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# NEWS ON TAP

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*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.*  
*Summer 2004*

## **Eliminating Barriers to Exercise Choice**

By Peggy Robertson

In 2003, the Office of Health Care Reform (OHCR) was established by an Executive Order of Governor Edward Rendell to prioritize health care issues, and long term care was put at the top. The mission of OHCR is to coordinate and implement the Commonwealth's health care reform agenda and Dale Laninga, Executive Director of the Intra-Governmental Council on Long-Term Care, was assigned "on-loan" to the office. Mr. Laninga was a guest speaker at the April meeting of the Mayor's Commission for People with Disabilities Housing Committee, at which time he presented a history of the two agencies and their efforts to eliminate barriers to obtaining Home and Community Based Services.

The Intra-Governmental Council on Long Term Care (the Council) makes recommendations to the Governor on long term care issues. It was created by an Executive Order of the Governor in March of 1988 and became codified in law in December of 1988 with the passage of Act 185. In 1996, the Council was reconstituted by Governor Ridge with the appointment of

Council members representing the diverse interests of long term care consumers, providers and purchasers. The Council, which is part of the Pennsylvania Department of Aging, also stays abreast of the activities of the Pennsylvania Department of Public Welfare Office of Mental Health and Substance Abuse Services and the Office of Mental Retardation.

Assisted living is one of the critical issues the Council began addressing about five years ago. The major concerns were how to insure the quality of assisted living and how to make it affordable. Legislation was drafted that included funding recommendations to make housing affordable. One issue that arose was the difficulty of obtaining Home and Community Based Services (HCBS). As a result, the Council generated a report in March 2002 entitled *Barriers to Home and Community Based Services*. This report became the basis for a new process to try to remove these barriers.

OHCR worked with the report to determine which of the barriers could be fixed quickly, which in turn resulted in the Community Choice Demonstration Project to Eliminate

*(Continued on page 2)*

### ***Inside this edition...***

<i>Committee Addresses Housing Issues .....</i>	<i>4</i>
<i>Revisiting Fair Housing.....</i>	<i>7</i>
<i>Update on the Home Finder .....</i>	<i>10</i>

*(Eliminating Barriers continued from page 1)*  
 Barriers to Obtaining HCBS.

Rosemarie Greco, Director and Ann Torregrossa, Senior Executive Policy Specialist of OHCR wrote in the April 8, 2004 *Philadelphia Inquirer* Op ed on Long Term Care, "Efforts to improve access to home and community-based services are being tested in Philadelphia and in three rural counties, with state-wide rollout planned for later this year. These programs give people who need assistance in their homes new choices and options they may not have had before. They include making it easy to apply for services; increasing resource levels so more people qualify for help; providing round-the-clock assistance so people can apply for services; making services available within 24 to 48 hours, if needed, to avoid placement in a nursing home; streamlining home modification programs; and assisting nursing home residents returning to their communities."

Community Choice is an improved process developed to remove two barriers:

- an assessment that was very lengthy

- determination of financial eligibility

The plan allows clients receiving Medicaid funded services immediate access to HCBS, after which time a comprehensive treatment plan for the individual is developed. In addition, the resource limit for Medicaid waivers was changed from \$2,000 to \$8,000.

The main difference in the new plan is that the application process is expedited resulting in the consumer receiving home and community based services quickly. In Community Choice, many of the steps in determining eligibility have been removed. The necessary paperwork, the face-to-face interview to determine service needs, and the financial eligibility paperwork are all completed at the same time. In addition, the applicants or their representatives will be allowed to self-declare that their income and resources meet the eligibility guidelines for home and community based service programs.

Two pilot programs were designed to test the new process. The first demonstration project is in the three rural counties of Washington, Greene and

Fayette and began on October 31, 2003. The expansion to Philadelphia took place in January 2004. The demonstration projects involved coordinating and collaborating with the three Real Choice Systems Change grants that were awarded by the Centers for Medicare and Medicaid Services. It is anticipated that this process will expand to other counties in July 2004 and over time to the rest of the state.

In addition to providing consumers with the choice of living in their own homes, another goal of Community Choice is to prove that community care costs less than institutional care.

Community Choice in the Southwest counties as well as in Philadelphia is a process for people to receive funds through Medicaid funded services in a quicker and more efficient manner. The program has been up and running in the Southwest and has not only allowed people to move into their homes with services in place, but has also prevented people from going to nursing homes because they were able to access the supports they needed in their own home.

*(Continued on page 3)*

*(Eliminating Barriers continued from page 2)*

Because Philadelphia is more complex and there are many more agencies and different dynamics to work with, the process has taken more time to develop.

However, the Community Choice process prompted the formation of a group in Philadelphia that identified housing and transportation as two issues that need to be addressed. This group wants to focus on manageable, doable things and it is creating a survey instrument to identify the housing needs of people coming through community choice. The survey will be for consumers and will provide concrete data on the barriers being encountered. Because the focus needs to be on the consumer, an important part of the process is to have an entrée point for obtaining pertinent information. This is, in fact, being addressed by the Aging and Disability Resource Center grant that ascribes to the “no wrong door” philosophy which is that every agency provides consumers access to the same information.

Through the Direct Care Worker Initiative, a third recent grant awarded to the state, centers will be set up where workers can go to become trained for home

healthcare work. OHCR is the mechanism to insure that different state agencies and offices are coordinating efforts around these three grants.

OHCR recognizes that housing is a major piece of the discharge process and they have started meeting with the Governor’s Office of Housing and Community Revitalization to try to improve ways to link consumers to housing. Housing developers can call weekly into an 800 number established by the Pennsylvania Housing Finance Agency (PHFA) and let them know the housing units (including accessible and affordable units) they have that are available. PHFA would like to set up an electronic site where people can also find tenants to match up to their units.

The need for accessible housing presents another challenge for people being discharged from institutions. A survey is now being developed to find out where there are existing accessible units occupied by people who don’t need the accessibility features. Although regulations require such individuals to move if the name of a person needing accessible features comes

to the top of the waiting list, these regulations are not being enforced on a consistent basis throughout the Commonwealth.

The bottom line for people with disabilities is that they should be able to exercise choice in where they want to live. If a person wants to live in a nursing home, that is his or her choice, but if a person wants to live in the community, that choice should be equally accessible and available when needed. In order to make choice the norm, people need to work together, support each other and collaborate. In addition, legislators need to be educated about choice so that they can advocate for change at the state level.

To learn more about the Office of Health Care Reform, visit their website at [www.ohcr.state.pa.us/OHCR\\_index.htm](http://www.ohcr.state.pa.us/OHCR_index.htm).

To learn more about the Pennsylvania Department of Aging Intra-Governmental Council on Long-Term Care visit their website at [www.aging.state.pa.us/longtermcare/site/default.asp](http://www.aging.state.pa.us/longtermcare/site/default.asp).

## Local Leadership Addresses Housing Issues

By Peggy Robertson

Once a month an impressive group of individuals meet at the Municipal Services Building to address the housing needs of people with disabilities in Philadelphia. This group, the Mayor's Commission on People with Disabilities Housing Committee, is made up of representatives from public and private agencies such as Liberty Resources, Inc., the Housing Association of Delaware Valley, Philadelphia Health Management Corporation, United Cerebral Palsy, Brain Injury Association, Inglis Housing Corporation, Philadelphia Council on Aging and the Philadelphia Office of Housing and Community Development.

The Mayor's Commission on People with Disabilities (MCPD) is mandated by the city charter to represent all people with disabilities in Philadelphia. The Commission seeks to ensure that individuals with disabilities are afforded the same rights as all other citizens, by facilitating cooperation, communication and coordination of citywide offices and services. Roger Margulies, Assistant Deputy Mayor for the MCPD, explained that

the Housing Committee was formed during Mayor Wilson Goode's administration. Mr. Margulies stated, "The Mayor's Committee does not provide services but we do provide information and referrals. In fact, the calls we get requesting affordable, accessible housing far out number any other calls we receive. The Housing Committee has a lot of energy and is a great vehicle for addressing housing issues in the city."

During this past year the committee has been co-chaired by Barbara Dively, Brain Injury Association and Anthony Venuto, Inglis Housing Corporation. Ms. Dively provided strong leadership but had to step down and Diana T. Myers, housing consultant, is serving as interim co-chair. After several meetings, the committee developed its organizing principles for its 2004 agenda in order to meet its established goal of increasing affordable, accessible, housing options in the community, including the supports needed to maintain people in their residence of choice. In order to accomplish this goal, the committee agreed

that it needs to address the following issues that affect housing for people with disabilities in Philadelphia:

- Nursing home diversion/transition and integration into the community
- Visitability (no-step entry, first floor powder room, first floor doorways and hallways wheelchair accessible)
- Accessibility: marketing, availability, codes, etc.
- Affordability: subsidies, resources, performance standards, etc.
- Home modifications and repairs
- Coordination of housing services and supports

The committee selected VisitAbility as the initial issue to address as a group. An ordinance had been introduced in May of 2002 but was never passed. This Bill, No. 030484, which was introduced by City Councilwoman Jannie Blackwell, proposed to mandate that all newly constructed units receiving

*(Continued on page 5)*

*(Housing Committee continued from page 2)*  
public funds are designed to be VisitAble. VisitAble housing allows people with disabilities the opportunity to visit as many neighbors as possible. The committee invited Darwin Beauvais, Legislative Aide to Councilwoman Blackwell, to meet with the committee on March 15, 2004 to discuss ways in which the committee could support passage of a new ordinance.

Mr. Beauvais explained that one of the reasons the initial Bill did not pass was because market rate developers immediately raised concerns about the cost of making homes VisitAble. Mr. Beauvais therefore suggested that the committee could be helpful by providing good cost data and by identifying private developers willing to buy into the legislation.

The new bill to be introduced defines its applicability broadly (any project receiving any funding or benefit from the City, including the city's 10-year tax abatement), but that also permits waivers through the RDA for site hardships, etc. The basic design requirements are zero-step entrances, wide doorways, and a powder room on the VisitAble floor. A VisitAbility task force

will be reconvened to gather data in support of the legislation, and to make such changes as are necessary in order to get a good bill passed. The Committee is waiting to hear about the status of the proposed legislation and will continue to support the city's efforts to pass a VisitAbility Ordinance.

In response to Mr. Beauvais' request, the Mayor's Committee is gathering estimates on the cost of VisitAbility. Concrete Change, a non-profit organization based in Georgia committed to an international effort to make all homes VisitAble, reported in 1994 that Atlanta Habitat for Humanity had built zero-step entrances on more than 30 homes with crawl spaces, omitting no home despite a wide variety of terrains, at an average additional cost of less than \$200 per home. The cost of adding a zero-step for homes built on a concrete slab is less, as illustrated in a 1996 report by Concrete Change.

A director of an Atlanta-area affordable housing group confirmed that their added costs for the wider doors and zero-step entrance on more than 120 private, mid-price single-family homes on concrete slabs

was less than \$75 per home. The cost of a zero-step entrance was \$150 plus \$50 for interior doors; totaling about \$200 per house or about 1/3 the cost of one bay window. These costs are modest, especially compared to the costs of retrofitting:

- conservatively, an average of \$1,000 to add a zero-step entrance to an existing home
- conservatively, an average of \$700 to widen one existing doorway

More information can be obtained by going to the Concrete Change Website at [www.concretechange.org](http://www.concretechange.org).

There is another initiative to gather data to establish reasonable costs to making homes VisitAble. The Pennsylvania Housing Finance Agency awarded a grant to Living Independently For Today, located at St. Marys, PA, that is working with the Pennsylvania Housing Research Center. This project is still in the early stages. They are now working with 8 builders/developers that represent different housing types and geographic zones of the Commonwealth. To date

*(Continued on page 6)*

*(Housing Committee continued from page 5)*

only two houses are completed and the data is being evaluated.

In an attempt to be brought up to date on state activities, the committee invited Dale Laninga from the Pennsylvania Office of Health Care Reform to address the state's efforts to eliminate barriers to obtaining home and community based services. Mr. Laninga attended the April meeting and gave an overview of new statewide initiatives to provide individuals with greater choice in where they live. The information that he presented can be found on page 1 of this newsletter.

Guest speaker Elise Spina from HUD's Fair Housing Office attended the May meeting and discussed fair housing from HUD's perspective.

By having so many people at these meetings to discuss housing needs for people with disabilities in Philadelphia, action steps can be developed and acted upon. The committee is updating its position paper that was presented to the Mayor and his Chief of Staff in 2002. The Housing Committee of MCPD recognizes the City has undertaken a number of

initiatives to expand housing for people with disabilities but that the need for permanent, affordable, accessible housing of choice is still great. In order to increase housing, the committee has articulated the following recommendations as part of its platform to be presented when committee members are meeting with government officials.

- Allocate 8 million dollars to the Adaptive Modifications Program (AMP) each year over the next three years.
- Increase affordability of rental and sales units for people with disabilities.
- Increase the number of accessible units from a minimum of 5% to a minimum 15% for people with physical disabilities and from a minimum of 2% to a minimum 4% for people with sensory disabilities and aggressively market accessible tax credit units in the City's various housing programs. Until the day comes that universal design is the standard, these minimum requirements are

critical to the housing needs of people with disabilities.

- Strengthen neighborhoods by integrating permanent, affordable, accessible housing by increasing the variety of locations and housing types incorporated in the Mayor's \$1.6 billion Neighborhood Transformation Initiative.

The Housing Committee of the Mayor's Commission on People with Disabilities is bringing representatives of different housing agencies, government departments and consumers together to work collaboratively in order to find creative solutions to the housing problems that exist for people with disabilities in Philadelphia. The people participating in the committee are providing local leadership, a dedication of time, and a commitment to meeting the housing needs and eliminating barriers for people with disabilities in Philadelphia.

For more information about the Housing Committee of the Mayor's Commission on People with Disabilities, contact Tony Venuto at 215-581-0711.

## Revisiting Fair Housing For People With Disabilities

By Peggy Robertson

Several years ago a pamphlet entitled "***Reasonable Accommodations – When It's Okay To Bend The Rules***" was published as part of The Philadelphia Office of Housing and Community Development's Housing and Disability Technical Assistance Program (TAP). TAP addresses issues related to housing for people with disabilities in the City of Philadelphia. The information in the pamphlet ([www.newsontap.org/resources\\_pub.htm](http://www.newsontap.org/resources_pub.htm)) is still relevant, and in order to insure that people with disabilities know their rights, it is timely to revisit the fair housing protections with an emphasis on reasonable accommodations.

On Friday, April 2, 2004, Michael Allen, Esq., Senior Staff Attorney at the Bazelon Center for Mental Health Law and a nationally recognized expert on the Fair Housing Act, conducted a workshop entitled "Fair Housing for People with Disabilities." Sponsored by the Fair Housing Council of Montgomery County, Mr. Allen's presentation gave a broad overview of the history of housing for people with disabilities, and dealt with hypothetical situations

pertaining to reasonable accommodation cases.

The legal protections that were established to assure fair housing for people with disabilities include Section 504 of the Rehabilitation Act (1973), the Fair Housing Amendments Act of 1988 (FHAA), and the Americans with Disabilities Act (1990). These federal laws that forbid housing discrimination require landlords to make reasonable changes or "accommodations" in rules, policies, practices or services so that a person with a disability will have an equal opportunity to use and enjoy a dwelling unit or common area. People with disabilities have the right to seek such an accommodation so they can have full use of their housing, or to prevent eviction.

Congress believed that reasonable accommodations were necessary to promote housing for people with disabilities and to overcome barriers to housing opportunity. The law requires that landlords make accommodations upon request, except where the accommodation would

constitute an undue burden, or fundamental alteration of a program. Under federal and state fair housing laws, an individual with the disability must demonstrate the existence of a disability and demonstrate that the accommodation is necessary because of the disability. Demonstrating the existence of a disability can be proven with a Social Security Disability card or verification by a health professional noting that there is a connection between the disability and the requested accommodation.

Reasonable means that the accommodation will not impose an undue financial or administrative burden on the provider, and will not work a "fundamental alteration" in the provider's service. For example, while installing an elevator in a 2-unit complex may be an undue financial burden, allowing a person to have a service animal in a facility that has a "no pets" rule is not an undue burden. On the other hand, having to walk the dog for the person with a disability could be considered a change in the landlord's service.

*(Continued on page 8)*

*(Fair Housing continued from page 7)*

Fifteen years after passage of the FHAA, many landlords lack formal policies for considering accommodation requests. In addition, many applicants and tenants with disabilities do not fully understand their rights, or they may be afraid to approach their landlord with a request for an accommodation. That makes it even more important that disability and fair housing advocacy groups spread the word about how to make such requests. It is critical that accommodation requests be narrowly tailored to meet the disability-based need and so that it will not be rejected as burdensome.

There are instances when a person with a disability needs physical changes in a dwelling. This is referred to as a reasonable modification. Requests for reasonable modifications could range from the addition of grab bars in the bathroom to lowered kitchen cabinets. A private landlord must allow a tenant to make modifications to an apartment or common areas if the modifications are “reasonable” and necessary for the tenant to use and enjoy the dwelling unit. If and when a tenant

makes a request for a reasonable modification, the landlord must allow these changes, but can insist upon plans and/or a permit, assurance that the job will be done in a workman-like fashion, and request a certain amount of money be paid in escrow to ensure funds to restore the change to a condition useable by a person without a disability. In some cases the landlord can demand that the modifications be returned to their original condition.

Mr. Allen presented several hypothetical cases of reasonable modification that residents could request, and he asked participants at the workshop to determine if they were “reasonable” or not. The following are some of the examples that were presented.

- *You run an affordable housing complex that has a “no animals” rule. Because of a progressive eye disease, a long-standing tenant is now legally blind. She requests an accommodation to the rule for a guide dog. In addition, suppose the request is for an emotional support dog.*

The general consensus

among participants was that both requests should be granted because the accommodations are necessary because of the disability.

- *You run transitional housing for formerly homeless women. Some have suffered domestic violence, so you have banned male guests. A resident asks for an accommodation because her therapist believes that overnight visits by her 18-year old son will help with her depression.*

Participants were undecided as to whether or not this request should be granted. They were concerned that a male presence would upset the other women. This would be an interesting case for a court to decide.

- *You run supportive housing for people with psychiatric disabilities and have a policy that evicts residents who are involved in fights with other residents. One such resident asks for an exception to your*

*(Continued on page 9)*

*(Fair Housing continued from page 8)*

*policy because of a well-documented adverse reaction to a new medication.*

Participants were also undecided about this request because they were concerned about the rights of the other residents. However, many people felt that as a first-time offense, an exception should be granted.

- *You run a sober living community which has a "no tolerance"*

*policy for drugs and alcohol. A resident is caught drinking in her room, and asks for an accommodation based on the recent death of her mother.*

Most participants felt that this request should not be granted.

Whether or not a request is granted is a moot point if the request is never made. It is therefore important that people with disabilities are educated

about fair housing laws and recognize illegal discrimination.

The booklet entitled ***What Fair Housing Means For People With Disabilities*** explains in greater depth and in plain language how three federal laws protect the housing rights of people with mental or physical disabilities. To find out how to order a copy of this publication, go to the Bazelon Center website, [www.bazelon.org](http://www.bazelon.org), call them directly at 202-223-0409, or send an email to [pubs@bazelon.org](mailto:pubs@bazelon.org).

## Fair Housing Publication

***The Fair Housing Workbook*** is a publication written by Dr. Robert Ardinger, President of Ardinger Consultants & Associates (ACA). Dr. Ardinger is considered one of the nation's top trainers and consultants specializing in civil rights compliance. He is also the author of HUD's Section 504 Regulation and began HUD's Disability Compliance Program.

The Fair Housing Workbook is:

- Fun and Easy-to-Use
- Comprehensive & Concise
- Easy-to-Understand
- Includes Pre and Post Tests
- Is an Effective Learning Tool when used for Individual Study or as a Workshop Component
- Covers All Fair Housing Issues
- Emphasizes Architectural Accessibility Requirements
- 123 Pages

This publication costs \$39.95 plus \$5.05 for FedEx delivery. Shipping charges on multiple copies delivered to same address are discounted.

To order visit [www.Ardinger.org](http://www.Ardinger.org), send an e-mail to [ArdingerACA@aol.com](mailto:ArdingerACA@aol.com), or call 410 997 1840.



### *Update on the "Home Finder"*

The Housing and Disability Technical Assistance Program (TAP) is a resource sponsored by OHCD that provides technical assistance and information on accessible housing, fair housing law and other matters of interest to individuals and to public and private organizations concerned about people with disabilities in Philadelphia. Part of the TAP initiative was the development of a website. A recent addition to the TAP website is the "Home Finder", an interactive page which allows developers and managers to directly post the availability of accessible units. The site, which serves as a clearinghouse for information on available accessible units, has been up and running for several months. Using this site, property managers and developers can post their units and fill them more quickly, and people with disabilities have timely information on vacant accessible housing units. The site provides information on new units as well as existing units that have become vacant.

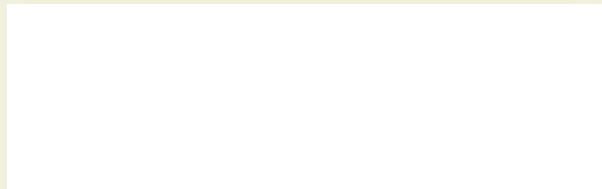
To date, 75 accessible units have been listed by five of the largest developers of OHCD-funded housing. They include Inglis Housing Corporation, Pennrose Management, 1260 Housing Development Corporation, Project HOME and Resources for Human Development. For more information about the "Home Finder", visit [www.newsontap.org](http://www.newsontap.org).

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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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