

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

OPEN COMMUNITIES ALLIANCE,  
*et al.*,

*Plaintiffs,*

v.

BENJAMIN S. CARSON, SR., Secretary,  
of Housing and Urban Development, in his  
official capacity, *et al.*,

*Defendants.*

Case 1:17-cv-02192-BAH

**STIPULATED JUDGMENT AND ORDER**

WHEREAS on October 23, 2017, Plaintiffs Open Communities Alliance, Crystal Carter, and Tiara Moore filed this action against Defendants the Secretary of Housing and Urban Development and the Department of Housing and Urban Development (“HUD”), challenging HUD’s August 10, 2017, suspension of Small Area Fair Market Rent (“Small Area FMR”) designations in twenty-three metropolitan areas;

WHEREAS on November 8, 2017, Plaintiffs filed a motion for a preliminary injunction to enjoin HUD to rescind its August 2017 notices of suspension of the Small Area FMR designations and to take all other necessary steps to timely implement the Small Area FMR Rule;

WHEREAS Defendants opposed Plaintiffs’ motion for a preliminary injunction on December 1, 2017, and the Court held oral argument on the motion on December 19, 2017;

WHEREAS on December 23, 2017, the Court granted Plaintiffs’ motion for a preliminary injunction and ordered:

that the Memorandum, entitled *Suspension of Small Area Fair Market Rent (FMR) Designations* (Aug. 10, 2017), by which the defendants Ben. S. Carson, Sr., Secretary of Housing and Urban Development, in his official capacity, and U.S. Department of

Housing and Urban Development delayed by two years the effective date of the final rule *Establishing a More Effective Fair Market Rent System; Using Small Area Fair Market Rents in the Housing Choice Voucher Program Instead of the Current 50th Percentile FMRs*, 81 Fed. Reg. 80,567 (Nov. 16, 2016), is held unlawful and set aside as arbitrary, capricious or otherwise not in accordance with law and as without observance of procedure required by law. *See* 5 U.S.C. § 706(1)–(2)(A), (D);

WHEREAS Defendants have set aside the August 10, 2017, memorandum entitled *Suspension of Small Area Fair Market Rent (FMR) Designations*; and

WHEREAS HUD is currently in the process of implementing the Small Area FMR program on an expedited basis and has communicated to the affected Public Housing Agencies (“PHAs”) and their industry groups to immediately begin implementation;

THEREFORE the parties hereby stipulate and agree as follows:

1. The memorandum entitled *Suspension of Small Area Fair Market Rent (FMR) Designations* (Aug. 10, 2017), by which the defendants Ben. S. Carson, Sr., Secretary of Housing and Urban Development, in his official capacity, and U.S. Department of Housing and Urban Development delayed by two years the effective date of the final rule *Establishing a More Effective Fair Market Rent System; Using Small Area Fair Market Rents in the Housing Choice Voucher Program Instead of the Current 50th Percentile FMRs*, 81 Fed. Reg. 80,567 (Nov. 16, 2016), is permanently set aside.
2. This Court enters judgment in favor of Plaintiffs.
3. Plaintiffs shall submit a motion for attorney’s fees and costs in accordance with Rule 54(d) by March 15, 2018.

Respectfully submitted,

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It is **SO ORDERED**.

Dated: February 16, 2018

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The Honorable Beryl A. Howell  
Chief Judge