

# SHUT OUT, PRICED OUT AND SEGREGATED: THE NEED FOR FAIR HOUSING FOR PEOPLE WITH DISABILITIES

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Metro Fair Housing Services, Inc.  
Georgia | August 2011

A Public Policy Report and Recommendations



# **Shut Out, Priced Out and Segregated: The Need for Fair Housing for People with Disabilities in Georgia**

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Metro Fair Housing Services, Inc.

## CONTENTS

A Letter from Joseph D. Frazier, Chair, Metro Fair Housing Services	3
Executive Summary	4
Prologue	7
Introduction	9
Fair Housing for People with Disabilities: What's at Stake?	11
Three Elements of Fair Housing for People with Disabilities	
➤ Accessibility	20
➤ Affordability	34
➤ Integration	48
Conclusions and Recommendations	60
References	62
Panel Members and Contributors	66
Appendices	
A: Letter from a Pima County, AZ official	68
B: Additional Recommendations	69
C: Housing Stipulations from the U.S. v. Georgia Settlement Agreement	74
D: Percent of SSI Recipient's Income Needed to Rent an Apartment in Georgia	76
E: How to Make Tax Credit Units Affordable and Accessible	78
Endnotes	79

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## A LETTER

Dear Stakeholders:

As a young, non-disabled, white male I was not subjected to discrimination. Indeed, I had led a life so free from exposure to discrimination of any type that I could not recognize it. All that changed when I suffered a high-level spinal cord injury in April of 1984 at the age of twenty-four. I began to experience what it was like to have a disability in our society. I saw the misguided pity, the attitudes, the discrimination, and the difficulty involved in getting even the most basic necessities, including housing; it took me four years to develop a modest, single-family residence because no accessible apartments, condos, houses, or transitional living homes were available.

Twenty seven years later, many of my fellow citizens with disabilities are still unable to find housing that is affordable, accessible or integrated. "Why is that?" I have wondered. With the Americans with Disabilities Act and the Fair Housing Amendments Act there should be plenty of housing that is appropriate for people with disabilities. Unfortunately, that is not the case.

In response, Metro Fair Housing Services, with the support of A.G. Spanos Companies, convened a panel of experts representing a broad range of industries and backgrounds. The panel evaluated the housing needs of people with disabilities, reviewed existing research and explored best practices in Georgia and other states. The results, which are presented in the following report, may surprise you:

- Homes, particularly single-family homes, can be built with basic access (just three features) with little to no additional cost;
- Homes with basic access benefit everyone: parents of young children, children of aging parents, caregivers, people with temporary injuries, and yes, people with disabilities;
- There are programs in the state, such as Money Follows the Person, that are saving our state money and offering affordable housing; and
- Georgia offers a best practice for creating communities for people of all ages and abilities.

Developing homes and communities that are accessible and affordable for everyone just makes sense. It adds marketability to our housing industry; ensures effective use of our private resources and tax dollars; and helps each of us remain in our own homes in more cost-effective ways as we age or when we sustain a temporary or permanent disability.

On behalf of Metro Fair Housing Services and the panel, I encourage you to review this report and consider which recommendations you can help implement. Developing a system of accessible, affordable, and integrated housing is possible, but only if all stakeholders get involved. We need your involvement and your support. Take the recommendations developed here. Take them personally. And then make them happen.

Sincerely,



Joseph D. Frazier  
President, Metro Fair Housing Services

## EXECUTIVE SUMMARY

Housing is a fundamental need. It provides shelter from the elements, space to live and develop, and a place to create and nurture families, friendships and community. Where we live is part of our identity as human beings; the homes we choose allow us to express ourselves and help shape how we engage the larger community. Without adequate housing and the protection and opportunities it affords, people are unable to thrive and are at greater risk of illness, injury and isolation.

Housing is a particular issue for people with disabilities. How a home is configured, how much it costs and where it is located can mean the difference between living independently and living in an institution. Unfortunately, for many people with disabilities, housing is often inaccessible, unaffordable, segregated or all of the above. This lack of appropriate housing has legal, economic, human rights, public health and fiscal implications.

There are many reasons for this housing shortage; however one of the primary reasons is the way in which housing is approached. We may think accessible housing is only necessary for people who currently have disabilities, and thus calculate need based on the current number of wheelchair users in the population. However, this approach fails to take into account a number of factors, including:

- people who use wheelchairs are not the only people who have major mobility impairments and need accessible homes;
- people with disabilities rarely live in one structure their whole lives;
- most disabilities are sustained by formerly non-disabled people whose inaccessible homes cannot accommodate their mobility impairments<sup>1</sup>;
- the number of Georgians over age 65 is growing rapidly and many of these people will incur a disability at some point as they grow older; and
- 25 to 60 percent of all houses built in 2000 will have at least one resident with a severe, long-term mobility impairment at some point during the years the house serves as a residence; however, it is not possible to predict in which of these houses disability will occur.<sup>2</sup>

To address the state of housing for people with disabilities in Georgia, Metro Fair Housing Services, with the support of the A.G. Spanos Companies, convened a panel of experts. Based on their research and expert opinion, the panel identified three elements necessary to ensure that all people with disabilities have access to appropriate housing. These are:

- **accessibility**, to accommodate their limited mobility or other needs (*pages 20-33*);
- **affordability**, to address the significant financial burden of disability such as attendant or medical care, and the large number of people with disabilities living below the federal poverty level (*pages 34-47*); and
- **integration**, to address the often segregated or otherwise isolated nature of existing accessible housing from the larger community (*pages 48-59*).

Using these elements to evaluate the level of housing provision for Georgians with disabilities, the panel determined there is an insufficient supply of housing that meets these criteria, and that, as a result, many people with disabilities are living in inappropriate housing, institutions or on the streets. The panel then reviewed best practice models in Georgia and other states, and used these to develop recommendations to ensure all Georgians have access to accessible, affordable and integrated housing.

## Recommendations

The panel strongly recommends implementation of the initiatives listed below to create housing for Georgians regardless of age or ability. In doing so, the state of Georgia will be further in compliance with all federal laws regarding housing and placement of people with disabilities, address the increasing demand for homes with basic access on the part of people with disabilities and baby boomers who want to age in place, reduce the use of state funds for inappropriate institutionalization of people with disabilities and promote the health and safety of all Georgians. Georgia will also be creating a model for the rest of the country to follow. To accomplish this, the panel recommends the following:

**Recommendation 1:** Address the three elements of fair housing for people with disabilities by:

### Accessibility

1. Passing legislation that mandates basic access in all new housing not yet covered by current law or policy (with exemption from the zero-step entrance where topographical features make that unfeasible). (AC1: *pages 21-29*)
2. Enhancing opportunities for the education of architects, designers, developers and builders of single- and multi-family housing. (AC2: *pages 29-33*)

### Affordability

1. Commissioning research to quantify the need for housing that is both accessible and affordable for people with disabilities and creating a comprehensive housing plan that addresses the identified need. (AF1: *pages 34-41*)
2. Increasing availability of Low Income Housing Tax Credit properties to people with disabilities who have very low incomes (below 30 percent AMI). (AF2: *pages 42-43*)
3. Passing a state Individual Development Account (IDA) program that mirrors the federal Assets for Independence Act (AFIA) and includes provisions that make it easier for individuals with disabilities to participate in IDA programs. (AF3: *pages 43-44*)
4. Ensuring local zoning codes allow for a wide range of housing types. (AF4: *page 44*)
5. Passing state-enabling legislation to allow jurisdictions to create local housing trust funds. (AF5: *pages 44-45*)
6. Expanding existing mechanisms for pairing people who can share a house and expenses and matching them with appropriate housing. (AF6: *pages 46-47*)

Integration

1. Implementing the recommendations of the national Livable Communities Initiative throughout the state. (I1: pages 50 -53)
2. Providing support services for those people with disabilities who need them in order to live in the community (and not in an institution). (I2: pages 53-59)

**Recommendation 2:** Increase communication and involvement between housing professionals and disability advocates, and monitor implementation of the recommendations in this report by:

- a. Convening a coalition of housing, lending and insurance professionals, fair housing professionals and disability advocates that meets on a regular basis to monitor the progress of implementation of this report, share ideas and expertise, and identify ways to continue to partner to provide accessible, affordable and integrated housing for Georgians with disabilities.
- b. Reestablishing the Disability Housing Coalition within the Georgia Department of Community Affairs to provide oversight and advice on the Department’s efforts to provide accessible, affordable, and integrated housing for Georgians with disabilities.

Metro Fair Housing Services and its partners present the following report to explain further the need for housing for people with disabilities and recommendations for providing fair housing for all Georgians. While there are other barriers to housing, the panel has chosen to focus on those recommendations deemed most effective in addressing the needs. However, the panel has included several additional recommendations in the appendices.

The panel recognizes the volume of information contained in this report, and offers the following index of recommendations to facilitate its review:

	AC1	AC2	AF1	AF2	AF3	AF4	AF5	AF6	I1	I2
Legislators	X		X		X		X		X	X
Federal, State, Local Government	X		X	X		X	X		X	X
Architects, Developers, Builders and Code Officials	X	X	X	X		X			X	
Planners			X			X			X	
Educators	X	X								
Advocates	X		X	X	X		X	X	X	X



## PROLOGUE

Anne O. had never lived in a cooperative community before, but when her friend described a new development—East Lake Commons—that was being planned in Decatur, Georgia, she was intrigued. Anne liked the idea of owning her own detached, single-family home while getting to work with fellow homeowners to make decisions about the neighborhood. Plus, she loved the communal garden and large community building that could be used for meetings, celebrations and gatherings. So, she decided to check it out.

When she met with Jack, one of the developers, to look at floor plans, he explained how the entire development—including every house—was going to be built with basic access. This meant that every house would have at least one zero-step entrance and doorways wide enough to accommodate a wheelchair. “It’s called visitability,” said Jack, “because it allows people of all abilities to visit you.” Although Anne was impressed with the effort to be inclusive, basic access wasn’t a key factor for her. “It’s nice, but I won’t need that,” she thought to herself. Instead, she signed on for the large living room and the community garden, and moved in as soon as construction was completed.

The community turned out to be everything that Anne had hoped for. Since cars were relegated to a parking lot and sidewalks connected every house, Anne had many opportunities to see and interact with her neighbors daily. Although she knew only one person when she first moved in, within six months she had developed meaningful connections with the children and adults who lived around her. Early on, she met Beth, and the two quickly connected over their shared Midwest roots and became close friends. They met regularly in each other’s homes for tea and conversation, and as Beth, a wheelchair user, casually rolled across Anne’s threshold, Anne recognized how basic access made this visit—and this friendship—possible. Perhaps Anne didn’t need the zero-step entrance, but her friend sure did.

About thirteen years after Anne moved in, she began having problems with her left leg. At first, Anne just called one of her neighbors over to help her get out of bed, because once she was up and about her leg functioned fairly well and her neighbors were close enough to help. Eventually, however, it was clear that Anne needed to have surgery.

Three weeks of inpatient therapy followed surgery, and finally, Anne was able to come home using a walker. It was then that Anne understood the personal benefits of basic access. Rather than having to negotiate steps, she gingerly pushed her walker through her doorway with ease. The only modification Anne had to make was adding grab bars to her bathtub; since, at the time of construction, the developer had used spare lumber to add a reinforced wall to the bathroom of every home in the event that such a modification would be necessary, the total cost to Anne for this modification was just \$150.

Now, when Anne gives tours to people who come to see the East Lake Commons development, she says, “I never fail to mention visitability.” Anne is grateful for what those features have given her: lasting friendships and the opportunity to stay in her own home and her own community, no matter what her age or ability.

## What is Basic Access or Visitability?

Basic access is a phrase often used to identify the most critical features necessary to create an accessible home. These include: at least one zero-step entry; 32-inch clear passage space through interior doors; and at least one half-bath on the main level.

In addition to the essential zero-step entrance and 32-inch door clearance, some basic access policies also include: designated placement of electrical controls at reachable levels; blocking in bathroom walls at designated locations to facilitate the future placement of grab bars (if and when desired by a resident); and rectangles of unimpeded usable space in bathrooms and kitchens.

These additional features are useful for people with disabilities, and can add convenience for non-disabled people. However, basic access prioritizes the three most critical features listed above. They are sometimes informally referred to as features essential for a person to “come home from the hospital safely,” if that person has sustained a major mobility impairment.

Because these basic access features not only allow a person to remain in their own home if a disability occurs, but also to visit other non-disabled people whose homes include such features, this approach is also widely known as “visitability.” The accessibility recommendations in this paper—particularly for single-family homes and other types of homes not covered under the Fair Housing Amendments Act—are based on these concepts of basic access or visitability.

## INTRODUCTION

In almost every country, people with disabilities are one of the largest and fastest growing segments of the population, cutting across racial, ethnic, economic, social, age, gender and geographic boundaries. Whether disability is acquired from birth, illness, traumatic injury or the aging process, it is part of the natural condition and will impact virtually all of us at some point in our lives. We will meet people with disabilities, we will work alongside them, we will worship with them, we will love them and we will likely be them.

And yet, despite the prevalence of disability, we as a society historically have gone to great lengths to deny its presence. We've set up separate classrooms and schools, created "special" programs and segregated activities, established state hospitals and funded nursing facilities, all of which keep children and adults with disabilities apart from the non-disabled.

This effort is particularly expressed in housing, as we build structures and communities that are both inaccessible and unaffordable for people with disabilities. Steps, narrow doorways, high interest rates and inadequate rental subsidies separate people with disabilities from non-disabled people, keeping them out of sight and out of mind. As a result, the federal government has had to intervene to pass laws that ban discriminatory practices and guarantee accessible housing. Unfortunately, our laws do not go far enough, nor are they always heeded. According to the U.S. Department of Housing and Urban Development (HUD), discrimination based on a person's disability status continues to account for the single largest category of complaints regarding fair housing. Of the 10,242 complaints filed with HUD and its fair housing partners in fiscal year 2009, 44 percent alleged disability discrimination (many of which are about lack of accessibility), 31 percent alleged racial discrimination and 20 percent alleged family status discrimination. The number and type of complaints received are consistent with the previous two years.<sup>3</sup>

This was illustrated by the A.G. Spanos Companies, one of the largest construction services companies in the United States and a major developer of multi-family apartment communities. The National Fair Housing Alliance, along with other plaintiffs, filed suit against the company alleging that Spanos violated the Fair Housing Amendments Act of 1988 by building apartments that were inaccessible to people with disabilities. The plaintiffs charged that the violations were numerous, recurring and sometimes egregious, and included steps at most entrances, narrow doors and passageways, lack of accessible parking and more<sup>4</sup>. The lawsuit was resolved with Spanos agreeing to pay more than \$12 million to retrofit 13,200 units in 41 developments throughout the country, among other affirmative steps.<sup>5</sup>

One stipulation of the settlement was to produce a report on the housing needs of people with disabilities that would:

- illustrate the barriers people with disabilities currently face in finding appropriate housing;
- describe best practice models for ways to address these barriers; and
- offer recommendations for ways to ensure access to appropriate housing.

The stipulation was based on a written recommendation by J.D. Frazier, Chair of Metro Fair Housing Services (MFHS) of Atlanta, one of the plaintiffs in the lawsuit. To his credit, owner Alex Spanos readily agreed to this idea and provided full funding for the project, giving MFHS the lead role in the development of the report. The nonprofit then recruited more than 30 experts to oversee and contribute to the writing of the report, including people with disabilities, housing and disability advocates, architects, builders, developers, planners, professors, mortgage brokers, state agency representatives, attorneys, housing organizations, fair housing professionals and others. The panel met on a regular basis, formed work groups, debated issues, reviewed existing research, contributed written material, developed recommendations and reviewed and commented on drafts of the report. Their work and their expertise are the basis of this report. This paper is focused on the housing needs of people with disabilities in Georgia; however, the panel expects that much of the material will be relevant and useful to other states as well.

According to the Center for Healthcare Strategies, there are four issues facing many people with disabilities related to housing:

- Desire for personal control, autonomy and choice in one's living situation;
- Extremely high rates of poverty;
- Desire to live in the same types of housing as non-disabled people, rather than in segregated and restrictive settings; and
- Need for long-term services and supports in order to live as independently as possible.<sup>6</sup>

These issues reflect the impression people with disabilities have that they are often shut out, priced out and segregated from the housing that would enable them to live in, participate in and contribute fully to their communities. Through this report, the panel has attempted to address this need for housing that is accessible, affordable and integrated, and hopes it will result in communities around Georgia that are vibrant, strong and inclusive.

## FAIR HOUSING FOR PEOPLE WITH DISABILITIES: WHAT'S AT STAKE?

There are many ways to frame a discussion of fair housing for people with disabilities. There are federal housing laws aimed at eliminating discrimination. There are also market implications, particularly since, as will be shown, such housing can be marketable from several viewpoints. But pursuing fair housing simply because it is the law or because of market opportunities, is not an adequate approach, nor does it provide a complete understanding of the need to provide fair housing on a wide-scale basis. Instead, it is also important to understand fair housing for people with disabilities as a human rights issue, a public health issue and a fiscal issue.

### The Legal Implications

In 1968, Congress responded to the assassination of Dr. Martin Luther King, Jr. by revisiting the fair housing legislation first introduced in 1964. Title VIII of the Civil Rights Act of 1968, commonly referred to as the Fair Housing Act (FHA), made it unlawful for the housing industry (real estate agents, mortgage businesses, apartment providers, condominiums, co-operative housing and manufactured home communities) to discriminate in any way as to race, color, religion, national origin or sex. After reviewing research on discrimination against families with children and people with disabilities, Congress passed the Fair Housing Amendments Act (FHAA) in 1988, which added these two groups to the list of protected classes. (According to the FHAA, a person with a disability is defined as an individual with a physical or mental impairment that substantially limits one or more major life activities; individuals who are regarded as having such an impairment; and individuals with a record of such an impairment.<sup>7</sup>) The FHAA went further to mandate that all new construction (intended for first occupancy on or after March 13, 1991) of multi-family homes—housing that consists of four or more units under one roof (generally excluding townhomes)—must make all ground floor and elevator-accessible dwellings, as well as common areas and recreational facilities, accessible to all protected classes (*for a complete list of required construction features, see page 8*).

The FHAA was not Congress's first attempt at addressing the need for accessible housing. In 1973, it passed Section 504 of the Rehabilitation Act, which addressed accessible residential housing, but within a very narrow scope that limited coverage in two ways. First, Section 504 applies only to houses that receive a financial benefit from the federal government. Second, its access requirement for people with disability applies to only five percent of government-assisted housing, creating units that are specifically designated for people with disabilities. The remaining 95 percent of new units under Section 504 require no access features at all. As a result, people with disabilities have been segregated from their neighbors by architectural barriers. In addition, people living in government housing who were formerly non-disabled, but then developed a disability, can no longer enter their units independently nor fit through narrow bathroom doors.

Thus, the Fair Housing Amendments Act of 1988—philosophically and in practice—moved disability integration forward by a long leap. Rather than designating a certain percentage of housing, and thus creating segregated housing, it advanced integration by making basic access a requirement for every unit

of a multi-family residence that contained an elevator as well as every ground floor unit of a building without an elevator. Further, unlike Section 504, it applies to all new multi-family residences, whether publicly or privately funded, which greatly improves housing choice and enables people with disabilities the opportunity to find accessible housing in the area where they want or need to live. It also decreases isolation and segregation by allowing people with disabilities to visit their friends, neighbors and extended family who live in multi-family residences.

In addition to federal legislation, two legal decisions impact housing provision for people with disabilities. Both are focused on helping people who want to leave institutions—such as nursing facilities and state hospitals—and move into their own homes within the community. In the case *Olmstead v L.C.*, two women—Lois Curtis, a woman with a developmental disability and schizophrenia, and Elaine Wilson, who had a developmental disability and personality disorder—filed suit against Tommy Olmstead, Commissioner of the Georgia Department of Human Resources. Together the women, who had both been treated in state hospitals, argued for the right to be treated in a community setting instead of an institution. The case went all the way to the U.S. Supreme Court, which agreed with them. In 1999, the Court issued a ruling requiring states to meet their obligation under the Americans with Disabilities Act by demonstrating an effective plan to transition eligible individuals with disabilities to integrated community settings. The Georgia Olmstead Plan focuses on providing home- and community-based services that allow people with psychiatric disabilities, intellectual/developmental disabilities, physical disabilities, brain injuries and addiction to receive services and supports necessary to live independent, productive, healthy and safe lives.

A more recent Department of Justice decision requires that individuals with intellectual/developmental disabilities or psychiatric disabilities receive services in their “own home or their family’s home consistent with each individual’s informed choice.”<sup>8</sup> For those who choose a host home or congregate living setting, it may only include up to two individuals with intellectual/developmental disabilities in a host home and not more than four individuals in a congregate facility. For people with psychiatric disabilities, the Department of Justice settlement agreement requires that those in the target population have access to safe and affordable housing that supports their integration into the community. Supported housing is defined as “integrated permanent housing with tenancy rights, linked with flexible community-based services that are available to consumers when they need them, but are not mandated as a condition of tenancy.” The settlement requires that by July 1, 2015, 50 percent of supported housing units be in scattered-site housing, with further provisions to ensure that these units are well-integrated into the larger housing communities.<sup>9</sup> (*For additional information about the housing stipulations of the settlement, see Appendix C*). Both the Olmstead decision and DOJ settlement support the assertion that people with disabilities should live in integrated housing among people with and without disabilities in communities of their choice.

## The Market Implications

Despite this fairly dark moment in the housing industry with home building at its lowest point in decades and housing values continuing to fall, it is an excellent time to address the market implications of providing fair housing for people with disabilities. This is not just because of the high percentage of Georgians who are or will be living with a disability, but also because of the needs and desires of baby boomers to age in place, as well as the benefits of accessible housing to non-disabled Georgians.

Indeed, a review of the data on each of these groups may shine some light on and offer hope to everyone affected by the housing crisis, as it reveals growing trends and a potential market niche that could support the development of profitable housing that meets the needs of all Georgians.

According to Cornell University, more than 41 million non-institutionalized Americans live with some form of disability.<sup>10</sup> In Georgia, that number is 1.2 million, or 14.3 percent of the state's population.<sup>11</sup> This does not include the 66,953 Georgians with disabilities currently residing in nursing facilities, nor the almost 600 who are in state hospitals or other institutions, but who, according to the Olmstead and Department of Justice decisions, should be living in the community<sup>12</sup>. It also does not include the "hidden" number of people with disabilities, including those who are living with a parent or guardian, even if they are capable of living on their own, or the number who are imprisoned or homeless.<sup>13</sup>

The total number of people with disabilities, the majority of whom want to live in their own home in the community, would seem to present a sizable market for housing. Indeed, many people with disabilities have the funds and the desire to purchase or rent a home, though they are often prevented from doing so by the lack of accessible housing stock. However, one of the challenges to the market is the fact that people with disabilities have some of the highest poverty rates. According to Cornell University, 24.7 percent of working-age people with disabilities live in poverty compared to 9.0 percent of people without disabilities.<sup>14</sup> Still, it is fair to say that people with disabilities could, and would, contribute a significant investment in the housing industry if accessible and affordable homes were available.

Another growing segment of the population that presents an opportunity for the housing market is older people. Indeed, newly-released Census data reveals the state's population is growing older at an unprecedented rate. For example, in the 28-county metro Atlanta region, the number of people aged 65 and older grew by 44 percent between 2000 and 2010, nearly twice the growth rate of the metro Atlanta population overall.<sup>15</sup> What's more, the growth rate for this age group was just 13 percent for the nation as a whole, which means that Georgia in particular must develop a plan to address the housing needs of this increasing population. As a recent guest columnist in the *Atlanta Journal-Constitution* pointed out, by 2030 one out of every five people in the metro Atlanta region will be older than 60.<sup>16</sup>

Aging baby boomers are expected to significantly increase the number of Georgians with either temporary or permanent disabilities. Numerous studies show a high propensity for people to develop temporary and/or permanent mobility issues as they age. According to a report in the *Journal of the American Planning Association*, a comparison of disabilities in males at age 55 and age 85 indicates an increase from 15.7 percent to 31.3 percent respectively. For females, because their life span is generally longer than men, the rate was found to rise from 16.2 percent to 36.4 percent between the ages of 55 and 85. Those living beyond the age of 85 were found to have incidents of disability of 47.3 percent for men and 60.8 percent for women.<sup>17</sup> If we use the same calculation to determine the propensity of mobility issues arising between the ages of 65 and 85, we would find that the number of Americans needing basic access components in their houses to be between 25.1 million and 29.1 million.

Taking into consideration that most single-family homes will have between four to five different families (some estimate higher) living in the home over its useful life, *The Journal of the American Planning Association* estimated that 25 to 60 percent of all new homes, at some point, will have a resident with

a severe long-term mobility impairment.<sup>18</sup> These estimates and projections make understanding the coming need for homes that are accessible fairly easy to calculate. The Office of Policy Development and Research at the Department of Housing and Urban Development calculated the total number of households to be 111,861,000.<sup>19</sup> A further breakdown shows that 68 percent or 76,465,000 of these homes are “owner households,” while 32 percent, or 35,396,000 were “renter households.”<sup>20</sup> If, over time, the percentage of homes that have a person with severe mobility limitation proves accurate, the country would see the need for accessible housing rise to between 19.1 million at the low end, and 45.8 million at the upper end; clearly more demand than our current stock of accessible housing can accommodate.

We should note that these estimates do not take into consideration, nor do they attempt to address, any social aspects such as visitability of a home. Addressing the desire of people with disabilities to visit the homes of friends and extended family drives the base need for accessible housing much higher.

The lack of accessible housing in America offers an opportunity for home builders to develop and market various products that will meet both the current and ever increasing demand of an aging population without substantially increasing construction costs. One example is retirement communities, which are geared to the “active 55-year-old and older population, offering a range of homes and activities. Ironically, many developments marketed specifically to older people lack basic access features in their homes, making this a great opportunity to include basic access, or universal design, in new housing. Many housing professionals agree that universal design is a wonderful concept, that it is implementable and that its time has come. At its 2006 National Conference, the American Planning Association recommended ten things planners should do to support housing choice and affordability. One was to encourage universal design and adopt visitability codes for all single- and multi-family construction. In a report at the 2004 International Conference on Universal Design, *Designing for the 21st Century*, Deborah Kaplan, a universal design specialist, wrote:

*“This is an extraordinary moment. We are more diverse now in our ability and age than ever before. It is time for design to catch up. There is an urgent need to exchange ideas about the design of place, things, information, policies, and programs that demonstrate the power of design to shape a 21st-century world that works for all of us.”<sup>21</sup>*

Ms. Kaplan’s statement acknowledges that the considerable number of people who would benefit from or welcome universal design features constitutes an existing and growing market. That market is underserved and searching for products, solutions and services for the entire built environment. Therefore, engaging the building community, architects, engineers and land planners is an essential part of addressing the need in an effective way. Similar to the green building movement, at some point the private sector will respond to this trend as a growing market niche and a profitable business.



## What is Universal Design?

Developed by Ronald L. Mace, an architect, faculty member, and founding executive director of the Center for Universal Design at North Carolina State University, universal design is a concept that describes the design of all buildings, products and environments to be usable to the greatest extent possible by everyone, regardless of age, ability or status in life. Universal design is an approach to design, not design features themselves.<sup>22</sup> As such, it considers the entire spectrum of design features necessary to make a home usable to everyone across their lifespan as well as the lifespan of the home.

Universal design and basic access share a common goal of creating homes that are inclusive—enabling all people of all abilities to participate equally in society. However, where universal design considers all features to enable all aspects of our daily lives, basic access has prioritized a limited number of essential features to enable the participation of the broadest spectrum of the population and to ensure that a broad policy approach is feasible. For example, in designing the entrance to a home universal design would consider a zero-step entrance, the contrast, the lighting, the door width, the door handle, etc. Although all these features are important for ease of getting in the home, basic access focuses on the zero-step entrance and the door width, which are the essential features that are absolutely necessary for getting in the home. While it is important to discuss both universal design and basic access when talking about housing, this policy-oriented paper focuses on basic access.

## The Human Rights Implications

Despite opportunities in the housing market for people with disabilities, the negative consequences of lack of housing access are too major to be left to the market alone. Indeed, recognition of that fact is at the heart of the Fair Housing Act itself. In the past, the market was working well for some developers, landlords, renters and buyers; however, it was not working well for the people who were experiencing discrimination on the basis of race, color, religion, sex or national origin. Recognizing this injustice, Congress passed the Fair Housing Act. Similarly, because the market was working well for some developers, landlords and others, while people with disabilities and households with children were being discriminated against, Congress stepped in and added those two groups as legally protected classes under the FHAA. It also added the mandate for access in all new multi-family homes (with some exceptions), because developers were not, on their own, ensuring widespread access.

Just as basic architectural access is now recognized as a fairness issue in multi-family housing, so it also needs to be recognized as such in single-family housing. Certainly, consumer demand has influenced and can continue to influence the creation of single-family houses with basic access. However, its ability alone to bring about basic access on a wide scale has been slight. Nor have decades-long advocacy efforts such as universal design educational campaigns and the visitability movement been able to

change the reality that the great majority of new houses continue to be built with steps at all entrances and narrow doors. In fact, bathroom doors continue to be the narrowest passage doors in the house, whether it is a small, affordable cottage or a high-end house with thousands of square feet. Residential buildings that have fewer than four units, such as single-family detached houses and single-family attached houses (commonly called townhouses), are rarely required to have access features, and rarely do.

As a human rights issue, it is critical that mandates be expanded to cover this final part of the built environment. For people with disabilities, lack of basic access severely limits choice in renting or purchasing. Further, it often segregates them into the few residences or communities built especially for elderly or disabled people. Moreover, lack of access to the homes of their friends and extended family isolates them, shutting them out from the social interaction that non-disabled people take for granted. In addition, when non-disabled people develop either a temporary or permanent disability and do not have the resources available to modify their home in a timely manner, if at all, they are faced with two untenable options: leave their home and community to live in another home or even an institution; or remain in their home with barriers still in place, unsafe, unable to exit and unseen by the general public. Indeed, research indicates that for every ramp added to a home, there are two more homes where a resident needs, but does not have, a single entrance without steps.

Perhaps the worst result of the lack of accessible housing is the number of people with disabilities who are living in nursing facilities because they do not have an accessible and affordable place to live in the community. While many people consider nursing facilities to be a place just for the frail elderly, there are many people under the age of 65 who live in such institutions because of disability. According to the Statewide Independent Living Council, almost 9,000 Georgians under age 65, or 13.6 percent of all nursing facility residents, were living in a nursing facility in 2006.<sup>23</sup> This number represented an increase from 2002, when the number of residents under age 65 was 11.6 percent.

Institutionalization has been a particular issue for people with psychiatric disabilities. Like the nation as a whole, historically, the state's response to the needs of these individuals was long-term—often lifetime—hospitalization in state mental hospitals (“warehousing”). With the advent of deinstitutionalization starting in the 1960s, people were discharged or no longer admitted to these hospitals. However, because funding for adequate community-based services did not materialize, Georgians with psychiatric disabilities experienced trans-institutionalization: a process of diversion away from mental institutions into other institutions such as personal care homes (group homes), nursing facilities, homeless shelters, jails, and prisons. There are now, in fact, more people with mental illness incarcerated in the criminal justice system than there are in psychiatric hospitalization.<sup>24</sup> The housing crisis for people with severe mental illness must be viewed in this light. For mass numbers of people, the alternatives to appropriate housing in the community are stark: prison or the streets. Further, this type of coercive and highly expensive environment is both a massive burden on state taxpayers and an intolerable solution for individuals who could live in the community with appropriate housing and supports.

## The Public Health Implications

Besides being unjust, lack of access is a public health problem the enormous proportions of which have yet to be fully recognized by public health professionals, community planners, affordable housing developers, legislators and others who influence construction codes. A presentation at the 2009 conference of the American Public Health Association noted numerous negative health effects tied to home barriers.<sup>25</sup> These include:

- **Increased risk of falls:** having a step at every entrance greatly contributes to the risk of injury, particularly for those who have weakness, poor balance or other mobility impairments or are aging. Indeed, falls are the leading reason people over age 65 go to the emergency room and the leading cause of hospitalization for that group, as well as the leading cause of death for that age group.<sup>26</sup> The risk is greater if a person is attempting to negotiate entry steps during bad weather, while carrying groceries or other packages, or while attempting to open a door and/or a screen door. In addition, people in wheelchairs who must be carried in because of the lack of access face the prospect of being dropped.
- **Increased risk of other physical injuries:** narrow interior doors can also cause health problems. A narrow bathroom door can force someone using a walker to move sideways, increasing the possibility of falls. It can cause wheelchair users to use unsafe means of passing through the door, such as crawling on the floor or transferring to a desk chair on castors. Lack of access to one's own bathroom, or the bathroom in a house one is visiting, can also cause people with disabilities to chronically limit intake of liquids or postpone trips to the bathroom, resulting in bladder and kidney maladies.
- **Inability to exit in case of emergency:** one of the most alarming implications of the lack of basic access is that having a step at every entrance can prevent a person with a disability from exiting the house in case of emergency, such as a fire.
- **Negative effects on mental health:** besides the physical hazards, home access barriers can exact a toll on a person's mental health as well. The inability to leave one's house prevents participation in community events, informal chats with neighbors and even the simple pleasure of feeling the breeze or enjoying the sun. When a person with a disability is excluded from invitations or unable to accept invitations because of barriers in the homes of friends and extended family, their loved ones often are excluded as well, imposing increased social isolation on the family as a whole. Such social isolation can have significant consequence, including loneliness, depression and even death. Indeed, numerous studies have shown that social isolation increases the risk of death at almost the same rate as cigarette smoking, and higher than other risk factors such as obesity and physical inactivity.<sup>27</sup>
- **Diminished health of caregivers:** barriers pose problems not just for people with disabilities but also for their caregivers, a population that has grown exponentially in recent years. One of the latest studies on caregiving reports that one quarter of all adult children in America are providing personal care or financial assistance to a parent, a number which has tripled over the last fifteen years.<sup>28</sup> Caregivers tend to have worse health and higher mortality rates than control groups that are not doing caregiving.<sup>29</sup> When a caregiver must lift a loved one repeatedly for years on end because of architectural barriers, that person has a 10 percent increased risk of being injured or

suffering from physical ailments. Over time, such injuries and poor health can be exacerbated, forcing many caregivers to place their loved one in a nursing facility.<sup>30</sup>

There is some evidence of a growing awareness of how basic home access affects health and safety. In 2009 the American Public Health Association included visitability among its policy recommendations, stating that for many older people, “traversing a doorway, managing a door (and possibly a screen/storm door as well), while negotiating a step is ergonomically challenging and dangerous.”<sup>31</sup> Additionally, the National Fire Prevention Association is promoting visitability as a policy recommendation within the organization, in part to facilitate safe egress in case of an emergency.<sup>32</sup> The insurance industry has also begun to take heed, as exemplified by The Hartford Company, an insurance company that developed the “Modern Ideas, Modern Living” campaign that, among other things, promotes basic access features in homes.<sup>33</sup> However, while these efforts are greatly needed and point to a growing trend, more is needed to ensure all homes have the basic access features necessary to promote health and well being.

## The Fiscal Implications

Although one of the primary arguments against including basic access in every new home is the high costs of building with such features, the costs of not doing so are actually higher. As has been previously discussed, the percentage of Georgians who will develop either a temporary or permanent disability over their lifetime is high. As a result, many people who live in houses without basic access will need to modify their homes to include the features needed for their care and independence. This is called retrofitting.

More research is needed on the number of retrofits carried out annually by public funding agencies and privately by families, the average costs of these retrofits and the precise costs associated with specific retrofitted features. However, anecdotal evidence abounds, as does data showing that the most common retrofits are the addition of a zero-step entrance and bathroom modifications. Some data exists also for retrofit costs. For example, in 2008 The Home Access Program administered by the Georgia Department of Community Affairs provided \$292,681 in grant assistance to 32 homeowners, an average of \$9,146 per retrofit, before running out of funds two months into the program<sup>34</sup>. This is compared to the \$100 to \$200 cost of including basic access in homes at the time of construction.

Building without basic access results in higher costs to the environment as well. Since retrofitting a home often involves tearing out materials from homes before installing additional ones, more waste ends up in landfills and more materials are used. Recognizing this, the LEED (Leadership in Energy and Environmental Design) Green Building Rating System, a joint program of the U.S. Green Building Council, the Congress for the New Urbanism and the Natural Resources Defense Council, recently developed a list of standards for neighborhood design. As a part of this LEED-ND program, builders are awarded a certification point for building single-family homes with basic access, thus making the connection between basic access and environmental sustainability clear.

In addition to the high cost of retrofits and the impact on the environment, there are much higher costs associated with the negative health outcomes of home barriers. For example, the above-cited public health costs are often paid for with public funds—including Medicare and Medicaid—as well as private

insurance. Indeed, the potential cost to medical insurance and homeowners insurance has begun to be noted. A 2011 proclamation issued by the Ohio Housing Finance Agency recognizing “Visitability Awareness Week,” noted that basic access features “... have the potential to provide substantial savings in medical bills, homeowners insurance claims and disability claims if trips and falls are prevented.”<sup>35</sup>

Perhaps the greatest public cost implication is the high cost of institutionalization, which is incurred when people with disabilities lack accessible and affordable housing. An AARP study reveals that the total cost of care for one person in a nursing facility is \$75,190 a year; 64 percent of these costs are paid for with public dollars.<sup>36</sup> Significantly, the costs of supporting that same person in his or her own home in the community is a mere \$18,000 a year.

## Summary

Although the law and marketplace have made some headway to address the need for fair housing for people with disabilities, together they haven’t produced widespread access to housing. As a result, it is critical that Georgia reframe the issue and consider the matter of fair housing for people with disabilities from the perspective of the human cost—in terms of human rights and public health—and the financial cost to society. Doing so illustrates the need to enforce existing laws and mandate basic access in all new housing of every type, as well as to address the other recommendations in this report. To do that, it is necessary to explore the issue of fair housing and understand the three elements that, when combined, create housing that is fair for all Georgians: accessibility, affordability and integration.

## THREE ELEMENTS OF FAIR HOUSING FOR PEOPLE WITH DISABILITIES

### ACCESSIBILITY

#### A STORY

Andrew H. was just 30 years old when he went to live in a nursing facility. It was not the place he wanted to live, but after sustaining a paralyzing spinal cord injury, Andrew didn't have many choices. The housing and services he needed to live in his Greenville, Georgia, community weren't available, so for three years Andrew lived in the nursing facility and waited. Finally, with the help of an independent living program, Andrew moved into a one-bedroom apartment where attendants visited him daily to help with bathing, dressing, cooking and household chores.

While Andrew was thrilled to be living in the community again he was still, in some ways, stuck. His apartment community was an older building that lacked basic access. It had three steps leading to the front door, which meant Andrew couldn't enter or exit his apartment unless his attendant was present to assist him. Eventually, a local nonprofit built a 30-foot ramp that stretched across the lawn and up to the front door. Although it was ugly, Andrew was happy to have the ability to come and go independently, although he still couldn't visit his neighbors since no one else in the community had a ramp to circumvent their steps. The other problem with Andrew's apartment was the bathroom door; it was too narrow to accommodate his wheelchair, and Andrew couldn't afford to have it modified. As a result, he had no choice but to continue taking sponge baths just like the ones he'd had to endure in the nursing facility.

After four years, Andrew had enough and began looking for a new place to live. He eventually moved to a community where all the houses had basic access. Now his zero-step entrance means independence and no unsightly ramp in front of his house, but it also means Andrew, for the first time, can visit his neighbors and join in on their barbecues and other gatherings. But, for Andrew, the best part of his new home is that he can roll right through the bathroom door and into the shower. In fact, as soon as he moved in, the first thing he did was take a long, hot shower. Feeling the water cascading over his body, Andrew recalled the eight years of sponge baths and other limitations caused, not by his disability, but by the lack of appropriate housing and services. Now, in his new home, Andrew could live life fully. And finally, he felt clean.

#### INTRODUCTION

Definitions of architectural access to homes vary. For example, a small percentage of homes in projects using federal funds must comply with the stringent, numerous requirements detailed in the Uniform Federal Accessibility Standard. Or, at the individual level, a specific person with a severe mobility impairment may not consider his or her home accessible unless it includes the ceiling-mounted power lift needed to get in and out of bed. This paper focuses on only two definitions of access:

the construction features already required by the federal FHAA in new multi-family residences, and the short list of basic access, or visitability, features for single-family homes listed on page 8.

To facilitate discussion on accessibility issues this report will focus both on the accessibility needs of single-family and multi-family housing. For single-family housing, the need is for legislative mandates for basic access in all single-family homes. As for multi-family housing, the need is for education and training of architects, developers, builders and other housing industry professionals in order to increase compliance with laws and reduce violations.

## BARRIERS, BEST PRACTICES AND RECOMMENDATIONS

### ***Accessibility Barrier #1: Lack of basic access in every home***

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As has been previously stated, the Fair Housing Amendments Act (FHAA) requires designated access features in multi-family residences first occupied after March 13, 1991, whether or not any form of public financial assistance is used to develop them, whether the units are for rent or for sale or whether the units will be used by people with disabilities or not. While the FHAA has resulted in the development of tens of thousands of accessible, multi-family units throughout the United States, its primary drawback is that it does not cover the three types of housing where most people in the United States live: single-family detached houses; multi-story, single-family attached houses (commonly referred to as townhouses or row houses); and manufactured housing (informally called mobile homes or trailers). In Georgia, these forms of housing represent almost 80 percent of all housing.<sup>37</sup> The majority of these housing types are constructed with steps at all entrances and/or narrow bathroom doors, making them inaccessible and inappropriate for the majority of residents who will, at some point, need basic accessibility features in their home either because of a temporary or permanent disability, aging, care-giving responsibilities for a loved one or the desire to have a friend or loved one with a disability visit them.

In the 1990s, Georgia advocates made numerous attempts to pass state legislation requiring basic access in every new home; however, these were all defeated. The Home Builders Association of Georgia and the Georgia Association of Realtors lobbied strongly against the measures, as their peers have done in other locations where such legislation has been attempted. Their opposition was based on concerns that basic access features in every new home would be costly, difficult to implement, require significant regulations and decrease the appeal of the homes to buyers without disabilities. However, in 2000, SB 443 did pass mandating that “affordable housing constructed with state or federal funds awarded by the State Office of Housing” have basic access features. The scope of the law was limited to federal funds used for construction, thus excluding other types of federal funds such as tax credits. While this was a step in the right direction, producing single-family houses that would otherwise have lacked access, it still means that the number of accessible homes has been limited.

In spite of these and other efforts to promote basic access in all new houses, without mandates the vast majority of single-family houses in Georgia, as elsewhere, lack basic access. To our knowledge, no entity gathers precise data on the percent of new homes constructed with basic access; however, of the 665,000 single-family homes built in Georgia from 2000 through 2010, it can be estimated that at least 95 percent of those constructed have steps at all entrances and/or narrow bathroom doors.<sup>38</sup> This

estimate is supported by a preliminary, unpublished 2008-2010 on-site survey of 22 model houses in randomly selected new developments in metro Atlanta and the Chapel Hill, North Carolina, area, which showed that all of the models surveyed lacked an entry with no steps and all had bathroom doors with passage space narrower than 32 inches (some as narrow as 22 inches).

### **Best Practice: Using legislation to require basic access in every new house**

In 2002, Pima County, Arizona passed the Inclusive Home Design Ordinance, which required basic access in every new house. The ordinance requires that every newly-built home include:

- At least one no-step entrance at the front, back, side, garage or carport side of the home;
- 32-inch wide interior doors throughout the house;
- Lever hardware for all doors;
- A reinforced wall for the ground-level bathroom (to allow for future installation of grab bars, if needed); and
- Light controls, electrical receptacles and thermostats that are placed at reasonable levels.

It is important to note that the ordinance did provide a waiver where terrain or other unusual characteristics of the building site prevented basic access from being installed without undue additional cost.

During the time the ordinance was being proposed, many builders and other groups opposed the measure, arguing the basic access features would add an additional \$2,000 to \$3,000 to the cost of each home. Soon after the ordinance was passed, the Southern Arizona Home Builders Association sued the Pima County Board of Supervisors; however, the Arizona Court of Appeals affirmed the ruling of the Superior Court that the ordinance was constitutional. As a result, builders began including basic access features in all single-family homes, and in the end, found that the costs to include the basic access features were minimal, if nonexistent. As one local official charged with enforcing the law stated:

*"...it became evident that with appropriate planning, the construction could result in no additional cost. Indeed, the jurisdiction no longer receives builder complaints regarding the ordinance and the ordinance has been so well incorporated into the building safety plan review and inspection processes that there is no additional cost to the County to enforce its requirements."<sup>39</sup>*

Indeed, numerous builders with experience in this type of construction have stated the cost of a zero-step entrance and wider doors ranges from zero to \$100 in new construction.<sup>40</sup> Some have even acknowledged the cost of a concrete slab is less than incorporating a step since less concrete is required. Of single-family homes built for sale in the South in 2010, 73 percent were built on a concrete slab foundation.<sup>41</sup> Over a basement, the cost has been estimated by experienced builders at \$500 to \$800.

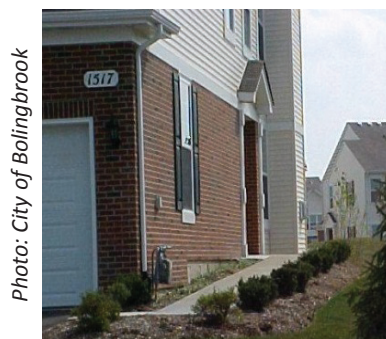
The reasons for the low cost are several:

- Figures refer to new construction, where the builder has the opportunity to plan, site and grade for cost-effectiveness.
- Existing laws provide for exempting the zero-step entrance requirement when site conditions make it impractical. As a result, zero-step entrances would be omitted on sites that present unusual



difficulties, and “worst case scenario” cost estimates would not be relevant and should not be averaged into cost estimates.

- Virtually all existing laws reiterate that the zero-step entrance may be located at the front, side, back or from an attached garage—whatever location is most advantageous.
- A ramp in the conventional sense of a structure—with railings and 90-degree drop-offs at the edges—is rarely used. Instead, earth is graded to create a sidewalk that seamlessly connects to a porch or landing at the entry.
- Cost-effective methods have evolved in the field through direct construction experience.
- The door width specified in the majority of existing single-family mandates (a minimum 32 inches of clear passage space, or technically 31 and 5/8 inches) is the same width required in multi-family residences by the FHAA. Thus the 2’10” door, which, years ago, was a more expensive, non-standard width, is now available from wholesale door suppliers at the same cost as other standard doors.
- Mandates for a zero-step entrance on single-family homes do not require that the driveway on a steep property be graded to a slope negotiable by a person with a disability. This permits a low-cost zero-step entrance to be feasible on a steep lot, proceeding from a driveway or attached garage into the house. Nor do these mandates require a usable path from one house to another in a neighborhood, unlike the FHAA which requires specified pathway criteria between all buildings on the site of a given multi-family development. In practice, however, most lots are not steep, so a usable path in fact does exist among houses in neighborhoods where multiple houses exist with basic access.
- The existing footprint of a floor plan rarely needs to be expanded to accept wider doors.



*As shown above, the zero-step entrance may be located at the front, side, or back depending on topography of the lot. Placing the zero-step at an entrance in an attached garage is another option.*

Another concern that the Pima County builders had was that basic access features would give homes an institutional look and feel, particularly since the ordinance was originally proposed out of concern for the rising number of senior citizens and people with disabilities in the area. Builders assumed the features would make the homes less attractive to buyers. However, according to the same local official, this is not the case:

*“From a real estate perspective, homes built to this standard are deemed more marketable, but even more importantly, the accessible features of these homes remain unnoticed when toured by individuals not seeking accessibility. One of the initial concerns of the ordinance implementation was that it would result in homes appearing institutional in nature. This has not occurred within Pima County.”<sup>42</sup>*

Since 2002, more than 21,000 homes have been built with basic access. Given Pima County’s success, in 2007, the City of Tucson, Arizona, passed a similar ordinance requiring basic access in every new house, as did Austin, Texas.

When considering the positive results in Arizona and Texas, some critics have noted that in Southwestern states nearly all houses are built on a concrete slab, and as a result, have posited that ordinances covering all new houses would not be practical in areas where basements are the norm and or where snow might block the door. However, the city of Bolingbrook, Illinois, near Chicago, has demonstrated that a comprehensive ordinance is practical under those conditions as well. In 2003, Bolingbrook passed an ordinance requiring basic access in every new house. Builders there have since constructed more than 4,000 homes with basic access, nearly all with basements. In 2004, Bolingbrook received a Best Practices Award for its visitability ordinance from the Illinois Municipal League. In response to the award Bolingbrook’s mayor stated, “It just makes sense, because they are minor modifications that should be just normal business practice throughout America.”<sup>43</sup>

Photo: City of Bolingbrook



*The Bolingbrook IL houses with zero-step entrances over basements incorporate an inexpensive concrete barrier at the foundation which protects the wood flooring system from moisture. This in turn permits grading the earth so that a sidewalk meets the porch.*

## Basic Access in Every Home: Georgia Leads the Way

Georgia builders were the first to provide basic access in new homes. The first known example in the United States of zero-step entrances being applied broadly to houses not designated for people with disabilities was instituted by the Atlanta affiliate of Habitat for Humanity (AHH). In 1989, after a year of education and requests from local visitability advocates, the AHH board adopted a policy of building all houses with access. Since that time, AHH has built more than 1,000 houses with basic access, and experience has taught them that less than five percent of houses need to be exempted because of site considerations. The director of the AHH emphasizes that including basic access features at the time of construction improves the aesthetics of a house and neighborhood over the long term. “The ramps that are really unattractive are the ones cropping up in neighborhoods where the houses did not have access from the beginning,”

said Atlanta Habitat director Larrie Del Martin.<sup>44</sup> Indeed, the AHH policy has been so successful that the Valdosta, Georgia affiliate has begun to build all of its new houses with basic access. In addition, Habitat for Humanity International now “strongly encourages” its affiliates to incorporate basic access design features in all of the houses they build.<sup>45</sup>

Based in part on the tangible success of the first group of visitable Habitat houses, in 1992 the Atlanta City Council passed the first visitability law in the U.S. It mandated that basic access be applied in new houses, publicly or privately owned, which receive “funding or assistance from the City of Atlanta, or any agent thereof,” such as land donated by the city, an exemption from impact fees, Community Development Block Grants, etc. Several local housing authorities in Georgia have followed suit. John Hiscox, director of the Macon Housing Authority, made an independent decision to include basic access in all the single-family detached houses of a 134-house project in the 1990s, even though only five percent legally required access.<sup>46</sup> Since that time, Mr. Hiscox has developed scores of additional townhouses and other building types with basic access, beyond the percentage required by law. He states, “If we start with the premise, the intention, to do access if at all possible, it will drop into place way more than ninety percent of the time. On the other hand, if you start from the preconception that it will be hard, costly, or unduly complicated, you will not find the possibilities. We start with visitability as the default, the presumption.”<sup>47</sup>

The Decatur Housing Authority is also following the model, where the assistant director decided to include basic access in as many houses as possible in a new development called Peachcrest, in DeKalb County. Although the homes would be sold on the open market and privately owned, the County was offering down payment assistance to first-time homeowners and thus had input in the design criteria and the choosing of the architect and builder, and could ensure that basic access features were included. As a result, Peachcrest offers access in approximately 100 homes that otherwise would have been built with barriers.<sup>48</sup>

While Georgia should be proud of its leadership in starting the visitability movement, it needs to go further by mandating basic access in all new housing throughout the entire state. Doing so would establish the state as a model for the rest of the country.

***Recommendation: Pass legislation that mandates basic access in all new housing not yet covered by current law or policy (with exemption from the zero-step entrance where topographical features make that unfeasible)***

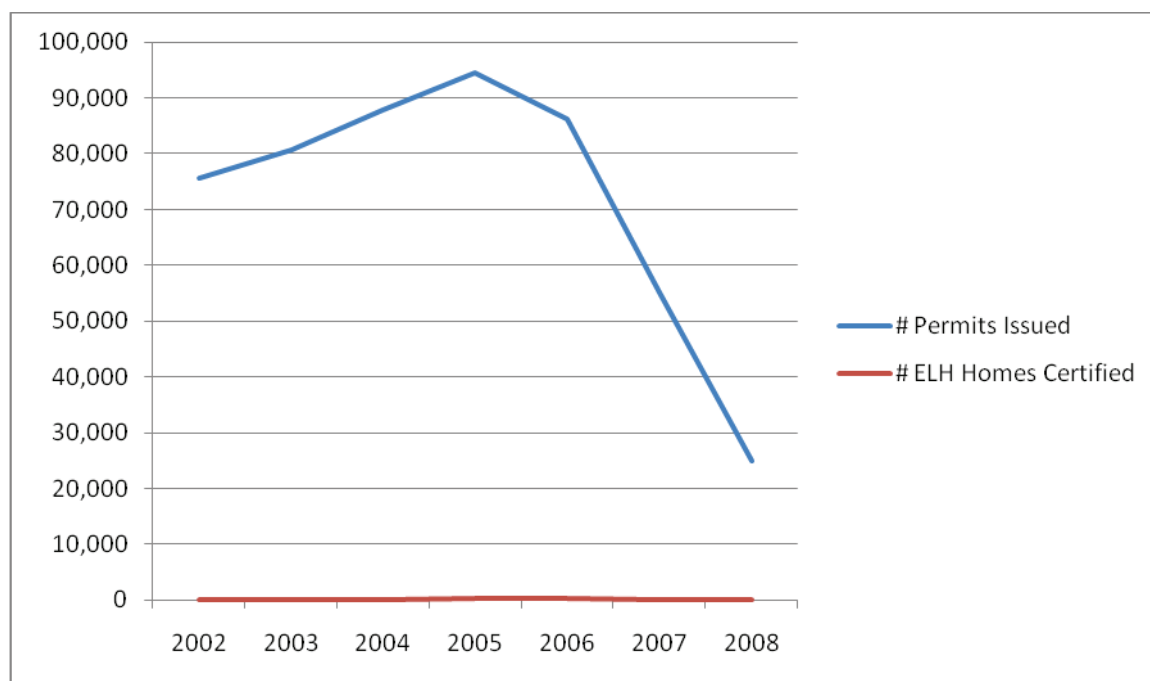
The panel recommends that the Georgia General Assembly pass legislation requiring the inclusion of basic access features in all new housing not currently covered by law or policy. This would include all single-family detached homes, certain single-family attached (townhouse) homes and manufactured houses. It would also be specific to newly-constructed homes and would not address retrofitting of existing homes. In addition, the legislation should include an exemption from the zero-step entrance where topographical features make that unfeasible.

The panel’s recommendation is based on the understanding that mandating basic access in single-family and other homes is critical because of:

- the lack of access in new houses;

- the high percent of houses that will have residents with severe mobility impairments at some point over the lifetime of the house;
- the ease and low cost of creating basic access in new houses in the great majority of cases;
- the impossibility of predicting in which houses a disability will occur;
- the high cost and environmental impact of retrofitting; and
- the harsh personal, public health and fiscal consequences of barriers.

The recommendation is also based on research that reveals that voluntary programs have not been successful, making mandates necessary. In a study conducted in 2008, the AARP found that open-market houses built with basic access features as the result of mandates exceeded those resulting from voluntary programs by twenty-fold.<sup>49</sup> This was made clear by the nationally-recognized and award-winning Georgia Easy Living Home program. Created by a coalition of disability and housing advocates, the Easy Living Home (ELH) program was designed to recruit and educate builders to design and build new homes with basic access. Homes that were built with basic access features were then awarded the ELH certification. ELH was well-received by a broad base of industries, many of which contributed financially to the program, including the Fannie Mae Foundation, Home Depot, the Home Builders Association of Georgia and AARP, and the program was reproduced in several other states. However, after a decade, fewer than 1,000 homes had been certified in Georgia. Indeed, in 2005, at the height of the building boom in the state, ELH certified homes represented only 0.3 percent of all homes built (see *Figure 1 below*).<sup>50</sup> As a result, the ELH program was shut down on October 1, 2009.



**Figure 1: Number of Easy Living Homes Certified Compared with Number of Permits Issued in Georgia<sup>51</sup>**

It should be noted that policy recommendations intended to apply to every new house do not require a bedroom or full bath on the main floor, although those features are necessary for a person with a disability to live long-term in a home. Requiring those rooms in every single-family housing type could negatively impact overall housing affordability and therefore seems unadvisable at this time. In practice, many house plans already have a full bath and bedroom on the main floor (or a room such as a den that could serve as a bedroom) and thus become not only visitable but livable for many people with mobility impairments.

Additionally, unlike the FHAA, which requires an accessible path between buildings and amenities within a multi-family development, laws for access in privately owned single-family developments do not mandate an accessible path between houses. A driveway or sidewalk steeper than the standard minimum rise of one foot in length for every inch or rise (1:12) may be needed on steep terrain.

Photo: Concrete Change



*This Georgia home on steep terrain has a driveway much steeper than 1:12, but a sidewalk leading from the driveway offers basic access to the entry. Though not ideal, this option is a positive alternative to the steps that are typically constructed under similar circumstances.*

Photo: Design Collective, Inc.



*In practice, most sites are not steep. Thus, basic access requirements applied to individual houses also result in accessible paths between houses, creating visitable neighborhoods.*

The panel recognizes that construction and cost issues for attached single-family houses—or townhomes—are more complex than for detached houses; however, for many townhouse configurations, basic access construction would be neither difficult nor costly, and could reasonably be included in the mandate for basic access. For example:

- Townhouses with significant main floor square footage can easily be constructed to include basic access, and should be included in the mandate.
- Townhouses built above retail spaces are nearly always inaccessible. They typically require a flight of stairs to reach the main floor and another flight of stairs to reach the bedrooms and bathrooms. Alternatives to this design retain the low-rise quality that may be desired in a given situation, but at the same time replace



*Example of townhouses with significant main floor square footage with basic access.*

the townhouses with two or three layers of flats (apartments or condos), which triggers the Fair Housing Amendments Act and ensures basic interior access and an elevator serving multiple units.

Photo: Concrete Change



Photo: Concrete Change



*These Georgia condos and apartments offer flats instead of townhouses above retail spaces.*

- Townhouses built above garages, with no or only minimal habitable square footage on the level with the garage may be difficult to include in basic access mandates at this time, but at the same time may be an unwise choice for the public good based on the rising number of older people and the negative effects of home barriers discussed earlier in this paper.

Photo: Concrete Change



*The visitable townhouses with garages shown here offer a significant amount of usable main floor space, including a half-bath with ample door width.*

As for mobile homes, to our knowledge, no state or local home access law in Georgia or elsewhere explicitly includes manufactured housing in its coverage, nor have those laws or policies affected manufactured housing in practice, even though it clearly is a type of single-family home. Some manufactured housing companies offer special, accessible models with basic access and an array of additional options such as roll-in showers and pull-out shelves.<sup>52</sup> However, in general, manufactured homes are quite inaccessible, with hallways as narrow as 28 inches, doorways as narrow as 26 inches and steps at all entrances. Currently, a federal advisory committee to HUD, the Manufactured Housing Consensus Committee, is preparing information and recommendations regarding regulations.<sup>53</sup> In fact, some developments do offer numerous manufactured houses sited in such a way that the HUD

requirements for height above grade are met and at the same time graded sidewalks eliminate steps on at least one entrance. However, the cost of siting the home in this way can be considerably higher than the usual siting above grade with steps to reach the entry.<sup>54</sup>



Photo: Thesman Residential

*One of many manufactured houses offering landscape ramps and wide doorways in Las Palmas Mesa, an Arizona active adult community.*

It is important that specifications appropriate for manufactured housing be developed so that practical mandates can be included in future efforts to require basic construction norms in other single-family houses. Currently, 9.3 percent of Georgians live in manufactured housing, and given the current housing crisis, it is likely this type of affordable housing will be in greater demand in the near future.<sup>55</sup> Residents of these homes are often even less able than the general population to afford retrofits if disability occurs; the median annual household income in 2008 for residents of manufactured housing was nearly \$18,000 less than the median income for all households.<sup>56</sup>

It is recommended that HUD increase the required door and hall widths for manufactured housing to the specifications required in multi-family housing, perhaps excepting small single-section units.

### ***Accessibility Barrier #2: Lack of accessibility education among housing professionals***

Although federal law requires multi-family housing to be accessible, people with disabilities still encounter numerous violations that prevent them from living independently. Rather than being minor infractions, such as a bathroom door being a half-inch too narrow, these violations are egregious, like the ones found in the hundreds of lawsuits filed by the Department of Justice Spanos case: doors and passageways that are too narrow to accommodate a wheelchair; steps at most primary entrances; kitchens and bathrooms too narrow for a wheelchair user; and a lack of accessible parking spaces in parking lots.<sup>57</sup> As a result, there has been an increase in lawsuits filed by advocacy groups against developers, architects, owners and operators of multi-family housing. The National Fair Housing Alliance reports that in the six years the organization has been addressing design and construction issues, it has filed more lawsuits involving disability than for any other protected group.<sup>58</sup>

While there could be many reasons for the continued violations of the Fair Housing Amendments Act, one particular problem, in the view of the panel, is the inadequacy and inconsistency in college curriculums nationwide with regard to education on accessibility design, construction and enforcement. Despite the range of professionals involved in the life cycle of multi-family real estate—from new construction, to stabilization to rehabilitation—it is possible that few of them will have even minimal

exposure to accessibility curricula. This is particularly true for the professionals who are involved in the initial construction:

- For architects, their careers typically begin with a Master's degree after six years of college. However, despite the wide range of courses offered, there is rarely a single course that is solely devoted to teaching design and construction requirements in compliance with accessibility guidelines and standards that would include the FHAA and ADA. Instruction in this area is frequently left to the discretion of individual professors, who generally incorporate this information into the more traditional and broader pedagogy of design studios, such as site planning, building circulation or aesthetics. It is also important to note that architects are required to take an Architect Registration Examination (ARE); however, a review of an ARE found that there was only one question that specifically addressed ADA, while none of the questions referenced fair housing requirements. This indicates that while there are federal and state laws regarding fair housing, design and construction requirements, they were not included on a national licensing exam.<sup>59</sup>
- While it would appear that developers have somewhat better exposure to the FHAA and ADA, a review of real estate programs offered in higher education across the United States reveals that only 58 percent of programs offer specific classes in fair housing, design and construction laws, none of which were required for graduation.<sup>60</sup>
- For contractors, who typically hold a bachelor's degree in construction technology, civil engineering, construction management or building science, there are no requirements for the study of FHAA regulations.

Once a property has been constructed it is generally handed off to other professionals such as property managers, maintenance personnel and contractors who specialize in modifications and remodeling, and suppliers of goods and services, all of whom can impact the accessibility of a property. Fortunately, the opportunities for education and certification on fair housing requirements are more numerous for these professionals than for those involved in the actual construction:

- Interior designers who attend four-year interior design programs are exposed to ADA codes/principles, and questions included in the credentialing offered by the Council for Interior Design Accreditation (CIDA). Similarly, the National Association of Home Builders has several programs related to accessibility that include design and fair housing. The most popular design-related class in the past several years has been the Certified Aging in Place (CAPS) designation program, which addresses the home design needs of the elderly who want to remodel their homes so that they can continue to live in them. Over 2,000 professionals have received this designation nationwide.<sup>61</sup>
- Other national organizations that directly represent multi-family housing, such as the National Multi-Housing Council (NMHC), the National Apartment Association (NAA) and the Institute of Real Estate Management (IREM), offer professional certifications that include extensive training regarding FHAA and ADA. These designations include Certified Apartment Property Supervisor (CAPS), Certified Property Manager (CPM), Registered Apartment Management (RAM), Certified Apartment Manager (CAM) and Certified Apartment Maintenance Technician (CAMT), just to name a few. It is important to note that these designations are offered by trade associations



that represent the interests of their members. Membership is comprised of apartment owners, management executives, developers, builders, investors, property managers, leasing consultants, maintenance personnel, suppliers and related business professionals throughout the United States. These organizations provide a wealth of information through advocacy, research, technology, education and strategic partnerships.

While it is important for these professionals at the stabilization and rehabilitation phases to be knowledgeable about fair housing codes, it is disturbing that the professionals who are involved in the design and construction of multi-family homes are not. It seems ironic that more education and certification opportunities are offered at the back end of a property's life cycle, rather than on the front-end when multi-family homes could be built to be accessible right from the start. Clearly, there is a much greater need for education at this stage of the life cycle.

*As one architecture student remarked, "Developers are getting hung up in the financial and municipal obligations of projects. Contractors are getting hung up in getting projects completed within the budget and on schedule. Fair Housing just seems to slip under the radar if it is not in the design from the beginning. In fact, I never heard of this until I took a class on residential property management and that wasn't even a required class for my architecture major."*

### **Best Practice: Adding Courses on Multi-Family Housing to University Curriculum**

In Georgia, the Georgia Apartment Industry Education Foundation (GAIEF) has been fortunate to partner with The University of Georgia (UGA), the Georgia Institute of Technology (Georgia Tech) and the Technical College System of Georgia to get coursework regarding the development and management of apartment communities included in the curriculum that is now recognized by the Board of Regents. This initiative—which makes UGA and Georgia Tech two of only seven schools in the country to offer Residential Property Management as a major, minor, emphasis or concentration—was made possible by industry leaders, educators and policy makers working together for the common good. The coursework includes a component that covers the topics of ADA and FHAA compliance. While this is a great step in the right direction, many agree that the need is for university programs offering specific courses in this area to ensure that ADA and FHAA standards are given a priority and enable students and practitioners to meet accreditation standards at all levels.

### **Recommendation: Enhance opportunities for the education of designers, developers and builders of multi-family housing.**

To address the increase in building violations and associated lawsuits, as well as the inconsistency in educational requirements in schools throughout the country, the panel recommends additional education on Fair Housing Amendments Act laws, accessibility best practices and trends for anyone involved in providing multi-family housing covered by the Fair Housing Amendment: designers, architects, builders, contractors, code officials, owners and operators. All these professionals should possess a thorough, working knowledge of the laws and understand the various ramifications, often severe in nature, that result when they are not taken into account.

For maximum effectiveness, training should be offered in a variety of formats and at a variety of levels, including:

- Post-secondary and graduate education: it is critical that universities require classes on design and construction as they relate to the FHAA and ADA. However, since universities develop their curriculum according to accreditation and licensure standards, it will be necessary for the accreditation bodies to require educational components in accessibility design. Similarly, the licensing bodies will need to include material on accessibility design in order to validate such education.
- Continuing education: in addition to academic training, housing professionals should have access to continued education that supplements and updates their knowledge of laws and practices. One example of such training was sponsored by HUD's Fair Housing Accessibility First program and Georgia's Department of Community Affairs and held in 2010. The training addressed design and construction requirements of the FHAA, common design and construction violations and solutions as well as modifications and retrofits. The strength of the training was that it was open to a broad cross-section of professionals, including developers, architects, builders, brokers, housing authorities, state agency representatives and disability advocates. As a result, it not only provided critical training but also facilitated conversations between disparate industries. Mike Galifianakis, ADA Coordinator for the Georgia State Financing and Investment Commission, which hosted the training, explained that the primary purpose was to provide accurate and consistent information to everyone involved in accessible housing. *"Various designers, builders and disability organizations sometimes interpret the same accessibility standards differently, which causes problems. We hope the training helped everyone understand the regulations so they can be uniformly applied,"* he said.
- Journal and newsletter articles: more articles are needed within the industries that address construction in clear ways. An example is "Built-in Mistakes," published by the National Apartment Association, which describes in text and photographs common errors made by builders of multi-family housing.<sup>62</sup> At the same time, the panel thinks that it would be important to have a builder write an article titled "Basic Access: Ten Ways to Do It Right." The article would offer advice and tips from experienced builders who have found basic access to be easy and affordable. Such an article would be invaluable in assisting other builders who are just starting out, as well as addressing concerns other builders might have about the process. By sharing experience and tips—such as making a required turning circle 5'2" instead of 5'0" to ensure that small errors do not affect correctness, or giving cardboard cutouts to a contractor to lay down in a bathroom to assist with legally-compliant placement of fixtures—the panel hopes that builders will feel better equipped to build with basic access.
- Web-based learning and information sharing: given the internet's prominence in education and information sharing today, there is a great opportunity to develop a website that promotes accessible building design. The website could include FHAA and ADA education; tips on building with basic access; a forum for architects, builders, and other industry professionals to post questions, get answers, and otherwise share information; photos; and updates on legislation and building codes, etc.

- Professional licensing and certification with regards to accessibility: besides architects, the majority of the professional fields related to the construction and maintenance of multi-family real estate do not require an educational component. While there is enough evidence to support a strong argument that changes in program requirements are necessary, this only represents a small part of the solution. It appears that trade associations and certification exams are the best place to provide the necessary information to professionals. The argument can be made that it is not necessarily a lack of intent to comply that is causing so many violations, but a lack of information in the hands of people who need it.
- Insurance requirements for education: insurance companies would do well to consider requiring that builders, architects and other building professionals complete some type of educational component on FHAA requirements before they are eligible for either construction insurance or errors and omission insurance. This could result in fewer claims, save insurance companies money, and lead to more housing designed and built in compliance with the laws.

## AFFORDABILITY

### A STORY

Timothy B. sat by the window of his ninth story bedroom watching his neighbors sitting in the sun on the patio below him. Although he was tired of being stuck inside, he had no desire to join them. It wasn't that Timothy was antisocial; indeed, this young, gregarious, 25-year-old loved to spend time with friends talking about his two great loves: the Braves and the Black-Eyed Peas. But Timothy had grown weary of interacting with his neighbors, all of whom exceeded him in age by more than 40 years.

Timothy was living in a senior high-rise, though not by choice. Born with cerebral palsy, Timothy had lived at home with his mother until she had a stroke and both of them were moved to a nursing facility. Eventually, Timothy, who dreamed daily of the chance to return to the community, was offered Home and Community-Based Services to get out of the nursing facility. He was thrilled, thinking he would move to his own apartment where he could invite friends over to watch games and play music; however, his housing choices were limited to mixed-income properties, all of which had waiting lists of at least two years. Timothy did not want to live in a nursing facility for two more years, so his only option was to apply to one of Atlanta's senior high-rises. Unfortunately, the high-rise only accepted people younger than 62 on a four-to-one ratio, which meant that Timothy was greatly outnumbered.

And so it was that Timothy stayed in his room and continued to look out the window, waiting for the day when he could afford to live somewhere else.

### INTRODUCTION

Like accessibility, affordability is difficult to define, both because there are a variety of definitions in law and practice, and because affordability is a relative term that depends on an individual's assets and income. However, for the purposes of this report, the panel will use the definition used by the U.S. Department of Housing and Urban Development (HUD), which considers housing to be affordable when it comprises no more than 30 percent of a household's income.<sup>63</sup>

Affordability is a significant issue for people with disabilities, given their high rates of unemployment, underemployment and poverty. As a result, they face many barriers in finding affordable housing.

### BARRIERS, BEST PRACTICES, AND RECOMMENDATIONS

#### ***Affordability Barrier #1: Many People with Disabilities Cannot Afford Housing***

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##### **1. Unemployment, poverty and the lack of buying power among people with disabilities**

It is well known that people with disabilities are not in the job market at rates anywhere close to their non-disabled counterparts. Research reveals that just 36.9 percent of working-age (people age

16 to 64) with disabilities are employed, compared to 79.7 percent of people without disabilities.<sup>64</sup> Even more disturbing is the fact that “adults with disabilities are leaving the labor force during this recession at more than ten times the rate of adults without disabilities.”<sup>65</sup> Of those people with disabilities who are employed, a large majority of them work in low-paying jobs that offer few opportunities for advancement or critical medical or retirement benefits.<sup>66</sup> Indeed, people with disabilities typically earn \$6,000 less than their non-disabled counterparts.<sup>67</sup> Such employment problems are often because of low rates of post-secondary education among people with disabilities (making them less able to compete for desirable, high-paying jobs); employer misconceptions about hiring people with disabilities and the cost of workplace accommodations; and lack of transportation, particularly in rural areas.

The high rate of unemployment among people with disabilities means that a large portion of the disability community is not just low-income, but living in poverty. According to *Priced Out in 2010*, people with disabilities who rely on Supplemental Security Income (SSI) as their sole source of income continue to be the nation’s poorest citizens.<sup>68</sup> Almost one-third of adults with disabilities live in households with total incomes of less than \$15,000, and SSI payments have not kept pace with the cost of basic human needs.<sup>69</sup> In 2010, the national average income of a person with a disability receiving SSI was \$703 per month or \$8,436 annually—equal to only 18.7 percent of the national median income for a one-person household and almost 20 percent below the 2010 federal poverty level of \$10,830 for an individual.<sup>70</sup> In Georgia, people with disabilities receive \$674 per month in SSI.<sup>71</sup> With such high levels of unemployment and poverty it is no wonder that people with disabilities have decreased buying power and ability to secure their own homes, whether through home ownership or rental.

## 2. Lack of rental subsidies

Federal housing affordability guidelines state that low-income households should pay no more than 30 percent of monthly income towards housing costs. This long-standing policy recognizes that money must be left over after the rent is paid to cover other basic needs such as food, clothing and transportation. Given this policy, SSI recipients should be paying approximately \$191 per month towards housing costs. However, in 2010, as a national average, a person receiving SSI needed to pay 112 percent of their monthly income to rent a modest one-bedroom unit. By the same measure, Georgians receiving SSI needed to pay 104.9 percent of their monthly income (*see Appendix D for a breakdown of these calculations by major areas in the state*). This means it is nearly impossible for people to afford food and medical expenses—which are often significant for a person with a disability—after paying rent.

Despite this grim picture, many people with disabilities have learned to subsist on less than \$700 a month. This is largely due, in part, to the availability of subsidized or public rental housing. Indeed, in most cases, rental subsidies are the single factor that determines whether a person with a disability will live in an institution or a nursing facility. According to a study conducted by the Statewide Independent Living Council, 46 percent of people with disabilities who transitioned out of nursing facilities used Section 8 rental subsidies to do so.<sup>72</sup>

Unfortunately, there are far more people who need a place to live than there are Section 8 rental

subsidies available. Housing authorities are challenged to simply sustain the vouchers in the face of federal budget cuts. As a result, it is very common for a person to apply for a voucher, only to be told that the authority is “not taking applications,” or is maintaining a waiting list, because there are no new federal dollars for this purpose. Although there are states that fund housing vouchers over and above the federal allotment, Georgia is not among them. But even in states that have made such state fund investments in the past, these voucher dollars are being trimmed as a result of the financial crisis in state budgets, and current HUD budgets indicate that funds for rental housing subsidies will not increase significantly any time in the near future. As a result, most housing authorities have lengthy waiting lists for vouchers.

Without rental assistance, people with disabilities are at high risk of living in unsafe conditions or becoming homeless. Indeed, HUD, in its report to Congress titled, “2009 Worst Case Housing Needs of People with Disabilities: Supplemental Findings,” determined that the population with the most desperate need is “unassisted, very low-income renter households (below one-half of Area Median Income) who: have a severe rent burden (pay more than half of their income for rent) and/or live in severely inadequate conditions.”<sup>73</sup> These are also the people who become institutionalized due to high housing costs rather than medical need. Not only is this costly in terms of quality of life for the person with a disability, but it is also financially ineffective for Georgia when the state bears the high cost of unnecessary institutionalization and long-term care placements instead of affordable housing and more cost-effective community supports.

### **What are rental subsidies?**

There are two types of rental subsidies, or vouchers: project-based and tenant-based. Project-Based Rental Assistance (PBRA) vouchers are tied to a specific building, typically a senior high-rise. The application process for each project is separate, so if a person wants to live in a particular high-rise, he or she must go to that building to complete an application. This is one of the drawbacks of the PBRA, since it requires people with disabilities to live in one particular building, and one that is inhabited solely by the elderly and other people with disabilities. Younger people with disabilities are allowed to live in senior high-rises, but are often accepted only on a four-to one ratio, which means they have little opportunity to connect with other people their age. Such segregated housing is generally unattractive for them and other people with disabilities who prefer to live in a more integrated setting.

Tenant-Based Rental Assistant (TBRA) vouchers are a little less restrictive. With them, a person can rent any property as long as the landlord agrees to accept 30 percent of the person’s disability income while a housing authority makes up the difference. Thus, it moves with the person, allowing freedom of choice—whether single- or multi-family—in a variety of settings. The biggest drawback with TBRA vouchers, however, is that they are limited in number.

## Insufficient Rental Subsidies: The Cost to the State

The Money Follows the Person (MFP) Demonstration in Georgia is a federal initiative designed to help people with disabilities in nursing facilities transition to life in the community. It does this by supplementing State Medicaid Waiver program dollars with federal dollars and allowing the money to follow the person to the setting of their choice. It also includes one-time funds to cover rental and utility deposits and other costs associated with setting up housing after being in an institution.

By all accounts, the program has been a great success. Since September 2008 nearly 500 people have moved from long-term care facilities into the community. Although the program is too new and sufficient data is not yet available to provide formal analysis of its efficacy, initial data reveals that Georgia is saving almost 32 percent per member, per month in the cost of care for these individuals.<sup>74</sup> And because of the federal matching funds, the state waiver program has experienced a sizable savings. However, while the program offers many reasons for celebration, it still faces significant challenges in helping people with disabilities transition to the community, most notably in the area of housing.

MFP conservatively estimates that nearly 200 additional people could have been moved from nursing facilities into the community if they had access to adequate, affordable accessible housing.<sup>75</sup> The primary problem is affordability. Affordable housing is defined by HUD as housing that can be obtained by people making 50 percent of Area Median Income (AMI). While this income is by no means a comfortable amount of money to survive on, federal rental subsidies do make it possible for people at this income level to find affordable housing options. Unfortunately, given that people in nursing facilities do not have jobs, most MFP program participants earn only \$674/month in SSI benefits, which means they are between 15 percent and 18 percent of AMI. This is drastically lower than the HUD threshold of affordability and makes it impossible for MFP participants to find realistic housing options, even with the support of MFP funding. Thus, the person being offered MFP funds for community-based support services must decline them, simply because he or she has no place in which to receive those services (in other words, no home).

Another significant barrier to the MFP program is the rental standards set by most commercial management companies. In many cases, apartments set aside specifically for disabled residents go unused or rented to non-disabled tenants at discounted market rates. The property management often states that they are unable to find any disabled tenants to fill these units. However, more often than not, the issue is that the units are unaffordable based on the company's rental standards. Most commercial apartment management groups require tenants to have an income of two to two-and-a-half times monthly rent. This means people receiving SSI whose income is \$674 or less cannot afford to rent these available units. The result: people are stuck in nursing facilities and the State must continue to pay for institutionalization while forfeiting federal matching dollars.

It should be noted that in some cases MFP participants have found housing that is just barely affordable. However, such housing is often located in very remote and isolated places, far outside larger cities and towns. As a result, there are few, if any, public transportation or other

support services. Those MFP participants who accept these rural dwellings essentially become housebound and dependent on the kindness of friends and neighbors to help transport them to the grocery store, pharmacy or doctor's appointments. That's assuming the person has friends or family who are nearby and able to assist them with these needs on a consistent basis. Either way, people with disabilities in these situations become isolated from their communities, and, in some cases, are worse off than when they were in the institutional care setting.

While MFP has proven to be a very effective and fiscally responsible program, lack of affordable, accessible housing has limited its ability to fulfill its mission. As such, its leaders stress the need for more subsidized housing for the very lowest-income people. "Housing is a critical piece of the equation when it comes to transitioning out of institutions," said HUD Secretary Shaun Donovan.<sup>76</sup>

### 3. Lack of data affects the number of accessible properties and units

There is a myth in the housing community that there are large numbers of perfectly good accessible properties but a shortage of people with disabilities to purchase or rent them. As a result, it is common for housing developers to build accessible housing, only to sell or rent it to non-disabled people. Yet, as has been shown, there is no shortage of people with disabilities who need accessible housing. Instead, the problem is that so many people with disabilities cannot afford the accessible housing that is being offered.

It is possible that developers, understandably, are not focused on the needs of low-income people; they build for the markets in which they will make a profit. However, the problem may also be that data needed to adequately plan for the number of affordable, accessible houses is not readily available. Without such data, planners, developers, builders, other housing and community development professionals and state budget officials cannot adequately plan for the number of accessible, affordable and integrated housing units needed.

## ***Best Practices***

### 1. Invest state dollars to provide additional rental subsidies

Although the economy has recently forced a reduction in spending on the Section 8 housing voucher program, even in good economic times federal dollars have not been sufficient to meet the need in Georgia. And while the state, too, has had to make significant adjustments to its budget, the need for subsidized housing in Georgia has only increased with the down economy. As a result, there is an even greater need for supplementation of federal housing dollars at the state level.

There are many states that invest general fund dollars to provide additional rental subsidies for people with low incomes. Although the panel is not aware of any examples in the south, other states that do this include New York, Massachusetts, Connecticut, Hawaii, and New Jersey<sup>77</sup>. In New York, additional state and city (in the case of New York City) dollars are used to supplement federal Section 8 voucher funds, as well as provide rental subsidies for people who do not meet the qualification criteria for Section 8.<sup>78</sup>



## Georgia Housing Voucher Program: A Step in the Right Direction

Although Georgia does not use state dollars to provide rental subsidies for the general population, it has begun to provide state-funded housing vouchers under the Georgia Housing Voucher Program. Developed to address the needs of people who are transitioning out of institutions as a result of the Department of Justice settlement, the Georgia Housing Voucher Program (GHVP) provides both housing vouchers and bridge funding, such as security and utility deposits, household necessities, living expenses and other supports that a person might need until they become eligible for federal disability or other supplemental income. The Program, administered by the Department of Behavioral Health and Developmental Disabilities, is an effort to provide supported housing, a stipulation in the settlement.

The 2010 General Assembly developed the new rent subsidy program for people with serious mental illness who are homeless, living regularly in jails, or in mental health institutions. These are people who meet the targeted population definition of the DOJ Settlement. The program provided enough funds in the fiscal year 2011 budget to pay the rent for 116 persons; in fiscal year 2012, the program will serve 500 individuals. The program is a critical part of the state's commitment in the settlement to pay the cost of supportive housing for 2000 individuals by fiscal year 2015. The program represents an opportunity to determine the cost effectiveness of supportive housing so it can continue after the settlement commitments are complete.

This program is a good and significant step in the right direction towards providing additional rental subsidies for Georgians.

## 2. Georgia CHOICE Program

The Georgia CHOICE Program, created by the Department of Community Affairs (DCA) as part of its Georgia Dream Home Ownership Program, is designed to help people with disabilities and their families purchase homes. To be eligible, a person must be a first-time home buyer and purchase a home in certain designated areas. Down payment assistance is available to qualified buyers depending on income.

When the program was created in 2004, if a qualified person living in the metro Atlanta area earned less than \$20,000 per year, the CHOICE program would grant them up to \$20,000 for a down payment; people living in rural areas were given the same amount if they earned \$15,000 or less. However, due to budget cuts the amount of down payment assistance has decreased while income limits have increased; now a qualified person who earns less than \$30,000 in the metro area or \$25,000 in rural areas can receive up to \$7,500 toward a down payment. Beyond the financial assistance, one of the most important elements of the program is its requirement that borrowers obtain home-buyer education and counseling from a DCA- or HUD-approved counseling agency or certified housing counselor. Since its inception, Georgia CHOICE has resulted in 523 home purchases.

### **3. Converting foreclosed and other properties to affordable housing for low-income people**

As a result of the housing crisis, there is an unprecedented inventory of homes in foreclosure or short sale that actually outnumbers buyer demand. To solve this crisis, in 2008 the federal government initiated the Neighborhood Stabilization Program (NSP), which provides funds to purchase foreclosed properties, renovate them and sell or rent them to low-, moderate-, and middle-income families. HUD administers the program and allocates dollars to state and local governments, which in turn award the dollars to developers (nonprofits or for-profits) to acquire and/or rehabilitate foreclosed properties on the private market. Congress has appropriated funds three times for NSP, with Georgia receiving funds two of those times.

In Georgia, nine cities and counties and the state received more than \$153 million in NSP funds from the first Congressional appropriation.<sup>79</sup> DCA, which received in excess of \$77 million, reported that as of June 30, 2011, its NSP funds have assisted 1,231 foreclosed units, either through funding their purchase and/or rehabilitation/development, or through down payment assistance for homebuyers. DCA also expects the program to impact 2,379 units once all funds have been expended. In 2011, HUD announced additional NSP funding for 15 cities and counties and the state, although at the time of publication, these recipients had not yet begun obligating those funds.

A portion of Georgia's NSP dollars were used to create two supportive housing projects. The Douglas County Community Service Board (CSB) used NSP funds to acquire and rehabilitate eight single-family homes. The CSB placed eight families who met HUD's definition for chronic homelessness in these three-bedroom, two-bath suburban homes. The other project in Macon, developed by River Edge (the area's CSB), created 18 units in a duplex form that will serve a similar population.

### **4. Rebalancing money saved from MFP program to provide bridge subsidies**

There are several ideas being explored in Georgia and other states that involve using rebalancing funds (money saved by the Money Follows the Person program) to provide bridge subsidies to assist participants in paying for housing until a more permanent solution can be found by the participant and those assisting them. If these bridge subsidies were to be implemented even on a limited trial basis, it is believed savings to the state would be realized immediately and the mandate to move those who desire to leave institutions back into the community be achieved even faster. Other creative uses of the rebalancing funds and federal funds allocated to Georgia for housing can and should also be used to address this group of citizens.

It is also critical that the State of Georgia find ways to commit state dollars to housing. Most states with successful sustainable MFP programs have state-funded housing subsidies that help participants, at least initially, cover housing costs. If Georgia used just ten percent of HOME funds that were not allocated to other projects, it is estimated it could provide a full subsidy for a one-bedroom apartment for thousands of additional citizens. This can be accomplished with existing state and federal funding; it just needs to be made a priority by those who set priorities for the state.

## Recommendations

### 1. Commission research to quantify the need for affordable/accessible housing for people with disabilities and create a comprehensive housing plan that addresses the identified need.

The panel recommends development of a study to determine how many affordable housing units are necessary to meet the need. The study should evaluate the following:

1. How many affordable dwellings exist currently, and where are they located?
2. How many affordable dwellings are needed? And of these:
  - How many need to be moderately subsidized (such as tax credit properties)?
  - How many need to be significantly subsidized (such as Section 8 housing)?
3. How many accessible *affordable* dwellings are needed?
4. How many people need both accessible and affordable dwellings *and* regular support services?

The panel recommends that the results of the research be used to create a housing plan that adequately reflects the identified need for affordable, accessible housing. Development of a plan should include representatives of the Department of Community Affairs, the Department of Behavioral Health and Developmental Disabilities, and the Department of Community Health; legislators; builders and developers; representatives of the Neighborhood Stabilization Program and the Georgia State Trade Association of Nonprofit Developers; disability advocates and other stakeholders. The plan should address both home ownership and rental housing, and should include a detailed, measurable plan for meeting the affordable housing needs of Georgians with disabilities.

The plan should address the need for:

- **Investing state funds to supplement federal Section 8 for rental subsidies**

The panel recommends the State of Georgia invest dollars from the general fund in the Section 8 rental assistance program, to supplement existing federal rental subsidies. The panel recommends that the Department of Community Affairs use results from the research study (*see above*) as well as models in other states to develop a budget request that better addresses the need for subsidized housing in Georgia.

- **Utilizing the Neighborhood Stabilization Program to address the need for affordable and accessible properties for people with disabilities**

The panel recommends that disability advocates partner with DCA and local government administrators of the Neighborhood Stabilization Program (NSP) to discuss the housing needs of people with disabilities. As NSP funds are used to renovate houses, this would be a great opportunity to include basic access features where possible and make some, or all, of the houses available to people with disabilities.

## ***Affordability Barrier #2: Insufficient use of low-income housing tax credit properties by people with disabilities***

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While Section 8 housing is deeply subsidized to meet the needs of the most impoverished people, Low-Income Housing Tax Credit properties are a housing option that is moderately subsidized to meet the needs of lower income households. With the Low-income Housing Tax Credit (LIHTC) Program, federal and state tax credits subsidize the costs of building units so that all or some of the rental units are available to people with incomes at or below 60 percent of the Area Median Income (AMI). Because LIHTC properties are generally located within mixed-income communities, they provide a great alternative to the congregate, public housing settings to which people with low incomes are often accustomed.

LIHTC Program requirements ensure that at least a portion of all LIHTC units are accessible: five percent of the construction must be accessible for people with physical disabilities and an additional two percent for people with hearing or vision impairments. As a result, LIHTC properties are a viable housing option for people with disabilities who have lower incomes. Indeed, LIHTC is widely considered to be the most important resource for creating affordable housing in the United States today; however, very few LIHTC properties are being used by people with disabilities.<sup>80</sup>

Unfortunately, many people with disabilities are not aware of the program's benefits, or find it difficult to find a LIHTC unit in an area where they want to live. However, even when people with disabilities identify LIHTC properties, their low income may still preclude them from being able to afford the tax credit rent. Although owners of LIHTC properties are required to accept Section 8 vouchers as long as the applicant meets all other LIHTC eligibility criteria, many housing professionals, and most disability advocates, do not know this.

### ***Best Practice: Making LIHTC units more affordable for people with very low incomes***

In 2004, the North Carolina Housing Finance Agency (NCHFA) began requiring that all LIHTC projects dedicate ten percent of units for extremely low-income persons with disabilities, including homeless individuals. According to one report, "as of 2009, 422 projects have dedicated 10 percent of units to extremely low-income persons with disabilities, producing 1,654 targeted units. Not only has NCHFA's program produced a significant number of units, but projects continue to have stable occupancy, high tenant satisfaction, and solid operating histories."<sup>81</sup> This strategy has also worked in the state of Pennsylvania which amended its Qualified Allocation Plan to create point incentives for developers if they provide accessible housing for disabled persons with incomes as low as 18 percent of AMI. Under the agreement, developers can increase their fees if they build units for this targeted population. The developer then sets aside a portion of these funds to be used as rental subsidies for disabled tenants with very low incomes.<sup>82</sup> (See Appendix E for more information.)

Another strategy to increase use of LIHTC properties among people with disabilities is to combine LIHTC financing with Section 8 Project-Based Rental Assistance (PBRA) vouchers. Although PBRA vouchers are limited, HUD now allows housing authorities to designate 20 percent of their TBRA vouchers to rental properties.

**Recommendation: Increase availability of Low-Income Housing Tax Credit properties to people with disabilities who have very low incomes (below 30 percent of AMI) by:**

- Requiring each project to reserve 10 percent of the units for very low-income persons with disabilities.
- Linking LIHTC properties with Section 8 Tenant-Based Rental Assistant vouchers and raising awareness among housing professionals and disability advocates of this option.
- Combining LIHTC financing with Section 8 Project-Based Rental Assistance (PBRA) vouchers.
- Monitoring the effectiveness of [www.georgiahousingsearch.org](http://www.georgiahousingsearch.org) in linking people with disabilities with LIHTC properties by tracking how many units are accessible and occupied by people with disabilities and releasing that information annually to Metro Fair Housing to disseminate statewide.

**Affordability Barrier #3: People with disabilities do not have assets to assist in securing housing.**

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Given the poverty levels and reduced earning power among people with disabilities, it is not surprising they have few opportunities to develop the assets and resources that could significantly enhance their ability to purchase housing. However, many disability advocates have little knowledge of available asset building resources or how to access them. Meanwhile, the asset development community is unaware of how to reach the disability community to participate in these opportunities. In addition, there are a number of policy issues that create barriers to asset development, including asset limits for major support programs such as Medicaid and Social Security.

**Best Practice: Asset-Building and Individual Development Accounts**

The Asset Alliance of Georgia was formed from an expressed need to address barriers that currently inhibit Georgians with disabilities, their families and caregivers from accessing and maintaining financial assets. The Alliance identified an opportunity for individuals with disabilities to acquire assets using Individual Development Accounts (IDAs). IDAs are matched savings accounts that support individuals in saving to pay for education or job training, the purchase of a primary house or the repair and maintenance of an existing house, the start of a business or the purchase of assistive technology. A fiduciary organization provides matching funds to assist the individual to accumulate assets. The IDA does not impact a person's income as it relates to qualifying for benefits. According to RESULTS: the Power to End Poverty, IDAs "show exciting promise as a new, effective way to provide a hand up to low-income families."<sup>83</sup> In partnership with the United Way of Metropolitan Atlanta and the Center for Financial Independence & Innovation, a pilot IDA program for individuals with disabilities is underway that will enable 30 participants to save up to \$1,000 with up to a \$5,000 match.

In its 2009 Report to Congress, the Assets for Independence (AFI) Program revealed that of the 60,108 people who had opened IDA accounts, 58 percent had enrolled with the intention of purchasing a home.<sup>84</sup>

***Recommendation:* Pass a state IDA program that mirrors the federal Assets for Independence Act (AFIA) and includes provisions that make it easier for individuals with disabilities to participate in IDA programs.**

In 2011, the Georgia General Assembly passed legislation creating a state IDA program, a matched savings plan which allows low-income individuals to save toward the purchase of major assets. The Georgia Council on Developmental Disabilities and the Center for Financial Independence & Innovation supported the legislation, since a state IDA would enable people with disabilities to purchase assistive technology such as a modified vehicle, home modifications or communication devices, all of which are expensive investments and not fully covered by other programs if at all. Such assets enable people to become more independent in employment and education, and safer at home. The bill expands a person's ability to save for college, purchase a home, make home repairs, start a small business and purchase assistive technology. IDA programs also provide people with financial education including information on banking, saving, maintaining a good credit rating and responsible borrowing so they become more economically self-sufficient. While the bill received broad-based support and was passed by the legislature, the governor vetoed the bill, citing the need to be specific to people with disabilities. This is regrettable, given that IDAs are proving to be a significant tool for low-income families, regardless of disability.

As a result, the panel recommends that the General Assembly again pass legislation creating a state IDA program, and that the governor sign the bill into law.

***Affordability Barrier #4:* Local zoning codes limit housing options**

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Many local governments prohibit the development of multi-family housing, instead allowing only for market-rate or upper-income single-family housing. They also set mandates for minimum lot and house sizes, and/or require the use of costly materials. Such zoning obstacles, which vary from community to community, unnecessarily inflate the cost of construction for builders and make homes unaffordable for many working families, including people with disabilities.

***Recommendation:* Ensure that local zoning codes allow a wide range of housing types and prices.**

The panel recommends that local municipalities amend their zoning codes to allow for the development of affordable single- and multi-family housing.

***Affordability Barrier #5:* Lack of resources at the local level to support affordable housing**

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Long-term unemployment, declining wages and rising poverty mean that a significant and growing number of families in Georgia, including people with disabilities, cannot afford market-rate rents or qualify for home ownership. According to the State's Consolidated Plan FFY2010-FFY2012, "regardless

of tenure or income, approximately 27 percent of Georgia households have been estimated as having housing concerns. The most common problems affecting all households is cost burden: 29 percent of Georgia households pay 30 percent or more of their income for housing.”<sup>85</sup> Furthermore, many existing units with rents considered attainable for low-income families are not structurally sound (particularly in rural Georgia).

Few, if any, counties and municipalities in Georgia have adequate financial resources to meet the housing needs of their citizens. Whether measured in terms of homelessness, affordable housing, workforce housing or transportation commuting and sprawl, local governments face increased housing related needs with fewer available resources. Fiscal constraints on federal and state budgets will continue for some time to come, resulting in a decrease, rather than increase, in resources for local governments for the foreseeable future.

### ***Best Practice: South Carolina Housing Trust Fund***

The South Carolina Housing Trust Fund was created by the state’s General Assembly in 1992. Funded by a dedicated portion of the deed stamp tax, this landmark legislation provides an important resource for affordable rental housing and homeownership opportunities for both low-income and very low-income families. The Trust Fund provides funding for the acquisition, rehabilitation or construction of single-family homes and other types of housing. The Fund also provides single-room occupancy apartments for the working homeless and disabled veterans, as well as multi-family rental apartments for single-parent households, families and the elderly. All of this is accomplished through partnerships among government agencies, qualified nonprofit sponsors, for-profit sponsors and those in need of affordable housing.<sup>86</sup>

### ***Recommendation: Pass state enabling legislation to allow jurisdictions to create local housing trust funds.***

The panel recommends that the Georgia General Assembly pass enabling legislation that allows for the creation of housing trust funds at the local level. Although Georgia has the State Housing Trust Fund for the Homeless, it is dependent on allocations from the general budget. By allowing local governments to elect to designate and control a new, dedicated source of revenue, they would be empowered to meet the housing needs in their communities. Funding would be by a dedicated revenue source (such as recording taxes or document taxes, impact fees related to commercial or residential development, interest on certain forms of public investments, and yields on bond financing proceeds) that would provide consistent financing for the development of affordable housing (including acquisition, new construction or rehabilitation and home ownership or rental), and increase public sector commitment to addressing Georgia’s housing needs. The trust funds could also be revolving, or otherwise recyclable, creating even greater long-term value with the public investment.

## ***Affordability Barrier #6: Lack of a mechanism to identify people who can share housing expenses***

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One way people with disabilities can attempt to overcome the significant barriers to affordable housing, is by sharing housing and expenses with another person. House sharing is one way that people who are in institutions, are very low-income, need live-in support and/or have other challenges can afford housing. Such an arrangement would be particularly important for people with disabilities who not only need help in meeting the financial costs of renting or owning a home, but who would benefit from having someone close by in case they need assistance or have an emergency. Granted, this option would not be feasible or acceptable to all people; however, for those who would be interested it is a viable option. Unfortunately, there are currently no mechanisms in place to facilitate this process.

### ***Best Practice: Housing or roommate search databases***

Currently, there are several databases available that offer some type of assistance in finding housing or roommates. These include:

- **Housemate Match**

A program of the Marcus Jewish Community Center of Atlanta, Housemate Match is a nationally-recognized service that pairs older adults who have room in their homes with adults who are seeking a roommate. According to the website, the program “connects two people who are looking to combine personal and financial resources. . . (and) provides rooms to rent for those who prefer to share a home rather than living alone and for those who choose to remain in their home and age in place.”  
<http://www.atlantjcc.org/services/housemate-match/>.

- **Georgia Housing Search**

Sponsored by the Department of Community Affairs, GeorgiaHousingSearch.org maintains an extensive database of rental properties for the purpose of helping people find housing that meets their needs. The panel has reviewed and used the database and highly recommends it as a resource for people who are searching for rental housing. The panel also recognizes that this resource is designed to assist landlords and tenants in finding each other. However, the panel does wonder whether it could, with modifications, also include a roommate search as well.

- **GoSection8.com**

GoSection8.com is “the largest rental listing service for Section 8 housing program tenants, landlords, and public housing agencies in the United States.”<sup>87</sup> Like Georgia Housing Search, it is designed to connect landlords and tenants, although it is solely focused on Section 8 housing. Although it is a very good resource for finding Section 8 housing, given its national focus, it may not provide the right venue for matching potential housemates in Georgia.



***Recommendation: Develop a mechanism for matching people who can share a house and expenses***

The panel recommends development of a mechanism that can assist people in finding someone to share housing and expenses. Ideally, one of the above-listed best practice models could be modified to provide this service; however, if this is not possible it may be necessary to develop a stand-alone database. Regardless which database or other mechanism is used, once it is available it will be important for housing and disability advocates to market the service, particularly to people who are in the process of transitioning out of nursing facilities.

## INTEGRATION

### A STORY

Sam M. was always social by nature. A tall man with a booming voice and engaging personality, Sam had the ability to draw people towards him and connect with them in meaningful ways. Although he spent long hours on the road as a long-haul tractor-trailer driver, no matter where he was, Sam loved to interact with people. He was well-known in his community and enjoyed spending time with his children.

All that changed, however, when Sam had a stroke, which left him partially paralyzed and unable to speak. After receiving acute medical care treatment at Grady Hospital in Atlanta, Sam was discharged to a nursing facility outside Savannah, until his sons managed to get him accepted to a nursing facility in the Atlanta area. Once Sam was closer to his family, his sons continued to work to bring Sam home to the house he had owned and loved for many years. Unfortunately, the house had steps at every entrance, an interior stairway and doors and passageways that were too narrow to accommodate the scooter he needed to be mobile. At the same time, Sam's income, which had been used to pay his mortgage, was needed to cover the cost of the nursing facility, and Sam eventually lost his house.

Around the time Sam lost his house, he began to regain his voice and he made it clear that he did not want to live in a nursing facility. With the help of the Georgia Advocacy Office and disAbility Link, and funding from the Independent Care Waiver Program, which provides Home and Community-Based Services, Sam was able to get the funding and support services necessary to move to an apartment complex that rented rooms and had common kitchen, bathroom and laundry facilities. Although this was not an ideal arrangement, Sam was happy to be out of the nursing facility. After about a year, Sam moved to a senior high-rise, where he qualified for one of its "younger" slots.

Eventually, Sam married Cheri who also has a disability. With their combined income they were able to afford an apartment. They were excited about the prospect of choosing their first home together, though they knew it would be a challenge to find something that would work for Sam's scooter and Cheri's wheelchairs. To save themselves time and aggravation, Cheri called ahead to quiz leasing agents about accessibility features.

Unfortunately, many of the apartments the couple visited were accessible on the inside but not on the outside. In one case, there was no curb cut to get from the parking lot to the accessible apartment. At another, the property had no accessible parking spots except in the office parking lot. As the two visited one development after another, they encountered more obstacles: large speed bumps that prevented them from rolling from the apartment to the bus stop; mailbox kiosks with mailboxes too high to reach; and a laundry room that was so small neither of them could turn around. After months of searching, Sam and Cheri decided to remain at the senior high-rise. Although this limited their immediate social circle, at least it was affordable and accessible. Their opportunity for true social integration would have to wait.

## INTRODUCTION

While there are various definitions of integration in the disability community, there are many common elements. According to the Developmental Disabilities Bill of Rights and Assistance Act of 2000, integration is defined as “exercising the equal rights of individuals to access and use the same community resources as are used by and available to other individuals.” The United States Department of Justice, in its settlement with the State of Georgia, defines integration as a setting that enables individuals with disabilities to interact with nondisabled people to the fullest extent possible.<sup>88</sup> And recently, the Centers for Medicaid and Medicare Services (CMS) proposed an even more detailed definition of integration for its Home and Community-Based Services (HCBS) settings when it wrote that a qualifying setting:

- must be integrated in the community;
- must not be located in a building that is also a publicly or privately operated facility that provides institutional treatment or custodial care;
- must not be located in a building on the grounds of, or immediately adjacent to, a public institution; or,
- must not be a housing community designed expressly around an individual’s diagnosis or disability, as determined by the Secretary.<sup>89</sup>

In a response to the CMS proposal, the Center for Disability Rights applauded CMS for its definition, while still encouraging CMS to add the following additional criteria:

- must not have qualities of an institution (such as):
  - regimented meal and sleep times;
  - limitations on visitors;
  - lack of privacy; and
  - other attributes that limit an individual’s ability to engage freely in the community.”<sup>90</sup>

Integrated housing is an issue because, historically, some people with disabilities have had few options other than to live in institutions, group homes and other types of segregated and congregated housing. Even when people with disabilities are able to live in their own homes in the community, many are still forced to live in housing that is separate, since developers often create accessible homes in clusters, rather than scattering them throughout a community. This is similar to affordable housing, which is often grouped together in poorer areas of town.

In the present efforts to address the needs of aging baby boomers, it is common for developers to talk about housing types that are suitable for older and disabled people. Although these developments are well-intentioned and designed to meet the needs of such people, they are still forms of clustered or segregated housing. As such, while some people may prefer residences that offer maintenance services,

cleaning services and the like, there are many people who prefer to remain in their existing homes, regardless of age or ability. Thus, it would make sense to develop housing types for the people who prefer them, while still building all houses with basic access for the majority of people who prefer to remain in their own homes and communities.<sup>91</sup>

Efforts to segregate accessible and affordable housing are generally a result of the stigma related to disability and poverty. Indeed, social attitudes that drive such stigma are at the crux of the issues described in this paper. “Not in my backyard” (NIMBY) attitudes and fears are prevalent when it comes to placing housing targeted for individuals with disabilities within communities. Although the disability movement and the tireless and fearless work of advocates have made progress in addressing social attitudes about disability, still, the stigma exists.

Integrated housing is not just about the accessibility of the home’s interior or its proximity to other, nondisabled housing. Integrated housing is also about the accessibility of external components of a community: sidewalks, mailboxes, transportation, common areas, shopping, recreation, worship and employment. It is also about the support services that some people with disabilities require in order to live in the community.

Clearly, there are many elements to providing integrated housing for people with disabilities. For the majority of people with disabilities it is about basic access, affordability and city planning, while for some it is also about support services and supportive housing. As a result, providing integrated housing requires partnerships at all levels. Luckily, there are many models for integrated communities and housing that already exist, which can be replicated to create thriving communities that welcome people of all ages and abilities.

## **BARRIERS, BEST PRACTICES AND RECOMMENDATIONS**

### ***Integration Barrier #1: Lack of access to one’s community***

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Housing is truly integrated when it:

- has basic access features that allow a person to enter and exit their home with ease as well as enter and exit the homes of other people, regardless of whether that person has a disability or not;
- allows for access to private or public transportation that is accessible, within reasonable range of a person’s home and affordable;
- allows for involvement in community activities, including work and volunteer opportunities, worship, recreation, shopping and civic engagements.

Unfortunately, many people with disabilities are unable to independently access their communities. This is often not just because of a lack of basic access features in the home, but also because of poor community planning. When this happens, people with disabilities can become trapped in their homes, unable to go to doctor’s appointments and the grocery store, or participate in meaningful activities within the community.

### **Best Practice: Livable Communities**

According to Partners for Livable Communities, a nonprofit organization based in Washington, D.C., the definition of livable is: “the sum of the factors that add up to a community’s quality of life—including the built and natural environments, economic prosperity, social stability and equity, educational opportunity and cultural, entertainment and recreation possibilities.”<sup>92</sup> Many aging and disability advocacy organizations throughout the country are using this concept to promote full participation of their constituency populations in the community. While there are some differences in the way each organization presents the concept, for the most part, there is agreement on the elements that are necessary to achieve a livable community, as seen in the comparison of organizations below.

National Council on Disability <sup>93</sup>	National Association of Area Agencies on Aging <sup>94</sup>
Provides affordable, appropriate, accessible housing	Housing
Ensures accessible, affordable, reliable, safe transportation	Planning and zoning
Adjusts the physical environment for inclusiveness and accessibility	Transportation
Provides work, volunteer and educational opportunities	Health and supportive services
Ensures access to key health care and support services	Culture and lifelong learning
Encourages participation in civic, cultural, social and recreational activities	Public safety
	Civic engagement and volunteer opportunities

Such elements, when included in community development and planning, would ensure that people with disabilities have access to integrated housing. Implementing the concept of livable communities requires the involvement and partnership of a wide array of partners, including aging and disability advocates, health and support service providers, community planners, transportation officials, urban design professionals, local and state government representatives and others.

### **Georgia’s Best Practice**

In 2010, the National Association of Area Agencies on Aging honored the Atlanta Regional Commission (ARC) with its Aging Achievement Award in recognition of ARC’s “Lifelong Communities” initiative<sup>95</sup>. The initiative, which ARC developed in partnership with the Robert Wood Johnson Foundation, the U.S. Environmental Protection Agency and AARP, addresses all the elements necessary to support people of all ages and abilities to live in the community throughout their lifetimes. Lifelong Communities provide an array of housing types that appeal to individuals

both young and old, opportunities for healthy living with ways to get around that meet the needs of individuals who do not drive, safe sidewalks and interesting places to walk, and convenient access to shopping and basic services. Those features are summed up in the three goals of a Lifelong Community:

Provide housing and transportation options

Encourage healthy lifestyles

Expand access to services

Lifelong Communities incorporate seven principles:

- \* Connectivity – designing neighborhoods that are pedestrian-friendly and increase access to health and other supportive services;
- \* Pedestrian access and readily available transit – ensuring that sidewalks are wide enough and have curb cuts and well-marked crosswalks, as well as having public transit that is accessible and available;
- \* Neighborhood-based retail – locating shops near communities where people can access them by foot, wheelchair, or bicycle;
- \* Social interaction – designing communities so that people have opportunities to see and interact with their neighbors;
- \* Healthy living – making healthcare—including preventive care—accessible and affordable, offering programs that support good health and providing services to support long-term care in the community as much as possible;
- \* Diversity of dwelling type – offering a variety of housing options, all of which are accessible and affordable; and
- \* Consideration for existing residents – when retrofitting or redesigning existing communities to make them “Lifelong,” considering the needs and desires of existing residents.<sup>96</sup>

These principles are tools to help community leaders, planners, developers and citizens create communities that meet the goals of a Lifelong Community.

The Atlanta Regional Commission’s Handbook for Lifelong Living serves as a reference to ensure development and community design adhere to the Lifelong Communities principles, resulting in communities and neighborhoods that are designed to promote healthy living, deliver comprehensive accessibility from inside the dwelling, down the street and into the restaurant, theater or store and offer targeted programming that meets the new reality of increasing life expectancies, varying levels of abilities and the needs of all ages.<sup>97</sup>

The panel supports this groundbreaking effort and encourages communities throughout Georgia to consider how to implement its seven principles.

### ***Recommendation: Implement the features of Livable Communities***

The panel recommends that Georgia create Livable Communities throughout Georgia, to promote access and meaningful participation in communities for Georgians of all ages and abilities. Given its

leadership in this area, it would make sense to follow the leadership of the Atlanta Regional Commission in implementing its recommendations for Lifelong Communities throughout the state.

### ***Integration Barrier #2: Insufficient support services for people who need them in order to live in the community (rather than an institution)***

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For the majority of people with disabilities, following the accessibility and affordability recommendations proposed in this report would result in providing integrated housing. However, there are some people with disabilities for whom this would not be true. They are the ones who require support services to be able to live in their own homes, rather than in a nursing facility or skilled nursing facility.

For the purposes of this paper, “support services” is used to mean “whatever a person would do for him- or herself but for his or her disability.” Otherwise known as attendant care, personal care assistance, community care worker, personal support staff, home health aide, or the like, the content of these services changes based on the functional needs of the person. But for our purposes “support services” is the term we chose in an effort to encompass the range of terms used by various people and agencies to describe the human assistance that people with disabilities require. For example, a person with a spinal cord injury may need help with physical tasks such as dressing, bathing and eating, whereas a person with an intellectual/developmental disability might instead require reminding, cuing and coaching. People with behavior problems may need people around them who understand the impending signs of an outburst and know how to redirect the person before the behavior gets out of control, while a person with dementia might need a highly consistent daily routine and watchful oversight. A person with a psychiatric disability may need a peer to help them develop and sustain a personal path to recovery. Thus, the content of support services changes with functional need but the process of enabling a person to carry out “whatever they would do for themselves but for the disability” is the overarching goal. For people who require support services in order to be independent, housing and support services are inextricably connected; they cannot have one without the other.

When it comes to housing and support services, there are two types of arrangements. Most people with disabilities who require support services could receive the attendant or home health care they need in their own homes. This is generally true for people with disabilities who have the ability to live on their own, or with the support of a family member or attendant. One barrier to this arrangement, however, can be the location of one’s residence, since it is difficult to find in-home support services in rural areas. However, the primary barrier is the lack of funding for such services. Given the high cost of support services over a lifetime, as well as the poverty issues that have previously been discussed, many people require public funding to help pay for the support services they need. Unfortunately, there is a bias in federal and state government spending that prevents them from receiving such services in the community.

Currently, federal and state Medicaid dollars for long-term care are divided between nursing facilities and home- and community-based options. However, federal and state policies effectively ensure that institutional options are more readily available, while community options are not nearly as well funded and more difficult to obtain.<sup>98</sup> In 2009, the United States invested 73 percent of all long-term care

dollars into nursing facilities, which means that almost three out of four Americans who need long-term care will end up in a nursing facility. Unfortunately, the chance of ending up in a nursing facility is even greater in Georgia, which, in the same period, dedicated 82 percent of its long-term care funds to institutions. Such institutional bias earns Georgia a ranking of 30<sup>th</sup> in the country in its support for home- and community-based services.<sup>99</sup> This is disturbing, given that, regardless of one's age, there are very few people who would choose to live in a nursing facility. Indeed, the large majority of people—whether young or old, disabled or not—want to live in their own homes and communities where they can have relationships, jobs, volunteer opportunities and self-directed options for care.<sup>100</sup>

The second type of arrangement is for some people with psychiatric disabilities, developmental disabilities, Alzheimer's or dementia, brain injuries or addictions who need supportive housing, a model in which housing and services are combined. This model is a cost-effective way to provide both housing and services, and ensures that residents receive the services that are so critical to their independence and ability to live in the community. There are many approaches to supportive housing, including offering it in housing developments that are identified for such a purpose, connecting it with rental subsidies for people who want to live in scattered site developments or including it in housing owned by a provider.

There are barriers to supportive housing, however. There are not enough supportive housing programs available to meet the need, generally because of a lack of funding and coordination among public agencies. Also, while having the service provider own the home may appear to be efficient, this arrangement has many drawbacks. In the first place, it makes it harder for the person with the disability to take any ownership of his or her environment. Further, it eliminates the ability for someone to have a choice in service provision; if the individual decides to change providers, he or she would be required to find a new place to live. This makes it more difficult for the person with a disability to live a self-determined life.

To assist with this situation, the Centers for Medicare and Medicaid Services recently announced that they will be issuing regulations that define home and community-based settings and specifically address the issue of provider-owned homes. After surveying hundreds of people who received Home and Community-Based Services (HCBS) funds, the Centers determined that many people were living in "institution-like" environments that went against the purpose of the funds. The Centers report that it wants to ensure that people receiving home and community-based services have a "person-centered and homelike environment with the freedoms that should be characteristic of any home."<sup>101</sup>

Whether support services are tied to housing or not, making them a viable option requires coordination between service delivery and housing agencies. Unfortunately, this does not always happen. As O'Hara and Day write, "the development of supportive housing for people with disabilities continues to be a low policy priority in most state governments. State Medicaid, health and human services agencies and housing departments continue to have difficulty communicating and conceptualizing their respective roles and responsibilities . . ." <sup>102</sup>

In Georgia, there are four state agencies that individuals and families must interact with when it comes to housing and services: the Department of Community Affairs (housing), the Department of Community



Health (Medicaid funding and supports for people with physical disabilities and traumatic brain injuries), the Department of Human Services (supports for people who are aging and who have disabilities, and their caregivers), and the Department of Behavioral Health and Developmental Disabilities (supports for people with mental health issues or intellectual/developmental disabilities). While there is some level of communication and effort to coordinate services between these agencies, there are still many instances where the services of each do not match.

Housing and human services need to come together in a coordinated and seamless approach. These agencies must work together to overcome the barriers that prevent people with disabilities from having access to safe, affordable and integrated housing. This means better communication both among themselves and with the people they serve.

### **Best Practices: Models for connecting housing with support services**

Like everyone else, people with disabilities have individualized needs and wants, so when it comes to integration, a “one size fits all” approach does not work. The best practices listed below offer a range of solutions to address the unique needs and preferences of each person seeking a home.

*Services not connected with housing:*

#### **1. Housing cooperatives**

Cooperatives are communities where members own or rent their own homes but share resources and support. While generic cooperatives that include people with disabilities are a recent phenomenon in the United States, Canadian cooperatives have more experience in this area. For example, in Winnipeg, Manitoba, cooperative communities provide not just the housing assistance people need, but also neighbor to neighbor relationships to support people with disabilities and their families.

Generic cooperatives are one means of developing supported community living alternatives for people with disabilities. Human service organizations in the United States are just beginning to recognize the potential for integration through collaboration with housing organizations and cooperatives. In particular, development of housing through associations (instead of a facility development by agencies) enables people with disabilities to continue to live in their homes even if their relationship with the service providing agency changes. There are a number of housing cooperative models that include people with disabilities, most notably in Connecticut, Ohio and Wisconsin.

#### **2. Supported living**

According to the *State of the States in Developmental Disabilities*, “supported living is housing in which individuals choose where and with whom they live, ownership is by someone other than the support provider, and the individual has a personalized support plan that changes as her or his needs and abilities change.”<sup>103</sup> Supported living provides hourly paid support to individuals who require support for self-care, relationship skills, meal preparation and personal care as well as support to access community resources, activities and generic services. In Georgia, individuals may own or rent their home or the service provider may own it. The support person may be an employee or contractor with an agency or may contract directly with the individual.

The level of support varies according to the needs of the individual with the disability. The key to success in these types of arrangements is providing the right amount of support—not too much and not too little. Individuals need to feel safe, comfortable and supported without feeling that their independence is being compromised.

*Services connected with housing:*

### **3. Home sharing / live-in supports**

Home sharing allows a person with a disability to share a home with someone who provides ongoing support. As a practice, this model has been in use for adults with intellectual/developmental disabilities since the 1970s. Previously referred to as proprietary care, home sharing is also known to many as family care, home living services, or host family services. With this model, the home is the primary residence of both the individual being supported and of the person offering the support. The home may be rented by either party, rented by both together, or owned by either party. The home sharing provider may be an individual, couple or family. Supports may include: a furnished room and other space in the home; assistance with self-care and relationship-building; meal preparation; personal care; and/or use of community resources and generic services.

### **4. Cluster apartments**

In some cases, individuals prefer living alone, but require someone to be available at specific times throughout the day or on an as-needed basis to deal with things that unexpectedly come up. Apartment clusters allow individuals to live in their own suites within a larger community apartment building. On-site support is provided by a person who lives in a suite or stays overnight in the same community. Support may focus on life skills, home management, community involvement and relationship building. Tenants may share additional daytime staffing hours. Most clusters consist of small groups of three to five apartments. Ideally, cluster apartments are part of scattered site developments, where apartments are spread out, rather than grouped together and individuals with disabilities comprise less than 20 percent of the overall tenant population. The support person may be an employee or contractor with an agency or may contract directly with the individual. In some cases, support is provided on a volunteer basis by someone who lives in the building.

### **5. Permanent supported housing program model**

Permanent Supportive Housing (PSH) is an evidence-based model for people with psychiatric disabilities. PSH is offered on a voluntary basis to persons whose other housing choices are typically limited to jails, prisons, and the streets. PSH is a specific, well-defined service model that has been thoroughly documented and shown to be effective by multiple scientific research trials.<sup>104</sup> While the form of housing can vary among single-family homes, duplexes, small multi-family properties and scattered units within a large multi-family property, PSH offers voluntary, flexible supports to help people with psychiatric disabilities choose, obtain and keep housing that is decent, safe, affordable and integrated into the community. The supports may be available at the housing site or brought to the home from outside, but should always give the tenant a choice of service providers. Tenants typically pay 30 percent of their income toward rent plus basic utilities. In the case of low-income individuals (most persons with only Social Security income), the remaining rent must come from one of the rental assistance programs. Tenants sign a standard lease that confers the same legal rights and obligations of any Georgia

tenant. While the lease does not stipulate any special rules, services are offered for participation on a voluntary basis. Homes are located throughout the community or in buildings in which a majority of units are not reserved for people with disabilities. Tenants retain the right to come and go without restrictions and to interact freely with the community where they are located.

Over the last five years, the Georgia Department of Community Affairs has developed a Permanent Supportive Housing loan program that provided no interest and “cash flow” loans for the construction of small (averaging 30 units) projects. These finished projects have been located in Savannah, Brunswick, Columbus, Macon, Atlanta and Rome. The projects are created in close collaboration with the Community Service Boards in the area and are designed to serve persons with a variety of disabilities. The financing for the program comes largely from HUD HOME dollars, which have grown from the \$4 million project cap to nearly \$20 million in the 2012 fiscal year. As a result, it is expected that five additional projects will be developed.

For many people with mental illness, Permanent Supportive Housing (PSH) is the single most effective and cost-efficient way to reduce and prevent homelessness.<sup>105</sup> It ends the “revolving door” cycle of crisis, the use of publicly funded emergency and law-enforcement resources and the transfer through institutions—frequently including jails, prisons and hospitals—that many experience. It also provides the necessary assistance to people with mental illness to live healthy, self-determined lives in their own homes.

The PSH model is a central commitment in the US vs Georgia final Settlement Agreement of 2010. The settlement commits the state to provide 9,000 individuals with serious mental illness the opportunity to live in Permanent Supportive Housing. Georgia has committed to provide sufficient rent subsidy from Georgia tax revenues to serve 2,000 persons and to prioritize its federal housing dollars to serve the remaining 7,000 persons based on their eligibility for the federal programs. In addition to the housing subsidy, the Settlement commits the state to provide community-based mental health services that will enable persons in the targeted population to live successfully in the community. While the implementation of the Settlement program has begun, there remains a need for the state to adopt an inter-departmental implementation plan that ensures the goals are met by fiscal year 2015.

## 6. Finding a Place Called Home

Based in South Dakota, A Place Called Home is a program designed to bring people with and without disabilities together to form communities. As such, A Place Called Home is designed to include the following elements: community with a minimum of four members and a maximum of 10 members. Two to four members of the community, but no more than half, would have disabilities. Members with disabilities could receive services through community agencies and/or community members (such as the Division of Developmental Disabilities, Volunteers of America or Southeast Behavioral). Other community members would be persons who desire to live in a spiritually-based community and who are willing to submit to a community covenant drawn up by the community and members of the board of directors. There would be no discrimination based on age, gender or race. Community members may be college students, persons working for Americorps or Vista, or other individuals who serve and work in the community. The community would be supported and supervised by an advisory board/board of directors comprised of parents and others who share an interest in and commitment to the values of the community.

**Recommendation: Provide support services for those people with disabilities who need them in order to live in the community (and not in an institution)**

The panel recommends that the state of Georgia take steps necessary to ensure support services are available for those people with disabilities who need them in order to live in the community (and not in an institution) by:

1. Ensuring that funding for Home and Community Based Services—*rather than nursing facility care*—is widely available for people who need long-term care. This will require:
  - i. Increasing funding for HCBS to eliminate the waiting list and to reimburse providers at a rate that is adequate for services;
  - ii. Revising eligibility standards to simplify the application process and ensure that people who need HCBS have access to them;
  - iii. Modifying the list of covered services to include personal care services, home modifications, assistance technology (including both equipment and training), transition assistance, peer support, specialized day programs for people with traumatic brain injuries, and services for people who are deaf and also have a psychiatric or developmental disability;
  - iv. Ensuring that there is an abundant supply of services and options available to people receiving HCBS; and
  - v. Working with Unlock the Waiting List Campaign and other advocacy efforts to address budget and quality of services issues.
  
2. Enhancing coordination between government agencies to support a variety of housing models for people with disabilities

It is critical that representatives of the four state agencies that address housing and services—the Department of Community Affairs, the Department of Community Health, the Department of Human Services, and the Department of Behavioral Health and Developmental Disabilities—identify ways to increase communication and coordination of services in order to ensure that people with disabilities who require support services can receive them in their homes in the community.

One opportunity to support such a partnership was announced on July 15, 2011 by the Centers for Medicare and Medicaid (CMS), when it issued a funding alert for approximately \$2.1 million. The purpose of the funding is to support “State Medicaid Agencies to develop sustainable partnerships with State Housing Agencies that will result in long-term strategies to provide permanent and affordable rental housing for people with disabilities receiving Medicaid services and supports in the community.”<sup>106</sup> The panel strongly encourages the Georgia Department of Community Health and the Georgia Department of Community Affairs to apply for this funding opportunity, although the partnership should continue whether funding is available or not.

3. Supporting full funding of the program and goals of the DOJ settlement.

As the state continues to implement the conditions of the DOJ settlement, it will be important for all stakeholders to ensure the state provides full funding for implementation of the DOJ settlement stipulations.

## CONCLUSIONS AND RECOMMENDATIONS

Housing is a fundamental need for all people and, not surprisingly, there are many things that need to be done to ensure people with disabilities have accessible, affordable and integrated housing. It would be easy to review the long list of recommendations and conclude that there is too much to do, or that the situation is too expensive and complex to be fixed. However, the panel believes that it is possible and necessary to address all of the recommendations listed in this report, as long as there is a broad base of stakeholders involved.

Metro Fair Housing Services and its Fair Housing White Paper Panel respectfully recommend the following initiatives to improve the status of housing for Georgians with disabilities.

### ***Recommendation 1: Address the three elements of fair housing for people with disabilities by:***

#### Accessibility

1. Passing legislation that mandates basic access in all new housing not yet covered by current law or policy (with exemption from the zero-step entrance where topographical features make that unfeasible). (AC1)
2. Enhancing opportunities for education of architects, developers and builders of multi-family housing. (AC2)

#### Affordability

1. Commissioning research to quantify the need for housing that is both accessible and affordable for people with disabilities, and creating a comprehensive housing plan that addresses the identified need. (AF1)
2. Increasing availability of Low Income Housing Tax Credit properties to people with disabilities who have very low incomes (below 30 percent AMI). (AF2)
3. Passing a state IDA program that mirrors the federal Assets for Independence Act (AFIA) and includes provisions that make it easier for individuals with disabilities to participate in IDA programs. (AF3)
4. Ensuring that local zoning codes allow for a wide range of housing types. (AF4)
5. Passing state legislation enabling jurisdictions to create local housing trust funds. (AF5)
6. Expanding a mechanism for pairing people willing to share a house and expenses with appropriate housing. (AF6)

#### Integration

1. Implementing the recommendations of the national Livable Communities initiative throughout the state. (I1)

2. Providing support services for those people with disabilities who need them in order to live in the community (and not in an institution). (12)

The panel recognizes the breadth and depth of the recommendations. However, the panel also recognizes that if people with disabilities and their families; advocates; nonprofits; architects, builders and developers, code officials and designers; educators; mortgage brokers, bankers, and credit union officials; planners; legislators and public policy officials; representatives of federal, state and local government and others come together and focus on the recommendations that match their particular area of expertise, then it is possible to accomplish them. When that happens, the state will succeed in creating both housing and communities that address the needs of all Georgians, at every age, of every disability and of every phase of life.

As such, the panel also offers:

***Recommendation 2: Increase communication and involvement between housing professionals and disability advocates, and monitor implementation of the recommendations in this report, by:***

- a. Convening a coalition of housing professionals and disability advocates that meets on a regular basis to monitor the progress of implementation of this report, share ideas and expertise, and identify ways to continue to partner to provide accessible, affordable and integrated housing for Georgians with disabilities. While the panel members have agreed to form the basis of this coalition, others are encouraged to join them to ensure the success of this effort.
- b. Reestablishing the Disability Housing Coalition within the Department of Community Affairs to provide oversight and advice on the Department's efforts to provide accessible, affordable, and integrated housing for Georgians with disabilities.

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## APPENDICES

### Appendix A: Letter from a Pima County, AZ official



**Carmine DeBonis, Jr.**  
Director

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

Dear Mesdames Waters & Moore Capito:

September 29, 2010

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

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

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

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

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

Sincerely,

Yves Khawam, PhD  
Pima County Chief Building Official

## Appendix B: Additional Recommendations

Given the breadth and depth of the issue of housing for people with disabilities, the panel determined that it could not include all barriers and recommendations in the main body of this report. However, the following content is still significant and merits inclusion in the report as a whole.

### Conflicts between codes

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#### *Barrier*

Although basic access is legally mandated in all multi-family housing, with some exceptions, there has been an increase in building violations, as well as a rise in lawsuits against developers. While there may be a number of reasons for this, one of the primary reasons may be the significant conflict between building codes. This is due in part to the numerous regulations, guidelines, and other requirements of entities such as Housing and Urban Development, the Fair Housing Commission, and the Department of Community Affairs. This snarl of information and regulations is not static: it changes in accordance with shifts in the political climate and funding policies.

The Property Development/Design/Construction (DDC) industry is accustomed to working under a list of codes, amendments and other regulations as required by federal, state and local governments. Diligence and coordination regarding code requirements are customary in professional practice. Georgia has 11 state minimum standard codes. The base code for each of these separate codes is the International Building Code (IBC) as published by the International Code Council. By Georgia law, eight of these codes are mandatory and applicable to all construction whether or not they are locally enforced:

- 2006 International Building Code;
- 2006 International Residential Code for One- and Two-Family Dwellings
- 2006 International Fire Code
- 2006 International Plumbing Code
- 2006 International Mechanical Code
- 2006 International Fuel Gas Code
- 2008 National Electrical Code
- 2009 International Energy Conservation Code

Each of these mandatory codes includes Georgia State Supplements and/or Amendments published each year. The Georgia State Fire Marshal also requires the Life Safety Code (NFPA 101), published by the National Fire Protection Association, as the base fire code along with the hundreds of additional NFPA standard for specially constructed elements such as elevators, race tracts, fire hose storage, etc.

The remaining three codes are permissive and only applicable if a local government chooses to adopt and enforce them:

- 2006 International Property Maintenance Code;
- 2006 International Existing Building Code; and
- 2008 National Green Building Standard.

The building code in effect for accessibility in Georgia is the ADA Accessibility Guidelines (Georgia Access Law, Chapter 120-3-20). The Americans with Disabilities Act, Title II Technical Assistance Manual, Covering State and Local Government Programs and Services is part of a broader program of technical assistance conducted by the Department of Justice to promote voluntary compliance with the requirements not only of Title II, but also of Title III of the ADA, which applies to public accommodations, commercial facilities and private entities offering certain examinations and courses.

In addition to these state codes, each city and/or county adopts ordinances and amendments which must be included for projects in their jurisdiction. For example, the Code of Ordinances for Fulton County, Georgia- Part 1-Local Construction Amendments & Local Acts is a 62 chapter document with a 5 article Appendix A. Part 2 of this ordinance has 173 chapters with a 4 article Appendix A for Subdivision Requirements and 34 article of Appendix B for Zoning Resolution. All are required knowledge for a DDC team for any proposed project in Fulton County.

Given this extensive list of codes it is no wonder that the process of qualifying for development/ construction funding for accessible/affordable/integrated housing is confusing, complicated, and time consuming for the already overwhelmed and code-burdened DDC professionals. Finding and filing for the appropriate funding most often requires engaging a special consultant at additional cost to the project. If accessible/affordable/integrated housing projects were characteristically profitable projects the investments would be tolerable, but such work typically offers marginal potential profit, at best. Even when private funding is used for development, the project must still meet these additional accessible requirements so the potential occupants can qualify for assistance through federal, state or local programs in the form of vouchers or other incentives. Additionally, once a project is constructed, further requirements for compiling and assessing potential occupants are also encountered. The return for the developer can be trifling, while the hurdles are many. Together these create encumbering obstructions that discourage any rational business person from undertaking such work.

However, while it is true that following a plethora of codes can be daunting, the fact remains that the construction errors made by The A.G. Spanos Companies and others who have been sued, involve obvious violations such as steps at the primary entrance and narrow interior doors that could have been avoided with even minimum attention to the law.<sup>107</sup> Fortunately, thousands of builders have created new multi-family buildings since 1991 that meet the letter and spirit of the law, resulting in residences that permit people with disabilities to visit friends and extended family, and allow residents who develop disabilities to remain in their own homes.

### ***Recommendations***

#### **1. Appoint an expert in accessibility to the Department of Community Affairs' State Codes Advisory Committee.**

The panel recommends that the Department of Community Affairs appoint someone to serve as an expert in accessibility issues as they pertain to building to its State Codes Advisory Committee. This would ensure that accessibility issues are considered in the development



and review of all construction codes, allow for cross-training between Committee members on construction and accessibility issues and facilitate conversations between the construction and code professionals and the advocacy community.

## **2. Address conflicts in codes.**

The panel recommends that building codes, including those that address accessibility, be combined and restructured to create one comprehensive list of codes for the state. This would reduce duplication and create a more efficient and effective process. Codes should focus on quality standards, rather than physical design mandates, to allow the design professional the flexibility needed to find affordable and appropriate solutions for each location and need. Streamlining the process will also encourage participation and compliance on the part of the building industry, which would see a return that is commensurate with the required effort.

## **The lack of financial literacy among people with disabilities**

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### ***Barrier***

Given the recent mortgage crisis, excessive use of credit cards and the number of people who are just “one paycheck away from disaster,” it is clear that Americans, in general, are not very financially literate. As such, it is safe to say that people with disabilities are probably not any more likely than anyone else to be financially savvy. However, given the number of people with disabilities who are low income, it is critical that they develop the capacity to budget, manage their finances and take whatever steps are possible to create savings and assets. This is especially important since people with disabilities tend to have much higher healthcare costs than non-disabled people. While there are many types of financial education programs available, most are not designed to meet the particular needs of people with disabilities.

### ***Best Practice***

The Center for Financial Independence & Innovation is one of the few programs that offers specialized financial education classes for Georgians with disabilities, their family members and caregivers. Classes are designed to help people make informed decisions about their own finances, and include topics such as money management, understanding credit, basics of banking and financing assistive technology. Additionally, individual or family financial education counseling is available for those who want to take a more in-depth look at their finances. When an individual with a disability does not have the capacity to comprehend the material, a family member, service provider or representative is welcome to be involved with them or on their behalf. All of the Center’s services are free.

## **Need for a new HUD-insured mortgage product to be designated as the “Stay In Place” Mortgage**

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### ***Recommendation***

The panel recommends development of the “Stay in Place” (SIP) mortgage program. The SIP program is designed to assist people with disabilities, the aging and their families in purchasing housing for

themselves. The SIP mortgage would follow the already-existing HUD-insured FHA Title I Home Improvement loan program that is aimed at residential renovation. Additionally, it follows the already successful branding by HUD of Title I mortgages for specific purposes. Examples of those already in existence are the Energy Efficient Mortgage and the PowerSaver Pilot Program Mortgage. Thus, since the product already exists and is available without geographic restriction in the continental United States it could be implemented quickly.

To help foster the use of the product, the panel recommends the following underwriting guidelines:

**Property Type:** single-family owner-occupied property.

**Loan Amounts:** from \$2500 to \$25,000 (loans that are less than \$7500 are not considered mortgages).

**Loan Features:** depending on loan amount, from five to seven years amortization or 15- to 20-year amortization for higher loan amounts.

**Lien Position:** must be in second position, unless no first mortgage exists. No other home equity line or second mortgage is allowed.

**Appraisals:** no equity is required.

**Ratios:** up to 43 percent.

**Credit Scores:** 650 or more.

**Other Credit Considerations:** no prior bankruptcies or foreclosures. No mortgage lates in the last 12 months.

**FHA-Approved Contractors Not Required:** Unlike the 203k program, the owner may subcontract the work or do the job themselves, subject to compliance with local building laws and regulations.

**Loan Disbursement:** All funds covered by the mortgage are disbursed to the borrower at closing. No draw process to manage.

**Purchase Money Transactions:** The standard Title I home improvement loan is not available with purchase money transactions. We would ask that a waiver be granted to allow buyers full and immediate access to accessible housing via use of the SIP rather than waiting months or years to gain the required improvements through traditional loan-to-value capped sources.

In the effort to expand the accessibility to housing throughout all residential properties in the nation, we would also suggest that the product be offered to **non-owner occupied investor properties**. This would allow landlords a financing medium which could create a larger pool of rental properties that meet accessibility standards.

Common examples of items to be financed would include, but should not be limited to the following:

- Entrance ramps and grading to provide access to the residence;
- Widening doorways at entrances;
- Widening or otherwise modifying hallways and/or interior doorways;
- Installing railings, grab bars, showers or other modifications to bathrooms;
- Purchasing and installing ceiling-mounted lifting devices;
- Lowering or modifying kitchen cabinets;
- Moving electrical outlets and fixtures; and
- Installing stair glides (also known as chair lifts) and platform lifts.

The panel recognizes that the major obstacle to establishing the SIP would be a lack of public awareness of its availability. In addition, many people may assume they would not qualify for such a loan because of the reduction in housing values nationwide. As such, the panel recommends that, once the program is implemented, it be coupled with a public awareness campaign.

## Appendix C: Housing Stipulations from the U.S. v. Georgia Settlement Agreement

The purpose of the U.S. v. Georgia Settlement Agreement is to ensure that people with intellectual/developmental and psychiatric disabilities have the opportunity to live in their own homes in the community instead of in state hospitals. To achieve this, the Agreement requires the state to cease admissions to the hospitals for people with intellectual/developmental disabilities and enhance community services for the both populations, including housing, support services, employment, crisis management services, and others.

In terms of housing, the Settlement Agreement requires the following:

For people with intellectual/developmental disabilities:

- The State shall serve individuals in the target population receiving Home and Community Based Services (HCBS) Waiver Program services in their own home or their family's home consistent with each individual's informed choice. In order to accomplish this, funds shall be provided to persons with developmental disabilities through the State's HCBS Waiver Program, available federal funds, and/or State funds as necessary.
- Individuals in the target population shall not be served in a host home or a congregate community living setting unless such placement is consistent with the individual's informed choice. For individuals in the target population not served in their own home or their family's home, the number of individuals served in a host home as defined by Georgia law shall not exceed two, and the number of individuals served in any congregate community living setting shall not exceed four.
- Individuals receiving the State's HCBS Waiver Program services shall not be served in a skilled nursing facility, intermediate care facility, or assisted living facility unless service in such a facility is in accordance with the individual's informed choice.
- Georgia will provide those individuals receiving HCBS Waiver Program services with support coordination to assist them in gaining access to medical, social, education, transportation, housing, nutritional, and other needed services.<sup>108</sup>

For people with psychiatric disabilities:

- Supported Housing is defined as "assistance, including psychosocial supports, to persons with SPMI (severe and persistent mental illness) in the target population that will assist such individuals in attaining and maintaining safe and affordable housing and support their integration into the community. Supported Housing includes integrated permanent housing with tenancy rights, linked with flexible community-based services that are available to consumers when they need them, but are not mandated as a condition of tenancy."<sup>109</sup>
- Supported Housing includes scattered-site housing as well as apartments clustered in a single building. By July 1, 2015, 50% of Supported Housing units shall be provided in scattered-site housing, which requires that no more than 20% of the units in one building, or no more than two

units in one building (whichever is greater), may be used to provide Supported Housing under this agreement. Personal care homes shall not qualify as scattered-site housing.

- It is the intent of the parties that approximately 60% of persons in the target population receiving scattered-site Supported Housing will reside in a two-bedroom apartment, and that approximately 40% of persons in the target population receiving scattered-site Supported Housing will reside in a one-bedroom apartment.
- Bridge funding includes the provision of deposits, household necessities, living expenses, and other supports during the time needed for a person to become eligible and a recipient of federal disability or other supplemental income.<sup>110</sup>

## Appendix D: Percent of SSI Recipient's Income Needed to Rent an Apartment in Georgia for 2010<sup>111</sup>

The following table is excerpted from "Priced Out in 2010," which provides the following explanation for the chart:

*"In 2010 in Georgia, a person with a disability received SSI benefits equal to \$674 per month. Statewide, this income was equal to 18.8% of the area median income. A person with a disability receiving SSI would have to pay . . . 100% of their monthly income for a one-bedroom unit.*

*Within Georgia's federally defined housing market areas the cost of a one-bedroom rental unit ranged from a low of 70% of SSI payments in the Meriwether County housing market area to a high of 118% in the Atlanta/Sandy Springs/Marietta housing market area.*

*A person with a disability receiving SSI payments in Georgia had income equivalent to an hourly wage of \$3.89, \$3.36 less than the federal minimum wage of \$7.25. In 2010, a person had to earn \$13.42 per hour to be able to afford a one-bedroom rental unit based on HUD's Fair Market Rent."<sup>112</sup>*

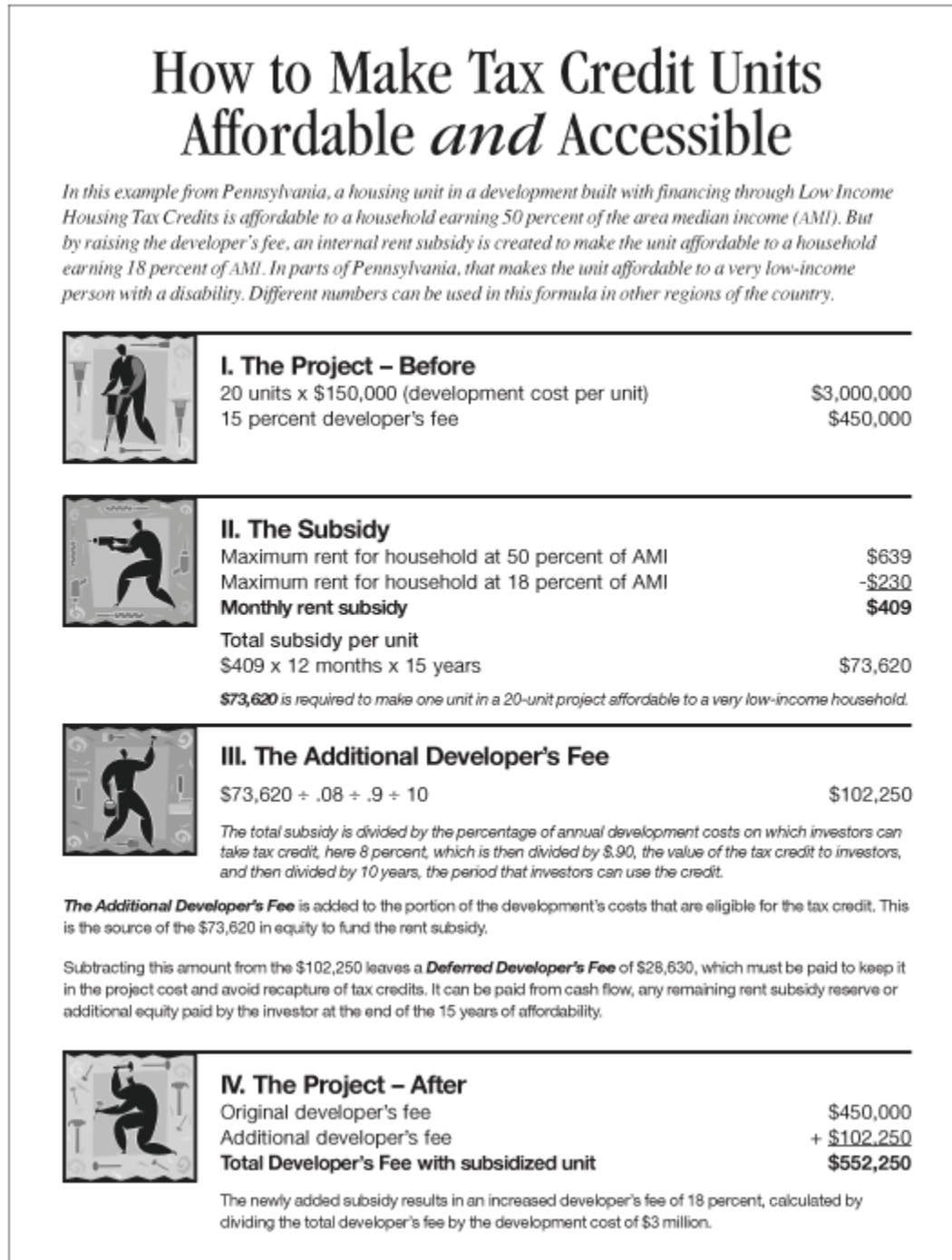
The last column shows the National Low Income Housing Coalition's (NLIHC) projections on the wage that a person would need to earn in order to afford a one-bedroom apartment in a specific area. As the NLIHC explains it:

*"These figures show the amount of money a household must earn in order to afford a rental unit at . . . the area's Fair Market Rent (FMR), based on the generally accepted affordability standard of paying no more than 30% of income for housing costs. From these calculations the hourly wage a worker must earn to afford the FMR for a (one)-bedroom home is derived. This figure is the Housing Wage."<sup>113</sup>*

	SSI Monthly Payment	SSI as Percent Median Income	% of SSI for 1-bedroom	NLIHC Housing Wage
Albany	\$674.00	23.7%	81%	<b>\$10.58</b>
Athens/Clarke County	\$674.00	20.0%	90%	<b>\$11.81</b>
Atlanta/Sandy Springs/Marietta	\$674.00	16.1%	118%	<b>\$15.77</b>
Augusta/Richmond County	\$674.00	20.7%	83%	<b>\$11.12</b>
Brunswick	\$674.00	21.1%	82%	<b>\$10.81</b>
Butts County	\$674.00	20.6%	81%	<b>\$10.88</b>
Columbus	\$674.00	22.3%	85%	<b>\$11.13</b>
Dalton	\$674.00	22.0%	84%	<b>\$11.02</b>
Gainesville	\$674.00	19.2%	111%	<b>\$14.52</b>
Haralson County	\$674.00	24.3%	70%	<b>\$9.19</b>
Hinesville/Fort Stewart	\$674.00	24.9%	83%	<b>\$10.90</b>
Lamar County	\$674.00	21.3%	71%	<b>\$9.56</b>
Long County	\$674.00	24.9%	74%	<b>\$9.71</b>
Macon	\$674.00	21.7%	86%	<b>\$11.31</b>
Meriwether County	\$674.00	24.4%	70%	<b>\$9.44</b>
Monroe County	\$674.00	18.1%	83%	<b>\$10.92</b>
Murray County	\$674.00	22.0%	78%	<b>\$10.25</b>
Rome	\$674.00	22.0%	74%	<b>\$9.77</b>
Savannah	\$674.00	19.6%	107%	<b>\$14.08</b>
Valdosta	\$674.00	23.9%	78%	<b>\$10.27</b>
Warner Robins	\$674.00	17.5%	88%	<b>\$11.54</b>
Non-Metropolitan Areas	\$674.00	24.9%	73%	<b>\$9.65</b>
Statewide	<b>\$674.00</b>	<b>18.8%</b>	<b>100%</b>	<b>\$13.42</b>
National	<b>\$703.00</b>	<b>18.7%</b>	<b>112%</b>	<b>\$15.10</b>

## Appendix E: How to Make Tax Credit Units Affordable and Accessible<sup>114</sup>

The following chart illustrates how the Pennsylvania Housing Finance Administration offers incentives to developers to build affordable housing for people with disabilities with the lowest incomes.



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