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USCCB urges no change in federal housing rules

by Nancy Frazier O'Brien by Catholic News Service

WASHINGTON -- Proposed changes in federal housing regulations to forbid discrimination based on "sexual orientation" or "gender identity" could violate existing federal law and force faith-based organizations to end their "long and successful track record in meeting housing needs," according to comments filed by the U.S. Conference of Catholic Bishops.

Anthony R. Picarello Jr. and Michael F. Moses, USCCB general counsel and associate general counsel, respectively, said the proposal by the U.S. Department of Housing and Urban Development to add to the list of protected categories for which discrimination in HUD programs is prohibited "appears at odds" with the federal Defense of Marriage Act, which says marriage is the union of one man and one woman.

"HUD should not create a new protected classification where there is no statutory policy undergirding it and where the new classification flies in the face of a policy expressly adopted by Congress," they said.

The two attorneys filed the comments on behalf of the USCCB late March 25, the final day of a 60-day comment period on the proposed changes.

When HUD first proposed the addition of the two new protected categories Jan. 20, HUD Secretary Shaun Donovan called it "a fundamental issue of fairness" and said the agency's aim was to clarify that "a person's eligibility for federal housing programs is, and should be, based on their need and not on their sexual orientation or gender identity."

The proposed rule would clarify that the term "family," as used to describe eligible beneficiaries of public housing and Housing Choice Voucher programs, would apply to any combination of adults and children regardless of marital status, sexual orientation or gender. HUD rules already prohibit discrimination based on marital status.

Picarello and Moses noted in their comments that faith-based organizations "fulfill a vital role as partners in implementing HUD and other government housing programs."

Last year, for example, Catholic Charities agencies assisted nearly half a million people with housing services, and in 2007 they sponsored or were affiliated with programs that provided housing or housing-related services to 662,954 clients, according to a study by the Center for Applied Research in the Apostolate.

Catholic Charities housing programs were "especially likely to have served ... persons with HIV/AIDS," the CARA study said. That suggests "that not only does the church not decline services to, but actively serves, a client base that includes large numbers of homosexual clients," the attorneys said.

Catholic dioceses and religious orders also are actively involved in housing programs, the USCCB comments noted.

"It is especially imperative, given their large role in meeting the housing needs of the poor, elderly, disabled and others, that such faith-based and other organizations not be required, as a condition of participating in such programs, to compromise or violate their religious beliefs," Picarello and Moses said.

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"To continue to participate in these programs, these organizations must retain the freedom they have always had, when meeting housing needs, to avoid placements for shared housing that would violate their religious beliefs," they added.

The attorneys stressed that "we are not suggesting that any person should be denied housing."

"But neither should a recipient or sub-recipient of HUD funds be required to facilitate cohabitation between unmarried persons, be in it an unmarried heterosexual couple or a homosexual couple, or facilitate shared sleeping areas or bathrooms, especially when the requirement is (a) divorced from any command of Congress, (b) reflects a policy that is opposite the one adopted by Congress, and (c) stands to affirmatively violate the recipient's or sub-recipient's religious beliefs," they said.

In addition to the proposed rule change, HUD is conducting a national study about housing discrimination against gay, lesbian, bisexual and transgendered Americans. The agency conducts a study every 10 years about housing discrimination on the basis of race or color.

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