

Testimony of
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Hearing On
“The Inclusive Home Design Act”
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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.

NCIL 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 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.