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THE INCLUSIVE HOME DESIGN ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON
HOUSING AND COMMUNITY OPPORTUNITY

OF THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

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THE INCLUSIVE HOME DESIGN ACT

Wednesday, September 29, 2010

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HOUSING AND
COMMUNITY OPPORTUNITY,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 4:12 p.m., in room 2128, Rayburn House Office Building, Hon. Maxine Waters [chairwoman of the subcommittee] presiding.

Members present: Representatives Waters and Capito.

Also present: Representative Schakowsky.

Chairwoman WATERS. This hearing of the Subcommittee on Housing and Community Opportunity will come to order.

Good morning, ladies and gentlemen. I would like to thank the ranking member and the other members of the Subcommittee on Housing and Community Opportunity for joining me today for this hearing on the Inclusive Home Design Act, which was introduced last year, and has consistently been introduced since the 107th Congress, by my colleague, Congresswoman Jan Schakowsky of Illinois.

Congresswoman Schakowsky played a critical role in the comprehensive health care reform we achieved this Congress, and has been a consistent advocate and ally of the interests of women and our Nation's seniors. And I am pleased to hold this hearing for legislation she has authored.

As the witnesses here today will attest to, we have a growing population of individuals in this Nation who have a disability, or who may acquire a disability as they age. Currently, as one of our witnesses will mention, about 32 percent of all households in the United States include at least one person with a disability. That's about 35 million households. And, as the Baby Boomer generation ages, the population of individuals with disabilities is only expected to increase.

Additionally, we have an increasingly large number of wounded veterans searching for accessible housing as our soldiers return from wars in Iraq and Afghanistan.

So these demographic questions raise important public policy questions. What can we do to increase the housing options available to individuals with disabilities? As a Nation, we have already taken some steps to address accessibility for people with disabilities. Section 504 of the 1973 Rehabilitation Act requires public housing authorities and nonprofit developers to comply with certain accessibility standards, while the Fair Housing Act requires multi-

family properties to meet certain specifications. And the Americans with Disabilities Act requires accessibility in commercial and public spaces.

Congresswoman Schakowsky's bill is a forward-looking next step which considers how we can increase the supply of accessible single-family homes by requiring new construction to comply with certain accessibility standards. By increasing this supply of accessible housing, we can allow more seniors to age in place, provide greater housing choices for individuals with disabilities, and allow people with disabilities to more easily visit friends and family.

I am very interested to learn more about the localities that have already implemented measures similar to those included in the Inclusive Home Design Act, and what the impact of those local laws and regulations have been on individuals with disabilities, and on the local real estate and home construction markets.

I would now like to recognize our subcommittee's ranking member to make an opening statement.

Mrs. CAPITO. Thank you, Madam Chairwoman. Thank you for having the hearing here today. I would like to thank the witnesses who are going to be testifying, and our colleague, Congresswoman Jan Schakowsky, on H.R. 1408, the Inclusive Home Design Act, which, as we have heard, aims to make federally-funded single-family homes more accessible to persons with disabilities.

There is no doubt that we should do everything that we can to ensure equal access and mobility to persons with disabilities. And this legislation hopes to address that laudable goal. However, I do hope that, in the course of this discussion, that our witnesses here today, and perhaps the sponsor, would be able to address several of the concerns that have been raised and brought to my attention.

For example, this legislation sets up new building specifications for Federal housing programs that may be different from other building codes financed in the conventional market. Could this create confusion? And could this add additional cost to the price of a single-family home? I think that's a good question to ask.

Also, some of the enforcement and compliance provisions in the Act are unclear, and may present an additional burden on State and local governments. For instance, how will modifications to homes previously deemed compliant be handled? And how do you envision that States will monitor and finance compliance oversight and enforcement of newly-built and existing homes?

Finally, I look forward to hearing from the witnesses regarding the liability provisions included in the bill. Some folks have raised concerns that they are vague and open-ended and could expose homeowners to significant legal liabilities which could add, again, considerable cost to the building of new homes or renovating existing homes.

But again, I would like to emphasize that the goal of accessibility for either the aged or folks with disabilities or anyone who has a challenge in their lifestyle, where they cannot—where accessibility is an issue when they are looking for a place to live, is something that I think we should look for. We have so much technology and knowledge on how to create and assure accessibility to buildings and rooms and interior doors and bathrooms and all of these

things, that we ought to use what we know and put it to good use for the future buildings.

So I thank the Congresswoman, and I thank the chairwoman.

Chairwoman WATERS. Thank you very much.

I am pleased to welcome our first distinguished panel. Our first witness will be the Honorable Jan Schakowsky, Councilwoman [sic] from the Ninth District of the State of Illinois. Thank you for appearing before the subcommittee today. And, without objection, your written statement will be made a part of the record. You will now be recognized for 5 minutes.

STATEMENT OF THE HONORABLE JANICE D. SCHAKOWSKY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Ms. SCHAKOWSKY. Thank you, Madam Chairwoman and Ranking Member Capito. I could tell by your opening statements that you understand what this issue is, but let me talk a little bit about the Inclusive Home Design Act of 2009.

I want to thank all of the witnesses who are here today, with a special shout-out to Alberto Barrera of Access Living in Chicago, whom I have known and worked with for a long time.

The Inclusive Home Design Act is a forward-looking and commonsense initiative that would make more new homes accessible for people with disabilities. In addition to benefitting individuals with existing disabilities, including disabled veterans, it will also help to accommodate our increasingly older population by allowing seniors to age in place.

The bill's requirements are simple. The Inclusive Home Design Act would require that, when practical, all newly-built single-family homes receiving Federal funds would have to meet four specific accessibility standards: first, the home would have at least one accessible entrance into the home, zero step; second, the doorways on the main level of the home must be wide enough to accommodate a wheelchair; third, electrical and climate controls—light switches, thermostats—must be placed at a reachable height from a wheelchair; and finally, the main floor must have at least one wheelchair-accessible bathroom.

The cost of adopting those standards for a single-family home is nominal, especially when compared to the cost of retrofitting later. The average cost added for homes built with accessibility features is between $100 and $600. Retrofitting a home, on the other hand, can cost many thousands of dollars.

Homes with these basic features are for everyone. For individuals who have a long-term disability, it expands the number of homes they can buy or rent. We have worked closely with the Paralyzed Veterans of America in developing this legislation, and they are supportive of the bill for our wounded warriors.

Many of us will face some short-term disability during our lifetime. Being able to heal in your home, rather than in a hospital or rehab bed, is both good for the healing process and reduces the cost of a hospital stay. It's good for individuals who have friends or family members with disabilities who come by for a visit.

Finally, there is the advantage of being able to—I want to expand on the issue of being able to age in place. In 2000, there were

30.5 million people between 65 and 84 years old, and that number will grow to 47 million by 2020. Nearly 3 in 5 seniors over the age of 80 suffer from some kind of physical impairment. And often, the prohibitive cost of making existing homes accessible deprives seniors of their independence, pushing them into nursing homes.

The cost of nursing home care is expensive, and a large proportion is paid for with public dollars under Medicare and Medicaid. The national median rate for a year in an assisted living facility is $38,000, where nursing homes can cost up to $75,000 a year. We could save a lot of money if individuals could continue to live in their homes with supportive services.

But incredibly, entire developments are being built and marketed as senior communities, thousands of homes that people are going to have to leave as they age, because they don't include basic accessible features in their homes. Allowing more people to age at home will save taxpayers and help improve the quality of life for our seniors.

This issue is—this idea is doable, because it has been done before. For almost 2 decades, and all over the country since 1992, more than 40 cities and local communities have implemented either mandatory or voluntary ordinances for including basic accessibility features in newly-constructed single-family homes: Bolingbrook, Illinois; Atlanta, Georgia; Iowa City, Iowa; St. Petersburg, Florida; Pima County, Arizona; Vermont; Texas; Kansas; and Minnesota. From north to south, east to west, communities have had great success in building inclusive homes.

Pima County, Arizona, passed an ordinance in 2002, thanks to our colleague, Representative Raul Grijalva, and in the last 8 years, more than 21,000 homes have been built. I want to quote from the Pima County chief building official. The county ordinance was "at first resisted by builders, based on the fact that it would require costly changes to conventional design and construction practices. But it became evident that with the appropriate planning, the construction could result in no additional cost. Indeed, the jurisdiction no longer receives builder complaints regarding the ordinance, and the ordinance has been so well incorporated into the building of safety plan review and inspection processes, that there is no additional cost to the county to enforce its requirements."

There really is no magic to some of these rules, just habit. An accessible home is just as attractive to any buyer or renter. Door widths or placement of light switches are arbitrary decisions, often unnoticeable. But the wrong decision can make your home unlivable.

And so I would hope, as the economy continues to recover and home building starts to pick up, that the homes that are built should be ones that anyone can live in, and anyone can visit.

Thank you.

[The prepared statement of Representative Schakowsky can be found on page 20 of the appendix.]

Chairwoman WATERS. Thank you very much, Congresswoman Schakowsky. Someone told me that I misspoke and called you "Councilwoman."

Ms. SCHAKOWSKY. Oh.

Chairwoman WATERS. Thank you very much. I would now like to ask unanimous consent that you be considered a member of the subcommittee for the duration of the hearing. And would you like to join us on the dais?

Ms. SCHAKOWSKY. I would. I am wondering if I could just deal with one issue that Representative Capito raised.

Chairwoman WATERS. Certainly.

Ms. SCHAKOWSKY. And that is the—actually, the two issues. I hope I have answered some of the cost of the homes. But the issues of enforcement and liability, I think that the language, in fact, in the bill can be made clearer, less vague, and I would really appreciate the opportunity to work with the committee to address those questions so that we can get agreement on those.

Chairwoman WATERS. Thank you. We will be happy to do that.

Ms. SCHAKOWSKY. Thank you.

Chairwoman WATERS. I would now like to introduce witness panel two. I am pleased to welcome our distinguished second panel. Our first witness will be Ms. Eleanor Smith, director, Concrete Change.

Our second witness will be Mr. Alberto Barrera, manager of community development, Access Living of Metropolitan Chicago.

Our third witness will be Mr. Kelly Buckland, executive director, National Council on Independent Living.

Our fourth witness will be Dr. Janet Smith, associate professor, and co-director of the Nathalie P. Voorhees Center for Neighborhood and Community Improvement, University of Illinois at Chicago.

Without objection, your written statements will be made a part of the record. You will now be recognized for a 5-minute summary of your testimony.

STATEMENT OF ELEANOR A. SMITH, DIRECTOR, CONCRETE CHANGE

Ms. ELEANOR SMITH. Good afternoon. I am very glad to have the opportunity to address you all. My name is Eleanor Smith, and I am the director of Concrete Change, a nonprofit based in Atlanta which I helped found in 1987. The mission is working to make basic access the norm in new houses, whether or not the first resident has a disability.

As a small child in the 1940's, I had a severe case of polio, and I faced a forbidding world of no curb cuts, no access to public buildings, and only a handful of universities with access. When I became the age where I could go out in the world on my own, only with great difficulty could I find an apartment to live in. For instance, I lived in a house for 6 months where the narrow bathroom door forced me to crawl on the floor each time that I used the bathroom.

As an adult, I saw various laws enacted that greatly increased access to government buildings. And in 1991, Federal requirements were added for new residential buildings. However, detached single-family houses and townhouses remain the housing type that has no widespread Federal law covering it. And as a result, the great majority of those houses are built new with basic barriers such as steps at all entrances and narrow bathroom doors.

The number of houses that need access is very often greatly underestimated. Estimators often count only wheelchair users when, in fact, great numbers of people who use walkers or have poor balance or stiffness or weakness also cannot negotiate a step. In fact, research has shown that a very high percentage of all new houses will at some point during the lifetime of the house have a resident with a severe long-term mobility impairment. And it is impossible to predict in which households a person will develop a disability.

The Inclusive Home Design Act properly prioritizes those few features that have the most and harshest impact on people's lives. Steps at all entrances and narrow bathroom doors cause very intense problems. The people who cannot afford to retrofit live in danger and isolation. They often cannot exit the house independently in case of fire, or enter their own bathroom. Increased falls, as people struggle with steps. Increased bladder and kidney problems of people who reduce their water intake chronically year after year, because of difficulty of fitting through their bathroom door. Decreased health of caretakers who have to lift their loved one frequently because of steps and carry bedpans more often because of lack of bathroom access. And isolation and depression that develops when you cannot visit most of your friends and neighbors because of the major barriers in their houses.

The architectural features of the Act have already been proven inexpensive and not difficult to incorporate in the great majority of situations. More than 40,000 existing houses on the open market have been built over the last 20 years in Arizona, Texas, Illinois, Georgia, Ohio, and other States.

When these ordinances and policies were first proposed, they were often labeled impractical, including by some building professionals. But they have proven practical. These houses run the gamut from very affordable to high-end. They include houses built on concrete slabs and houses built over basements, on very hilly terrain as well as level terrain, climates and soils ranging from Arizona to northern Illinois.

Although these ordinances and policies have been producing houses from between 4 and 20 years, none has been rescinded. This seems to me to attest to the practicality of the access features and the inspection enforcement procedures that have been used to bring them about.

While the cost of—Representative Schakowsky named the low cost that these builders, experienced builders, have named, much lower than costs named by builders who have not yet become experienced—building basic access in new homes has been demonstrated to be low, the cost of continuing to build with barriers is very high. Renovating existing homes to remove barriers costs exponentially more than creating basic access at the time of construction. State and local funds for these renovations continue to run out early on in the fiscal year, and some of those funds are not available to renters, leaving renters particularly vulnerable to living in dangerous homes.

Even more costly—again, as Representative Schakowsky mentioned—is the cost of nursing home care, because the features that are in the bill are the very ones needed to come home from the hospital.

[The prepared statement of Ms. Eleanor Smith can be found on page 35 of the appendix.]

Chairwoman WATERS. Thank you very much.

Mr. Alberto Barrera?

Ms. ELEANOR SMITH. You're welcome.

Chairwoman WATERS. Thank you.

Mr. BARRERA. Hi, good afternoon.

Chairwoman WATERS. Good afternoon.

STATEMENT OF ALBERTO BARRERA, MANAGER, COMMUNITY DEVELOPMENT, ACCESS LIVING OF METROPOLITAN CHICAGO

Mr. BARRERA. I would like to thank Congresswoman Jan Schakowsky and the members of the Subcommittee on Housing and Community Opportunity for allowing me to testify today on an issue that is at the heart of all the advocacy work that I do.

My name is Alberto Barrera. For the past 20 years at Access Living, I have been personally involved in advocating for housing in publicly-assisted housing. Access Living is the only center for independent living serving the 600,000 people with disabilities in metropolitan Chicago. For the last 30 years, we have dedicated ourselves to the self-determination and independence of people with all types of disabilities.

Our work affects people with disabilities not only in Chicago, but throughout the country. We have fought and continue to fight to increase access to public transportation, public education, employment, health care, and housing. Above all, we look to find ways to liberate our people from systemic segregation and warehousing. Housing is the key to our freedom.

Publicly-assisted housing is the main source of housing for people with disabilities earning SSI and SS DI incomes. In most cases, these incomes are at 15 percent or less of the area median income. Access Living receives an average of 4,000 inquiries for accessible affordable housing annually, and an average of 60 individuals with disabilities come to our monthly housing counseling meetings.

The Chicago Housing Authority has reported that in 2009, they received 84 requests from residents with disabilities requesting retrofit modifications for ground floor, no-step entry units. So far this year, the CHA has received 62 such requests. We at Access Living think that the actual demand for accessible housing is much higher.

For the past 10 years, Access Living has been administering an access modification program funded by the CHA. Our modification program assists people with disabilities in CHA's home choice voucher program. What started as a pilot program for $30,000 has now reached $145,000 annually. We assist 60 to 70 very low-income residents with disabilities. Of course, this doesn't begin to address the total need in our community.

Access Living's retrofit fund covers very basic modifications: wider entryways; accessible switches and outlets; ramps; and bathroom modifications such as grab bars. These are some of the basic access features included in the Inclusive Home Design Act. There are other modification programs throughout the country, but we cannot depend on retrofits for basic access. Most have long waiting

lists, and it's not unusual for people to end up in a nursing home or die while waiting for modifications.

This legislation, the Inclusive Home Design Act, has been in development for 20 years or more, and in Congress for 8 years. It came out of a joint effort between grassroots people, Congresswoman Schakowsky, and advocates such as Ms. Eleanor Smith, and many other activists who were deeply concerned with the exclusion of people with disabilities from housing opportunities.

Many national grassroots organizations support the Home Inclusive Design Act, including the national grassroots disability rights organization ADAPT, which has also included this issue in their housing agenda.

This legislation will begin to end the practice of "exclusion by design," which is a form of disability oppression. Simply put, requiring that all newly-constructed publicly-assisted homes contain a no-step entrance and usable space on the ground floor will finally provide real access to options for people with disabilities in our struggles to locate affordable, accessible, and integrated housing.

The Inclusive Home Design Act is the missing link of the Fair Housing Amendments Act of 1988. Its passage will complete the circle of civil rights in publicly-assisted housing, guaranteeing full and equal access for all. The Inclusive Home Design Act is a step forward to end the culture of social isolation currently accepted and practiced in our country.

Chairwoman WATERS. Would you wrap it up, please?

Mr. BARRERA. Sorry. It will provide equal opportunity for very low-income Americans with disabilities to have equal access to all publicly-assisted housing.

We believe that the passage of this bill, and the hoped-for passage of the Choice Community Act, will provide the structure needed to honor the spirit of the Americans with Disabilities Act, the ADA, the spirit that says that every American with a disability has a right to full access to society.

[The prepared statement of Mr. Barrera can be found on page 23 of the appendix.]

Chairwoman WATERS. Thank you very much.

Mr. BARRERA. Thank you, again.

Chairwoman WATERS. Thank you.

Our third witness will be Mr. Kelly Buckland.

STATEMENT OF KELLY BUCKLAND, EXECUTIVE DIRECTOR, NATIONAL COUNCIL ON INDEPENDENT LIVING (NCIL)

Mr. BUCKLAND. Madam Chairwoman, Ranking Member Capito, and distinguished members of the committee, good afternoon and thank you for the opportunity to speak on behalf of the National Council on Independent Living.

NCIL is the longest-running national cross-disability grassroots organization run by and for people with disabilities.

Founded in 1982, NCIL represents thousands of organizations and individuals, including centers for independent living, statewide independent living councils, individuals with disabilities, and other organizations that advocate for the human and civil rights of people with disabilities throughout the United States.

Since its establishment, NCIL has carried out its mission by assisting members—centers for independent living in building their capacity to promote social change, eliminate disability-based discrimination, and create opportunities for people with disabilities to participate in the legislative process to effect change.

NCIL promotes the national advocacy agenda set by its membership and provides input and testimony on national disability policy.

Since 1979, I have been actively involved in advocating for the rights of people with disabilities. And over the years, I have worked for the protection advocacy system, a center for independent living, and a statewide independent living council, and for other councils that promote the direct service and systemic changes of the independent living movement.

Recently, I moved to the Washington, D.C., area and I spent an entire year looking for a house to purchase that was accessible enough that I could even try to modify it to meet my needs. I then had to spend thousands of dollars making my house accessible. This expense would have been considerably less if the home had already had some basic accessibility features. The Inclusive Home Design Act will require accessibility features for people with disabilities in newly-constructed single-family houses and townhouses that are federally assisted.

Finding accessible housing is a constant, ongoing struggle for people with disabilities in most communities. Despite the impact of legislation mandating accessibility in housing such as section 504 of the Rehabilitation Act and the Fair Housing Amendments Act of 1988, the vast majority of housing available across the country is not accessible. According to the National Low Income Housing Coalition, since 1995, about 360,000 project-based Section 8 units have been lost to conversion to market-rate housing. Annually, another 10,000 to 15,000 units leave. Those housing units are not being replaced at an equivalent rate.

Compliance with the Fair Housing Act accessibility requirements is still erratic, after more than 2 decades. In April, New York Attorney General Cuomo brokered agreements with six large real estate developers over the lack of accessibility in their buildings. And in July, HUD charged a Chicago developer and architect with failure to build accessible units.

Centers for independent living throughout the country consistently grapple with the lack of accessible and affordable housing. One of our biggest challenges is not only finding accessible housing for people living in the community, but finding it for those who want to transition out of an institution. In many communities, the biggest obstacle to people with disabilities living in their communities is the lack of affordable and accessible housing.

Accessible single-family housing will also allow seniors to age in place and allow for families to stay in their homes, should they develop a disability as an adult, or if they have a child with a disability. The cost to renovate an inaccessible home is much higher than if the home was built with accessibility features.

People can also suddenly find themselves needing accessibility improvements due to a disability. Renovations and modifications can range from the simple installation of grab bars to the more extensive addition of ramps, stair glides, the widening of doorways,

and renovations of bathrooms and kitchens. The cost of these renovations can prohibit many people with disabilities and seniors from making the necessary accessible improvements.

NCIL supports the language in the Inclusive Home Design Act that will create accessible housing which is needed in order for people to move out of institutions and back into their communities. Living in the community is essential for people of all ages and all disabilities to be true members of the community.

NCIL is dedicated to ending the institutional bias, not only in health care and housing, but in society's perceptions of the capabilities of people with disabilities.

For example, Mark Chambers was a computer programmer living in a house in San Francisco. He was mugged on a stairway and hit over the head with a rock, resulting in a traumatic brain injury and paralysis. He was moved into the City in a nursing home known as Laguna Honda, and spent over 10 years there. He sued under the Olmstead Decision, asking to be moved into the community. When he was released, the City had to find a unit accessible from outside and spent thousands of dollars to renovate the unit to accommodate Mark's needs. This is an example of a person who lost everything due to disability, except the fight to get back to his community.

Chairwoman WATERS. Could you wrap it up, please?

Mr. BUCKLAND. Madam Chairwoman, the Inclusive Home Design Act is about more than creating accessible homes. People with disabilities who historically have been isolated, at first shut away to institutions and nursing homes, are now isolated in their communities. Because the overwhelming majority of single-family homes and many of the multi-family homes still have steps, people with mobility disabilities not only cannot live where they want to live; they also cannot visit their family, friends, and neighbors.

Thank you, Madam Chairwoman. I look forward to answering any questions.

[The prepared statement of Mr. Buckland can be found on page 27 of the appendix.]

Chairwoman WATERS. Thank you very much. Dr. Janet Smith.

STATEMENT OF JANET L. SMITH, ASSOCIATE PROFESSOR, AND CO-DIRECTOR OF THE NATHALIE P. VOORHEES CENTER FOR NEIGHBORHOOD AND COMMUNITY IMPROVEMENT, UNIVERSITY OF ILLINOIS AT CHICAGO

Ms. JANET SMITH. Thank you, Madam Chairwoman. Good afternoon, members of the committee. Thank you for this opportunity to testify today.

I am an associate professor in urban planning and policy at the University of Illinois at Chicago, and I am co-director of the Nathalie P. Voorhees Center for Neighborhood and Community Improvement, a 32-year-old research center at UIC that assists community organizations and government entities in their efforts to improve the quality of life in the Chicago area and Illinois, and also in communities around the United States.

Most of our research is done in partnership with community organizations such as Access Living, and also policy stakeholders.

Since 1997, I have led several large-scale research projects which are cited in my CV—you can look at that for my record.

Regarding research on accessible housing needs of people with disabilities, I was the principal investigator of a recently completed study for the National Council on Disability entitled, "The State of Housing in America in the 21st Century: A Disability Perspective." Before the NCD report, I completed a study along similar lines on accessible housing and affordable housing for people with disabilities in Illinois.

Affordable, accessible, and appropriate housing is critical and integral to making a community more livable for people with disabilities and, I would argue, for all of us. The Inclusive Home Design Act is an important step toward this end.

Today, I want to summarize some key findings from the National Council on Disability Report, which all representatives should have received last spring. And if you didn't, I brought copies on a thumb drive for you.

Currently, an estimated 35 million households have one or more persons with a disability, which is about one-third of the households in 2007. Nearly 15 million of these households own their own home. Most are between the ages of 65 and 85 years old. But such a high level of ownership among this age group is likely due to the fact that many purchased their homes before acquiring a disability as they aged.

Many people are likely to face challenges if they want to remain independent in a home as they age. National data—for which there is not a lot, but we have some—indicates that hundreds of thousands of people with disabilities need basic home modifications to make their homes accessible.

In my testimony, I give you a lot more data. But just to kind of highlight, we looked at the largest need; it is often for people needing grab bars or hand rails. In 1995, it was estimated to be about 788,000. We know that that number is much higher now.

Similarly, we found that there were a lot—most basic needs were for things that would make a home visitable: that is, needing ramps, elevators, or lifts to get into their unit once in the building, widened doorways, and accessible bathrooms. Again, the numbers that are available are in the testimony itself.

Homeowners have the largest unmet need, because of the fact that homeowners are the largest population when you look at housing and compared to renters. While overall need is greater in urban areas, a larger portion of people in rural areas are likely to be living in single-family homes that are not accessible. That's because more rural folks are in homeowner situations and single-family homes, in particular.

I am not going to go into a lot of data that has already been cited—thank you to Representative Schakowsky—but these numbers are just going to continue to increase, in terms of the need, when we look ahead into the future. Particularly with the aging population—and I would note also with the Baby Boomers who are coming on into the point of wanting to live in more accessible and inclusive communities—we think that—based on the research we did, we think that the Inclusive Home Design Act of 2009 can meet these needs.

Most accessible housing currently in the private sector exists because of Federal laws, many—the ones that Chairwoman Waters mentioned at the start of this committee meeting. That is the Rehabilitation Act of 1973, the Americans with Disabilities Act in limited parts, and the Fair Housing Act. For the most part, though, single-family homes are not covered by these laws at all. Yet single-family homes make up a large part of the U.S. housing stock, which means many homes in the United States are not visitable for a person with a disability.

As we have heard earlier, there is reference to over 40 jurisdictions across the Nation that have adopted either mandatory or voluntary policies. Estimates are—and these are very conservative estimates—that over 30,000 homes have been constructed as a result of those voluntary and mandatory rules.

However, when we start to look at these examples, only a small fraction of all the U.S. jurisdictions—and it's uneven, and it starts to create an uneven housing market for people with disabilities. The Inclusive Home Design Act could change this, since it would target housing built with Federal funds. This includes the largest sources of Federal funding that we're already building housing with, and particularly affordable housing, which is an area that people with disabilities are more likely to be needing assistance with.

So we can look at it through the lens of the Department of Housing and Urban Development's Community Development Block Grant, through the home investment fund. We can also look at it through the largest program, through the USDA that helps with rural housing, the 502 single-family home. Most of that is help with the construction of new housing, new single-family homes in rural areas. And if we added to it the low-income housing tax credit, we could add hundreds of thousands of units very quickly that would be visitable for people with disabilities across the whole United States.

It's important to keep in mind that these Federal programs, however, assist with both new construction and rehabilitation. And one of the things in the Act is focusing on new construction, which is very important and very cost-effective.

However, if there were opportunities, I would encourage looking into the ability to add incentives to encourage retrofitting housing where it's not cost-prohibitive, to actually make those homes as visitable as possible. And again, it would help to distribute and make sure that there is more accessible and visitable housing sooner.

I think I will stop at this point and just say that if there were additional things that you were going to consider that could also help move this forward—because I think one of the things that we're looking at is Federal funding—the National Affordable Housing Trust Fund is funding that needs to be added—oh, I'm sorry—is something that needs to be supported, and that could also include more housing.

[The prepared statement of Ms. Janet Smith can be found on page 40 of the appendix.]

Chairwoman WATERS. Thank you very much.

Ms. JANET SMITH. Sorry about that.

Chairwoman WATERS. I would like to thank you all—

Ms. JANET SMITH. Thank you.

Chairwoman WATERS. —for your testimony. It was tremendously informative. And I certainly have a few questions, and I would like to recognize myself for 5 minutes.

I think it was you, Ms. Eleanor Smith, who talked about retrofitting. And as I began to think about the CDBG program in our cities, I don't recall seeing many of them—or any of them, and maybe I just didn't know where to look; I didn't look—dedicate money for retrofitting for homes for people with disabilities. Do you know much about that? Yes?

Ms. ELEANOR SMITH. It's my understanding, from looking at a lot of the programs that there may be retrofits for people who specifically have a disability now. But in terms of retrofitting other houses that would be easy to retrofit, that would be a wonderful plan. It would be good to distinguish between what is easily retrofitable, and to do that at the time of retrofit, and let the other ones go if they don't have a disabled individual moving in.

So I can't answer that too specifically, except I agree with your observation. It is distressing that—to watch—when Georgia runs out of retrofit money in March for the year of 2009, leaving 290-some people on the list, it is discouraging to go down the street and see approximately 80 new units going up with the very same barriers that people are struggling to remove.

So, I do think it's important to have both strategies. But we will never run out of houses to retrofit, but we do have an opportunity to move forward and not recreate the very same barriers in new houses that we're struggling to get out of old houses.

Chairwoman WATERS. Thank you very much. Let me just ask Mr. Buckland. What do you say to developers who say, "We would like to do it, but it's just too costly. When we're building, it would drive up the cost so much that it would not be affordable to the average person with a disability." What do you say?

Mr. BUCKLAND. Madam Chairwoman, my experience, through doing a lot of public policy work, is that once that stuff gets built into the code, it's no longer any more costly. Once they start building to the code and put those accessibility features in place, it really is no more costly to build a house that is accessible. It's only costly when you have to go back and retrofit them.

So really, you need to design the house to be accessible from the beginning, and it won't add any costs. That would be my response to the builders who say that.

Chairwoman WATERS. Thank you very much. And Ms. Janet Smith, what are the estimates of the unmet need?

Ms. JANET SMITH. There are different ways to look at that. We have different sources of data, and we have pulled from, for example, the 1995 American housing study that was done. Only once have they asked this question very specifically of families, and I would encourage that we look at asking this again. We're starting to include people with disabilities again in the American housing survey of this last year.

But based on that, we find that we have, just specifically looking at people who identified the need in their housing that would help them with their disability to have grab bars or hand rails, 788,000. And, like I said, that's a number from 1995. We know it has to

have increased, we just haven't been able—we don't know how to project how much further. Ramps were over 612,000. An elevator or a lift to access the unit once in the building was 309,000. Another 300,000 needed widened doorways in their unit, the doorways and halls in the unit. Another 566,000 needed accessible bathrooms.

These are people who have identified the need for it. And we say it's a conservative estimate, because there are probably a lot more people who may not realize what needs they have, and how to identify them. And again, it's data that's over 15 years old. So we know that the population has extended. It has increased immensely since then.

When we look at just estimates, though, for people under the age of 65, the numbers have ranged between 3.5 million and 10 million who are in need of accessible housing and currently don't have it.

Chairwoman WATERS. Thank you very much. Ms. Capito?

Mrs. CAPITO. Thank you, Madam Chairwoman. I thank the witnesses. We have just heard some very large figures of folks who are in need of housing that has been fit for accessibility. And absolutely, I believe the statistics are probably low for a lot of different reasons. And I appreciate the fact, too, that living—I am from a rural area, and understanding that accessibility or finding a place or the availability to move to another place is exceedingly difficult, in that we're the low density areas of rural areas in America.

But—so I guess one of my questions would be if—Congressman Schakowsky said the cost was—I believe the figure, you said, was somewhere around $100 to $800 or something like that.

Ms. SCHAKOWSKY. To $600, yes.

Mrs. CAPITO. To $600. The cost of a house, that's a minimal expenditure for a home. Why do you think in the new building that's going forward that this isn't sort of voluntarily being—if the need is so great, and—why wouldn't builders be building to some of these specs, anyway, just because—anticipating a baby boom and aging in place, and all of those kind of things?

Ms. ELEANOR SMITH. That is a really good question that I have puzzled over for approximately 20 years. And I think that it is a mix of things. I think that I have been told—and so I believe—that builders like to do what they have done over and over again. It's the fastest and quickest way to do. And until they are pushed to do differently, like they have been in Pima County, where there are now 20,000 houses up, they use the same methods, just somewhat out of habit.

I think that there are misperceptions of what the house will look like. And I have included in my written testimony that I gave you some photos of the houses we have talked about from those places.

I think that, to be honest, as well, an unspoken reason why these issues haven't rushed forward from the public quite as quickly as green and some other issues is that we're not so eager to think about our bodies deteriorating, or those people over there not being able to come to our house. It comes home to roost very quickly in a family.

But I do think that coupled with not seeing the good examples, and coupled with builders who like to do things the same ways, is the issue that we need to be encouraged more strongly to really

look at the fact that change happens in bodies, and everybody grows old, and it doesn't have to be the end of the world.

Mr. BARRERA. May I make a comment?

Mrs. CAPITO. Yes, Mr. Barrera. I'm going to ask you another question, so if you want to add some of that, as well, the other question I wanted to ask you is you mentioned in your testimony that there are other modification programs in different areas of the country. And I don't know if you highlighted one or two that you think do a really good job of this, whether it's local communities, or a city or a county—

Mr. BARRERA. There are other modification programs that United Cerebral Palsy has, modification funds throughout some of their State chapters throughout the country. Many State finance agencies, including our own in Illinois, also have modification programs. The City of Chicago also has other modification programs.

Most modification programs come out of CDBG funds throughout the country, including in rural areas. But I have to restate that we don't want modification funds to take the place of basic access or take the place of the Inclusive Home Design Act. We have to—when modification funds are created, they are limited to a certain amount of money per modification, ranging from $500 to up to $10,000, $12,000, depending who is providing the modification. At Access Living, we have a cap of only $5,000 per modification.

So it varies on the amount of money you can spend on modification. Most of them are only one-time deals. And when disability progresses, you're going to need something else, in most cases.

Like I mentioned in my testimony, there are extensive waiting lists in most of them. And people have ended up in institutions or, like I said, end up dying, waiting for these modifications. It's my knowledge that in an Illinois modification program that was administered also by Access Living, four people died waiting for modifications.

Chairwoman WATERS. Thank you very much—

Mr. BARRERA. I wanted to add, also on the question of developers complaining about cost. This has been historical in the private sector, including when we made attempts—when we successfully passed the Fair Housing Amendments Act construction and design standards. We had a lot of battle with some builders.

Chairwoman WATERS. Thank you very much.

Ms. Schakowsky?

Ms. SCHAKOWSKY. Go ahead and finish your thought about the—

Mr. BARRERA. I just wanted to finish my thought that this, the Inclusive Home Design Act, will trigger publicly-assisted houses, and where most developers are not-for-profit developers, developers that are community developers, they also get funding from low-income housing tax credits, CDBG, and other government fundings. And the ones that I have spoken with, they have endorsed, and they have backed up, the Inclusive Home Design Act.

Thank you.

Ms. SCHAKOWSKY. It's not just those that are not-for-profits, though. Is that not true, Ms. Smith, that we have developers now in Pima County, 21,000 homes? And it seems to work really well.

And I would also like to get a little bit to the issue of enforcement of these laws, and talk about how it is or isn't a problem. Go ahead.

Ms. ELEANOR SMITH. Just as the Inclusive Home Design Act would do, the laws that kind of mirror it earlier on permit an exemption on a very odd lot, on a lot where you can't do it. Interestingly, across the country, about 95 percent have proven feasible of lots. Only about 5 percent or less have proven unfeasible.

What the local governments who do this, who carry out the law, they have a checklist that they use that's very simple, because these features are very visible. They're not behind the wall. So when they're out for the regular inspections, not a special inspection, they check for these issues. And then, if there—it's not present, they press on the builder to correct that error.

And they also check, of course, the plans that come in. And if they see plans coming in that do not have the features, they again educate the builder on how he could do this. So—

Ms. SCHAKOWSKY. So do places like Pima County review the plans that are done before the building?

Ms. ELEANOR SMITH. It is my understanding they do. And I know in Atlanta, they did. It's two slightly different situations, because Atlanta is more like the Inclusive Home Design Act in that it refers only to certain houses, whereas in Pima County, it's every house built. And the same way with Bolingbrook, Illinois, every house built.

So I think in those cases, they applied the same methods they do if wiring is not correct, or if the houses have not plumbed correctly. They deal with it on a case to case basis. And then, if a lot is extremely difficult, they do as they should, remove the requirement for the zero step entrance, and let it proceed as follows.

Does that answer your question?

Ms. SCHAKOWSKY. It does. I wanted to ask—any one of you can answer—I think there is this perception—I'm glad you included pictures—that somehow accessibility isn't pretty. And I am wondering, especially in these places where all homes need to be built that way, is there any problem in selling them to people without disabilities? Are there any rejections because the home isn't attractive enough?

Ms. ELEANOR SMITH. I don't believe there are. I—where I live, they are seamlessly—the zero step entrance is seamlessly done. People don't usually see a 32-inch door and say, "Oh, what a strange, wide door." They really don't notice it.

Where I live, we voluntarily, in our co-housing community, created 67 houses with basic access. No one who has moved in has noticed it, until they start bringing in their furniture. When they say, "Oh, good. It was so hard to get it out of my old house."

But it's the retrofitted houses that look awkward. And usually, because of the many houses I have lived in, all the ramps we have had to stick on an old house, an existing house, have had to be removed by the new owner because they didn't look good. But the houses in our community where people have moved in and out, not only did they not notice them, but obviously, no one is taking a jackhammer and removing the stoop, because it just goes straight up to the porch.

Ms. SCHAKOWSKY. For future work in passing this bill, are there builders who will testify to the fact that this is a good thing to do? Alberto?

Mr. BARRERA. Yes. Yes, In the Chicago area, I have spoken with some builders within the Chicago Rehab Network, which is a not-for-profit community developer, and they have supported this, including CRN, Chicago Rehab Network. And these people have a long history of developing affordable housing.

So I don't think it would be any problem getting some of the developers, even in the private sector, that we know, people—

Ms. SCHAKOWSKY. I think that's really important—

Mr. BARRERA. —including architects—

Ms. SCHAKOWSKY. Thank you.

Mr. BARRERA. Including architects.

Chairwoman WATERS. Thank you very much. The Chair notes that some members may have additional questions for this panel, which they may wish to submit in writing. Without objection, the hearing record will remain open for 30 days for members to submit written questions to these witnesses, and to place their responses in the record. This panel is now dismissed.

Before we adjourn, the written statements of the following organizations will be made a part of the record for this hearing: the statement of David P. Sloane, senior vice president, AARP; the statement of Darrell Price, housing policy coordinator, Access Center for Independent Living in Dayton, Ohio; the statement from the Pima County chief building official; the statement from the Paralyzed Veterans of America; the statement from the Consortium for Citizens with Disabilities Housing Task Force; and the statement from a coalition of disability advocates from across the country.

We also have a statement here from the National Association of Home Builders.

Before we adjourn, I will, without objection, give myself 30 seconds to just say a special thank you to our panelists who came here, panelists who happen to have disabilities, and who have taken their time and their energy to help us with this very important subject, and to support the very fine work of Congresswoman Schakowsky. Thank you so very much.

This meeting is adjourned. Thank you.

[Whereupon, at 5:07 p.m., the hearing was adjourned.]

A P P E N D I X

September 29, 2010

House Financial Services Committee
Subcommittee on Housing and Community Opportunity
Hearing on H.R. 1408, the Inclusive Home Design Act
September 29, 2010

Testimony – Rep. Jan Schakowsky

Thank you, Madame Chairwoman, for holding this hearing on my legislation, the Inclusive Home Design Act of 2009. I would also like to thank all the witnesses who are here today, including Beto Barrera of Access Living in Chicago, who I have known and worked with for a long time. The Inclusive Home Design Act is a forward-looking and common-sense initiative that would make more new homes accessible for people with disabilities. In addition to benefiting individuals with existing disabilities, including disabled veterans, it will also help to accommodate our increasingly-older population by allowing seniors to age in place.

The bill's requirements are simple: the Inclusive Home Design Act would require that, when practical, all newly-built single-family homes receiving federal funds would have to meet four specific accessibility standards:

First, the home must have at least one accessible ("zero step") entrance into the home.

Second, the doorways on the main level of the home must be wide enough to accommodate a wheelchair.

Third, electrical and climate controls (such as light switches and thermostats) must be placed at reachable heights from a wheelchair.

And finally, the main floor must have at least one wheelchair accessible bathroom. (For this requirement, accessibility means additional floor space for maneuvering and reinforced walls that could bear the weight of a bar added later.)

Adopting those standards for a single-family home is not prohibitively expensive. The average added cost for homes built with accessibility features is between $100 and $600. Retrofitting a home, on the other hand, can cost thousands of dollars.

Homes with these basic features benefit all of us. For individuals who have a long-term disability, it expands the number of homes that they can buy or rent without having to make substantial, expensive renovations.

We also need to provide for our brave servicemen and women, too many of whom have returned from combat with lifelong injuries. We have worked closely with the Paralyzed Veterans of America in developing this legislation, and they support the bill.

In addition, many of us will face some short-term disability during our lifetime. Being able to heal in your home rather than in a hospital bed is both good for the healing process and reduces the cost of a hospital stay.

It also benefits individuals who have friends or family members with disabilities, by allowing their loved ones to visit. Disabled people – from children to the elderly – can become socially isolated because architectural barriers in homes prevent them from visiting their friends, neighbors and extended family. This is one of the reasons we use the term "visitability."

Finally, I want to talk about our aging population and the concept of aging in place. In 2000, there were 30.5 million people between 65-84 years old; that number will grow to 47 million by 2020.

There has been a lot of focus on the baby boom generation and what is going to happen over the next several decades as they retire and age. There's a lot of talk about making sure that Social Security and our pension systems are strong so that seniors can retire comfortably. And there's a lot of talk about the need for doctors to specialize in geriatrics and we have made great efforts to support people going into the health care field because an older population is going to need a lot of care.

But there is a whole piece missing in that debate right now – and that is housing.

Nearly 3 in 5 seniors over the age of 80 suffer from some kind of physical impairment. Often, the prohibitive cost of making existing homes accessible deprives seniors of their independence and pushes them into nursing homes. They can be isolated there. The cost of nursing home care is expensive and a large proportion is paid for with public dollars under Medicare and Medicaid.

The national median rate for a year in an assisted living facility is more than $38,000, while nursing home care can cost up to $75,000 a year. Those figures can be much higher in areas of the country with higher costs of living.

We could save a lot of money if individuals could continue to live in their own homes and receive in-home nursing if they need it.

Some seniors don't end up in nursing home facilities but instead are homebound by their disability, unable to get in and out of their homes because of physical limitations. Having housing that allows for increased mobility can drastically improve their quality of life and overall health.

But incredibly, entire developments are being built and marketed as senior communities – thousands of homes – that people are going to have to leave as they age because they don't include basic accessibility features.

Allowing more people to age at home will both save taxpayers money and help improve the quality of life for our seniors.

And this idea is doable – it's been done before! For almost two decades and all over the country – since 1992, more than forty cities and local communities have implemented either mandatory or voluntary ordinances for including basic accessibility features in newly-constructed, single-family homes.

This list includes Bolingbrook, Illinois; Atlanta, Georgia; Iowa City, Iowa; St. Petersburg, Florida; Pima County, Arizona; Vermont; Texas; Kansas; and Minnesota. From north to south and east to west, communities are having great success in building inclusive homes.

Pima County, Arizona, passed an ordinance in 2002 – largely due to the efforts of our colleague, Rep. Raul Grijalva, who was then a member of the Pima County Board of Supervisors – and in the last eight years, more than 21,000 homes have been built. According to Pima County Chief Building Official Yves Khawam, the county's ordinance was "at first resisted by builders based on the fact that they would require costly changes to conventional design and construction practices, [but] it became evident that with appropriate planning, the construction could result in no additional cost. Indeed, the jurisdiction no longer receives builder complaints regarding the ordinance and the ordinance has been so well incorporated into the building safety plan review and inspection processes that there is no additional cost to the County to enforce its requirements."

There is no magic to how homes are built now – just habit.

If you break your leg, you should be able to heal in your home. If you have a spinal cord injury, you should still be able to live in your home. And if you are getting older, and moving around is harder, you shouldn't be forced to move to a nursing home, you should be able to stay in the home you already have.

And if it's not you, but your cousin has a broken leg or your sister has a spinal cord injury or your mother is having trouble with stairs – they should still be able to visit you in your home!

The Inclusive Home Design Act is common sense, cost effective, and forward-looking.

As the economy continues to recover, homebuilding will start to pick up, and the homes that are built should be ones that anyone can live in and anyone can visit.

Testimony on the Inclusive Home Design Act of 2009

Introduced by Congresswoman Jan Schakowsky

Submitted by Alberto Barrera, Manager of Community Development

Access Living of Metropolitan Chicago

September 29, 2010

Introduction

I would like to thank Congresswoman Jan Schakowsky and the members of the Subcommittee on Housing and Community Opportunity for allowing me to testify today on an issue that is at the heart of all the advocacy work that I do. My name is Beto Barrera. For the past 20 years at Access Living, I have been personally involved in advocating for visitable housing in publicly assisted housing.

Access Living: Our Mission and a Brief History

Access Living is Chicago's only Center for Independent Living, serving the 600,000 people with disabilities in metropolitan Chicago. For the last thirty years, we have dedicated ourselves to the self-determination and independence of people with all kinds of disabilities. We do this by fighting for disability rights and by supporting our community with independent living services run by people with disabilities, for people with disabilities. Our work affects people with disabilities not only in Chicago but across the nation. We have fought to increase access to

public transit, public education, employment, health care and access to housing. Above all we look to find ways to liberate our people from systemic segregation and warehousing. Housing is key to our freedom.

Availability of Usable Housing for People with Disabilities

Public assisted housing is the main source of housing for people with disabilities earning SSI and SSDI incomes. In most cases these incomes are at 15% or less of the area medium income (AMI). Access Living receives an average of 4,000 inquiries for accessible, affordable housing annually. And an average of 60 people come to our monthly housing counseling sessions.

The Chicago Housing Authority, or CHA, has reported that in 2009 they received 84 requests from residents with disabilities requesting retrofit modifications and for ground floor no step entry units. So far this year the CHA has received 62 such requests. We at Access Living think the actual demand for accessible housing is much higher.

Requests Received By Access Living for Access Modifications

For the past 10 years Access Living has administered an access modification program funded by the CHA. Our modification program assists people with

disabilities in CHA's Home Choice Voucher program. What started as a pilot program with $30,000 has now reached $145,000 annually. We assist 60 to 70 very low income residents with disabilities. Of course this does not begin to address the total need in our community.

Access Living's retrofit fund covers very basic modifications: wider entryways, accessible switches and outlets, ramps, and bathroom modifications such as grab bars and accessible sinks. These are some of the basic access features included in the Inclusive Home Design Act. There are other modification programs throughout the country, but we cannot depend on retrofits for basic access, most have long waiting lists and it's not unusual for people to end up in a nursing home or dying while waiting for modifications.

Comments on the Inclusive Home Design Act

This legislation has been in development for twenty years and in Congress for the last eight years. It came out of a joint effort between grassroots people, Congresswoman Schakowsky, and advocates such as Eleanor and many other activists, who were deeply concerned with the exclusion of people with disabilities from housing opportunities. The national grassroots disability rights group ADAPT has also worked with us to support this bill and it is part of ADAPT's housing agenda.

This legislation will begin to end the practice of "exclusion by design," which is a form of disability oppression. Simply put, requiring that all newly constructed publicly assisted homes contain a no-step entrance and useable space on the ground floor will finally provide real access to options for people with disabilities in our struggle to locate affordable, accessible and integrated housing.

The Inclusive Home Design Act is the missing link of the Fair Housing Amendments Act of 1988. Its passage will complete the circle of civil rights in public assisted housing, guaranteeing full and equal access for all! The Inclusive Home Design Act is a step forward to end the culture of social isolation currently accepted and practiced in our country, against people with disabilities. It will provide equal opportunity for very low income Americans with disabilities to have equal access to all public assisted housing. We believe that the passage of this bill, along with the Money Follows the Person demonstration project and the hope for- passage of the Choice Community Act will provide the structure needed to honor the spirit of the Americans with Disabilities Act---the spirit that said every person with a disability has a right to full access to society.

Thank you again for conducting this hearing and for having me here today.

Testimony of

Kelly Buckland

Executive Director

National Council on Independent Living

Before the Committee on Financial Services

Subcommittee on Housing and Community Opportunity

Hearing On

"The Inclusive Home Design Act"

September 29, 2010

Madame Chairwoman, Ranking member Capito, and distinguished members of the committee,

Good afternoon and thank you for the opportunity to speak on behalf of the National Council on Independent Living (NCIL). NCIL is the longest-running, national, cross-disability, grassroots organization run by and for people with disabilities.

Founded in 1982, NCIL represents thousands of organizations and individuals including Centers for Independent Living (CILs), Statewide Independent Living Councils (SILCs), individuals with disabilities, and other organizations that advocate for the human and civil rights of people with disabilities throughout the United States.

Since its establishment, NCIL has carried out its mission by assisting member CILs and SILCs in building their capacity to promote social change, eliminate disability-based discrimination, and create opportunities for people with disabilities to participate in the legislative process to affect change. NCIL promotes the national advocacy agenda set by its membership and provides input and testimony on national disability policy.

The National Council on Independent Living (NCIL) supports independent living for persons with disabilities and believes community living is a right. However, there is a wealth of data and information that documents that there is both a critical lack of affordable, accessible, decent, safe and integrated housing for persons with disabilities as well as a high incidence of housing discrimination committed against persons with disabilities. A great deal of affordable housing is funded by the federal government; yet federal housing policies are often developed without the participation of persons with disabilities. NCIL has the following positions on housing for people with disabilities:

> NCIL supports the inclusion of persons with disabilities in the development of all housing policies, programs, and educational presentations.
>
> NCIL recommends that Congress and the administration develop initiatives to create effective design and data collection for housing for persons with disabilities; including persons with Multiple Chemical Sensitivities/Electromagnetic Sensitivities (MCS/ES).
>
> NCIL supports increased collaboration between federal and state governments to address the housing needs of persons with disabilities. NCIL supports the tracking of data related to housing for persons with disabilities, including data collected by states to determine housing gaps. NCIL supports having Centers for Medicare & Medicaid Services (CMS) encourage states to promote consistent housing options across county and regional lines.

NCIL believes that single family homes and townhouses and other permanent dwellings not covered by fair housing laws constructed with federal funds should be "visitable" in accordance with the concepts of the Inclusive Home Design Act.

NCIL supports increasing the amount of Low Income Housing Tax Credit (LIHTC) allocation available to states for housing with the mandate that all housing created by tax credits must be integrated and mixed-income. Furthermore, NCIL believes that proactive enforcement is needed to ensure that all housing created with LIHTC allocations comply with fair housing laws.

NCIL supports revising Section 504 of the Rehab Act to require that at a minimum (a) 10% of all housing (not just multi-family) constructed or substantially renovated with federal funds be fully accessible to persons with mobility disabilities, (b) 2% be fully accessible to persons with sensory disabilities, and (c) 2% be fully accessible to persons with MCS/ES.

NCIL supports legislation that would support the National Affordable Housing Trust Fund. This Fund would be used to produce, rehabilitate, and preserve affordable housing units, including units for persons with physical and/or mental disabilities, including but not limited to mobility disabilities, sensory disabilities, and/or MCS/ES. NCIL urges Centers for Independent Living and other state advocates to work with the state agencies administering the National Affordable Housing Trust Fund monies to include Visitability and Universal Design.

NCIL supports the reform of existing U.S. Housing & Urban Development (HUD) programs to end the definition of persons with disabilities as a "special needs" category. Instead of creating "special needs" programs for persons with specific types of disabilities, HUD must ensure that all programs, services and activities are accessible to persons with different types of disabilities.

Given that HUD's Discrimination Against Persons With Disabilities study of 2005 demonstrates that persons with disabilities face greater incidences of discrimination than any other protected class, NCIL supports increased funding and activities to better enforce all existing disability-rights laws. NCIL urges HUD to implement the specific recommendations stated in the National Council on Disability's 2001 report, *Reconstructing Fair Housing* as a starting point for assuring effective fair housing enforcement for persons with disabilities. Additionally, NCIL supports the recommendations of The National Commission on Fair Housing And Equal Opportunity as documented in *The Future Of Fair Housing* in 2008.

NCIL supports new HUD funding for the allocation of housing vouchers specifically for persons with disabilities who are moving from institutions to the community (or who are at-risk of institutional placement).

NCIL supports new HUD funding to assist persons with disabilities who hold vouchers in order to pay for accessibility modifications to their housing.

N CIL supports initiatives that increase housing integration and choice for persons with disabilities. The HUD Section 811 program, titled "Supportive Housing for People with Disabilities," presently allocates the majority of its funding for supportive housing programs rather than Mainstream Vouchers. HUD must recognize that persons with disabilities have the right to accept or reject services rather than the services being mandated as a condition for housing. NCIL believes that services should be on a "follow the person" basis.

NCIL supports HUD ensuring that PHAs and communities are accurately assessing the housing needs of all persons with disabilities in their communities. HUD regulations for Section 504 of the Rehabilitation Act permit HUD to raise the minimum percentage of fully accessible units required in federally assisted construction, if data can demonstrate an increased need. HUD has issued a directive to Consolidated Plan entitlement communities stating that "the housing needs of persons with disabilities are not met by beds in nursing homes or other service centered facilities", but currently does not monitor housing needs assessments for compliance with this directive. HUD must use various processes (such as Consolidated Plan needs assessments and Analyses of Impediments to Fair Housing) to accurately assess housing needs, and to adjust existing requirements and planning processes to meet this need.

Currently, Public Housing Authorities (PHAs) voucher programs must raise the voucher payment standard as a reasonable accommodation for persons with disabilities in order to obtain accessible housing. NCIL supports initiatives that would require HUD to mandate that PHAs have the authority and responsibility to raise the payment standard to any reasonable amount in a timely manner above the Fair Market Rent for persons with disabilities who are in need of accessible housing as a reasonable accommodation.

Currently, Public Housing Authorities (PHAs) voucher programs must allow, as a reasonable accommodation, time extensions for persons with disabilities to locate appropriate accessible housing. NCIL believes that not all PHAs are providing this accommodation and NCIL would like HUD to ensure that all PHAs are doing this.

NCIL supports a mandate that PHAs include all unreimbursed medical and disability-related expenses for the purposes of calculating the Total Tenant Payment, regardless of family status or whether or not the person with a disability is employed.

NCIL believes that Housing Choice Vouchers are an effective way to integrate persons with disabilities into the community. The tenant-based vouchers should not be used as a source of project-based housing funds. Therefore, NCIL

opposes the ability of PHAs to dedicate up to 20% of their vouchers into project-based housing.

NCIL supports a thorough assessment of the Homeless Shelters, Domestic Violence Shelters, and Transitional Housing in each community's Continuum of Care to ensure that all temporary and transitional housing are accessible to persons with disabilities, regardless of their disability.

NCIL supports increased housing options for veterans with disabilities and greater collaborations between veterans program, HUD and other federal programs to address housing issues.

NCIL encourages PHAs with rural communities to increase housing options for persons with disabilities through increased utilization of United States Department of Agriculture (USDA) Rural Housing programs, including Housing Preservation grants.

Since 1979, I have been actively involved in advocating for the rights of people with disabilities and over the years, I have worked for the Protection and Advocacy system, for a CIL and SILC, and for other councils promoting the direct-service and systematic change aspects of the Independent Living movement. Recently, I recently moved to the Washington DC area and spent an entire year looking for a house to purchase that was accessible enough that I could modify it to meet my needs. I then had to spend thousands of dollars making my house accessible. This expense would have been considerably less if the home already had some basic accessibility features.

As the Executive Director of NCIL, I work with the staff and our committee members on a wide array of disability rights issues including the passage of the Inclusive Home Design Act (H.R. 1408) which will require accessibility features for people with disabilities in newly, constructed single family houses and town houses that are federally assisted.

Finding accessible housing is a constant ongoing struggle for people with disabilities in most communities. Despite the impact of legislation mandating accessibility in housing such as Section 504 of the Rehabilitation Act of 1973 and the Fair Housing Amendments Act (FHAA) of 1988, the vast majority of housing available across the country is not accessible. Section 504 covers federally-funded housing, however, Congress has greatly decreased funding new construction of subsidized housing since the 1980's with few exceptions such as HOPE VI, Section 202, and Section 811. According to the National Low-Income Housing Coalition, "Since 1995, about 360,000 project-based Section 8 units have been lost to conversion to market-rate housing. Annually, another 10,000-15,000 units leave...." Those housing units are not being replaced at an equivalent rate.

That leaves us with the Fair Housing Act, which mandates accessibility in multi-family housing of four or more units. Compliance with the Fair Housing Act's accessibility requirements are still erratic, even after more than two decades. In April, New York Attorney General Cuomo brokered agreements with six large real estate developers over the lack of accessibility in their buildings, and in July, HUD charged a Chicago developer and architect with failure to build accessible units.

With Section 42, the Low-Income Housing Tax Credit program authorized by the Tax Reform Act of 1986, there has been thousands of units required to comply with the Fair Housing Act created to serve the population under either 50% or 60% of the Area Median Income. Furthermore, states often either encourage or mandate increased accessibility through their programs. Unfortunately, subsidized housing and LIHTC housing are almost entirely multi-family, with very few single-family homes affected by accessibility requirements. In many rural communities, there simply are not sufficient municipal services to support multi-family housing, and many communities actively block the development of multi-family housing through zoning policies and other barriers. As a result, accessible housing tends to be concentrated in larger municipalities.

Centers for Independent Living throughout the country constantly grapple with the lack of accessible and affordable housing. One of our biggest challenges is not only finding accessible housing for people living in the community but finding it for those who want to transition out of institutions. In many communities the biggest obstacle to people with disabilities living in their communities is the lack of affordable and accessible housing.

Accessible single-family housing will also allow seniors to age in place and allow for families to stay in their homes should they develop a disability as an adult or if they have a child with a disability. The cost to renovate an inaccessible home is much higher than if that home was built with accessibility features.

People can suddenly find themselves needing accessibility improvements due to a disability, or a worsening disability, through accidents, illness, or a progressive condition. Often they prefer to remain in their homes, but struggle to live independently due to the inaccessibility of the home. Renovations and modifications are often needed, and can range from the simple installation of grab bars to the more expensive addition of ramps, stair glides, the widening of doorways, and renovations of bathrooms and kitchens to allow for maneuvering clearance and knee space.

Although some Centers for Independent Living receive funding for accessibility renovations (typically through programs such as Community Development Block Grants), not all Centers do this work, and usually refer to other agencies that specialize in assessing and financing accessibility improvements. Many communities restrict this funding to owner-occupied homes, preferring to see a permanent renovation rather than what could be a temporary renovation in a renter-occupied home. Also, many landlords require the funds to undo the renovations to be put in an escrow account for when the tenant vacates the property. These costs can prohibit many people with disabilities and seniors from making the necessary accessibility improvements.

Renovations can be paid for through Medicaid to accommodate a person's needs in his or her home although the process can be cumbersome and not always successful. Some centers have attempted to assist consumers in getting renovations paid for through Medicaid without much success. It is difficult to get medical programs to cover expenses that would allow a person to stay in their community thereby forcing them into much more expensive institutional care.

The Inclusive Home Design Act provides a variety of advantages to people with disabilities that allows them to live in society. For instance, the IHDA will allow for the construction of accessible single family housing which will permit the aging population to stay in their homes, reducing the number that will enter a nursing home, allow people with mobility impairments to rent rooms in existing homes, and allow lease programs and community facilities to have accessible buildings to rent. Most importantly, NCIL supports the language in the Inclusive Home Design Act that will create accessible housing which is needed in order to move people out of institutions and back into their communities. Living in the community is essential for people of all ages and all disabilities to be true members of the community - this includes education and employment. NCIL is dedicated to ending the institutional bias, not only in healthcare and housing, but in societies perceptions of the capabilities of people with disabilities.

For example Mark Chambers was a computer programmer living in a house in San Francisco. He was mugged on a stairway and hit over the head with a rock, resulting in a traumatic brain injury and paralysis. He was moved into the city owned nursing home known as Laguna Honda and spent over 10 years there. He sued under the Olmstead decision asking to be moved into the community. When he was released the City had to find a unit accessible from outside and spend thousands of dollars to renovate the unit to accommodate Mark's needs. This is an example of a person who lost everything due to disability except the fight to get back to his community.

The Inclusive Home Design Act is more than about creating accessible homes. People with disabilities historically have been isolated - at first shunted away to institutions and nursing homes, and now isolated in their communities. Because the overwhelming majority of single-family homes and many of the multi-family homes still have steps,not only people with mobility disabilities cannot not live where they want to live, they also cannot visit their families, friends, and neighbors.

The Inclusive Home Design Act is also about creating neighborhoods where people are free to visit their neighbors and truly be a part of their communities.

Madame Chairwoman and members of the committee, again thank you for the opportunity to testify on behalf of NCIL and I would be happy to respond to questions.

Testimony by Eleanor A. Smith
Before the
Subcommittee on Housing and Community Opportunity
in SUPPORT of H.R. 1408
The Inclusive Home Design Act
September 29, 2010

Good afternoon Chairwoman Waters and members of the subcommittee.
My name is Eleanor Smith and I am the director Concrete Change, a non-profit organization based in metro Atlanta which I helped found in 1987. The mission is working to make basic access the norm in new houses.

As a small child in the 1940's I had a severe case of polio and although my parents and siblings were supportive I faced a forbidding environment with no curb cuts, completely inaccessible libraries and other public buildings, little access to stores, and only a handful of universities across the country equipped to accept students with disabilities. When I became the age to live out on my own, even more intense access problems began. Only with great difficulty could I find apartments with architectural access. For instance, I lived in a house for six months where the narrow bathroom door forced me to crawl on the floor every time I needed to use the bathroom.

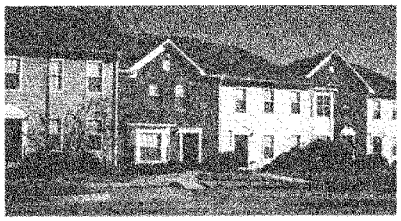
As an adult I saw various laws enacted that greatly increased access to government buildings, and later that was expanded to all public buildings. This was a major reason I was able to become a teacher at a community college. In 1991, federal access requirements were added for new residential buildings with four or more units.

However, detached single-family houses and townhouses, where the majority of the population lives, remain the last part of the built environment not covered by widespread federal law. The great majority of those housing types continue to be built with basic barriers such as steps at all entrances and narrow bathroom doors. These cause harsh effects on the lives of people with mobility problems and their families.

Concrete Change has grown to include several thousand involved participants across the country. Working on behalf of the mission, advocates across the country have assisted in bringing about local or state laws and policies that have produced approximately 40,000 homes with basic access intended for the general public, not just people who have disabilities.

But this is far fewer than are needed. I are grateful that Representative Jan Schakowsky introduced the Inclusive Home Design Act (IHDA), which extends to the federal level some of the laws and policies that have succeeded on a local level, and grateful for this opportunioty to testify to you.

<u>The current reality is that even most federally assisted new houses continue to be built with steps at all entrances and narrow doors</u>. 5% of new single-family detached houses and townhouses with federal assistance are required to have a wide array of access features (such as lowered kitchen cabinets and accessible bathing facilities), but the remaining 95% are not required to have even the most basic access features such as one entrance without steps and adequately wide interior doors.



Example of problem: These Housing Authority Town houses, compliant with current federal Law, include a fully accessible unit amidst a row Of other units which all have entry steps and narrow doors. A resident in an inaccessible unit who later develops mobility impairment cannot enter their home independently or fit through their bathroom door, and a disabled resident in the accessible unit is cut off from visiting their neighbors.

The number of houses that need access is far greater than is commonly estimated. We have found that estimators often cite only wheelchair users, when in reality people who use walkers or have other mobility issues such as balance problems, stiffness or weakness also find even one step difficult or impossible to use. Also, estimators tend to cite only the people who currently have disabilities, without taking into account others who had major impairments but since recovered and still others who will develop these impairments. Further, they often do not take into account that disabled people, like other people, move from house to house, and each successive house needs to provide access.

Concerned about inaccurately low estimates, we put the question to researchers at the University of Florida "What is the likelihood that a house built in 2000 will have, over the lifetime of the house itself, a resident with severe, long-term mobility impairment?" The findings were printed in the Summer 2008 *Journal of the American Planning Association* [1], and showed that at least 25%, and as many as 60%, of houses will at some point have such a resident. Furthermore, it is impossible to predict in which house a resident will develop a disability. Lastly, when one considers the ability of disabled people to visit their friends and extended family, be they a five-year-old with cerebral palsy or an older person who is recovering from a stroke, the percentage of houses impacted rises steeply. There will not be time in our lifetime to retrofit all the existing, inaccessible homes where someone develops a mobility impairment, but we do have the opportunity to change the norm for new construction.

The Inclusive Home Design Act Properly Prioritizes the Features That Have the Most Impact on People's Lives.

It would greatly help many people live safely in their homes and be able to visit the homes of others. While retaining the 5% currently required having extensive access, IHDA would require a few key features in the remaining 95% of new houses assisted by federal agencies. These key features permit people to enter and exit their own house, pass through their interior doorways, and have some maneuvering room inside the bathroom. They can be thought of as the features most essential for one to return to one's own home from the hospital. Also they are the ones most essential to visiting the homes of others. The resulting houses would be open for rent or purchase by disabled and non-disabled alike. As I detail later in this testimony, health would be improved, integration expanded, fairness improved, and institutionalization reduced. Public expenditures for health problems and institutionalization would be reduced.

The Architectural Features in IHDA are inexpensive and not difficult to incorporate on the great majority of terrains and climates.

When laws and policies similar to IHDA were first proposed, they were often labeled impractical by some people, including by some building professionals. However, the feasibility has already been

demonstrated by more than 40,000 existing houses on the open market that have been built over the past 20 years in Arizona, Texas, Illinois, Georgia, Ohio and other states.

These houses run the gamut from very affordable to high-end. They include houses built on concrete slabs and houses over basements. Very hilly terrain, as well as level terrain, has proven practical for access. Climates and soil types range from Arizona to northern Illinois.

Although these ordinances and policies have been producing houses from 4 to 20 years, none have been rescinded. This attests that the access features and the inspection/enforcement procedures are practical. On a house by house basis, more than 95% of lots have proved feasible and local officials use criteria to exempt the small percentage that are unfeasible.

IHDA, like the local initiatives mentioned above, makes a zero step entrance feasible on many lot types because it permits the entrance to be located at any of several points, whichever are most feasible for the given lot. Below are several examples.

Zero step at the front. (Bolingbrook IL Ordinance.)

Zero step at the back on steep lot, many steps at front. (Decatur GA Housing Authority)

Raised alley facilitates zero steps from garages to houses. (Austin TX Ordinance.

Because the houses shown above are new rather than retrofitted, the zero-step entrances were accomplished by tying a sidewalk into the porch, or through a garage. In contrast, retrofitting an existing houses often require expensive, aesthetically awkward ramps with 90-degree drop-offs at the edges and railings.

Regarding the interior of the houses, achieving the needed 32-inch clearance through doorways which IHDA requires is consistent with the requirements of the Fair Housing Act for multi-family apartments and condos. The Fair Housing Act specifications have been in place since 1991 and have yielded hundreds of thousands of accessible units. Besides door width, the rectangles of maneuverable space IHDA requires in bathrooms are also consistent with the Fair Housing Act.

Supporters of IHDA recognize that Town Houses (i.e., attached, multi-story, single-family houses) are a needed housing type; we recognize that they are an important option to achieve density and thus encourage affordability. Our intention is to positively affect this housing type to ensure basic access features.

This Chicago town house, resulting from local IHDA-type ordinance, provides a zero-step entrance, wide interior doors and several other basic access features.

One example of how the Inclusive Home Design Act will increase houses with basic access is shown by the Ohio Housing Finance Agency (OHFA) policy through which they allot federal Low Income Tax Credits. Before 2007, OHFA complied with federal law by constructing 5% of townhouses and single-family detached houses with full access. For the remaining units, developers applying for the tax credit could receive extra credit on their application if desired, by incorporating any of a long list of possible disability-related features, but did not have to include a zero step entrance or wide doors. In 2007, the board approved a policy that would require basic access in the 95% (except in the few instances where the site was not feasible). A recent report shows that from 2007 through mid-2010, 1,038 single-family new houses with basic access were developed which would not have had any access if the local policy had not been in place.

Continuing to Build with Barriers Results in Very High Costs

While costs of building basic access in new homes have been demonstrated to be low, costs of continuing to build barriers are high.

Renovating for access costs exponentially more than creating basic access at the time of construction. State and local funds have far more requests than they can fill. For example, the money the GA legislature set aside in 2009 for removing architectural barriers to improve disability access ran out in less than two months of the fiscal year, leaving hundreds on the waiting list who were unable to exit their homes without assistance and/or enter their own bathroom. Furthermore, as in Georgia, many funding sources stipulate that rental houses are not eligible for this funding, leaving many renters without recourse.

Even more costly is that people who would prefer to remain in their own homes often are propelled into nursing homes or other institutions because steps and narrow doors prevent them from using their homes when mobility impairment occurs. Hospitalized people and their families find it difficult to evaluate their home, find a contractor and gather needed funds in the short time before dismissal from the hospital. Nearly 70% of people who enter nursing homes enter directly from a hospital or rehabilitation facility. [3] While many factors lead to nursing home placement, much anecdotal evidence indicates that home barriers are a major factor. 64% of total costs of nursing home residency are paid with public dollars (Medicare and Medicaid). [4]

A third major cost to families and the public dollar are the health problems that are exacerbated by barriers. Recognizing that architectural barriers in homes can lead to multiple health problems, the American Public Health Association in 2009 formally adopted a recommendation that all new houses should employ an inclusive design philosophy, and in 2010 the federal initiative Healthy People 2020 adopted as one of their objectives "increase the number of residential buildings and homes that have visitable features, namely a no step entrance." Over the years, I personally have experienced most of the problems below, and they are repeatedly cited by the individuals and the organizations in our network:

- Increased falls because of steps at all entrances (people with poor balance struggling to open entry doors while negotiating a step; people in wheelchairs being carried up steps; etc). Falls are the leading cause of injury, emergency department visits, and hospitalization for people over age 65.
- Increased falls because narrow bathroom doors force people using walkers to move sideways through the door; cause some wheelchair users to employ unsafe means of passage such as transferring to a desk chair on casters, crawling on the floor; etc
- Inability to exit the house in case of fire or other emergencies.
- Increased bladder and kidney problems. Inability to pass through a bathroom door in one's own home or visited homes results in chronic self-limiting of liquids and other practices that cause infections, stones and other health problems.
- Diminished health of caregivers. Research indicates that persons who provide major care to family members with disabilities have more health problems and higher mortality than control groups not doing care-giving. Home barriers create burdens.
- Increased depression of people who cannot leave their home independently, or sometimes even access their own porches independently, because of steps at all entrances.
- Increased depression of people for whom architectural barriers in the homes of friends and extended family make it difficult or impossible to take part in gatherings.
- Increased injury to workers whose jobs entail heavy lifting such as movers, delivery people and Emergency Medical Technicians

Conclusion

Presently, advocates to advance basic access are having to struggle city by city and year after year trying to ensure public money will not be used to build new, local houses that exclude people with mobility impairments. In many locales, no such advocacy exists; federally supported houses are going up as a matter of course, without voices raised to offer alternatives. Passage of this humane, timely, practical Act authored by Representative Jan Schakowsky will ensure that awareness is raised across the country, and built examples will occur demonstrating that it can be done effectively. The increased numbers of houses with basic access will be more than a little cost effective by lessening the unintended costs resulting from current construction practice; will bring formerly isolated people into contact with their extended family members and friends; improve public health; and make people more secure in their homes as they age.

[1] "Aging and Disability: Implications for the Housing Industry and Housing Policy in the United States," Stanley K Smith, Stefan Rayer and Eleanor Smith, *Journal of the American Planning Association,* Summer 2008.

[2] Interviews with builders and public servants experienced in building single-family homes with basic access, "Increasing Home Access: Designing for Visitability," J. Maisel, E. Smith, and E. Steinfeld, *AARP Public Policy Institute,* Appendix B, 2008, as well as statements by experienced builders and developers from other sources.

[3] MDS Report, US Department of Health and Human Services, 2005.

[4] Kaiser Commission on Medicaid, 2004

Testimony of Dr. Janet L. Smith
HR. 1408: Inclusive Home Design Act of 2009

Background

I am an associate professor in the Urban Planning and Policy Program at University of Illinois at Chicago (UIC), and co-director of the UIC Nathalie P. Voorhees Center for Neighborhood and Community Improvement. For the past 20 years, my teaching, research, and community service has focused on equity issues in local and national housing planning and policy. The majority of my research is conducted in partnership with community organizations and policy stakeholders through the Voorhees Center. Since coming to UIC in 1997, I have led several large-scale research projects that involved both primary and secondary data collection and analysis including a regional homeless needs assessment and a rental market study for the Chicago region.

Regarding research on the accessible housing needs of people with disabilities, I was the principle investigator for a recently completed study of housing for the National Council on Disability (NCD), *The State of Housing in America in the 21st Century: A Disability Perspective* (January 2010).[1]

Prior to the NCD report, I completed in 2007 a study of accessible housing options for people with disabilities in Illinois and between 2004 and 2007 a participatory action research project with the Chicago area disability community to address inequities in community living and participation opportunities.

Current work includes a contract with the Office of Economic Adjustment (US Department of Defense) developing economic and housing indicators to assist base communities slated for expansion or contraction, a US Department of Housing and Urban Development grant to study effects of green built housing on the health, and implementing changes to improve opportunities for Housing Choice Voucher households in the Chicago area. I have a bachelor (1995) and master (1990) degree from University of Illinois Urbana-Champaign and PhD in Urban Studies from Cleveland State University (1997).

Challenges People with Disabilities Face Trying to Locate Housing

Affordable, accessible, and appropriate housing is critical and integral to making a community more livable for people with disabilities. To this end, NCD commissioned a study of the state of housing for people with disabilities, which was completed by a team that I led through the Voorhees Center at University of Illinois at Chicago. Today I summarize key findings found in the NCD report entitled *The State of Housing in America in the 21st Century: A Disability Perspective*. The following is data I assembled for that report.

Current needs

Recent federal research estimates that **54.4 million people with disabilities** live in the civilian population in the United States, representing approximately 19 percent of the noninstitutionalized

[1] The National Council on Disability (NCD) is an independent federal agency and is composed of 15 members appointed by the President, by and with the advice and consent of the Senate. It provides advice to the President, Congress, and executive branch agencies to promote policies, programs, practices, and procedures that guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability and to empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

population.[2] Looking at this population living in housing units, we estimated about **35.1 million households have one or more person with a disability**, which is about 32 percent of the households in the United States in 2007.[3]

Nearly 15.1 million households with people with a disability own their own home. Most are between the ages of 65 and 85 years old – this is nearly 94 percent of homeowners in this age bracket.[4] Such high levels of ownership among this age group are likely due to the fact that many purchased their homes before acquiring a disability as they aged.

Many people are likely to face challenges if they want to remain independent in a home as they age. Based on the most recent national data available, thousands of people with disabilities need basic home modifications to make their homes accessible.[5] The greatest need was for grab bars or handrails (an estimated 788,000 households) that, relatively speaking, are not expensive to install. In addition, many people needed basic features that make units "visitable," including ramps to access the building or home (612,000 households), elevator or lifts to access the unit once in the building (309,000 households), widened doorways and halls in the unit (297,000 households), and accessible bathrooms (566,000). While renters had proportionally greater unmet need for all features when compared to homeowners, homeowners still comprise the largest numbers of unmet need. Furthermore, since rural homeownership (75%) continues to be higher than in urban areas (64%), people with disabilities and/or who are aging in rural areas are more likely to reside in single-family homes that are not accessible.[6]

Future needs

Many people with disabilities need help with certain activities of daily living to make their housing accessible.[7] Using this "functional" definition of disability, current estimates of the population in need of accessible housing and communities who are under age 65 range from between 3.5 million to 10 million.[8] This population will grow as the population of baby boomers soon reaches an age where housing accessibility and livable communities will become one of their highest priorities.

The number of people over age 65 is expected to double by 2030. Currently, 20 percent of people ages 65 and over require assistance with at least one activity of daily living. This number is expected to increase to 50 percent by age 85. Over the next 30 years, disability rates for people 85 years and older are expected to rise as this population triples.[9] As people with disabilities live longer and their housing

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[2] J. Smith, *Housing Needs of People with Disability in the U.S.* (Chicago: Nathalie P. Voorhees Center for Neighborhood and Community Improvement, University of Illinois at Chicago, 2009). Data was from the 2005 Survey of Income and Program Participation (SIPP) and the 2007 American Community Survey (ACS). This number is expected to be higher if data on institutionalized people was available to include.

[3] Smith, *Housing Needs.* This is based on American Housing Survey data, which estimates 110.6 million households in 2007.

[4] Smith, *Housing Needs.* Data is from the 2007 American Housing Survey.

[5] Based on data from a special one-time supplement on disability and housing modifications to the 1995 American Housing Survey. Summary tables from Michael Shae, *Housing Choice Voucher Tenant Accessibility Study: 2001–2002*, prepared for the U.S. Department of Housing and Urban Development, Office of Policy Development and Research, 2004.

[6] Housing Assistance Council data portal at http://www.ruralhome.org/dataportal/.

[7] National Council on Disability, *The State of 21st Century Long-Term Services and Supports: Financing and Systems Reform for Americans with Disabilities* (Washington, DC: NCD, 2005).

[8] Ibid.

[9] S. Golant, "The Housing Problems of the Future Elderly Population," *Commission on Affordable Housing and Health Facility Needs for Seniors in the 21st Century, A Quiet Crisis in America: A Report to Congress*, Appendix G-1 (Washington, DC: U.S. Government Printing Office, 2002), pp. 189–370; Federal Interagency Forum on Aging-

and supportive requirements change, so should their community living options including buying single family homes that are visitable and inclusive by design.

Inclusive Home Design Act of 2009

Currently, 45 percent of the households with at least one person with a disability live in a building with a no-step entrance. In part, this is because there are homes now that have no step entrances to live in. Most of the accessible housing currently in the private sector exists because of Federal law. This includes 1) all housing built with federal funds, which are subject to the requirements of the 1973 Rehabilitation Act (Section 504), 2) the American with Disabilities Act (ADA) Title II regarding public access and Title III regarding places of public accommodation in private multifamily property, and 3) all multifamily housing with four or more units in a single structure built after March 13, 1991, which is subject to the design and construction requirements of the Fair Housing Act (1988). For the most part, what are missing from these laws are single family homes, which make up a large part of the US housing stock.

Public policy solutions can help meet the current and anticipated housing needs of people with disabilities. This should include passage of the Inclusive Home Design Act to assure development of accessible housing units for low income people with disabilities in all Federal and State programs that support housing rehabilitation and new construction. This recommendation is based on the evidence of what has been done so far and the momentum building for broader reforms.

Designers, architects, and homebuyers are growing increasingly interested in universal design and visitability principles. Thirty-seven local jurisdictions across the nation have adopted either mandatory or voluntary policies that are beginning to generate results: because of such policies, roughly 30,000 homes have been constructed with some level of accessibility and most are single family homes. These advances are serving as models for other locales, demonstrating that accessibility and visitability can be achieved without undue cost or administrative burden.

Still, relatively speaking, these examples represent a small portion of all US jurisdictions, which means limited options for people with disabilities seeking accessible single family housing in general and then specifically a home that is affordable. The Inclusive Home Design Act could change this since it would target housing built with federal funds, which generally benefit lower-income homebuyers and homeowners. The following considers what impact the act might have on existing federal programs.

Potential Impact on Pertinent HUD and USDA Programs

The following summarizes programs that based on current practices and expenditures would be affected by the Inclusive Home Design Act and that could result in more visitable single family homes in the US. While making new housing visitable adds very little cost (less than 2%) and is cost-effective in the long run, making an existing home visitable will likely cost more. Additional grant money on top of the renovation funds sought could be granted to owners retrofitting existing homes to also make their home visitable, assuming the cost to do so is not prohibitive.

Related Statistics, *Older Americans Update 2006: Key Indicators of Well-Being* (Washington, DC: U.S. Government Printing Office, 2006); and U.S. Department of Health and Human Services, *A Profile of Older Americans 2002* (Washington, DC: Administration on Aging, 2002).

1. Community Development Block Grant (CDBG). The CDBG program, which began in 1974, provides funding to help metropolitan cities, urban counties, and States to "meet their housing and community development needs." The block grant is distributed through a formula based on need and size as well as housing conditions to entitlement communities and States. Currently HUD provides annual CDBG grants to 1,180 units of local government. States distribute these funds to other smaller local jurisdictions (nonentitlement communities) based on need, while cities and counties distribute CDBG through different agencies delivering services and producing housing.[10]

In general, CDBG funds may be used for neighborhood revitalization, economic development, and improvement of community facilities and services. Currently, about 26 percent of CDBG on average goes to housing.[11] Based on data for the past 8 years, about half of the housing funding has gone directly to single-family rehabilitation.[12] This may include retrofitting for accessibility, since this is an eligible use of funds; however, because the level of detail in reporting is not that specific, we cannot know if this is occurring.[13]

2. HOME Investment Partnerships Program (HOME). The HOME program is the largest federal block grant to State and local governments to exclusively create affordable housing for low-income households, allocating approximately $1.7 billion per year. HOME funds are exclusively for housing-related investments including Tenant-Based Rental Assistance (TBRA), housing rehabilitation, homebuyer assistance, and housing construction, as well as site acquisition and improvements. A portion of funds must target very low income people, and income levels and rental prices must meet HUD limits. All assisted housing must remain affordable in the long term (20 years for new construction of rental housing and 5–15 years for homeownership housing).

To date, HOME funds have been used to produce more than 756,000 units of housing since the inception of the program (does not include TBRA).[14] About 60 percent of HOME dollars have gone to homeowners receiving either rehabilitation or acquisition grants, while rental housing production is about 40 percent of the total unit count. Unfortunately, like CDBG, the reporting system does not provide specific information to assess how people with disabilities benefit.

3. USDA Rural Housing programs. About 80 percent of all development dollars available for rural housing has gone to assist in the production and rehabilitation of single-family homes. There are two primary programs for rural single-family housing assistance under the Section 502 Rural Single-Family Housing: direct loans and guaranteed loans. Both can be used to buy, build, repair, or move a home, as well as to purchase and prepare home sites.

Direct loans are USDA's largest outlay for housing, helping more than 2 million low-income people purchase or construct homes in rural areas. Up to 100 percent financing may be obtained by Individuals or families who may be eligible if they have an income up to 80 percent of the Area Median Income.

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[10] HUD Community Development Allocations and Appropriations, accessed August 18, 2009, from http://www.hud.gov/offices/cpd/communitydevelopment/budget/.

[11] This has been consistent for the past 8 years based on HUD data going back to FY 2001. See http://www.hud.gov/offices/cpd/communitydevelopment/budget/disbursementreports/index.cfm.

[12] The number of housing units "benefitting" is available in entitlement community reports but not in aggregated data in the national performance report.

[13] Data from the HUD Integrated Disbursement and Information System (IDIS), http://www.hud.gov/offices/cpd/systems/idis/index.cfm.

[14] HUD, HOME Program National Production Report as of 01/31/09, accessed March 2009 from http://www.hud.gov/offices/cpd/affordablehousing/reports/#npr.

They also must be without adequate housing, be able to afford mortgage and other payments, be unable to obtain credit elsewhere, and have a reasonable credit history.

Guaranteed loans are secured by the household through an approved lender and then guaranteed by USDA. Low-income households may be eligible if they have an income up to 115 percent of the Area Median Income. Because these loans are provided by outside lenders and guaranteed by USDA, the applicant must able to afford the mortgage and other payments and have a reasonable credit history. Housing must be modest in size, design, and cost and meet all applicable building codes and loan limits set by USDA.[15] While the program began in 1977, it really did not take off until 1991. To date, more than 422,000 loans have been made through this program.

Other Initiatives to Support

It is important that Congress consider and support recommendations in the National Council on Disability report *The State of Housing in America in the 21st Century: A Disability Perspective* (January 2010). The following items need immediate attention.

- Enact $1 billion for the National Affordable Housing Trust Fund.
- Enact and immediately implement the Frank Melville Supportive Housing Investment Act of 2009 (H.R. 1675 and S. 1481).
- HUD and USDA should require that a higher percentage of affordable housing constructed with federal funding be accessible for people with disabilities as allowed at 24 C.F.R. 8.22 of Section 504 of the Rehabilitation Act.
- HUD and USDA should award incentives in all new Notices of Funding Availability (NOFAs) to encourage visitability features, including for people with environmental sensitivities, in all housing funded.
- States should adopt policies that award points under the Low Income Housing Tax Credit program for projects that (1) target housing units for people with disabilities whose incomes are either at the SSI level or at less than 30 percent of average monthly income for the area, (2) include visitability features in all projects, (3) include Universal Design principles in all designs, and (4) ensure integration by limiting the total units in a project occupied by people with disabilities to 15 percent, unless there exists a compelling reason to do otherwise.

In closing, I provide some best practice examples and list of the communities that have taken steps to promote visitability in their respective jurisdictions. This is a good starting point for Congress to consider legislation to promote visitability in the nation as a whole.

Thank you for the opportunity to testify on this is important issue that impacts the quality of life of millions of citizens.

Janet L. Smith, PhD

[15] http://www.rurdev.usda.gov/rhs/sfh/area%20loan%20limit%20pdf%20files/CA.pdf.

Promising Practices

Concrete Change and Habitat for Humanity, Atlanta, Georgia. Beginning in 1987, the group Concrete Change developed a principle called "basic home access," later known as "visitability," and promoted it to housing developers and others. The basic features of visitability include a zero-step entrance, wide interior doors, and a half-bathroom on the main floor.[16] In 1989, Concrete Change persuaded the Atlanta chapter of Habitat for Humanity to include this basic access in new homes. By early 2006, Habitat Atlanta had built over 600 visitable houses.[17] In 1992, following outreach efforts by Concrete Change, the city of Atlanta passed the first U.S. visitability ordinance, requiring basic visitability in all private single-family homes and duplexes that receive tax incentives, city loans, land grants, fee waivers, and/or federal block grants.[18] Because of the ordinance, more than 600 homes have been constructed in Atlanta in compliance with the visitability standard as of 2002.[19] Moreover, similar requirements have been passed in cities throughout the United States, as well as at the State level in Texas, Georgia, and Kansas. Visitability standards have been successfully replicated because of their affordability, especially when compared to the cost of retrofitting, among other reasons. While visitability dramatically expands the number of people who can visit or live in a house, the costs at the time of construction are relatively small. Concrete Change estimates that a zero-step entrance on a concrete slab should cost around $200, with an extra $50 for expanded doors.[20]

Minimum Universal Design Requirements for New Construction Using Affordable Housing Trust Funds from the City of St. Louis. In 2004, the city of St. Louis adopted policy to require that universal design principles be applied to new construction using Affordable Housing Trust Funds. All developers hire a registered project architect to produce detailed construction drawings prior to commencing construction and to oversee construction of the project. All new construction projects require written architectural certification at the time of application, at execution of the loan agreement, and at closeout by the project architect and the developer that the project is designed and built in compliance with universal design requirements. If construction begins prior to the review of the required documents, affordable housing funds may be revoked. The first certification requires that the project will be drawn and built in compliance with universal design requirements. Following the awarding of funds and prior to construction, the developer and architect must sign a second certification that includes a verification checklist.[21]

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[16] Maisel et al., *Increasing Home Access*, p. 9.
[17] E. Smith, "Early History of the Visitability Movement," Concrete Change homepage accessed January 28, 2009, from http://www.concretechange.org/visitability_history.aspx.
[18] Maisel et al., *Increasing Home Access*, p. 20.
[19] "Atlanta City Ordinance of 1992," Concrete Change homepage, accessed January 28, 2009, from http://www.concretechange.org/policy_legislative_local_atlanta.pdf.
[20] "Construction Costs," Concrete Change homepage, accessed January 28, 2009, from http://www.concretechange.org/construction_costs.aspx.
[21] "Minimum Universal Design Requirements for New Construction Using Affordable Housing Trust Funds from the City of St. Louis," September 2004, revised September 2008, accessed January 9, 2009, from http://www.stlouis.missouri.org/development/otherprojects/rfp-rfq/UDCriteria.doc.

Design for Life Montgomery, Montgomery County, Maryland. Design for Life Montgomery is the first voluntary certification program in Maryland for visitability and "livability" in single-family attached and detached homes located in Montgomery County. Its guidelines apply to both new construction and renovation of existing homes. The program features two optional standards of accessibility and is voluntary, following the National Association of Home Builders' guidelines that support voluntary programs. New construction and renovation of existing homes are targeted by the program, which represents a successful informal partnership involving county, building, and business interests and advocates. The program is administered by the county as part of the regular permitting process and is not a special process. A checkbox for review and certification can be found on the standard application for permit, and there are no additional permitting costs beyond the standard fees. The program started in March 2007. As of August 2008, 12 permits have been issued. Eight are for new construction, three for additions to existing buildings, and one for alteration of an existing structure. The program generally follows visitability principles and does not meet FHAA or ADA requirements or universal design guidelines.

California Model Universal Design Ordinance. Assembly Bill 2787, enacted in 2002, requires the California Department of Housing and Community Development to develop and certify one or more model universal design ordinances applicable to new construction and alterations for voluntary adoption by cities and counties. The department's model ordinance identifies rooms and denotes features that must be offered by a builder in residential units subject to the ordinance that are being newly constructed or substantially rehabilitated, but are only installed if requested by the buyer/owner and which would not cause an unreasonable delay or significant nonreimbursable costs to the developer or builder. In general, the model ordinance provides (1) definitions for critical terms, (2) local option as to types of units (owner-occupied and/or rental) and number of units, and (3) specific exemptions and enforcement mechanisms. While voluntary models like A.B. 2787 and Design for Life Montgomery do not have the same impact as mandatory requirements, they are often important first steps, spurring the testing of a new concept that brings needed attention to the issue, while demonstrating it is both affordable and practical. They eventually contribute to the critical mass that is needed to generate stronger legislation or adoption of more comprehensive policies.

U.S. City Visitability Ordinances

Date	Location	Types of Homes	Subsidized/ Unsubsidized	Mandatory/ Voluntary
1992	Atlanta, GA	Single-family homes	Any federal, State, or city financial benefits dispersed through the city	Mandatory
1997	Freehold Borough, NJ	Public and private dwellings		Voluntary/ Incentive
1998	Austin, TX	New single-family homes, duplexes, triplexes	Subsidized (any public funds)	Mandatory
1999	Irvine, CA	New single-family homes		Voluntary
2000	Urbana, IL	New single-family dwellings or one to four units, duplexes and triplexes	Subsidized (city funds)	Mandatory
2001	Visalia, CA	New single-family homes		Voluntary/ Certificate program
2001	San Mateo County, CA			Consumer awareness
2001	Howard County, MD			Consumer awareness
2001–2002	Albuquerque, NM	All new homes	Subsidized and unsubsidized	Consumer awareness/ Voluntary
2002	San Antonio,TX	New single-family homes, duplexes, triplexes	Subsidized (city, State, or federal funds)	Mandatory
2002	Onondaga County, NY	New single-family homes and duplexes	Subsidized (county assistance)	Voluntary
2002	Southampton, NY	New one- and two-family detached housing		Voluntary/Incentive based
2002	Naperville, IL	All new single-family homes	All homes (subsidized and unsubsidized)	Mandatory
2002	Pima County, AZ (Tucson)	All new single-family homes	All homes (subsidized and unsubsidized)	Mandatory
2002	Long Beach, CA	All single-family or duplex dwelling units	Subsidized (city funds)	Mandatory
2002	Iowa City, IA	All dwelling units	All subsidized	Mandatory
2003	Syracuse, NY	New single-family homes		Voluntary

Source: University of Buffalo, School of Architecture and Planning and Concrete Change.

U.S. City Visitability Ordinances (continued)

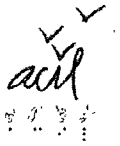
Date	Location	Types of Homes	Subsidized/ Unsubsidized	Mandatory/ Voluntary
2003	Bolingbrook, IL	All new single detached dwelling units	All homes (subsidized and unsubsidized)	Mandatory
2003	Escanaba, MI	Property owners	All homes	Voluntary/Consumer incentive
2003	Chicago, IL	20% single-family homes and townhomes in planned developments must be "adaptable" or "visitable"	All homes	Mandatory
2003	St. Louis County, MO	Any homes built with county funds	All homes: New construction and substantial rehabilitation	Mandatory
2004	Houston, TX		Affordable housing	Voluntary/Incentives to developers
2004	Pittsburgh, PA	Pittsburgh Visitability Ordinance	Newly constructed or substantially renovated single-family dwellings, duplexes, triplexes, townhouses and row houses	Tax incentive
2004	St. Petersburg, FL	All new one- to three-unit homes	Subsidized (city funds)	Mandatory
2005	Toledo, OH	All new one- to three-unit homes	Subsidized (any government funds) and built within the city of Toledo	Mandatory
2005	Auburn, NY	All new one- to three-unit homes	Subsidized (city funds)—single-family homes, duplexes, and triplexes that are constructed with public funds	Mandatory
2005	Prescott Valley, AZ			Voluntary
2005	Scranton, PA	All new one- to three-unit homes	Subsidized (city funds)—single-family homes, duplexes, and triplexes that are constructed with public funds	Mandatory
2005	Arvada, CO	15% of all new dwelling units must be visitable or visitable adaptable; an additional 15% must include interior visitable features		Mandatory

Source: University of Buffalo, School of Architecture and Planning and Concrete Change.

U.S. City Visitability Ordinances (continued)

Date	Location	Types of Homes	Subsidized/ Unsubsidized	Mandatory/ Voluntary
2006	Pittsburgh, PA		Residential Visitability Tax Credit Act (Senate Bill 1158)	Voluntary
2006	Milwaukee, WI	New/substantially rehabilitated multifamily	Subsidized—Recipients of the city's Housing Trust Fund	Mandatory
2007	Montgomery County, MD	All new home building and renovation in single-family attached and detached homes		Voluntary
2007	Davis, CA	100% of all new market-rate and middle-income single-family residential units shall be developed with visitability and all new single-family affordable residential units shall be developed with first-floor accessibility (includes bedroom)	Target of 100% visitability	Voluntary (facilitate inclusion of accessibility and visitability features to the greatest extent possible, including use of incentives)
2007	Birmingham, AL	All new single-family homes	Subsidized (city funds)	Mandatory
2007	Rockford, IL	All new one- to three-unit homes	Subsidized (city funds)—in new residential structure(s) constructed with public funds or with financial assistance originating from or flowing through the city of Rockford	Mandatory
2007	Lafayette, CO	All new housing	The 25% requirement would apply regardless of whether the development consisted of single-family detached or multifamily units. Mixed-use developments that include a vertical mix of uses and have greater than 75% of the units located above the ground floor	Mandatory
2007	Dublin City, CA	All new housing	The universal design ordinance requires developers building more than 20 houses in a given project to install UD features. The ordinance requires the developer to offer a list of optional features to make homes more accessible, such as a zero-step entrance.	Mandatory
2008	Tucson, AZ	All new single-family homes	All homes (subsidized and unsubsidized)	Mandatory

Source: University of Buffalo, School of Architecture and Planning and Concrete Change.



September 27, 2010

The Honorable MaxineWaters
Chairperson, House Committee on Financial Services
Subcommittee on Housing and Community Opportunity
2344 Rayburn House Office Building Washington, DC 20515-0535

Dear Ms. Waters, and Subcommittee Members:

Thank you for your attention to H.R.1408, Inclusive Home Design Act of 2009, which would require minimal accessibility requirements for federally assisted housing not covered by other accessibility requirements (such as single-family town homes.)

We strongly urge support for this legislation. It will help address the housing needs of people with disabilities by increasing the stock of housing that people with disabilities can access, and also will increase access to the community as a whole by making communities more accessible. It will also help people who are not currently disabled "age in place" in their homes without the need to finance accessibility modifications to accommodate age related disabilities.

The fact that the housing crisis for people with disabilities is particularly dire is demonstrated by several facts: only people with disabilities face the combined barriers of affordability and architectural accessibility; discrimination against people with disabilities is consistently the the most reported form of housing discrimination against any minority group; and the current requirement that only 5% of federally assisted housing be accessible does not begin to meet the true need for accessible units. Also, incorporating accessibility features as housing is built is also more cost effective than retrofitting for accessibility needs, which, in the long term, can help conserve federal resources used for this purpose.

In short, H.R.1408 proposes minimal accessibility requirements that will significantly increase housing opportunities for people with disabilities and promote full community integration and participation for everyone, disabled or not. It offers profound benefits to the community as a whole with minimal change to current construction practices, so we urge you to vote in favor of this important legislation.

Thank you for your attention.

Darrell Price

Darrell Price
Housing Policy Coordinator

The Access Center for Independent Living, Inc.
901 S Ludlow Street, Dayton, Ohio 45402
(937) 341-5202v * (937) 341-5217 FAX * (937) 341-5218 TTY

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Washington, DC 20049

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1-888-687-2777
TTY 1 877-434-7598
www.aarp.org

September 27, 2010

The Honorable Maxine Waters
Subcommittee of Housing and Community Opportunity
Financial Services Committee
2129 Rayburn House Office Building
Washington, DC 20515

The Honorable Shelley Moore Capito
Subcommittee of Housing and Community Opportunity
Financial Services Committee
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairwoman Waters and Ranking Member Capito:

I am writing on behalf of AARP's millions of members to thank you for holding a hearing on H.R. 1408, the Inclusive Home Design Act. AARP is a strong proponent of visitability and increasing the number of homes built with basic features that make them accessible to people with mobility impairments. H.R. 1408 provides a clear statement that stronger federal standards are needed and embraces the visitability design principles that are key to eliminating needless structural barriers that prevent people from aging in place.

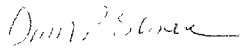
In a 2006 survey, AARP found that 89 percent of adults age 50 and over would prefer to stay in their homes as they age. That portion was even higher among the age 65+ and 75+ respondents. However, as needs and mobility change with age, unnecessary design barriers found in many single family homes make it difficult for people to stay in their homes. In 2008, approximately 25 million persons age 65 and over had an ambulatory disability. A recent study found that more than one-third of older adults were concerned about being forced into a nursing home as the result of structural barriers in their homes. With the number of Americans over the age of 65 expected to more than double from 40 million to 81 million by 2040, it is of paramount importance to create more housing options that meet the needs of older adults and facilitate aging in place.

Visitability incorporates three key features that make homes easy to enter, move about, and be used more fully by people with mobility disabilities. By simply including one zero-step entrance, widened hallways and doorways, and a bathroom with adequate maneuvering space and reinforced walls, homes are both easier to visit and to remain in as one ages. Building using visitability guidelines puts in place core access features that permit many people who develop mobility impairments to reside in a home on a short-term basis and in many cases indefinitely. When these features are incorporated into the design and building of a new home, not only is it less expensive than having to retrofit a home as mobility issues arise, but it also lays the groundwork should any further adaption be needed.

W. Lee Hammond, President
Addison Barry Rand, Chief Executive Officer

AARP strongly supports the thrust of H.R. 1408, and we look forward to working with you and the subcommittee in refining this bill and expanding the housing stock built with core access features. If you have any questions or would like more information, please feel free to contact Diane Beedle of our Government Relations staff at 202-434-3798 or dbeedle@aarp.org.

Sincerely,



David P. Sloane
Senior Vice President
Government Relations and Advocacy

The Hon. Barney Frank
Chairman
U. S. House of Representatives
House Financial Services Committee
2129 Rayburn House Office Bldg.
Washington, DC 20515

The Hon. Spencer Bachus
Ranking Member
U.S. House of Representatives
House Financial Services Committee
B371A Rayburn House Office Bldg.
Washington, DC 20515

The undersigned organizations, representing millions of Americans with disabilities, urge you to support enactment of HR 1408, the Inclusive Home Design Act (IHDA). Sponsored by Congresswoman Jan Schakowsky, HR 1408 would require a basic level of architectural access in all federally-assisted newly-constructed housing.

Under current law, when federal financial assistance is used to create new single family houses or town houses, only 5% are required to meet accessibility standards that allow individuals with physical disabilities to visit or live in these houses. The remaining 95 percent of government-assisted new homes can be built with unnecessary architectural barriers. As a result, residents who acquire disabilities are forced to live in unsafe conditions, unable to use their bathrooms or exit their homes independently. They may face high renovation costs or long waiting lists for public funds to finance modifications. They may become socially isolated because barriers in their homes prevent visits from other friends and family members with disabilities. Ultimately, they may be forced from their homes and into institutions because of this lack of basic accessibility in their housing.

HR 1408 addresses these dilemmas in a cost-effective and practical way. While leaving in place the existing requirement for extensive access in 5%, IHDA provides for fewer but important accessible features in the remaining 95%. This would ensure that all housing built with taxpayer monies enables a person with a physical disability to enter a home and use the bathroom on the main level. For homes built on a concrete slab, the cost is less than $100 and for homes with a basement or crawl space the cost is estimated at less than $600.

In a study published last year by the American Planning Association, researchers determined that, using different measures of disability, there was a 25 to 60 percent chance that a house built in 2000 would at sometime during its useful life contain a resident with a severe, long-term mobility impairment.[1] This nation is not building homes to meet the needs of its people. HR 1408 will take considerable steps to correct that.

---

[1] *"Aging and Disability: Implications for the Housing Industry and Housing Policy in the United States", Journal of the American Planning Association, Summer 2008*

Please support HR 1408.

Alabama

Independent Living Resources of Greater Birmingham, Birmingham

Alaska

Access Alaska, Fairbanks
Arctic Access, Inc, Kotzebue
Southeast Alaska Independent Living, Juneau

Arizona

Arizona Bridge for Independent Living, Phoenix
Arizona Center for Disability Law, Phoenix
Arizona Statewide Independent Living Council, Phoenix
Arizona Technology Access Program, Northern AZ University, Phoenix
SMILE Independent Living Center, Yuma

Arkansas

Association of Programs for Rural Independent Living, North Little Rock

California

Access to Independence, San Diego
Berkeley Center for Independent Living, Berkeley
Center for Independent Living-Fresno, Fresno
Central Coast Center for Independent Living, Salinas
Disability Resource Agency for Independent Living, Modesto
FREED Center for Independent Living, Nevada City
Hearth Homes Community Buildings, San Francisco
Independent Living Resource Center, Santa Barbara
Placer Independent Resource Services, Auburn
Rolling Start Resource Center for Independent Living, San Bernardino
Silicon Valley Independent Living Center, San Jose
The Rolling Rains Report, San Jose

Connecticut

Kitchen, Bath and Universal Design, Brookfield
Steven Winter Associates, Norwalk

Delaware

Colonial Paralyzed Veterans of America, Christiana
Living Letters Studio, Inc., Wilmington

District of Columbia

Capital Area Adapt
University Legal Services Protection & Advocacy

Florida

Central Florida Paralyzed Veterans of America, Sanford
Florida Gulf Coast Paralyzed Veterans of America, Tampa

Georgia

Adapted Living Spaces, Atlanta
American Association of Adapted Sports Programs, Atlanta
Disability Resource Center, Gainesville
Latta Enterprises, Atlanta
Living Independence for Everyone Inc., Savannah
People First of Georgia, Atlanta
Responsive Systems Associates, Litihonia
Statewide Independent Living Council, Decatur
The First Existentialist Congregation of Atlanta, Atlanta
The Shepherd Center, Atlanta

Illinois

Association of People with Disabilities, Bolingbrook
Coalition of Citizens with Disabilities of Illinois, Springfield
LINC Inc., Belleville

Indiana

ATTIC, Vincennes
Future Choices, Inc., Muncie

Iowa

Iowa Paralyzed Veterans of America, Des Moines

Kansas

Center for Independent Living Southwest Kansas, Garden City
Independence Inc., Lawrence

Statewide Independent Living Council of Kansas, Topeka
Topeka Independent Living Resource Center, Topeka
Topeka Area Accessible Housing Industries, Topeka

Kentucky

Kentucky-Indiana Paralyzed Veterans of America, Louisville
Realizations, LLC, Louisville

Louisiana

National MS Society, Louisiana Chapter, Metairie

Maine

KFI, Millinocket

Massachusetts

Helping Our Women, Provincetown
Institute for Human Centered Design, Boston
New England Paralyzed Veterans of America, Walpole

Michigan

Allies for Change, Lyons
Ann Arbor Center for Independent Living, Ann Arbor
Disability Connection/West Michigan, Muskegon
Heart to Heart Home Health Care, Burton
Michigan Paralyzed Veterans of America, Novi
Michigan Statewide Independent Living Council, Lansing
The Disability Network, Flint

Minnesota

Southwestern Center for Independent Living, Marshall

Missouri

Gateway Paralyzed Veterans of America, St. Louis
The Whole Person Inc., Kansas City

Montana

Montana Independent Living Project, Helena

Nebraska

Assistive Technology Partnership, Lincoln
Great Plains Paralyzed Veterans of America, Omaha
Nebraska Statewide Independent Living Council, Lincoln

New Jersey

National Center for Environmental Health Strategies, Inc., Voorhees

New York

Bronx Independent Living Services, Bronx
Brooklyn Center for Independence of the Disabled, Brooklyn
Center for Disability Rights, Inc., Rochester
Center for Independence of the Disabled, New York
Citizens Advisory Committee -- Town Board for People with Disabilities, Huntington
Finger Lakes Independence Center, Ithaca
New York Association on Independent Living, Albany
Regional Center for Independent Living, Rochester
Southern Tier Independence Center, Binghampton

North Carolina

Alliance of Disability Advocates Center for Independent Living, Raleigh

North Dakota

Independence Inc. Resource Center for Independent Living, Minot

Pennsylvania

Help Yourself Designs, DuBois

Ohio

Access Center, Dayton
Buckeye Chapter, Paralyzed Veterans of America, Columbus
Center for Independent Living Options, Cincinnati
The Ability Center of Greater Toledo, Toledo
Delaware Creative Housing/Creative Living Systems, Delaware
Down Syndrome Association of Greater Cincinnati, Cincinnati
Linking Employment, Abilities and Potential (LEAP), Cleveland
Multiethnic Advocates for Cultural Competence, Columbus
Society for Equal Access Independent Living Center, New Philadelphia
The Arc of Greater Cleveland, Cleveland

Tri-County Independent Living Center, Akron,
Universal Design Living Laboratory, Columbus

Oklahoma

Green County Independent Living Resource Center, Bartlesville
Oklahoma Association of Centers for Independent Living, Tulsa

South Carolina

disABILITY Resource Center, North Charleston

Tennessee

disABILITY Resource Center, Knoxville
Mid-South (TN) Paralyzed Veterans of America
Middle Tennessee Chapter, TASH, Nashville

Texas

Brazoria County Center for Independent Living, Angleton
Fort Bend Center for Independent Living, Sugar Land
Heart of Central Texas Independent Living, Belton
Houston Center for Independent Living, Houston
Hub City Access, Lubbock
LIFE, Inc., Lubbock
REACH Resource Center on Independent Living, Denton
San Antonio Independent Living Services, San Antonio
Texas Association of Centers for Independent Living, Lubbock
Texas Statewide Independent Living Council, Lubbock

Utah

Accessible Homes Foundation, Salt Lake City
Assist Inc. Community Design Center, Salt Lake City
Tri-County Independent Living Center, Ogden

Vermont

Vermont Center for Independent Living, [location]

Virginia

Blue Ridge Independent Living Center, Roanoke
Compliance Alliance, Palmyra
disAbility Resource Center, Fredericksburg

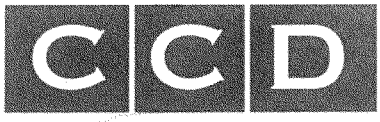
Endependence Center of Northern Virginia, Arlington
Independence Empowerment Center, Manassas
Piedmont Housing Alliance, Charlottesville
Resources for Independent Living, Richmond
Virginia Chapter, TASH, Radford
Virginia Mid-Atlantic Chapter-Paralyzed Veterans of America, Richmond

West Virginia

Community Living Initiatives Corporation, Morgantown
Mountain State Centers for Independent Living - Huntington, Beckley, Sistersville
Northern West Virginia Center for Independent Living, Elkins

Wisconsin

Access to Independence, Madison
IndependenceFirst, Milwaukee, WI
Options for Independent Living, Green Bay, WI
Unkel Management & Marketing Solutions, LLC, Grafton



CONSORTIUM FOR CITIZENS
WITH DISABILITIES

September 21, 2009

The Honorable Jan Schakowsky
U.S. House of Representatives
Washington, DC 20515

Dear Representative Schakowsky:

The Consortium for Citizens with Disabilities (CCD) Housing Task Force wishes to thank you for introducing H.R. 1408, the Inclusive Home Design Act of 2009. Your bill will advance the cause of housing accessibility by filling in gaps left unaddressed by the Fair Housing Act Amendments of 1988 and Section 504 of the Rehabilitation Act.

Numerous communities around the United States have adopted building ordinances that call for "visitability" features in new home construction. It is time that this movement receives the attention at the federal level that it deserves. People with physical disabilities should be able to visit friends, family and coworkers without worrying that architectural barriers will exclude them from this aspect of everyday life.

This measure has the potential to benefit millions of people beyond what is traditionally viewed as the "disability community." As our nation's population ages, increasing numbers of people will experience mobility impairments. This legislation could permit them to "age in place". In addition, thousands of people each year find themselves temporarily disabled through accidents or illness. A barrier-free entrance to their home and an accessible bathroom on the main level could assist in their recovery by helping them avoid further injury.

We commend you for making this effort and look forward to working with you to ensure passage of H.R. 1408.

Sincerely

American Association of People with Disabilities
American Association on Intellectual and Developmental Disabilities
American Network of Community Options and Resources
Bazelon Center for Mental Health Law
Brain Injury Association of the United States

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Easter Seals
Mental Health America
National Alliance on Mental Illness
National Association of Councils on Developmental Disabilities
National Center for Environmental Health Strategies
National Council on Independent Living
National Disability Rights Network
National Multiple Sclerosis Society
National Spinal Cord Injury Association
Paralyzed Veterans of America
The Arc of the United States
United Cerebral Palsy
United Spinal Association

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PARALYZED VETERANS OF AMERICA
STATEMENT FOR THE RECORD
TO THE
HOUSE FINANCIAL SERVICES COMMITTEE
HOUSING AND COMMUNITY OPPORTUNITY SUBCOMMITTEE
SEPTEMBER 29, 2010

Paralyzed Veterans of America (PVA) submits this statement for the record to voice its strong support for the Inclusive Home Design Act (IHDA). PVA is the only Congressionally-chartered veterans' service organization dedicated solely to the benefit and representation of veterans with spinal cord injury or disease. As such, PVA has been a long-time champion of efforts to enhance housing accessibility to promote greater integration of people with disabilities into their communities.

PVA is pleased that this legislation seeks to address one of the remaining major housing barriers faced by individuals with physical disabilities and mobility impairments. While the Fair Housing Amendments Act of 1988 requires basic accessibility features in privately funded multifamily housing, it does not apply to the millions of single-family homes and townhomes built in this country.

Meanwhile, under Section 504 of the Rehabilitation Act, when federal financial assistance is used to create housing, only 5% of any units built are required to meet very stringent accessibility standards that allow individuals with physical disabilities to visit or live in these residences. If these are multifamily developments, the remaining units are nonetheless covered by the Fair Housing accessibility rules. However, only 5% of new single family houses or town houses built with federal funds must meet the Section 504 standards. The remaining 95 percent of government-assisted new homes can be and are being built with unnecessary architectural barriers.

Statistics from the National Association of Home Builders indicate that between 700,000 and 1.8 million single family residences are built each year in this country. While these numbers are far larger than the number of single family homes built with federal funds, they represent the scale of construction to which most individuals with disabilities have been denied access.

The Inclusive Home Design Act would require a basic level of architectural access – often referred to as "visitability" -- in all federally-assisted newly-constructed housing. While leaving in place the existing requirement for extensive access in 5%, IHDA provides for fewer but important accessible features in the remaining 95%. This would ensure that all housing built with taxpayer monies enables a person with a physical disability to enter a home and use the bathroom on the main level.

This legislation will reduce the isolation felt by many people with disabilities barred from visiting friends, family and coworkers who live in single family houses and townhouses. Indeed, many people who acquire disabilities are forced to live in unsafe conditions, unable to use their bathrooms or exit their homes independently. They may face high renovation costs or long waiting lists for public funds to finance modifications. They may become socially isolated because architectural barriers prevent them from taking part in the gatherings that take place in the homes of their friends and extended family. Ultimately, they may be forced from their homes and into institutions because of this lack of basic accessibility in their housing. The inclusion of basic architectural accessibility features in such dwellings will lessen the need for people to leave their homes when they acquire a disability.

In a study published last year by the American Planning Association, researchers determined that, using different measures of disability, there was a 25 to 60 percent chance that a single-family, detached house built in 2000 would at sometime during its useful life contain a resident with severe, long-term mobility impairment.[1] This nation is not building homes to meet the needs of its people.

Each year, millions of dollars are appropriated for specially adapted housing grants to severely disabled veterans and service members. These grants typically go to help install ramps, make bathrooms accessible and widen doors in the homes of veterans or veterans' family members. For veterans with service-connected disabilities, the Department of Veterans Affairs Special Adapted Housing Grant program has, since its inception in 1948, provided over 34,000 grants totaling more than $650 million.[2] If more single family homes were built with basic accessible features as envisioned in visitability legislation, the funds to meet the specific housing needs of severely injured veterans would go a lot farther by alleviating the need for these veterans to spend their grant money on ramps, widening doorways and other features covered by this legislation.

Visitability is increasingly finding favor around the nation. Dozens of communities around this country have adopted so-called "visitability" requirements in their building ordinances. Habitat for Humanity has agreed to incorporate visitable homes in their program and as of May 2009 had built over 800 such homes. Visitability is now required for all houses built by the Atlanta Habitat for Humanity. According to the University of Buffalo, whether it is mandating visitability or providing tax incentives for voluntary accessibility, there are currently 17 laws and programs at the state level and 39 local level programs throughout the U. S. The biggest gains in construction of new visitable homes have been the result of mandatory laws such as in Pima County, Arizona, which had approximately 15,000 visitable new homes at last count.

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[1] *"Aging and Disability: Implications for the Housing Industry and Housing Policy in the United States", Journal of the American Planning Association, Summer 2008*

[2] *Keith Pedigo, Director of the VA Loan Guaranty Services, June 2007, before the House Veterans Affairs Committee*

While there has been resistance to visitability, many of the objections are based on misperceptions as to the costs of these requirements. The key to keeping costs down is planning from the outset. Retrofitting accessibility can be expensive. However, if the basic elements of visitability are incorporated from the outset of the building process, the additional cost of construction can be as little as $100 for homes built on a concrete slab and less than $600 for homes with a basement or crawl space.[3]

Building codes are often used as the vehicles for expanding accessibility in housing. The most widely used model building code is the International Building Code (IBC). For accessibility criteria, IBC uses an independently developed technical guideline called ANSI A117.1 Standard for Accessible and Usable Buildings and Facilities. A new edition of the ANSI A117.1 guideline was published at the end of 2009 and, for the first time, includes specific criteria for visitability. Since this document is widely used in the United States, this is an important step for accessibility advocates. Although ANSI A117.1 does not prescribe "scoping" or quantity requirements, it will offer state and local jurisdictions who decide to implement visitability requirements with detailed technical guidelines.

According to ANSI, in order to be a visitable unit, a residence must not only have an accessible entrance, wider doors and accessible powder room on the entrance level but also provide a public room (such as a living room) on that level. Also, if the kitchen is on that level it must meet certain basic accessible maneuvering clearances at appliances, cabinets, etc. This is to ensure that if the homeowner is entertaining, for example, a visitor with mobility impairment can participate along with the other guests.

While PVA supports the IHDA because it moves forward the conversation about improving single family housing access, we recognize certain concerns that have been raised about the existing legislation, HR 1408. For example, writing specific standards into the law may make it much more difficult to change as concepts of access and universal design evolve. There may be merit to tasking an external body like the Access Board with writing specific accessibility or visitability standards. Referencing model building codes like ANSI A117.1, which change as industry standards improve, could also offer a more flexible alternative.

Nevertheless, PVA supports the effort made by HR 1408 to advance the cause of housing accessibility. Greater attention by policymakers to this issue is vital to millions of people with disabilities and their families.

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[3] *Eleanor Smith, Concrete Change, www.concretechange.org*

Pima County
Development Services

Carmine DeBonis, Jr.
Director

Chairwoman Maxine Waters,
Ranking Member Shelley Moore Capito;
House Financial Services Subcommittee on Housing and Community Opportunity
2129 Rayburn House Office Building
Washington DC 20910

Dear Mesdames Waters & Moore Capito: September 29, 2010

In light of the proposed Inclusive Home Design legislation (H.R. 1408), this letter aims to provide a local testimonial regarding the Pima County local mandate for accessibility experience, builder reactions and the real estate environment.

Pima County, AZ, a community of approximately one million inhabitants adopted an inclusive home design ordinance in February, 2002 to provide basic accessibility for homes built within the unincorporated areas of the jurisdiction. The main impetus for these requirements was twofold: to provide disabled persons with basic accessibility to homes when visiting neighbors, friends or family, as well as to provide homes with basic infrastructure in the event a resident experienced a disability. In fact, approximately 70 percent of people experience a temporary, if not permanent, disability at some point in their life and so providing basic housing which can accommodate these circumstances can save the community extensive expenses associated with retrofitting existing non-accessible building stock.

The Pima County Inclusive Home Design Ordinance requires basic accessibility for single family dwellings to include a zero-step entrance, an accessible route through the first floor of the dwelling incorporating clear width and approaches, adjusted heights for electrical devices, compliant door hardware, and bathroom blocking for future installation of grab bars. Since the effective date of the ordinance, over 21,000 homes have been built in the County incorporating the above features.

While these requirements were at first resisted by builders based on the fact that they would require costly changes to conventional design and construction practices, it became evident that with appropriate planning, the construction could result in no additional cost. Indeed, the jurisdiction no longer receives builder complaints regarding the ordinance and the ordinance has been so well incorporated into the building safety plan review and inspection processes that there is no additional cost to the County to enforce its requirements.

From a real estate perspective, homes built to this standard are deemed more marketable, but even more importantly; the accessible features of these homes remain unnoticed when toured by individuals not seeking accessibility. One of the initial concerns of the ordinance implementation was that it would result in homes appearing institutional in nature. This has not occurred within Pima County. As such it would seem reasonable to anticipate like benefits and impacts by extending these requirements on a national level in line with the proposed Inclusive Home Design Act.

Sincerely,

Yves Khawam, PhD
Pima County Chief Building Official

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National Association of Home Builders

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September 27, 2010

Honorable Maxine Waters
Chairwoman
Subcommittee on Housing and
Community Opportunity
2129 Rayburn HOB
Washington, DC 20515

Honorable Shelley Moore Capito
Ranking Member
Subcommittee on Housing and
Community Opportunity
B371A Rayburn HOB
Washington, DC 20515

Dear Chairwoman Waters and Ranking Member Capito:

On behalf of the 175,000 members of the National Association of Home Builders (NAHB), we are writing to express our concerns with H.R. 1408 – *The Inclusive Home Design Act*. NAHB has been actively engaged in the strides that have been made in new home construction to incorporate green building, energy efficiency, additional life and safety innovations, and other advancements. NAHB believes in making new homes accessible and affordable for every segment of the home buying market.

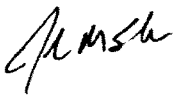
Revamping the Federal Housing Administration and revitalizing its programs to more adequately serve our nation's housing needs is a key priority for NAHB. NAHB has been leading the way to push for GSE and FHA reform and has worked directly with the Committee on Financial Services on a number of proposals that will ensure its housing programs are functional and effective; adaptable to changing marketplace needs; and most importantly, available to the people in the most need.

While the intent of H.R. 1408 is commendable, the framework for implementation is problematic without additional clarifications. The new requirements under the legislation establish building specifications for federal housing programs that are out of sync with building codes for purchases financed with conventional mortgage loans. Furthermore, the bill also prescribes an enforcement process whereby state and local governments (building code departments) would be given additional responsibilities to enforce the new building specifications without additional funding for local entities that are already experiencing record budget shortfalls. Lastly, the framework for litigation and liability, as established in

the bill, leaves parties at risk for substantial punitive damages if modifications are made to previously compliant structures and allows such legal actions to continue in near perpetuity.

Included is a short summary with our thoughts on the bill, as drafted, and we look forward to working with you and the appropriate staff going forward to ensure that the legislation improves upon the goals of accessibility without impairing the ability of our nation's housing programs to effectively deliver homes to the market and burdening State and local governments with additional requirements of enforcing federal building standards.

Sincerely,



Joe Stanton

Cc: Honorable Janice Schakowsky
Enclosure
Subcommittee on Housing and Community Opportunity

General Thoughts

H.R. 1408 – *The Inclusive Home Design Act* requires that homes achieve detailed visitability compliance if federally-assisted through a government housing program. Because such requirements do not exist for homes that are conventionally-financed, this creates an immediate obstacle for homebuyers using one government programs to subsidize or insure their mortgage product. If passed, those homebuyers would only be eligible to purchase only homes that have been determined to be compliant with the new visitability standards prescribed in Section 3. In addition to potential cost increases, the visitability requirements are out of sync with homes built for the conventional mortgage market. This would effectively limit the number of homes available for homebuyers using federal assistance unless builders voluntarily build *all* homes to the new visitability specifications, as builders generally do not build homes solely for one portion of the market.

Builders are already professionally attuned to new requirements for energy efficiency, green building, and a variety of other life, safety, and health standards that govern new home construction. Additional visitability requirements, over and above other new building specifications, while commendable in purpose, do inadvertently create a barrier for the delivery of such homes to the market primarily because builders do not, and usually cannot, decide to build one way for buyers using federal programs and build another way for buyers using conventional financing. It is nearly impossible for a builder to guess the financing and mortgage product choices of any particular buyer in advance. A builder would not automatically include additional (and more expensive) features in a home if the buyer does not need nor require such features, thereby limiting the pool of available housing that would be compliant with the visitability requirements and therefore eligible for buyers using federal programs.

Additionally, the legislation raises a number of liability issues that seem vague, misapplied, and unnecessary if State or local enforcement mechanisms are functioning appropriately. For example, there are no details on how homeowner modifications would be treated within the legal framework outlined in the bill. If the homeowner modifies the visitability features in a non-compliant fashion, it appears that someone (either homeowner or builder) could be subject to legal action if a future buyer is aggrieved by such modifications. Furthermore, the legislation gives clear authority to State and local governments to enforce the requirements of the bill, and since they are bound to uphold the law, it seems inappropriate to create a litigation structure that could potentially continue indefinitely. In that case, the State or local government in charge of enforcing compliance should be liable for any infractions.

Finally, it is unclear how the enforcement of the provisions of the bill would be managed or financed. During the last few years, State and local budgets for even the most crucial public services have been slashed. Budgets for building code enforcement has always suffered miserably, even during better economic times, and this legislation layers on additional responsibilities without providing any financial

support, training, or other implementation necessities that would go along with setting up the code enforcement infrastructure.

Section 2 – *Definitions*

Section 2(2)(D) – The time period of one year available for first occupancy is too short. The home building and construction process is lengthy and can sometimes take more than a year to two to complete, in addition to obtaining a Certificate of Occupancy, etc.

Section 3 – *Visitability Requirements*

Section 3(1)(B) - The exceptions listed in this section are not nearly comprehensive enough to instruct builders on how to proceed. For example, the Department of Housing and Urban Development (HUD) has over 25 pages in statutory guidance on grading alone. The cursory mention of a few exceptions here is not instructive enough, is overly vague, and very subjective.

Section 3(4)(A) – With regard to habitable space, it is unclear how the number of 70 square feet is determined and for what purpose such living space exists. It is not necessarily problematic, but because its utility is unclear, it seems vague and somewhat arbitrary.

Section 4 – *Enforcement*

Section 4(b)(1) – For purposes of compliance review, it is unclear why the "applicant" or potential homebuyer is the responsible party for submitting construction designs to determine compliance. The additional compliance framework could be a major budgetary strain on State and local governments, particularly building code departments, which already have severely-limited resources to enforce existing codes.

Section 4(c) – These provisions appear to allow lawsuits to continue without termination. For example, for every date that the non-compliant structure exists, the two-year statute of limitations is enforceable. If a homeowner makes modifications to the structure that alters compliance (i.e., removes the shower grab bars) with the provisions of the bill, are those homeowners exempt from liability under this section? Furthermore, the bill appears to provide that every local zoning issue immediately goes to federal court. Is there consideration for allowing a safe harbor for those properties that were deemed compliant by the State or local official, i.e., resting liability on the local officials that approved sufficient compliance on the verification document?

Section 4(d) – This section allows simultaneous enforcement actions by the Attorney General and others that appear to be purely punitive in nature. There appears to be no priority given to the Attorney General, as is the case with other statutes, e.g., Clean Water Act. Also, what is the liability for the municipality that does not adequately enforce the code compliance review?