
NEWS ON TAP

*The NEWS ON TAP Newsletter is part of OHCD's Housing and Disability Technical Assistance Program (TAP) concerning issues related to housing for persons with disabilities in the City of Philadelphia.
December 2001*

Disability Issues Shaped By Civil Rights Laws

By Peggy Robertson

On October 10, 2001 the Philadelphia Office of Housing and Community Development (OHCD) sponsored a forum at the Adam's Mark Hotel entitled "Current Issues in Fair Housing Law and Accessible Design". Deborah McColloch, Executive Director of OHCD was on hand to welcome everyone. She noted, "What we need to do as housing professionals is share information and that's why we're here today."

Diana T. Myers and Associates, Inc. (DMA), a housing and community development consulting firm, is working with OHCD to provide information about housing rights and opportunities for people with disabilities in the City of Philadelphia. The Forum is one vehicle to help educate advocates, developers, architects, builders, policy makers and others on the most up-to-date information on fair housing and accessible design.

Diana Myers introduced the two guest

Deborah McColloch, Executive Director of OHCD

speakers, Bonnie Milstein and Robert Ardinger, both of whom have expertise in fair housing law and accessible design and have also helped shape national policy in these areas. Ms. Milstein, a graduate from law school in 1969, worked on fair housing and disability law at the Center for Law and Social Policy and then at the Mental Health Law Project (which later became the Bazelon Mental Health Law Center). During that time, she participated in the effort to amend and expand the Fair Housing Amendments Act of 1988, the Americans with Disabilities Act, and the Civil Rights Restoration Act. She was a Program Director and Community Builder for the U.S. Department of Housing and Urban Development (HUD) and most recently is a founding partner of Magar & Milstein, a civil rights advocacy and

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Diana Myers and Bonnie Milstein at the Forum

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consulting firm in Oakland, California.

Dr. Ardinger is President of a successful civil rights consulting business. He is nationally recognized as an expert on civil rights issues for persons with disabilities and has over 15 years of experience in policy development, program planning and management at both federal and state levels. Dr. Ardinger is the former Section 504 Program Manager for the United States Department of Housing and Urban Development, where he played a key role in the development of both HUD's Section 504 Regulation and the 1988 Fair Housing Amendments Act Regulation. Dr. Ardinger holds a Ph.D. in Special Education Administration from Johns Hopkins University, an M.A. Equivalence in

Education and Special Education from Morgan University, an M.A. in Political Science from Antioch University, and a B.S. in History from the University of Maryland.

Ms. Milstein began by presenting an overview of key legislation that has directly affected the disability community. As she and Dr. Ardinger pointed out, "The evolution of disability issues in housing and community development has been shaped by the laws that have addressed civil rights." The following is a brief history of legislation that has been enacted to protect the rights of people with disabilities in America.

The 1964 Civil Rights Act stated that it is illegal to discriminate on the basis of race, color or national origin in programs or activities receiving federal financial assistance. Housing was not included in this act; however

what's important is that it became illegal for anyone to discriminate on the basis of race, color or national origin in any program or activity receiving federal funding. Several years later, Title VIII of the Civil Rights Act of 1968, or the Fair Housing Act which was to be further amended in 1988, went on to prohibit housing practices that discriminate on the basis of race, color, religion, sex, national origin, and when amended in 1988, familial status or disability.

During that same year, the Architectural Barriers Act of 1968 stated that any building that the federal government owns, leases, or finances, must be accessible to people with disabilities.

In 1973, Section 504 of the Rehabilitation Act specifically addressed the civil rights of people with disabilities, stating that "no qualified individual with disabilities shall, solely on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives federal financial assistance." It took HUD until 1988 to issue the 504 regulations, at which time Congress also amended the Fair Housing Act. This was

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very significant because these new laws addressed *all* housing (private and public); not just housing that receives federal, state and city subsidies.

Under the 1988 amendments to the Fair Housing Act, it is unlawful to discriminate in the sale, rental and financing of housing on the basis of disability. The Act also makes it unlawful for any person to refuse to permit reasonable accommodations in rules, policies, practices or service, if the accommodation is needed for a person with a disability to use and enjoy a dwelling unit in the same manner as other persons. Reasonable accommodations include changes or adjustments such as modifying a first-come, first-served parking policy to allow a person with a disability to have a designated parking space close to their unit. The Act also makes it unlawful to refuse to permit persons with disabilities to make reasonable modifications, at their own expense, if they need to do so in order to live in and enjoy either the dwelling unit or the public and common use areas. Reasonable modifications are structural changes, such as adding a ramp at a dwelling unit entrance.

The 1988 amendments also established accessible design and construction requirements for certain residential buildings built for first occupancy after March 13, 1991.

Residential buildings covered are those having four or more dwelling units. In buildings with elevators, all units are covered; in buildings without elevators, all of the ground floor units are covered.

In summary, there are seven basic features of accessible design required by the Fair Housing Act, HUD's regulations, and HUD's Fair Housing Accessible Guidelines:

- The building entrance must be on an accessible route. This means essentially that there cannot be stairs leading into the units.
- All public and common use areas of the building must be accessible to persons with disabilities. This means that mailbox areas, laundry rooms, swimming pools, and other recreational facilities must be accessible to persons with disabilities.
- All the doors designed to allow passage into and within all premises must be sufficiently wide to allow passage

by persons in wheelchairs.

- There must be an accessible route into and through the dwelling unit. This means that there must be a minimum clear width of 36 inches, and if there are changes in level greater than ½ inch, those changes must be ramped. However, a loft is permitted and no ramp is required to the loft area. Special design features such as a sunken or raised area (e.g. sunken living room) is also permitted (and no ramp is required) as long as the feature does not interrupt the accessible route through the rest of the unit.
- Light switches, electrical outlets, thermostats, and other environmental controls must be in accessible locations.
- Reinforcements in bathroom walls are required to allow later installation of grab bars.
- Kitchens and bathrooms must be usable in such a way that an individual in a wheelchair can maneuver about the space.

During the first Bush Administration, the Americans with Disabilities Act of 1990 was enacted

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extending civil rights protections to individuals with disabilities similar to those already provided to individuals on the basis of race, color, sex, national origin, age, and religion. This Act guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, State and local government services, and telecommunications.

At the time this law was enacted, the Bush Administration stated that barriers to employment, transportation, public accommodations, public services, and telecommunications have imposed staggering economic and social costs on American society and have undermined well-intentioned efforts to educate, rehabilitate, and employ individuals with disabilities. By breaking down these barriers, the Americans with Disabilities Act (ADA) enables society to benefit from the skills and talents of individuals with disabilities, allows everyone to gain from their increased purchasing power and ability to use it, and will lead to fuller, more productive lives for all Americans. Title II of the ADA prohibits discrimination against qualified individuals

with disabilities in all programs, activities, and services of public entities. It applies to all State and local governments, their departments and agencies, and any other instrumentalities or special purpose districts of State or local governments.

Following the passage of the Fair Housing Act and the ADA, the disability advocacy community mobilized in order to insure that these acts were being implemented. This was exemplified in The Olmstead Decision, issued by the Supreme Court of the United States on June 22, 1999. *Olmstead v. L.C.*, an important lawsuit against the State of Georgia, that questioned the state's continued confinement of two individuals after the state hospital's physicians had determined that they were ready to return to the community. The Supreme Court described Georgia's action as "unjustified isolation," and determined that it violated these individuals' rights under the Americans with Disabilities Act. Although *Olmstead* confirmed the ADA's integration mandate, the word "housing" does not appear in the decision. Instead, the Supreme Court uses terms such as "community placements" and "less restrictive settings."

Dr. Robert Ardinger at the Forum

For people with disabilities, including many people ready for discharge from institutions, these terms can and should mean affordable housing of their choice in communities of their choice – including apartments, condominiums, and even single family homes.

The Supreme Court also said that states must have a discharge planning process for people coming out of institutions and provide community-based alternatives for people with disabilities. Further, it was stated that unjustified retention of people in institutions violates the ADA. An executive order

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clarified that the states must implement the Olmstead Decision and already there have been cases where appeals were necessary for compliance. The critical issue is that there needs to be housing in the community to make the Olmstead decision work. Olmstead has yet to be fully implemented.

However, there is encouragement that the Olmstead decision as well as the ADA will be enforced in the current Administration. President George W. Bush believes that community-based care is critically important to promoting maximum independence and to integrating individuals with disabilities into community life. This is underscored in the administration's "New Freedom Initiative", which is composed of the following key components:

- Increasing Access to Assistive and Universally Designed Technologies
- Expanding Educational Opportunities for Americans with Disabilities
- Promoting Full Access to Community Life

The specific action points related to housing and accessibility of President Bush's New Freedom

Initiative are:

- **Promote Homeownership for People with Disabilities.** Congress recently passed the "American Homeownership and Economic Opportunity Act of 2000," which will permit recipients with disabilities to use up to a year's worth of Housing Choice Vouchers to finance the down payment on a home. The Administration will work to swiftly implement the recently enacted law.
- **Swift Implementation of the Olmstead Decision.** President Bush recently signed an Executive Order supporting community-based alternatives for individuals with disabilities, in accordance with the Olmstead decision.
- **National Commission on Mental Health.** President Bush has committed to create a National Commission on Mental Health, which will study and make recommendations for improving America's mental health service delivery system, including making recommendations on the availability and delivery of new treatments and

technologies for individuals with severe mental illness.

- **Improving Access.** Federal matching funds will be provided annually to increase the accessibility of organizations that are currently exempt from Title III of the ADA, such as churches, mosques, synagogues, and civic organizations. The Administration also supports improving access to polling places and ballot secrecy for people with disabilities

Ms. Milstein and Dr. Ardinger emphasized that all of the steps that have been taken to protect the rights of people with disabilities have evolved from Civil Rights legislation, because this is where it all begins. In today's world, integration will improve everyone's lives and help build real communities. And within those communities, making programs and services accessible, promoting accessible and universal design and assuring full integration will be good not only for people with disabilities, but for everyone.

HUD GRANT ENCOURAGES MODEL BUILDING CODE CHANGES TO HELP INCREASE HOUSING OPPORTUNITIES FOR PEOPLE WITH DISABILITIES

HUD Press Release Issued October 9, 2001

The Department of Housing and Urban Development today announced it has awarded nearly \$900,000 in an educational grant to help communities ensure that more apartments and condominiums are built to be accessible to people with disabilities. The grant is designed to inform the public about design and construction guidelines under the Fair Housing Act and to encourage local governments to adopt revised model building codes.

"Access to housing is critical to access to jobs and living independently," said HUD Secretary Mel Martinez. "Education about building codes is a key element in removing some of the unnecessary challenges faced daily by people with disabilities."

The \$891,000 grant is going to the International Code Council (ICC). Based in Falls Church, Virginia, the ICC is a nonprofit organization that represents building code enforcement officials, architects, engineers, designers and contractors.

The ICC will work in partnership with the National Organization on Disability in a national education and outreach campaign to educate housing industry providers, builders, contractors, real estate agents, lenders; disability and fair housing advocates; and, state and local governments of the regulations and requirements of the Fair Housing Act. The grant will also be used to encourage local and state governments to adopt "model building" codes that are consistent with the Fair Housing Act and its implementing regulations.

Local governments use these model codes, developed by private organizations, as a starting point for adopting their own building and safety codes, taking into consideration needs particular to their location, such as climate or proximity to earthquake fault lines. Building inspectors for these local governments issue construction and occupancy permits based on compliance with these codes.

A HUD-commissioned study has found that if builders comply with the Fair

Housing Act during construction, their dwelling-unit costs rise by only about one-half of one percent. However, remodeling a building that has already been constructed can cost a great deal more.

Since 1989, HUD has been providing education and technical assistance on the design and construction requirements of the Fair Housing Act. However, many builders still rely solely on their local building codes to comply with the requirements instead of the requirements of the Fair Housing Act. Congress did not change building codes accessible design and construction requirements when it amended the Fair Housing Act. However, the legislation does require HUD to encourage state and local units of government to take steps to incorporate the Act's requirements into their building plan review process. In 1999, in order to facilitate compliance by builders, HUD agreed to review the nation's four

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 model building codes for equivalency to the Act's design and construction requirements. After making suggested revisions, HUD last year endorsed the ICC's "Code Requirements for Housing Accessibility",

calling it a "safe harbor" design standard for builders.

Martinez awarded the educational grant under HUD's National Model Codes Partnership segment of its Fair Housing Initiatives Program. Among other

activities, the ICC will use the grant to conduct regional educational seminars around the country for state and local lawmakers, code enforcement officials, inspectors, architects, and engineers.

Rental Subsidy Escrow Program for Persons with Disabilities

There is an exciting new opportunity to assist people with disabilities in local communities to secure decent, safe, affordable and accessible housing!

A number of attractive government financed buildings with accessible units may be available. However, the rents in these buildings are too high for many people with disabilities, especially those receiving SSI. They need additional rental subsidies to be able to afford to live in these units.

In response to this need, the Pennsylvania Housing Finance Agency has announced a pilot program that will provide rental subsidies to owners and managers of PHFA-financed buildings to make units affordable to people with disabilities with low incomes. This initiative, called the **Rental Subsidy Escrow Program for Persons with Disabilities**, is designed to benefit low-income people with physical, mental and/or developmental disabilities. PHFA has set aside \$1,500,000 to subsidize the rents of units in eligible buildings for up to 15 years.

Everyone is encouraged to take advantage of this opportunity by contacting the manager/s of building/s in their service area and letting them know that there are many agencies that can assist them in finding eligible tenants who have disabilities. Or better yet, people who need affordable housing should accompany a representative from their social service agency and express an interest in a unit in one of the eligible buildings. These companies have already received a letter from PHFA about the Rental Subsidy Escrow Program for Persons with Disabilities, so they should be familiar with the program. It is recommended to meet with someone from the management company in order to develop a good working relationship.

To get a list of eligible buildings and for more information about the Rental Subsidy Escrow Program for Persons with Disabilities, visit the PHFA website, www.phfa.org, or contact Gail Hoffmann, Outreach and Information Specialist for the Self-Determination Housing Project of Pennsylvania at 1-888-550-7347.

If the pilot program is successful, the PHFA board may consider expanding the program.

Revised Fair Housing Act Design Manual Available

The "Fair Housing Act Design Manual," originally published in 1996, has been revised and re-published, with a new Preface, by HUD's Office of Fair Housing and Equal Opportunity. To assist designers and builders in meeting the accessibility requirements of the Fair Housing Act, the manual provides comprehensive information about accessibility requirements that must be incorporated into the design and construction of housing covered by the Act. The Act's requirements apply to buildings with four or more units built for first occupancy after March 13, 1991, both privately owned and publicly assisted, and regardless of type of ownership (sale or rental).

The Fair Housing Amendments Act of 1988 makes it unlawful to deny the rental or sale of a dwelling to a person because that person has a disability. In addition to giving people with disabilities greater choice in where they live and more freedom to visit family and friends, the Act proactively addresses the needs of an aging population by looking at future needs. Housing designed in accordance with the Fair Housing Act - with accessible entrances, wider doors, grab bars, etc. - will enable more people to remain in their dwellings as they age and continue to live independently.

The manual contains explanations and uses detailed illustrations to explain the application of the Act's requirements - including the regulations and the Fair Housing Accessibility Guidelines—to all aspects of multifamily projects. The first part of the manual includes an overview of the Fair Housing Act, outlines other national laws and standards that regulate accessible design, presents the types of building covered by the Act, and briefly discusses the different types of disabilities. The second section contains detailed and illustrated explanations of the seven design requirements of the Fair Housing Accessibility Guidelines. The final part of the manual is an appendix that includes a reprint of the Guidelines, a reprint of the Supplemental Notice to the Guidelines, a list of product resources, and a list of selected references.

To order the "Fair Housing Act Design Manual," visit the HUD USER Web site at: <http://www.huduser.org/publications/destech/fairhousing.html>. Updated pages are available for those who already have the 1996 edition. Due to limited quantities, orders are limited to one copy. HUD USER; P.O. Box 6091; Rockville, MD 20850; 1-800-245-2691; 1-800-483-2209

Publication to Help Clarify Housing Code Requirements

Code Requirements For Housing Accessibility has been compiled with the intention of providing an additional safe harbor for compliance with the accessibility requirements of the federal Fair Housing Act. It is a document that brings together contemporary and up-to-date provisions from model codes and consensus of national standards that will meet or exceed the minimum requirements of the Fair Housing Act regulations and the Guidelines. The document has been prepared in a form that is suitable for adoption by any state or local jurisdiction.

To order a copy of *Code Requirements For Housing Accessibility 2000*, contact: Building Officials and Code Administrators International, Inc.; 4051 West Flossmoor Road; Country Club Hills, IL 60478-5795; 708-799-2300; www.bocai.org.

IN THE NEWS: VISITABILITY IN PENNSYLVANIA

Grant Awarded

Congratulations to VisitAbility in Pennsylvania. They were awarded a Collective Advocacy Grant from the Pennsylvania Developmental Disabilities Council. The grant will be used to fund a task force on VisitAbility, which will promote the concept to Pennsylvania's housing agencies and to their builders.
Contact Tom Wenner at 800-341-5438 for more details.

About Visitability in Pennsylvania

Visitability in PA is the Pennsylvania chapter of Concrete Change. In recent years much has been made of accessibility. The Americans with Disabilities Act and numerous advocacy groups across the nation have heightened the public's awareness of the problems encountered by others due to a permanent or temporary disability. The requirements of access in public places and the wave of ramping that spread across the country after the passage of the ADA has made virtually everyone at least aware that problems of access do exist for millions of people.

It is the mission of *VisitAbility in Pennsylvania* to extend this awareness to VisitAbility, a movement to enhance the user-friendliness of all homes to ensure that the needs of everyone are met, through wise design choices and decisions. The changes required in new homes and renovations are not expensive, and not only make the dwelling accessible, but also safer.

VisitAbility specifically encourages:

- One Zero-step entrance where possible
- All doors as wide as possible
- Basic accessibility in the bathroom

These features are good for everyone. From the person pushing a stroller to the furniture movers to your friends with disabilities. They allow people to remain in their homes as they age, and make difficult times of accident or aging less trying. There is no downside to them.

The new website address for VisitAbility in Pennsylvania is:

<http://www.liftcil.org/visitability.htm>

VIDEO AVAILABLE

A Home For All Seasons is a video that promotes the concept of Visitability and how it can benefit everyone.

This video was made possible by:
LIFT - Life and Independence for Today
Visitability in Pennsylvania
Pennsylvania Developmental Disability Council
The Self-Determination Housing Project of Pennsylvania

For more information on how to obtain a copy of *A Home For All Seasons* contact:
LIFT

503 Arch Street Extension; St. Marys, PA 15857-1779
Toll Free: (800) 341-LIFT (5438); PA Relay: (800) 654-5984; Voice: (814) 781-3050
Fax: (814) 781-1917; Email: lift@liftcil.org



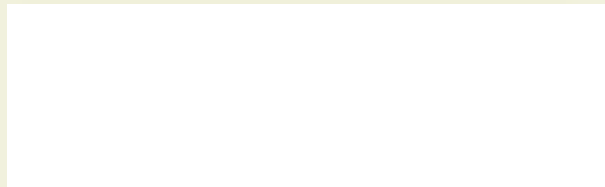
Share Your "Best Practices" in Housing

Many agencies throughout the Commonwealth have created model housing programs that meet the needs of people with disabilities. In order to encourage other communities to replicate these programs and to develop other innovative approaches to expanding housing options for people with disabilities, Diana T. Myers and Associates, Inc. (DMA) is developing a ***Digest of Best Practices in Housing***. The Pennsylvania Offices of Mental Health and Substance Abuse Services (OMHSAS) and Mental Retardation (OMR) are jointly supporting the compilation of the Digest.

The Digest will describe the many projects throughout Pennsylvania that have successfully and creatively promoted affordable accessible housing for people with disabilities in Pennsylvania. The information that will be compiled in the digest will include the name of the project, location or county, project administrator, purpose of the project, the population/s served, the project description, funding sources and other partners involved.

DMA invites all agencies that have been involved in developing successful models of affordable housing programs for people with disabilities in Pennsylvania to call 215-576-1558 to request a Best Practices Form.

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If you would like more information about a project described here, please contact us at the following address:
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