–10 (2016).
[29] *Louis*, 685 F. Supp. at 37 (D. Mass. 2023).
[30] Niki Griswold, Andrew Brinker, and Emma Platoff, *Trump administration says it will investigate Boston's housing policies for anti-white bias*, The Boston Globe (Dec. 12, 2025 at 9:29 a.m.), https://www.bostonglobe.com/2025/12/12/metro/trump-target-boston-housing/.