

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

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.

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 be 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 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

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 “visitabile”	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 visitabile or visitabile adaptable; an additional 15% must include interior visitabile 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.