

Shut Out, Priced Out and Segregated: The Need for Fair Housing for People with Disabilities

A Public Policy Report: Briefing

Metro Fair Housing Services, Inc.



Currently, there is a shortage of housing for people with disabilities. There are many reasons for this housing shortage; however one of the primary reasons is the way in which housing is approached. We 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;¹
- 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.²

BACKGROUND

In 2008, the National Fair Housing Alliance, along with other plaintiffs, filed suit against 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 suit alleged that Spanos violated the Fair Housing Amendments Act of 1988 by building apartments that were inaccessible to people with disabilities. 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.³

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.

To his credit, owner Alex Spanos readily agreed to this idea and provided full funding for the project, giving Metro Fair Housing Services (MFHS), one of the plaintiffs in the lawsuit, the lead role in the development of the report. MFHS 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. Their work and expertise are the basis of the public policy report, *“Shut Out, Priced Out and Segregated: The Need for Fair Housing for People with Disabilities.”* The report 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.

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, including:

- the legal implications: there are federal housing laws aimed at eliminating discrimination, including the Americans with Disabilities Act and the Fair Housing Amendments Act. There are also two legal decisions, *Olmstead v. L.C.* and *the United States v. the State of Georgia*, that focus on integration issues.
- the marketing implications: the increasing demand for accessible housing presents a great opportunity for home builders who can develop and market various products that will meet the needs without substantially increasing construction costs.
- the human rights implications: for people with disabilities, lack of basic access:
 - severely limits choice in renting or purchasing;
 - segregates them into residences or communities built especially for people who are aging or disabled;
 - isolates them and prevents them from visiting the homes of their friends and extended family;
 - requires non-disabled people who develop either temporary or permanent disabilities—and do not have the resources available to modify their homes—to leave their homes to live in other houses or even institutions; or remain in their homes with barriers still in place, unsafe and unable to exit; and
 - forces people with disabilities to live in nursing facilities, state hospitals, or other institutions.
- the public health implications: lack of access creates enormous public health problems, the 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. These risks include: increased risk of falls and other injuries; inability to exit in case of emergency; negative effects on mental health; and diminished health of caregivers.
- 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. This is because of: the financial costs and the impact on the environment of retrofits (home modifications); the costs of the negative health outcomes; and the high cost of institutionalization.

THREE ELEMENTS OF FAIR HOUSING FOR PEOPLE WITH DISABILITIES

There are three elements necessary to ensure that all people with disabilities have access to appropriate housing:

Accessibility

Accessibility is about the way in which homes are built to accommodate people with limited mobility or other needs. Accessibility barriers include:

- for single-family housing, a lack of basic access in all single-family homes.
- for multi-family housing, a lack of compliance with housing laws and codes.

Affordability

Affordability relates to the barriers that prevent people with disabilities from being able to afford appropriate housing. These barriers include:

- the large number of people with disabilities living below the federal poverty level due to high rates of unemployment and the significant financial burden associated with having a disability;
- insufficient use of Low Income Housing Tax Credit properties;
- lack of assets to assist in securing housing;
- local zoning codes that limit housing options;
- lack of resources to support affordable housing; and
- lack of a mechanism to identify people who can share housing expenses.

Integration

Integration is about the accessibility of the home's interior; its proximity to other, nondisabled housing; the accessibility of external components of a community: sidewalks, mailboxes, transportation, common areas, shopping, recreation, worship and employment; and the support services that some people with disabilities require in order to live in the community. Integration barriers include:

- lack of access to one's community; and
- insufficient support services for people who need them in order to live in the community (rather than an institution).

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 for 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:

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

Accessibility

1. Passing legislation that requires 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).
2. Enhancing opportunities for the education of architects, designers, developers and builders of single- and multi-family housing.

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.
2. Increasing availability of Low-Income Housing Tax Credit properties to people with disabilities who have very low incomes (below 30 percent of AMI).
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.⁴
4. Ensuring local zoning codes allow for a wide range of housing types.
5. Passing state-enabling legislation to allow jurisdictions to create local housing trust funds.
6. Expanding existing mechanisms for pairing people who can share a house and expenses and matching them with appropriate housing.

Integration

1. Implementing the recommendations of the national Livable Communities Initiative.⁵
2. Providing support services for those people with disabilities who need them in order to live in the community (and not in an institution).

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.

Endnotes

¹ Smith, Eleanor. "Healthy Houses for Older and Disabled People: A Missing Piece." American Public Health Association National Conference. Philadelphia. November 10, 2009. Presentation. http://www.epa.gov/aging/resources/presentations/2009_1123_healthy_communities_handout_smith.pdf

² Smith, Stanley K., Stefan Rayer and Eleanor A. Smith. "Aging and Disability: Implications for the Housing Industry and Housing Policy in the United States." *Journal of the American Planning Association*, 74.3 (2008).

³ National Fair Housing Alliance. *Settlement Agreement Summary*. Washington: January 13, 2010, 2-3.

⁴ For more information about Individual Development Accounts, go to: <https://www.thecfii.org/index.php?/economicempowerment/individualdevelopmentaccounts/>

⁵ For more information about the Livable Communities Initiative, go to: <http://livable.org/>