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How CILs Can Transform the Housing Landscape

Overview of Housing Legislation

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Introduction to Action Plan in Training Material

Action Plan

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Overview of Housing Legislation

Community Integration

- Community Integration is not just a concept or an idea or a goal or a theory – it is the law!
- Real community integration is not possible without access to accessible, affordable, and integrated housing.

Accessible, Affordable, Integrated

- Accessible: Housing that is physically accessible is required by law. There are not enough units that meet this description and even fewer accessible units that are also affordable. We will be spending a lot of time talking about this!

Accessible, Affordable, Integrated, cont'd.



- Affordable: There is an extreme shortage of units that are affordable to people on an SSI income. HUD's standard of affordability is that people pay no more than 30% of their income for rent.
- We'll be talking more about this also!

Accessible, Affordable, Integrated, cont'd. 2



- Integrated: housing units that are typical of housing units in a community and scattered throughout a community.

What are the laws?

- U.S. Fair Housing Act (FHA)
- State-level Fair Housing Act or similar legislation
- Americans with Disabilities Act
- Section 504 of the Rehabilitation Act of 1973
- Olmstead Supreme Court Decision (1999)

All of these laws protect people with disabilities from discrimination; the Fair Housing Act(s) protect people re: housing, and the ADA addresses a broad variety of issues related to community integration.

Fair Housing & the Americans with Disabilities Act—Equal Rights under the Law

People with disabilities have the right...

- To live in the community
- To rent or buy housing on the same terms as others (without any special conditions or agreements)
- To request reasonable accommodation for disability when needed.
- Have the same rights to housing units as any other tenant (assuming use of a typical lease)

Americans with Disabilities Act (ADA)



The Americans with Disabilities Act (ADA) is a federal civil rights law that prohibits discrimination against people with disabilities in everyday activities. These activities may include accessing State and local government services, such as voting. They may also include activities in other public places, such as going shopping or eating at a local restaurant.

(www.ada.gov)

This is not focused on housing issues; it strongly upholds the rights of people with disabilities to live and work in communities.

Rehabilitation Act of 1973, Section 504



The right to live in the community didn't begin with the ADA. In 1973, the Rehabilitation Act prohibited "qualified individuals" from discrimination based on their disability. The nondiscrimination requirements of the law apply to employers and organizations that receive financial assistance from any Federal department or agency, including the U.S. Department of Housing and Urban Development.

This is not a new idea!

Fair Housing Act

Fair Housing Act: No one may take any of the following actions based on race, color, national origin, religion, sex, familial status or handicap:

- Refuse to rent or sell housing
- Refuse to negotiate for housing
- Make housing unavailable
- Deny a dwelling

<http://www.hud.gov/offices/fheo/FHLaws/yourrights.cfm>

Fair Housing Act, cont'd.

The right to live in the community—

- Statute: Title VIII of the Civil Rights Act of 1968 (Fair Housing Act) prohibits discrimination in the sale, rental and financing of dwellings based on race, color, religion, sex or national origin. Title VIII was amended in 1988 (effective March 12, 1989) by the Fair Housing Amendments Act, to include persons with disabilities.
- Basically, the Fair Housing Act protects people from discrimination when they are renting or buying a home, getting a mortgage, seeking housing assistance, or engaging in other housing-related activities.

Fair Housing Act, cont'd. 2

No one may take any of the following actions—

- Set different terms, conditions or privileges for sale or rental of a dwelling
- Provide different housing services or facilities
- Falsely deny that housing is available for inspection, sale, or rental
- For profit, persuade owners to sell or rent (blockbusting)
- Deny anyone access to or membership in a facility or service (such as a multiple listing service) related to the sale or rental of housing.

Olmstead Supreme Court Decision

The right to live in the community -

- In 1999, the United States Supreme Court issued the landmark decision in *Olmstead v. L.C.*, 527 U.S. 581 (1999), affirming that the unjustified segregation of individuals with disabilities is a form of discrimination prohibited by Title II of the Americans with Disabilities Act (ADA).
- This Supreme Court decision reinforced the ADA and further mandated that people with disabilities live in the most integrated setting possible.

<https://www.hud.gov/sites/documents/OLMSTEADGUIDNC060413.PDF>

Olmstead

The Olmstead Supreme Court decision states that the clinically unwarranted segregation of people with disabilities is a violation of the Americans with Disabilities Act.

Karen Michalski-Karney

**Connecting Housing with Olmstead
and Fair Housing Compliance**

In Practical Terms, Please

States must find housing that assists individuals with disabilities to transition.

- Critical considerations include:
 - Range of housing options available in the community, and
 - Are those options limited to living with other individuals with disabilities?
 - Do those options include “substantial opportunities” for individuals to live and interact with individuals without disabilities?

How can State and Local Governments Comply with Olmstead?



- HUD encourages Public Housing Authorities (Agencies) (PHAs) and other HUD-assisted housing providers to work with state and local governments to provide integrated, affordable and accessible options.
- HUD encourages implementing appropriate preferences that support Olmstead efforts.
 - General preferences for individuals with disabilities who are transitioning from or at serious risk of entering an institutional setting are permissible.
 - PHAs are permitted to authorize a preference consistent with the provisions of a grant awarded under Section 811 Project Rental Assistance (PRA).

Olmstead and Homelessness

- HUD's support for Olmstead enforcement and implementation efforts aligns with goals of ending homelessness, especially chronic homelessness.
 - Individuals with disabilities may be chronically homeless.
 - Those individuals may be at serious risk of institutionalization.
 - Individuals with disabilities transitioning out of institutions may become homeless or,
 - End up returning to institutions.

Fair Housing and Olmstead



Section 808(e)(5) of the FHA on HUD to affirmatively further the purposes of the FHA in its housing and urban development programs.

- HUD and HUD recipients have opportunity to engage in activities benefiting individuals transitioning from institutions or at serious risk of institutionalization.
- Rehab or new construction may include providing integrated, affordable housing opportunities.
- Strategic planning practices would take into account other housing available in surrounding area; availability of accessible transportation; or, universal accessibility and visitability features beyond minimum requirements.

Fair Housing and Olmstead, cont'd.

For programs that include or require marketing, community-based education and/or outreach—

- Affirmative marketing activities can include:
 - Making availability of affordable units widely known throughout the market area including to individuals transitioning from institutional care.
 - Designing and implementing initiatives to maximize communication with and dissemination of information to individuals unlikely to have access to information or benefits, including individuals with disabilities.

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