

# **IL NET**

an ILRU/NCIL National Training and Technical Assistance Project

*Expanding the Power of the Independent Living Movement*

## **AFFORDABLE, ACCESSIBLE, INTEGRATED HOUSING:**

### **PUTTING THE PUZZLE TOGETHER WHEN THE PIECES DON'T FIT**

A Two-Part National Teleconference & Webcast

## **Participant's Manual**

**Part I: August 9, 2004**

**Part II: August 11, 2004**

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**Table of Contents**

Agenda.....	<i>ii</i>
About Steve Gold .....	<i>iv</i>
List of IL NET Staff .....	<i>v</i>
About ILRU & NCIL .....	<i>vi</i>
About IL NET.....	<i>vii</i>
Learning Objectives.....	1
Housing Rights for People with Disabilities	
Overview of the Fair Housing Act.....	6
Section 504 Frequently Asked Questions .....	13
Section 504 Complaint Process .....	26
Rural Housing Programs .....	30
Types of HUD Housing	
5% Accessibility Rule .....	38
Section 8 Housing Units .....	39
Public Housing Consolidated Plan .....	44
Low-Income Housing.....	46
Community Development Block Grants.....	50
Statewide Housing Strategies .....	58

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**Part I:  
August 9, 2004**

**Agenda**

Overview of the Fair Housing Act and Section 504 of the Rehab Act.

Questions & Answers

HUD – Federal, State, Local

Rural Housing – U.S. Department of Agriculture

Questions & Answers

National Housing Distribution – Types of HUD Housing

Public Housing Annual Plan

Question & Answer

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**Part II:  
August 11, 2004  
Agenda**

Low Income Housing Tax Credits

Multi-Family Subsidized Housing

Question & Answer

Community Development Block Grants

Question & Answer

Home Modifications/Universal Access

Question & Answer

Olmstead and Home Ownership

Advocacy Strategies

Question & Answer

## About Steve Gold

**Stephen F. Gold** is an attorney who specializes in civil rights and represents only persons with disabilities. Besides representing numerous individuals with disabilities in discrimination lawsuits, he also represents ADAPT and NOT DEAD YET.

Mr. Gold successfully brought the "curb cut" lawsuit, *Kinney v. Yerusalem*, arguing that whenever a municipality resurfaces a street, it must ensure access to that street by installing curb cuts. He also successfully argued the case, *Helen L.*, that a state discriminates against a person by requiring them to receive services in a segregated nursing home, rather than providing them services in the community. Mr. Gold also litigated a national action *ADAPT v. HUD* on behalf of numerous national organizations, including ADAPT and NCIL. In *ADAPT v. Philadelphia Housing Authority*, a federal court required the local housing agency to construct 5% accessible units. In *Young v. District of Columbia Housing Authority*, a federal court settlement requires 565 accessible units be constructed and will increase the values of vouchers under the Section 8 program.

He also wrote the amicus brief for NOT DEAD YET and ADAPT in "physician-assisted" suicide case before the United States Supreme Court. He has also written an amicus brief against a "wrongful life" action, arguing that hospitals violate Section 504 the Child Abuse Prevention and Treatment Act to deny children with actual or potential disabilities the same level of medical care as nondisabled children receive. He wrote the amicus brief for ADAPT, NCIL and TASH in the *Olmstead v LC* case before the Supreme Court, arguing that it is discrimination under the ADA to fail to provide services in "the most integrated setting" for persons with disabilities.

His Information Bulletins, which have a national circulation of more than 6,000 advocates and persons with disabilities, have dealt with housing, nursing homes, education, and medical assistance.

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## **ABOUT ILRU**

The Independent Living Research Utilization (ILRU) Program was established in 1977 to serve as a national center for information, training, research, and technical assistance for independent living. In the mid-1980's, it began conducting management training programs for executive directors and middle managers of independent living centers in the U.S.

ILRU has developed an extensive set of resource materials on various aspects of independent living, including a comprehensive directory of programs providing independent living services in the U.S. and Canada.

ILRU is a program of TIRR, a nationally recognized, free-standing rehabilitation facility for persons with physical disabilities. TIRR is part of TIRR Systems, a not-for-profit corporation dedicated to providing a continuum of services to individuals with disabilities. Since 1959, TIRR has provided patient care, education, and research to promote the integration of people with physical and cognitive disabilities into all aspects of community living.

## **ABOUT NCIL**

Founded in 1982, the National Council on Independent Living is a membership organization representing independent living centers and individuals with disabilities. NCIL has been instrumental in efforts to standardize requirements for consumer control in management and delivery of services provided through federally-funded independent living centers.

Until 1992, NCIL's efforts to foster consumer control and direction in independent living services through changes in federal legislation and regulations were coordinated through an extensive network and involvement of volunteers from independent living centers and other organizations around the country. Since 1992, NCIL has had a national office in Arlington, Virginia, just minutes by subway or car from the major centers of government in Washington, D.C. While NCIL continues to rely on the commitment and dedication of volunteers from around the country, the establishment of a national office with staff and other resources has strengthened its capacity to serve as the voice for independent living in matters of critical importance in eliminating discrimination and unequal treatment based on disability.

Today, NCIL is a strong voice for independent living in our nation's capital. With your participation, NCIL can deliver the message of independent living to even more people who are charged with the important responsibility of making laws and creating programs designed to assure equal rights for all.

## **ABOUT THE IL NET**

This training program is sponsored by the IL NET, a collaborative project of the Independent Living Research Utilization (ILRU) of Houston and the National Council on Independent Living (NCIL).

The IL NET is a national training and technical assistance project working to strengthen the independent living movement by supporting Centers for Independent Living (CILs) and Statewide Independent Living Councils (SILCs).

IL NET activities include workshops, national teleconferences, technical assistance, on-line information, training materials, fact sheets, and other resource materials on operating, managing, and evaluating centers and SILCs.

The mission of the IL NET is to assist in building strong and effective CILs and SILCs which are led and staffed by people who practice the independent living philosophy.

The IL NET operates with these objectives:

- Assist CILs and SILCs in managing effective organizations by providing a continuum of information, training, and technical assistance.
- Assist CILs and SILCs to become strong community advocates/change agents by providing a continuum of information, training, and technical assistance.
- Assist CILs and SILCs to develop strong, consumer-responsive services by providing a continuum of information, training, and technical assistance.

# **Affordable, Accessible, Integrated Housing: Putting the Puzzle Together When the Pieces Don't Fit**

## **Learning Objectives:**

1. Learn accessible requirements of 504 and the Federal Housing Amendments Act of 1988
2. Understand the 5% accessible housing rule
3. Find out how "HOME" programs work and who benefits
4. How to find out if your state is using a Community Development Block Grant (CDBG) fund for affordable, accessible housing
5. Discover housing programs for low to moderate-income people with disabilities living in rural America
6. Gain statewide housing strategies every advocate can utilize

**HOUSING RIGHTS**

**FOR**

**PEOPLE WITH DISABILITIES**

## Disability Rights in Housing

**Definition of Disability:** Federal laws define a person with a disability as "Any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such an impairment."

In general, a physical or mental impairment includes hearing, mobility and visual impairments, chronic alcoholism, chronic mental illness, AIDS, AIDS Related Complex, and mental retardation that substantially limits one or more major life activities. Major life activities include walking, talking, hearing, seeing, breathing, learning, performing manual tasks, and caring for oneself.

**Disability Rights in Private and Public Housing:** Regardless of whether you live in private or public housing, Federal laws provide the following rights to persons with disabilities:

- **Prohibits discrimination against persons with disabilities.** It is unlawful for a housing provider to refuse to rent or sell to a person simply because of a disability. A housing provider may not impose different application or qualification criteria, rental fees or sales prices, and rental or sales terms or conditions than those required of or provided to persons who are not disabled.

*Example: A housing provider may not refuse to rent to an otherwise qualified individual with a mental disability because s/he is uncomfortable with the individual's disability. Such an act would violate the Fair Housing Act because it denies a person housing solely on the basis of their disability.*

- **Requires housing providers to make reasonable accommodations for persons with disabilities.** A reasonable accommodation is a change in rules, policies, practices, or services so that a person with a disability will have an equal opportunity to use and enjoy a dwelling unit or common space. A housing provider should do everything s/he can to assist, but s/he is not required to make changes that would fundamentally alter the program or create an undue financial and administrative burden. Reasonable accommodations may be necessary at all stages of the housing process, including application, tenancy, or to prevent eviction.

*Example: A housing provider would make a reasonable accommodation for a tenant with mobility impairment by fulfilling the tenant's request for a reserved parking space in front of the entrance to their unit, even though all parking is unreserved.*

- **Requires housing providers to allow persons with disabilities to make reasonable modifications.** A reasonable modification is a structural modification

that is made to allow persons with disabilities the full enjoyment of the housing and related facilities.

Examples of a reasonable modification would include allowing a person with a disability to: *install a ramp into a building, lower the entry threshold of a unit, or install grab bars in a bathroom.*

Reasonable modifications are usually made at the resident's expense. However, there are resources available for helping fund building modifications. Additionally, if you live in federally assisted housing the housing provider may be required to pay for the modification if it does not amount to an undue financial and administrative burden. For more information, see the Reasonable Accommodations section of the Section 504 Frequently Asked Questions at: [www.hud.gov/offices/fheo/disabilities/sect504.cfm](http://www.hud.gov/offices/fheo/disabilities/sect504.cfm)

- **Requires that new covered multifamily housing be designed and constructed to be accessible.** In covered multifamily housing consisting of 4 or more units with an elevator built for first occupancy after March 13, 1991, all units must comply with the following seven design and construction requirements of the Fair Housing Act:
  - Accessible Entrance on an Accessible Route
  - Accessible Public and Common-Use Areas
  - Usable Doors
  - Accessible Route Into and Through the Dwelling Unit
  - Accessible Light Switches, Electrical Outlets, Thermostats, and Environmental Controls
  - Reinforced Walls in Bathrooms
  - Usable Kitchens and Bathrooms

In covered multifamily housing without an elevator that consists of 4 or more units built for first occupancy after March 13, 1991, all ground floor units must comply with the Fair Housing Act seven design and construction requirements.

For information on how to comply with the physical accessibility requirements of the Fair Housing Act, visit the Fair Housing Accessibility FIRST at <http://www.fairhousingfirst.org>

These requirements apply to most public and private housing. However, there are limited exemptions for owner-occupied buildings with no more than four units, single-family housing sold or rented without the use of a broker, and housing operated by organizations and private clubs that limit occupancy to members.

If you live in federally assisted multifamily housing consisting of 5 or more units, 5 percent of these units (or at least one unit whichever is greater) must meet more stringent physical accessibility requirements. Additionally, 2 percent of units (or at least

one unit whichever is greater) must be accessible for persons with visual or hearing disabilities.

**People with Disabilities in Federally Assisted Housing:** Federal law makes it illegal for an otherwise qualified individual with a disability to be excluded, solely because of his or her disability, from programs receiving federal financial assistance.

**Zoning and Land Use:** It is unlawful for local governments to utilize land use and zoning policies to keep persons with disabilities from locating to their area. For more information, see the Joint Statement of DOJ and HUD on Group Homes, Local Land Use, and the Fair Housing Act.

**State and Local Laws:** Many states and localities have fair housing laws that are substantially equivalent to the Federal Fair Housing Act. Some of these laws prohibit discrimination on additional bases, such as source of income or marital status. Some of these laws may impose more stringent design and construction standards for new multifamily housing.

**The Americans with Disabilities Act:** In most cases, the ADA does not apply to residential housing. Rather, the ADA applies to places of public accommodation such as restaurants, retail stores, libraries, and hospitals as well as commercial facilities such as offices buildings, warehouses, and factories. However, Title III of the ADA covers public and common use areas at housing developments when these public areas are, by their nature, open to the general public. For example, it covers the rental office since the rental office is open to the general public.

Title II of the ADA applies to all programs, services, and activities provided or made available by public entities. This includes housing when the housing is provided or made available by a public entity. For example, housing covered by Title II of the ADA includes public housing authorities that meet the ADA definition of "public entity," and housing operated by States or units of local government, such as housing on a State university campus.

**File a Complaint:** To file a complaint or for information on how HUD processes housing discrimination complaints, see Fair Housing-It's Your Right (Page 6).

**Taken from the HUD website at:  
(<http://www.hud.gov/offices/fheo/disabilities/inhousing.cfm>)**

# OVERVIEW OF THE FAIR HOUSING ACT

## Fair Housing--it's Your Right

### Fair Housing Act

HUD has played a lead role in administering the Fair Housing Act since its adoption in 1968. The 1988 amendments, however, have greatly increased the Department's enforcement role. First, the newly protected classes have proven significant sources of new complaints. Second, HUD's expanded enforcement role took the Department beyond investigation and conciliation into the area of mandatory enforcement.

Complaints filed with HUD are investigated by the Office of Fair Housing and Equal Opportunity (FHEO). If the complaint is not successfully conciliated, FHEO determines whether reasonable cause exists to believe that a discriminatory housing practice has occurred. Where reasonable cause is found, the parties to the complaint are notified by HUD's issuance of a Determination, as well as a Charge of Discrimination, and a hearing is scheduled before a HUD administrative law judge (ALJ). Either party - complainant or respondent - may cause the HUD-scheduled administrative proceeding to be terminated by electing instead to have the matter litigated in Federal court. Whenever a party has so elected, the Department of Justice takes over HUD's role as counsel seeking resolution of the charge on behalf of aggrieved persons, and the matter proceeds as a civil action. Either form of action - the ALJ proceeding or the civil action in Federal court - is subject to review in the U.S. Court of Appeals.

### Significant Recent Changes

1. The Housing for Older Persons Act of 1995 (HOPA) makes several changes to the 55 and older exemption. Since the 1988 Amendments, the Fair Housing Act has exempted from its familial status provisions properties that satisfy the Act's 55 and older housing condition.

First, it eliminates the requirement that 55 and older housing have "significant facilities and services" designed for the elderly. Second, HOPA establishes a "good faith reliance" immunity from damages for persons who in good faith believe that the 55 and older exemption applies to a particular property, if they do not actually know that the property is not eligible for the exemption and if the property has formally stated in writing that it qualifies for the exemption.

HOPA retains the requirement that senior housing must have one person who is 55 years of age or older living in at least 80 percent of its occupied units. It also still requires that senior housing publish and follow policies and procedures that demonstrate an intent to be housing for persons 55 and older.

An exempt property will not violate the Fair Housing Act if it includes families with children, but it does not have to do so. Of course, the property must meet the Act's requirements that at least 80 percent of its occupied units have at least one occupant who is 55 or older, and that it publish and follow policies and procedures that demonstrate an intent to be 55 and older housing.

A Department of Housing and Urban Development rule published in the April 2, 1999, Federal Register implements the Housing for Older Persons Act of 1995, and explains in detail those provisions of the Fair Housing Act that pertain to senior housing.

2. Changes were made to enhance law enforcement, including making amendments to criminal penalties in section 901 of the Civil Rights Act of 1968 for violating the Fair Housing Act.
3. Changes were made to provide incentives for self-testing by lenders for discrimination under the Fair Housing Act and the Equal Credit Opportunity Act. See Title II, subtitle D of the Omnibus Consolidated Appropriations Act, 1997, P.L. 104 - 208 (9/30/96).

## **Basic Facts About the Fair Housing Act**

### **What Housing Is Covered?**

The Fair Housing Act covers most housing. In some circumstances, the Act exempts owner-occupied buildings with no more than four units, single-family housing sold or rented without the use of a broker, and housing operated by organizations and private clubs that limit occupancy to members.

### **What Is Prohibited?**

In the Sale and Rental of Housing: 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
- 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) or
- 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.

In Mortgage Lending: No one may take any of the following actions based on race, color, national origin, religion, sex, familial status or handicap (disability):

- Refuse to make a mortgage loan
- Refuse to provide information regarding loans
- Impose different terms or conditions on a loan, such as different interest rates, points, or fees
- Discriminate in appraising property
- Refuse to purchase a loan or
- Set different terms or conditions for purchasing a loan.

**In Addition: It is illegal for anyone to:**

- Threaten, coerce, intimidate or interfere with anyone exercising a fair housing right or assisting others who exercise that right
- Advertise or make any statement that indicates a limitation or preference based on race, color, national origin, religion, sex, familial status, or handicap. This prohibition against discriminatory advertising applies to single-family and owner-occupied housing that is otherwise exempt from the Fair Housing Act.

**Additional Protection if You Have a Disability**

If you or someone associated with you:

- Have a physical or mental disability (including hearing, mobility and visual impairments, chronic alcoholism, chronic mental illness, AIDS, AIDS Related Complex and mental retardation) that substantially limits one or more major life activities
- Have a record of such a disability or
- Are regarded as having such a disability

**your landlord may not:**

- Refuse to let you make reasonable modifications to your dwelling or common use areas, at your expense, if necessary for the disabled person to use the housing. (Where reasonable, the landlord may permit changes only if you agree to restore the property to its original condition when you move.)
- Refuse to make reasonable accommodations in rules, policies, practices or services if necessary for the disabled person to use the housing.

Example: A building with a "no pets" policy must allow a visually impaired tenant to keep a guide dog.

Example: An apartment complex that offers tenants ample, unassigned parking must honor a request from a mobility-impaired tenant for a reserved space near her apartment if necessary to assure that she can have access to her apartment.

However, housing need not be made available to a person who is a direct threat to the health or safety of others or who currently uses illegal drugs.

## **Requirements for New Buildings**

In buildings that are ready for first occupancy after March 13, 1991, and have an elevator and four or more units:

- Public and common areas must be accessible to persons with disabilities
- Doors and hallways must be wide enough for wheelchairs
- All units must have:
  - An accessible route into and through the unit
  - Accessible light switches, electrical outlets, thermostats and other environmental controls
  - Reinforced bathroom walls to allow later installation of grab bars and
  - Kitchens and bathrooms that can be used by people in wheelchairs.

If a building with four or more units has no elevator and will be ready for first occupancy after March 13, 1991, these standards apply to ground floor units.

These requirements for new buildings do not replace any more stringent standards in State or local law.

## **Housing Opportunities for Families**

Unless a building or community qualifies as housing for older persons, it may not discriminate based on familial status. That is, it may not discriminate against families in which one or more children under 18 live with:

- A parent
- A person who has legal custody of the child or children or
- The designee of the parent or legal custodian, with the parent or custodian's written permission.

Familial status protection also applies to pregnant women and anyone securing legal custody of a child under 18.

Exemption: Housing for older persons is exempt from the prohibition against familial status discrimination if:

- The HUD Secretary has determined that it is specifically designed for and occupied by elderly persons under a Federal, State or local government program or
- It is occupied solely by persons who are 62 or older or
- It houses at least one person who is 55 or older in at least 80 percent of the occupied units, and adheres to a policy that demonstrates an intent to house persons who are 55 or older.

A transition period permits residents on or before September 13, 1988, to continue living in the housing, regardless of their age, without interfering with the exemption.

### **If You Think Your Rights Have Been Violated:**

HUD is ready to help with any problem of housing discrimination. If you think your rights have been violated, the Housing Discrimination Complaint Form is available for you at: [www.hug.gov/complaints/housediscrim.cfm](http://www.hug.gov/complaints/housediscrim.cfm), to download, complete and return, or complete online and submit, or you may write HUD a letter, or telephone the HUD Office nearest you. You have one year after an alleged violation to file a complaint with HUD, but you should file it as soon as possible.

### **What to Tell HUD:**

- Your name and address
- The name and address of the person your complaint is against (the respondent)
- The address or other identification to the housing involved
- A short description to the alleged violation (the event that caused you to believe your rights were violated)
- The date(s) to the alleged violation

### **Where to Write or Call:**

Send the Housing Discrimination Complaint Form or a letter to the HUD Office nearest you or you may call that office directly. See [www.hud.gov/local/index.cfm](http://www.hud.gov/local/index.cfm) for a state listing of HUD offices.

### **If You Are Disabled:**

HUD also provides:

- A toll-free TTY phone for the hearing impaired: 1-800-927-9275.
- Interpreters
- Tapes and Braille materials
- Assistance in reading and completing forms

### **What Happens when You File a Complaint?**

HUD will notify you when it receives your complaint. Normally, HUD also will:

- Notify the alleged violator of your complaint and permit that person to submit an answer
- Investigate your complaint and determine whether there is reasonable cause to believe the Fair Housing Act has been violated
- Notify you if it cannot complete an investigation within 100 days of receiving your complaint

### **Conciliation**

HUD will try to reach an agreement with the person your complaint is against (the respondent). A conciliation agreement must protect both you and the public interest. If an agreement is signed, HUD will take no further action on your complaint. However, if HUD has reasonable cause to believe that a conciliation agreement is breached, HUD will recommend that the Attorney General file suit.

### **Complaint Referrals**

If HUD has determined that your State or local agency has the same fair housing powers as HUD, HUD will refer your complaint to that agency for investigation and notify you of the referral. That agency must begin work on your complaint within 30 days or HUD may take it back.

### **What if You Need Help Quickly?**

If you need immediate help to stop a serious problem that is being caused by a Fair Housing Act violation, HUD may be able to assist you as soon as you file a complaint. HUD may authorize the Attorney General to go to court to seek temporary or preliminary relief, pending the outcome of your complaint, if:

- Irreparable harm is likely to occur without HUD's intervention
- There is substantial evidence that a violation of the Fair Housing Act occurred

Example: A builder agrees to sell a house but, after learning the buyer is black, fails to keep the agreement. The buyer files a complaint with HUD. HUD may authorize the Attorney General to go to court to prevent a sale to any other buyer until HUD investigates the complaint.

### **What Happens after a Complaint Investigation?**

If, after investigating your complaint, HUD finds reasonable cause to believe that discrimination occurred, it will inform you. Your case will be heard in an administrative hearing within 120 days, unless you or the respondent wants the case to be heard in Federal district court. Either way, there is no cost to you.

### **The Administrative Hearing:**

If your case goes to an administrative hearing HUD attorneys will litigate the case on your behalf. You may intervene in the case and be represented by your own attorney if you wish. An Administrative Law Judge (ALA) will consider evidence from you and the respondent. If the ALA decides that discrimination occurred, the respondent can be ordered:

- To compensate you for actual damages, including humiliation, pain and suffering.
- To provide injunctive or other equitable relief, for example, to make the housing available to you.

- To pay the Federal Government a civil penalty to vindicate the public interest. The maximum penalties are \$10,000 for a first violation and \$50,000 for a third violation within seven years.
- To pay reasonable attorney's fees and costs.

### **Federal District Court**

If you or the respondent chooses to have your case decided in Federal District Court, the Attorney General will file a suit and litigate it on your behalf. Like the ALA, the District Court can order relief, and award actual damages, attorney's fees and costs. In addition, the court can award punitive damages.

### **In Addition**

**You May File Suit:** You may file suit, at your expense, in Federal District Court or State Court within two years of an alleged violation. If you cannot afford an attorney, the Court may appoint one for you. You may bring suit even after filing a complaint, if you have not signed a conciliation agreement and an Administrative Law Judge has not started a hearing. A court may award actual and punitive damages and attorney's fees and costs.

### **Other Tools to Combat Housing Discrimination:**

If there is noncompliance with the order of an Administrative Law Judge, HUD may seek temporary relief, enforcement of the order or a restraining order in a United States Court of Appeals.

The Attorney General may file a suit in a Federal District Court if there is reasonable cause to believe a pattern or practice of housing discrimination is occurring.

**Taken from the HUD website at:  
<http://www.hud.gov/offices/fheo/FHLaws/yourrights.cfm>**

## **SECTION 504 FREQUENTLY ASKED QUESTIONS**

These questions and answers focus on the requirements of one specific law, Section 504 of the Rehabilitation Act of 1973, as amended. This law often is called simply "Section 504." Section 504 is not the only law that prohibits disability discrimination in programs receiving HUD funds or financial assistance. Other Federal laws that provide nondiscrimination on the basis of disability include the Fair Housing Act, the Americans with Disabilities Act, and the Architectural Barriers Act. We encourage persons with disabilities and recipients of HUD assistance to review all these laws by returning to HUD's "People with Disabilities" Web site at <http://www.hud.gov/groups/disabilities.cfm> .

### **GENERAL**

#### **Question: What is Section 504?**

Answer: Section 504 of the Rehabilitation Act of 1973 states: "No otherwise qualified individual with a disability in the United States. . .shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, service or activity receiving federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service." (29 U.S.C. §794). This means that Section 504 prohibits discrimination on the basis of disability in any program or activity that receives financial assistance from any federal agency, including the U.S. Department of Housing and Urban Development (HUD) as well as in programs conducted by federal agencies including HUD.

#### **Question: Are there regulations that explain what needs to be done in order to comply with Section 504?**

Answer: Yes. HUD's regulations for Section 504 that apply to federally assisted programs may be found in the Code of Federal Regulations at 24 CFR Part 8. There are also regulations that govern Section 504 in programs conducted by HUD which may be found at 24 CFR Part 9, however, this Web site focuses on Section 504's requirements for federally assisted programs, services and activities.

#### **Question: Who is protected by the Law?**

Answer: Persons with disabilities.

#### **Question: How is disability defined?**

Answer: An individual with a disability is any person who has a physical or mental impairment that substantially limits one or more major life activities. The term "physical or mental impairment" may include, but is not limited to, conditions such as visual or hearing impairment, mobility impairment, HIV infection, mental retardation, drug addiction (except current illegal use of or addiction to drugs), or mental illness. The term "major life activity" may include seeing, hearing, walking, breathing, performing manual

tasks, caring for one's self, learning, speaking, or working. Section 504 also protects persons who have a record of such impairment, or are regarded as having such an impairment.

**Question: Who are "recipients of federal financial assistance"?**

Answer: The Section 504 regulations define "recipient" as any State or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution organization, or other entity or any person to which federal financial assistance is extended for any program or activity directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance. 24 CFR 8.3. Thus, a HUD funded public housing authority, or a HUD funded non-profit developer of low income housing is a recipient of federal financial assistance and is subject to Section 504's requirements. However, a private landlord who accepts Section 8 tenant-based vouchers in payment for rent from a low income individual is not a recipient of federal financial assistance. Similarly, a family that receives Community Development Block Grant (CDBG) or HOME funds for the rehabilitation of an owner-occupied unit is also not a recipient because it is the ultimate beneficiary of the funds.

## **NONDISCRIMINATION**

**Question: What discriminatory practices does Section 504 prohibit?**

Answer: Section 504 prohibits discrimination on the basis of disability in any program, service, or activity that receives federal financial assistance. This means, for example, that persons with disabilities may not be denied the opportunity to participate in a program, service, or activity; may not be required to accept a different kind or lesser program or service than what is provided to others, and may not be required to participate in separate programs and services, even if separate programs and services exist. In general, with respect to housing, it means that a housing provider may not deny or refuse to sell or rent to a person with a disability, and may not impose application or qualification criteria, rental fees or sales prices, and rental or sales terms or conditions that are different than those required of or provided to persons who are not disabled. Housing providers may not require persons with disabilities to live only on certain floors, or to all live in one section of the housing. Housing providers may not refuse to make repairs, and may not limit or deny someone with a disability access to recreational and other public and common use facilities, parking privileges, cleaning or janitorial services, or any services which are made available to other residents. People with disabilities may not be denied the opportunity to serve on planning or advisory boards because of their disabilities.

**Question: Does Section 504 require a housing provider to accept every person with a disability who applies for the housing?**

Answer: Section 504 does not require that a person with a disability be accepted without regard to eligibility requirements or his or her ability to meet standard, nondiscriminatory tenant selection and screening criteria. Rather, Section 504 requires that a person with a disability be evaluated using the same objective criteria that are applied to persons without disabilities. Applicants, with or without a disability, may be rejected if they have a record of adversely affecting others such as disturbing neighbors, destroying property, or failing to pay their rent on time. However, under Section 504, the housing provider must make sound and reasonable judgments based on objective evidence (current conduct or a history of overt acts). Subjective fears, unsubstantiated rumors, speculation and generalized suspicion do not constitute objective information that an applicant cannot meet the terms of tenancy.

**Question: May a recipient refuse to rent to a person with a mental disability because he is uncomfortable with the individual?**

Answer: No. Section 504, and related laws like the Fair Housing Act, make it unlawful for a housing provider to refuse to rent to a person simply because of a disability. Therefore, a housing provider may not refuse to rent to an otherwise eligible individual because of fears or concerns that may be based on myths or stereotypes about persons with mental disabilities.

**Question: May a landlord charge a person who uses a wheelchair a higher security deposit because of concerns about damage to the dwelling unit?**

Answer: No. A wheelchair user is no more likely than anyone else to cause damage, beyond typical wear and tear, to a dwelling unit. However, if a person who uses a wheelchair does cause damage to a unit that is beyond normal wear and tear, whether the damage is related to the wheelchair or not, that individual may be required to cover such damage out of a standard security deposit that is charged to everyone.

**Question: What limits does Section 504 impose on the ability of federally assisted housing providers to require persons with disabilities to live in "segregated housing," i.e., housing for elderly and/or disabled individuals.**

Answer: Section 504 limits housing providers from providing, or requiring persons with disabilities to accept, housing that is different or separate, and instead, requires that housing programs be integrated and offer the same benefits as provided to persons without disabilities, with only a few limited exceptions. These exceptions are (1) when it can be demonstrated that such segregation is necessary in order to provide persons with disabilities housing that is as effective as housing that is provided to others, or (2) when authorized by a Federal statute, such as the Housing Opportunities for Persons with AIDS (HOPWA) program, or the Section 811 Supportive Housing Program for Persons With Disabilities. Even under these programs, however, there are suggested options for providing the program in an integrated setting, such as scattered site units.

**Question: What must a federally assisted housing provider consider to assure that housing is provided in the most integrated setting appropriate?**

Answer: One of the basic tenets of Section 504 is that programs and services be conducted in the most integrated setting appropriate. In terms of housing, this means that the housing provided to disabled individuals is not separate or unnecessarily segregated. In other words, accessible units in a single elevator building should be located throughout the building, and not just on the first floor. In projects having multiple buildings, accessible units also should be interspersed throughout these buildings, rather than in just one or two buildings. For example, in housing serving elders and persons with disabilities, persons with mental disabilities or any other disabilities may not be segregated on any one wing, floor, or in one building.

**Question: What steps must recipients take to ensure that information about their programs and services, and their communications with applicants and program participants, are accessible?**

Answer: The Section 504 regulations require recipients to take steps to ensure effective communication with applicants, beneficiaries, and members of the public (24 CFR 8.6). This may include, but is not limited to, conducting outreach in a manner that will reach persons with disabilities, such as by working with State and local organizations that serve or represent persons with disabilities, and ensuring that information about their programs is disseminated in a manner that is accessible to persons with disabilities. For example, special communication systems (e.g., TTY for persons who are hearing or speech impaired, materials on tape or in Braille) can greatly increase the effectiveness of outreach and ongoing communication.

**Question: How are recipients supposed to deal with the following fire emergency issues in a high-rise building: (1) If a HUD recipient cannot control where persons with disabilities live, during a fire, how do these tenants escape from a 14th floor unit? (2) If a HUD recipient cannot give out a list of where persons with disabilities live, how do rescue teams know where to go?**

Answer: The recipient must permit the applicant to take responsibility for his/her own safety. Thus, an applicant with a disability may choose not to live above the ground floor because of possible inability to escape a fire. On the other hand, the applicant must be allowed to decide whether the opportunity to live in a 14th floor dwelling unit outweighs whatever safety concerns may exist.

Every HUD recipient should have an emergency evacuation plan for each of its buildings. In the preparation and updating of this plan, the HUD recipient should inform residents that with the resident's consent, they will provide information to the fire department which identifies residents with special needs in case of an emergency evacuation. Applicants should be given the opportunity to decide whether they want the recipient to provide this information to the fire department. The HUD recipient may share this information with the local fire and police departments provided consent is given.

## **PROGRAM ACCESSIBILITY**

### **Question: What is meant by "program accessibility"?**

Answer: Program accessibility means that a program, when viewed in its entirety, is readily accessible to and usable by persons with disabilities. It applies under Section 504 to existing housing and non-housing programs. The concept recognizes that there may be some limits to the degree to which existing housing programs can be made accessible. Thus, under the concept of program accessibility, not every single building must be accessible, or every single dwelling unit, but there must be sufficient accessibility so that persons with disabilities have an equal opportunity to participate in and benefit from the program and the same range of choices and amenities as those offered to others. However, recipients must take steps to ensure that their programs and services are readily accessible to and usable by persons with disabilities to the maximum extent feasible, which means the recipient would be required to take all steps that provide the necessary access, but which would not constitute an undue financial and administrative burden, or require a fundamental alteration in the nature of the program. Achievement of program accessibility does not exempt recipients from meeting other requirements of the Section 504 regulations, particularly the broad nondiscrimination provisions, and the requirements that dwelling units be dispersed throughout buildings and sites. Likewise, recipients whose programs involve new construction or alterations, must meet the Section 504 regulation's requirements for those activities, as well as meeting other applicable requirements in the regulations, such as for dispersion of accessible units throughout buildings and sites.

### **Question: How can a recipient ensure that its existing housing or non-housing program meets the program accessibility provisions of the Section 504 regulations?**

Answer: Here are some examples:

- ❖ To the maximum extent feasible, distribute accessible units throughout projects and sites, and make them available in a sufficient range of sizes and amenities so as not to limit choice.
- ❖ Adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with disabilities. Recipients must also take reasonable non-discriminatory steps to maximize use of such units by eligible individuals.
- ❖ When an accessible unit becomes vacant, before offering the unit to an individual without a disability, offer the unit: first, to a current occupant of the project requiring the unit's accessibility features; and second, to an eligible qualified applicant on the waiting list requiring the accessibility features.
- ❖ When an applicant or tenant requires an accessible feature or policy modification to accommodate a disability, a federally assisted housing provider must provide the feature or policy modification unless doing so would result in a fundamental alteration in the nature of its program or an undue financial and administrative burden. See 24 CFR 8.4, 8.24, and 8.33 for further requirements and guidance.

- ❖ Recipients must ensure that activities and meetings are conducted in accessible locations.

**Question: When a wheelchair accessible unit becomes available should it be offered to the first applicant on the waiting list, or the first person with a disability who requires the accessible features?**

Answer: HUD's Section 504 regulations at 24 CFR 8.27 require recipients to take reasonable steps to assure that information on available accessible units reaches otherwise qualified individuals with disabilities who need the features of those units. The regulations provide that whenever a unit that meets the requirements of the Uniform Federal Accessibility Standards (UFAS) for a mobility-impaired person becomes available for occupancy, a recipient shall first offer the unit to a qualified individual with disabilities currently residing in a non-accessible unit in the same project or comparable projects, under common control, who requires the accessible features. If there are no such persons currently residing in the recipient's projects, the recipient shall then offer the unit to the next available qualified individual with disabilities on its waiting list, provided that the person requires the accessibility features of the unit. The recipient shall skip over non-disabled applicants on the waiting list to offer the unit to the next qualified individual who requires the unit's accessibility features.

If no qualified applicant with disabilities requires the accessible features of a unit, and the recipient places a family where none of the family members have disabilities in that unit, the recipient may include language in the lease requiring this family to agree to move to a non-accessible unit, as soon as one becomes available that otherwise meets the family's needs.

## **FEDERALLY ASSISTED NON-HOUSING FACILITIES**

**Question: How does Section 504 affect the operation of a non-housing facility or program operated by a recipient of federal financial assistance?**

Answer: All of Section 504's nondiscrimination, program accessibility, and reasonable accommodation requirements that apply to housing facilities and programs apply equally to the operation of non-housing facilities or programs. (24 CFR. 8.21)

**Question: What requirements does Section 504 impose on new construction or alteration of existing non-housing facilities operated by a recipient of federal financial assistance?**

Answer: New non-housing facilities constructed by recipients of federal financial assistance must be designed and constructed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must, to the maximum extent feasible, be made accessible to ensure that such facilities are readily accessible to and usable by persons with disabilities. [24 CFR 8.21(a) and (b).] In addition, each existing non-housing program or facility must be operated so that, when viewed in its entirety,

the program or activity is readily accessible to and usable by persons with disabilities. [24 CFR 8.21(c).] For example, a newly constructed day-care center that is provided for use by residents of a housing project, must meet the design and construction requirements of the UFAS. In addition, once the facility is completed, it would, of course, have to be operated in a non-discriminatory manner.

## **REASONABLE ACCOMMODATION**

### **Question: What is a reasonable accommodation under Section 504?**

Answer: A "reasonable accommodation" is a change, adaptation or modification to a policy, program, service, or workplace which will allow a qualified person with a disability to participate fully in a program, take advantage of a service, or perform a job. Reasonable accommodations may include, for example, those which are necessary in order for the person with a disability to use and enjoy a dwelling, including public and common use spaces. Since persons with disabilities may have special needs due to their disabilities, in some cases, simply treating them exactly the same as others may not ensure that they have an equal opportunity to use and enjoy a dwelling.

In order to show that a requested accommodation may be necessary, there must be an identifiable relationship, or nexus, between the requested accommodation and the individual's disability. As discussed in the next question and answer, what is reasonable must be determined on a case-by-case basis. However, experience has shown that the following examples are often reasonable accommodations.

- ❖ A federally assisted housing provider has a policy of not providing assigned parking spaces. A tenant with a mobility impairment, who has difficulty walking, is provided a reasonable accommodation by being given an assigned accessible parking space in front of the entrance to his unit.
- ❖ A federally assisted housing provider has a policy of requiring tenants to come to the rental office to pay their rent. A tenant with a mental disability, who is afraid to leave her unit, is provided a reasonable accommodation by being allowed to mail her rent payment.
  
- ❖ A federally assisted housing provider has a no pets policy. A tenant, who uses a wheelchair and has difficulty picking up items off the ground, is allowed to have an assistive animal that fetches things for her as a reasonable accommodation to her disability.
- ❖ An older tenant has a stroke and begins to use a wheelchair. Her apartment has steps at the entrance and she needs a ramp to enter the unit. Her federally assisted housing provider pays for the construction of a ramp as a reasonable accommodation to the tenant's disability.

**Question: How do you determine whether a request for a certain accommodation is reasonable?**

Answer: Whether a particular accommodation is "reasonable" depends on a variety of factors and must be decided on a case-by-case basis. The determination of whether a requested accommodation is reasonable depends on the answers to two questions. First, does the request impose an undue financial and administrative burden on the housing provider? Second, would making the accommodation require a fundamental alteration in the nature of the provider's operations? If the answer to either question is yes, the requested accommodation is not reasonable. However, even where a housing provider is not obligated to provide a particular accommodation because the particular accommodation is not reasonable, the provider is still obligated to provide other requested accommodations that do qualify as reasonable. For example:

As a result of a disability, a tenant is unable to open the dumpster provided by his housing provider for his trash. The tenant requests that the housing provider send a maintenance staff person to collect his trash from his apartment daily. Because the housing development is a small, low-budget operation and the maintenance staff are not on site daily, it is an undue financial and administrative burden for the housing provider to provide daily trash service to the tenant and the housing provider may refuse to provide the requested accommodation. However, the housing provider is obligated to provide the tenant with a requested alternative accommodation - providing either an open trash can or placing a trash can which the tenant can open in an accessible location so that the tenant can dispose of his trash.

**Question: What happens if providing a requested accommodation involves some costs on the part of the federally assisted housing provider?**

Answer: Section 504 requires that in making an accommodation, a federally assisted housing provider will be required to bear costs which do not amount to an undue financial and administrative burden. In application, this means that such a housing provider may be required to spend money to provide legally required reasonable accommodations.

**Question: When and how should an individual request an accommodation?**

Answer: An individual with a disability should request an accommodation as soon as it appears that the accommodation is needed. However, requests may be made at any time. For example, requests may be made when an individual is applying for housing, entering into a lease, or occupying housing. Individuals who become disabled during their tenancy may request accommodations, even if they were not disabled when they signed their leases.

Section 504 does not prescribe a uniform procedure for requesting a reasonable accommodation to be used with all housing providers. To request an accommodation, an individual need not mention Section 504 or use the phrase "reasonable accommodation." In general, a tenant or prospective tenant should make clear to the housing provider that s/he is requesting that an exception, change, adjustment, or

modification be made to a rule, policy, practice, service, building or dwelling unit because s/he has a disability. S/he should explain what type of accommodation is requested and explain the relationship between the requested accommodation and his or her disability. In order to facilitate the process and consideration of the request, tenants or prospective tenants may wish to check with a housing provider in advance to determine whether that housing provider has established any specific procedures regarding requests for reasonable accommodation. Although the Section 504 regulations do not require it, it is usually helpful that the request be made in writing, so there will be documentation that the request was actually made in the event of a later dispute.

**Question: Must a federally assisted housing provider adopt formal procedures for processing requests for a reasonable accommodation?**

Answer: No. Section 504 does not require that a housing provider adopt any formal procedures that an applicant for housing or a tenant must follow to request a reasonable accommodation. However, having such a procedure will probably aid both the individual in making the request and the housing provider in assessing it and responding to it in a timely fashion.

**Question: Is a federally assisted housing provider obligated to provide an accommodation to a tenant or applicant if s/he has not requested it?**

Answer: No. Such a housing provider is only obligated to provide an accommodation if s/he is on notice of the request. However, a person with a disability will be considered to have asked for an accommodation if s/he indicates that a change or exception to a policy, practice, or procedure or a modification would assist him or her in making more effective use of his or her housing, even if the words "reasonable accommodation" are not used as part of the request.

**Question: What happens if a federally assisted housing provider fails to act on a request for an accommodation?**

Answer: If a housing provider delays responding to a request for an accommodation, after a reasonable amount of time, that delay may be construed as a failure to provide a reasonable accommodation. A tenant or applicant may choose to seek legal assistance or file a complaint with HUD.

**Question: When can a federally assisted housing provider insist on an alternative to the accommodation requested by a tenant?**

Answer: If the housing provider believes the requested accommodation is unreasonable, the housing provider may, but is not required to, propose a substitute accommodation. In doing so, the housing provider should give primary consideration to the accommodation requested by the tenant or applicant because the individual with a disability is most familiar with his or her disability and is in the best position to determine what type of aid or service will be effective. If the housing provider suggests an

alternative accommodation, the tenant may reject it if s/he feels it does not meet his or her needs.

## **PHYSICAL ACCESSIBILITY**

**Question: With respect to Section 504's requirements, what is an accessible unit?**

Answer: The Section 504 regulations define an accessible dwelling unit as a unit that is located on an accessible route and can be approached, entered, and used by individuals with physical disabilities. A unit that is on an accessible route and is adaptable and otherwise in compliance with the standards set forth in 24 CFR 8.32 is accessible. In addition, the Section 504 regulations impose specific accessibility requirements for new construction and alteration of housing and non-housing facilities in HUD assisted programs. Section 8.32 of the regulations states that compliance with the appropriate technical criteria in the Uniform Federal Accessibility Standards (UFAS), or a standard that is equivalent to or stricter than the UFAS, is an acceptable means of meeting the technical accessibility requirements in Sections 8.21, 8.22, 8.23 and 8.25 of the Section 504 regulations.

**Question: What accessibility requirements must a new federally assisted housing development meet in order to be in compliance with Section 504 requirements?**

Answer: For a federally assisted new construction housing project, Section 504 requires 5% of the dwelling units, or at least one unit, whichever is greater, to meet UFAS or a standard that is equivalent or stricter, as explained in the question and answer above this one, for persons with mobility disabilities. An additional 2% of the dwelling units, or at least one unit, whichever is greater, must be accessible for persons with hearing or visual disabilities.

**Question: Are there other accessibility requirements that apply to federally funded new construction?**

Answer: If a new construction project has four or more dwelling units and is built for first occupancy after March 13, 1991, it is also subject to the accessibility and adaptability requirements of the Fair Housing Act, regardless of whether it receives federal financial assistance. The Fair Housing Act's accessibility requirements are not as strict as those for Section 504 and the UFAS, however, the Fair Housing Act's accessibility requirements apply to a broader number of dwelling units. Under the Fair Housing Act's new construction requirements, if the building has an elevator, all of the dwelling units must meet the Fair Housing Act's design and construction requirements; if there is no elevator, all of the ground floor dwelling units must meet the Fair Housing Act's requirements. A unit that meets the Fair Housing Act's accessibility requirements will be one that does not have as great a degree of accessibility as a UFAS-complying unit, but is one that may be easily adapted to be fully accessible without significant costs and the need to do significant structural modifications.

**Question: If a federally financed housing project is targeted for substantial alteration, what does Section 504 require in terms of accessible units?**

Answer: Under Section 504, alterations are substantial if they are undertaken to a project that has 15 or more units and the cost of the alterations is 75% or more of the replacement cost of the completed facility. [See 24 CFR 8.23(a)]. The new construction provisions of 24 CFR 8.22 apply. Section 8.22 requires that a minimum of 5% of the dwelling units, or at least one unit, whichever is greater, shall be made accessible to persons with mobility disabilities and an additional 2% of the dwelling units, or at least one unit, whichever is greater, shall be made accessible to persons with hearing or visual disabilities.

**Question: What does Section 504 require when a recipient undertakes alterations of existing housing facilities that do not qualify as substantial alterations?**

Answer: If the project involves fewer than 15 units or the cost of alterations is less than 75% of the replacement cost of the completed facility and the recipient has not made 5% of its units in the development accessible to and usable by individuals with disabilities, then the requirements of 24 CFR 8.23(b) - Other Alterations apply. Under this section, alterations to dwelling units shall, to the maximum extent feasible, be made readily accessible to and usable by individuals with disabilities. If alterations to single elements or spaces of a dwelling unit, when considered together, amount to an alteration of a dwelling unit, the entire unit shall be made accessible. Alteration of an entire unit is considered to be when at least all of the following individual elements are replaced:

- ❖ renovation of whole kitchens, or at least replacement of kitchen cabinets; and
- ❖ renovation of the bathroom, if at least bathtub or shower is replaced or added, or a toilet and flooring is replaces; and
- ❖ replacement of entrance door jambs.

When the entire unit is not being altered, 100% of the single elements being altered must be made accessible until 5% of the units in the development are accessible. However, the Department strongly encourages a recipient to make 5% of the units in a development readily accessible to and usable by individuals with mobility impairments, since that will avoid the necessity of making every element altered accessible, which often may result in having partially accessible units which may be of little or no value for persons with mobility impairments. It is also more likely that the cost of making 5% of the units accessible up front will be less than making each and every element altered accessible. Alterations must meet the applicable sections of the UFAS which govern alterations.

**Question: When a recipient plans alterations, are there areas of a building which are not required to be made accessible under Section 504?**

Answer: Mechanical rooms and other spaces that, because of their intended use, will not require accessibility to the public or beneficiaries or result in the employment or residence therein of individuals with physical disabilities are not required to be made

accessible in projects undergoing either substantial or other alterations. [see 24 CFR 8.32 (6)]

## **OTHER DISABILITY CIVIL RIGHTS LAWS AFFECTING FEDERALLY ASSISTED HOUSING PROVIDERS**

### **Question: What is the Federal Fair Housing Act and what types of discrimination does it prohibit against persons with disabilities?**

Answer: The Federal Fair Housing Act, 42 U.S.C. §§ 3601-19, prohibits discrimination in housing practices on the basis of race, color, religion, sex, national origin, familial status, and disability. (Fair Housing Act uses the term "handicap," however, this document uses the term "disability," which has the same legal meaning.) The Act prohibits housing providers from discriminating against persons because of their disability or the disability of anyone associated with them and from treating persons with disabilities less favorably than others because of the disability. The Act also requires housing providers "to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person(s) equal opportunity to use and enjoy a dwelling." In addition, the Act requires that housing providers allow tenants to make reasonable modifications to units and common spaces in a dwelling. The Act applies to the vast majority of privately and publicly owned housing including housing subsidized by the federal government or rented through the use of Section 8 voucher assistance. HUD's regulations implementing the disability discrimination prohibitions of the Act may be found at 24 CFR 100.201-205.

### **Question: Is the Americans with Disabilities Act (ADA) applicable to housing, and if yes, does the ADA supersede Section 504?**

Answer: In most cases, the ADA does not apply to residential housing. Title III of the ADA prohibits discrimination against persons with disabilities in commercial facilities and public accommodations. However, Title III of the ADA covers public and common use areas at housing developments when these public areas are, by their nature, open to the general public or when they are made available to the general public. For example, it covers the rental office, since, by its nature, the rental office is open to the general public. In addition, if a day care center, or a community room is made available to the general public, it would be covered by Title III. Title III applies, irrespective of whether the public and common use areas are operated by a federally assisted provider or by a private entity. However, if the community room or day care center were only open to residents of the building, Title III would not apply.

Title II of the ADA covers the activities of public entities (state and local governments). Title II requires "public entities to make both new and existing housing facilities accessible to persons with disabilities." Housing covered by Title II of the ADA includes, for example, public housing authorities that meet the ADA definition of "public entity," and housing operated by States or units of local government, such as housing on a State university campus.

The ADA, when it is applicable to a residential housing project, does not "supersede" Section 504, assuming Section 504 is also applicable. Instead, where both laws apply to a housing project, the project must be in compliance with both laws.

**Question: What is the Architectural Barriers Act and what does it cover?**

Answer: The Architectural Barriers Act of 1968 (ABA) (42 U.S.C. §4151-4157) requires that certain buildings financed with Federal funds must be designed, constructed, or altered in accordance with standards that ensure accessibility for persons with physical disabilities. The ABA requires that covered buildings comply with the Uniform Federal Accessibility Standards (UFAS). The ABA does not cover privately-owned housing, but covers buildings or facilities financed in whole or in part with Federal funds. The ABA applies to public housing (24 CFR 40), and to buildings and facilities constructed with CDBG funds (24 CFR 570.614). In practice, buildings built to meet the requirements of Section 504 and Title II of the ADA will conform to the requirements of the ABA.

**Taken from the HUD website at:  
<http://www.hud.gov/offices/fheo/disabilities/sect504faq./cfm>**

## **SECTION 504 COMPLAINT PROCESS**

The following is an overview of how HUD processes complaints filed by individuals who have experienced disability discrimination under the law called Section 504. Section 504 of the Rehabilitation Act protects you from discrimination in HUD-funded programs for which you qualify, and is commonly called "Section 504." This overview of the Section 504 complaint process contains citations to 24 CFR 8.1-8.58. These are references to specific sections of the Code of Federal Regulations that contain HUD's regulations for Section 504. These HUD regulations set forth more specific rules with respect to how Section 504 applies to various HUD-assisted programs.

### **What is a Complaint?**

A complaint is a communication alleging discrimination on the basis of disability and in some way asking for HUD's assistance in resolving the problem. It may range from a verbal communication (which is later put in writing) to a complaint submitted on either the old HUD-903 Complaint Form, or on the new HUD Housing Discrimination Information Form. The complaint should contain:

- the complainant's name and address;
- the name and address of the individual or organization (usually the recipient of federal assistance) alleged to have discriminated; and
- a description of the discriminatory actions and the date of those actions. [24 CFR 8.56(c)(5)]

The complaint may be amended fairly and reasonably at any time to clarify or amplify the allegation. [24 CFR 8.56(c)(6)]

Although a complaint will contain the name of the complainant, HUD will keep the identity of the complainant confidential unless it has written authorization from the complainant to release it, or except as necessary to carry out the purpose of the Section 504 regulations, including the enforcement provisions. [(24 CFR 8.56(c)(2)]

### **When Must a Complaint be Filed?**

Under Section 504, a complaint must be filed within 180 days of the alleged act of discrimination unless HUD waives this time limit for good cause shown. The complaint is deemed received on the date HUD actually receives it or, if mailed, on the date it is postmarked. [24 CFR 8.56(c)(3)]

### **Who May File a Complaint?**

Any individual who believes he or she has been discriminated against on the basis of disability by a recipient of Federal financial assistance, his or her representative, or a member of a class of persons so situated, or the authorized representative of a member of that class. [24 CFR 8.56(c)(1)]

## **Who is an Individual with Disabilities?**

An individual with disabilities means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. [24 CFR 8.3]

## **Where May a Complaint be Filed?**

A complaint may be filed by mail with HUD Headquarters or with any HUD Office. [24 CFR 8.56(c)(4)].

### **Notification to Parties**

Within ten days of receipt, HUD will notify the complainant and the recipient that it has received the complaint. [24 CFR 8.56(d)]

## **Accepting the Complaint**

Within twenty days of acknowledging its receipt of a complaint, HUD must determine whether it will accept, reject, or refer the complaint to another Federal agency, and must notify the parties of that decision. [24 CFR 8.56(e)(1)(i)]

To do so, HUD must determine if it has jurisdiction over the complaint.

## **Does HUD have Jurisdiction?**

HUD considers several factors in determining if it has jurisdiction to investigate the complaint. HUD must determine if the complainant or the person he or she represents is a person the law was designed to protect. In making this determination, the Department must determine whether the individual, or the person the individual represents, is a person with a disability as defined by Section 504. The Department also must determine if the individual is "otherwise qualified" for the program or activity alleged to have discriminated. For most HUD-assisted programs, an individual must have income below a certain level in order to be eligible. In some cases, disability may also be an eligibility factor. For example, if a housing program is set up under the Department's Housing Opportunities for Persons with AIDS (HOPWA) program, and the complainant's only disability is a visual impairment, the person would not be qualified for the HOPWA project because that project is designed to meet the needs of persons with AIDS. Therefore, HUD would lack jurisdiction to process this complaint under Section 504.

Another factor HUD must consider in determining jurisdiction is whether the alleged act of discrimination occurred in a program, service or activity that receives Federal financial assistance from HUD for the period during which the act occurred. If both of these conditions are not met, HUD must reject the complaint and notify the complainant and the recipient of that decision. For example, if a privately owned apartment building received HUD funds only during the period from January 1989 to June 1990, and the alleged act of discrimination occurred in February 1988, HUD would lack jurisdiction.

If HUD has jurisdiction over the case, then HUD will accept the complaint for investigation.

## **Notification of the Parties and the Recipient's Opportunity to Respond**

Once the complaint has been accepted for investigation, HUD will notify the complainant, the award official, and the recipient of its acceptance. HUD will also notify the recipient of the allegations and provide an opportunity for a written response to the allegations within thirty days of receiving the notice. (Like the complaint, the recipient's response may be amended for good cause at any time. [24 CFR 8.56(e)(1)(ii)])

## **Voluntary Resolution of the Issues**

During its investigation of the complaint, HUD will make every effort to define all of the issues contained in the complaint. Throughout the complaint process, HUD will encourage a voluntary resolution of the matter, and will assist the parties in resolving the complaint through informal resolution or voluntary compliance. A matter may be resolved by informal means at any time. If the Department has issued a letter finding noncompliance, the Department will attempt to resolve the issues through voluntary compliance. The Department will develop a written voluntary compliance agreement and will attempt to reach a resolution that satisfies the complainant, however, the Department's primary obligation will be to ensure that any violations of Section 504 are remedied and that actions are taken to ensure that the recipient will not violate the rights of other persons under Section 504. [24 CFR 8.56(j)]

## **The Investigation**

During the complaint investigation, the Department will request all of the information that the Department believes is necessary in order to fully investigate the issues in the complaint. The complaint investigation will involve interviews and meetings with the parties, including any witnesses or other persons identified as having some involvement in the issues of the complaint. The Department may also conduct on-site reviews of facilities that are under the recipient's oversight, if these facilities are a part of the complaint. [24 CFR 8.56(d) and (e)] Once the complaint investigation is completed, the Department will compile all of its findings in a Final Investigative Report (FIR).

## **Preliminary Letter of Findings and Right to Request a Review**

If an informal resolution of the complaint is not achieved, the Department will issue a "Preliminary Letter of Findings." This letter will contain the preliminary findings of fact, and a preliminary finding of compliance or noncompliance. If the finding is noncompliance, the Preliminary Letter of Findings will include a description of each violation and an appropriate remedy. It also explains that a copy of the Final Investigative Report will be made available upon request to the recipient. A copy of the letter should also be sent to the complainant. [24 CFR 8.56(g)] This letter will also notify both parties that they have the right to request a complete review of the letter of findings, provided that such request is submitted within 30 days of receipt of the Letter of Findings, and that the request includes a written description of supplementary information that was not considered during the investigation of the complaint. [24 CFR 8.56(h)]

The Preliminary Letter of Findings may also include a Voluntary Compliance Agreement (VCA) outlining all steps necessary, along with timelines, on the part of the recipient to remedy the identified violations and bring the recipient into compliance. If the recipient agrees to the VCA and signs it, HUD will not proceed with enforcement activities. [24 CFR 8.56(j)]

### **Formal Determination**

If a request for review is made, it must be accompanied by a written statement of the reasons the Preliminary Letter of Findings should be modified in light of supplementary information, as explained above. [24 CFR 8.56(h)] When a request for review is received from either party, a copy of it will be sent to the other party with notice of their right to respond to the request within twenty days. [24 CFR 8.56(h)(2)] Within sixty days of the request for review, the reviewing civil rights official will issue its formal determination, either sustaining or modifying the letter of findings. This decision will constitute HUD's formal determination. [24 CFR 8.56(h)(3)]

If neither party requests a review of the Letter of Findings, the Department will issue a formal determination within 14 calendar days after the 30-day time period under which such a request may be made. The formal determination will indicate compliance or noncompliance, and HUD will send this determination to the recipient, the complainant and the award official. [24 CFR 8.56(h)(4)]

The Department wishes to emphasize that throughout the complaint process, all efforts will be made to reach a voluntary resolution of the matter. However, in cases of a determination of noncompliance, once the formal Letter of Determination has been issued, the recipient will have ten (10) calendar days in which to agree to come into voluntary compliance. If the recipient fails to meet this deadline, the Department will initiate enforcement proceedings under the procedures outlined at 24 CFR 8.57. [24 CFR 8.56(i)]

**Taken from the HUD website at:  
<http://www.hud.gov/offices/fheo/disabilities/sect504complaint.cfm>**

# **RURAL HOUSING PROGRAMS**

## **Rural Housing Programs by Steve Gold**

There are many housing programs available for very low and for moderate income persons with disabilities who reside in "rural America," including Home Modifications to make homes accessible and other repairs. The amount of resources available is based on formulas, and each State receives an annual allocation per program.

Several different programs can be accessed from your county USDA Rural Housing Service offices. They include single family and multifamily programs.

### **Single Family Housing:**

1. There is the Home Repair Loan and Grant Program (a/k/a Section 504).

Funds from this program can be used to make your house accessible, as well as for other basic repairs, such as replacement of bathrooms or roofs and other housing needs.

The USDA allocated \$62.4 million for loans (FY 2001 and 2002) and another \$64.9 million as grants. More than 21,000 families received these 504 loans and grants. In FY 2004, nearly \$35 million were allocated for 504 loans and another \$30 million were allocated for 504 grants.

Very low income disabled persons are eligible to receive loans of up to \$20,000 at a one percent interest rate over 20 years. If one cannot afford a one percent loan, he/she may receive a \$7,500 grant. According to the USDA webpage, the local Rural Development County Supervisor will make a decision on an application within 30 - 60 days.

2. The larger programs are the Rural Development Single Family Direct Loan Program and the Guaranteed Loan Program (Section 502)

Under the Direct Loan Program, low-income disabled persons can receive assistance for purchasing a home. In FY 01 and 02, more than \$2 billion dollars were allocated to about 29,500 families. Nearly half of these loans went to families whose incomes were below 50% of the median for the rural area.

Under the Guaranteed Loan Program families buy homes with loans guaranteed by Rural Development. This program helps families who might not otherwise be able to make a down payment. In FY 01 and 02, more than \$4.7 billion went to help more than 57,700 families.

## **Multi-Family Housing:**

3. The largest program is the Rental Assistance Program (Section 521)

Like non-rural "project-based" voucher programs, this program enables persons living primarily in multi-family housing to pay no more than 30% of their income to the multifamily housing owners that received rural funds for new construction or rehabilitation (these are known as Section 515 and 514). Like "project-based" vouchers, the Rental Assistance vouchers belongs to the units and not the individual. In FY 2001 and 2002, nearly \$1.4 billion were allocated to the Rental Assistance Program for nearly 86,500 units.

Disability advocates should remember that these units are subject to the Rehabilitation Act of 1973, and a reasonable number of the units must be fully accessible to persons with disabilities. Locations of these units can be obtained from your Rural Development County Supervisor.

Ask her/him to identify Section 515 and 514 multifamily buildings. Check them out for accessibility, affordability and integration.

**Steve Gold's Treasured Bits of Information Newsgroup Archives  
Information Bulletin # 67**

## USDA Rural Repair & Rehabilitation Grants

**Rural Housing Repair and Rehabilitation Grants** are funded directly by the Government. A grant is available to dwelling owner/occupant who is 62 years of age or older. Funds may only be used for repairs or improvements to remove health and safety hazards, or to complete repairs to make the dwelling accessible for household members with disabilities. The amount of the grant is based on the applicant's ability to repay and must be used in conjunction with the Repair and Rehabilitation Loan. The lifetime maximum grant amount is \$7,500.

**Rural Housing Repair and Rehabilitation Loans** are loans funded directly by the Government. These loans are available to very low-income rural residents who own and occupy a dwelling in need of repairs. Funds are available for repairs to improve or modernize a home, or to remove health and safety hazards. This loan is a 1% loan that may be repaid over a 20 year period.

**Purpose:** The Very Low-Income Housing Repair program provides loans and grants to very low-income homeowners to repair, improve, or modernize their dwellings or to remove health and safety hazards.

**Eligibility:** To obtain a loan, homeowner-occupants must be unable to obtain affordable credit elsewhere and must have very low incomes, defined as below 50 percent of the area median income. They must need to make repairs and improvements to make the dwelling more safe and sanitary or to remove health and safety hazards. Grants are only available to homeowners who are 62 years old or older and cannot repay a Section 504 loan.

**Terms:** Loans of up to \$20,000 and grants of up to \$7,500 are available. Loans are for up to 20 years at 1 percent interest. A real estate mortgage is required for loans of \$2,500 or more. Full title services are required for loans of \$7,500 or more. Grants may be recaptured if the property is sold in less than three years. Grant funds may be used only to pay for repairs and improvements resulting in the removal of health and safety hazards. A grant/loan combination is made if the applicant can repay part of the cost. Loans and grants can be combined for up to \$27,500 in assistance.

**Standards:** Repaired properties do not need to meet other RHS code requirements, but the installation of water and waste systems and related fixtures must meet local health department requirements. Water supply and sewage disposal systems should normally meet RHS requirements. Not all the health and safety hazards in a home must be removed with Section 504 funds, provided that major health and safety hazards are removed. All work must meet local codes and standards.

**Approval:** The Rural Development County Supervisor should make a decision on an application within 30 to 60 days of receiving it if no backlog exists. Basic Instruction:7 CFR Part 3550 and HB2-3550.

Taken from the USDA Website at:  
[http://www.rurdev.usda.gov/rhs/sfh/brief\\_repairgrant.htm](http://www.rurdev.usda.gov/rhs/sfh/brief_repairgrant.htm)

## Rural Housing Direct Loans

Rural Housing Direct Loans are loans that are directly funded by the Government. These loans are available for low- and very low-income households to obtain homeownership. Applicants may obtain 100% financing to purchase an existing dwelling, purchase a site and construct a dwelling, or purchase newly constructed dwellings located in rural areas. The purpose of this loan is to provide financing at reasonable rates and terms with no down-payment. Mortgage payments are based on the household's adjusted income. These loans are commonly referred to as Section 502 Direct Loans.

**Purpose:** Section 502 loans are primarily used to help low-income individuals or households purchase homes in rural areas. Funds can be used to build, repair, renovate or relocate a home, or to purchase and prepare sites, including providing water and sewage facilities.

**Eligibility:** Applicants for direct loans from RHS must have very low or low incomes. Very low income is defined as below 50 percent of the area median income (AMI); low income is between 50 and 80 percent of AMI; moderate income is 80 to 100 percent of AMI. Area income limits for this program can be found at [www.rurdev.usda.gov/rhs/sfh/sfh%20guaranteed%20loan%20income%20limits.htm](http://www.rurdev.usda.gov/rhs/sfh/sfh%20guaranteed%20loan%20income%20limits.htm).

Families must be without adequate housing, but be able to afford the mortgage payments, including taxes and insurance. These payments are typically within 22 to 26 percent of an applicant's income. In addition, applicants must be unable to obtain credit elsewhere, yet have reasonable credit histories. Elderly and disabled persons applying for the program may have incomes up to 80 percent of area median income (AMI).

**Terms:** Loans are for up to 33 years (38 for those with incomes below 60 percent of AMI and who cannot afford 33-year terms). The term is 30 years for manufactured homes. The promissory note interest rate is set by RHS, and in July 1999 it was 7.25%. However, that interest rate is modified by payment assistance subsidy.

The interest rate and amount of subsidy are determined by family income as percentage of AMI so that a family pays from 22 to 26 percent of their income for principal, interest, taxes, and insurance (PITI) up to an amount not exceeding the promissory note rate.

There is no required down payment. RHS must also determine repayment feasibility, using ratios of repayment (gross) income to PITI and to total family debt.

**Standards:** Under the Section 502 program, housing must be modest in size, design, and cost. Modest housing is generally defined as housing costing less than the HUD Section 203 (b) loan limits as of 9/30/98. Houses constructed, purchased, or rehabilitated must meet the voluntary national model building code adopted by the state and RHS thermal and site standards. Manufactured housing must be permanently installed and meet the HUD Manufactured Housing Construction and Safety Standards and RHS thermal and site standards.

**Approval:** Rural Development officials have the authority to approve most Section 502 loan requests. Decisions on complete applications are generally made within 30 days of the Rural Development office's receipt of the application.

Basic Instruction:7 CFR Part 3550 and HB2-3550

**Taken from the HUD website at:  
[http://www.rurdev.usda.gov/rhs/sfh/brief\\_rhdirect.htm](http://www.rurdev.usda.gov/rhs/sfh/brief_rhdirect.htm)**

## Rural Single Family Housing Loan

Section 502 loans are primarily used to help low-income individuals or households purchase homes in rural areas. Funds can be used to build, repair, renovate or relocate a home, or to purchase and prepare sites, including providing water and sewage facilities.

**Eligibility:** Applicants for loans may have an income of up to 115% of the median income for the area. Area income limits for this program can be found at: [www.rurdev.usda.gov/rhs/sfh/sfh%20guaranteed%20loan%20income%20limits.htm](http://www.rurdev.usda.gov/rhs/sfh/sfh%20guaranteed%20loan%20income%20limits.htm) Families must be without adequate housing, but be able to afford the mortgage payments, including taxes and insurance. In addition, applicants must have reasonable credit histories.

Approved lenders under the Single Family Housing Guaranteed Loan program include:

- Any State housing agency;
- Lenders approved by:
  - HUD for submission of applications for Federal Housing Mortgage Insurance or as an issuer of Ginnie Mae mortgage backed securities;
  - the U.S. Veterans Administration as a qualified mortgagee;
  - Fannie Mae for participation in family mortgage loans;
  - Freddie Mac for participation in family mortgage loans;
- Any FCS (Farm Credit System) institution with direct lending authority;
- Any lender participating in other USDA Rural Development and/or Consolidated Farm Service Agency guaranteed loan programs.

**Terms:** Loans are for 30 years. The promissory note interest rate is set by the lender.

There is no required down payment. The lender must also determine repayment feasibility, using ratios of repayment (gross) income to PITI and to total family debt.

**Standards:** Under the Section 502 program, housing must be modest in size, design, and cost. Houses constructed, purchased, or rehabilitated must meet the voluntary national model building code adopted by the state and RHS thermal and site standards. New Manufactured housing must be permanently installed and meet the HUD Manufactured Housing Construction and Safety Standards and RHS thermal and site standards. Existing manufactured housing will not be guaranteed unless it is already financed with an RHS direct or guaranteed loan or it is Real Estate Owned (REO) formerly secured by an RHS direct or guaranteed loan.

**Approval:** Rural Development officials have the authority to approve most Section 502 loan guarantee requests. Basic Instruction:7 CFR Part 1980.

**Taken From The USDA Web Site at:  
[http://www.rurdev.usda.gov/rhs/sfh/brief\\_rhguar.htm](http://www.rurdev.usda.gov/rhs/sfh/brief_rhguar.htm)**

# **TYPES OF HUD HOUSING**

# **The 5 Percent Accessible Housing Rule**

## **By Steve Gold**

1. Under HUD's section 504 regulations, since 1988, ALL recipients of federal financial assistance must make (and should have made) 5% of newly constructed housing fully accessible for persons with mobility impairments (and another 2% accessible for persons with sensory impairments).

Most often we think only about public housing authorities. But this duty also applies to recipients of Community Development Block Grant and HOME funds, as well as other "federal financial assistance." What this means is that all local housing officials that received CDBG and HOME funds and either built new construction, or allocated these federal funds to private non-profits to build new construction, should have triggered 5% accessible dwelling units. This includes high-rise apartments, low-rise units, rental and many home ownership dwelling units.

2. Many people do not realize that the 5% rule also applies to "substantial alterations" of dwelling units made with federal financial assistance. These are alterations and renovations made to older dwellings, including, for example, new electrical wiring, plumbing, roofs, more than paint jobs. When the alterations and renovations are substantial, then the 5% rule triggers -- those dwellings so altered and renovation should have been made fully accessible and treated like new construction.
3. Many of your local housing officials (in addition to public housing) received hundreds of millions of dollars since 1988 and "newly constructed" or "substantially altered" entirely inaccessible units! People with disabilities were discriminated against and denied the "equal opportunity" to live in 5% of the units.

This is a great organizing issue. Even if you do not now want the housing officials to go back to 1988 to make 5% of those units accessible, there is a lot local housing officials could be forced do in the future to correct the unequal treatment people with disabilities have received since 1988. Examples include: instead of 5% units in the future, make it 15 - 20% accessible; put CDBG funds in a home modification pot so people with disabilities can stay in their own (and now accessible) homes; change their building codes to require universal access; and other ideas you may have.

4. Remember that the 5% rule is under section 504 of the Rehabilitation Act. In addition to 504, the federal Fair Housing Act requires accessibility in other types of construction.

**From Steve Gold's Treasured Bits of Information Newsgroup Archives  
Information Bulletin #1**

## **Accessible Section 8 Housing Units by Steve Gold**

A lot of folks have asked why the disability community should fight for Section 8 vouchers when, in many communities, there are no accessible units that accept Section 8. That may be accurate at the "fair market rates" at which Section 8 vouchers are normally set for non-disabled persons. However, for people who need accessible housing, there are some legal handles you can force your public housing authorities to use under the federal public housing law and under Section 504 of the Rehabilitation Act to address and remedy this problem.

Specifically, housing authorities set Section 8 payment rates at about 100% of the "fair market rates." However, for people who cannot find accessible units at "fair market rates," public housing authorities can request HUD (as Step #1) to approve a reasonable accommodation of setting the Section 8 vouchers between 100% and 1% of the "fair market rate." If people with disabilities who need accessible units still cannot find dwellings at 1% of the "fair market rate," your public housing authorities can ask HUD (as Step # 2) for an exception above 1% of the "fair market rate."

An example might demonstrate how this works. Let's assume the "fair market rate" for your geographic area is \$600 a month for a two-bedroom dwelling. For people who need accessible dwellings, your public housing authority (Step #1) can ask HUD for permission to set at the "fair market rate" at \$7 per month. If people still cannot find accessible units, then the public housing authority should ask HUD (Step #2) to go above \$7 to as much as \$840 (i.e., 140% of the "fair market value"). The value of the Section 8 voucher increases significantly for people who need accessible dwelling units.

The entire purpose of using Section 504 is to provide "equal opportunity" for persons who need accessible units and for whom the private market at the "fair market rate" does not have accessible units. The assumption (and maybe only an assumption) is that there are or could be more accessible units at higher market rates.

Whether or not your public housing authority applies for the Section 8 vouchers discussed in the previous Information Bulletins (the application to HUD is due 2/01), whenever a person or family cannot find accessible dwelling units at the "fair market rates," you should pressure your public housing authorities to apply to HUD to increase those rates.

**From Steve Gold's Treasured Bits of Information Newsgroup Archives  
Information Bulletin # 4**

# Housing Choice Voucher Program Fact Sheet (Section 8)

## What Are Housing Choice Vouchers?

The housing choice voucher program is the federal government's major program for assisting very low-income families, the elderly, and the disabled to afford decent, safe, and sanitary housing in the private market. Since housing assistance is provided on behalf of the family or individual, participants are able to find their own housing, including single-family homes, townhouses and apartments. The participant is free to choose any housing that meets the requirements of the program and is not limited to units located in subsidized housing projects.

Housing choice vouchers are administered locally by public housing agencies (PHAs). The PHAs receive federal funds from the U.S. Department of Housing and Urban Development (HUD) to administer the voucher program. A family that is issued a housing voucher is responsible for finding a suitable housing unit of the family's choice where the owner agrees to rent under the program. This unit may include the family's present residence. Rental units must meet minimum standards of health and safety, as determined by the PHA. A housing subsidy is paid to the landlord directly by the PHA on behalf of the participating family. The family then pays the difference between the actual rent charged by the landlord and the amount subsidized by the program. Under certain circumstances, if authorized by the PHA, a family may use its voucher to purchase a modest home.

## Am I Eligible?

Eligibility for a housing voucher is determined by the PHA based on the total annual gross income and family size and is limited to U.S. citizens and specified categories of non-citizens who have eligible immigration status. In general, the family's income may not exceed 50% of the median income for the county or metropolitan area in which the family chooses to live. By law, a PHA must provide 75 percent of its voucher to applicants whose incomes do not exceed 30 percent of the area median income. Median income levels are published by HUD and vary by location. The PHA serving your community can provide you with the income limits for your area and family size.

During the application process, the PHA will collect information on family income, assets, and family composition. The PHA will verify this information with other local agencies, your employer and bank, and will use the information to determine program eligibility and the amount of the housing assistance payment

If the PHA determines that your family is eligible, the PHA will put your name on a waiting list, unless it is able to assist you immediately. Once your name is reached on the waiting list, the PHA will contact you and issue to you a housing voucher.

## **How Do I Apply?**

If you are interested in applying for a voucher, contact your local PHA. For further assistance, please contact the HUD Office nearest to you.

## **Local Preferences and Waiting List -- What Are They and How Do They Affect Me?**

Since the demand for housing assistance often exceeds the limited resources available to HUD and the local housing agencies, long waiting periods are common. In fact, a PHA may close its waiting list when it has more families on the list than can be assisted in the near future.

PHAs may establish local preferences for selecting applicants from its waiting list. For example, PHAs may give a preference to a family who is (1) homeless or living in substandard housing, (2) paying more than 50% of its income for rent, or (3) involuntarily displaced. Families who qualify for any such local preferences move ahead of other families on the list who do not qualify for any preference. Each PHA has the discretion to establish local preferences to reflect the housing needs and priorities of its particular community.

## **Housing Vouchers -- How Do They Function?**

The housing choice voucher program places the choice of housing in the hands of the individual family. A very low-income family is selected by the PHA to participate is encouraged to consider several housing choices to secure the best housing for its needs. A housing voucher holder is advised of the unit size for which it is eligible based on family size and composition.

The housing unit selected by the family must meet an acceptable level of health and safety before the PHA can approve the unit. When the voucher holder finds a unit that it wishes to occupy and reaches an agreement with the landlord over the lease terms, the PHA must inspect the dwelling and determine that the rent requested is reasonable.

The PHA determines a payment standard that is the amount generally needed to rent a moderately-priced dwelling unit in the local housing market and that is used to calculate the amount of housing assistance a family will receive. However the payment standard does not limit but does not affect the amount of rent a landlord may charge or the family may pay. A family which receives a housing voucher can select a unit with a rent that is below or above the payment standard. The housing voucher family must pay 30% of its monthly adjusted gross income for rent and utilities, and if the unit rent is greater than the payment standard the family is required to pay the additional amount. By law, whenever a family moves to a new unit where the rent exceeds the payment standard, the family may not pay more than 40 percent of its adjusted monthly income for rent.

## **The Rent Subsidy**

The PHA calculates the maximum amount of housing assistance allowable. The maximum housing assistance is generally the lesser of the payment standard minus 30% of the family's monthly adjusted income or the gross rent for the unit minus 30% of monthly adjusted income.

## **Can I Move and Continue to Receive Housing Choice Voucher Assistance?**

A family's housing needs change over time with changes in family size, job locations, and for other reasons. The housing choice voucher program is designed to allow families to move without the loss of housing assistance. Moves are permissible as long as the family notifies the PHA ahead of time, terminates its existing lease within the lease provisions, and finds acceptable alternate housing.

Under the voucher program, new voucher-holders may choose a unit anywhere in the United States if the family lived in the jurisdiction of the PHA issuing the voucher when the family applied for assistance. Those new voucher-holders not living in the jurisdiction of the PHA at the time the family applied for housing assistance must initially lease a unit within that jurisdiction for the first twelve months of assistance. A family that wishes to move to another PHA's jurisdiction must consult with the PHA that currently administers its housing assistance to verify the procedures for moving.

## **Roles - the Tenant, the Landlord, the Housing Agency, and HUD**

Once a PHA approves an eligible family's housing unit, the family and the landlord sign a lease and, at the same time, the landlord and the PHA sign a housing assistance payments contract that runs for the same term as the lease. This means that everyone - tenant, landlord and PHA -- has obligations and responsibilities under the voucher program.

**Tenant's Obligations:** When a family selects a housing unit, and the PHA approves the unit and lease, the family signs a lease with the landlord for at least one year. The tenant may be required to pay a security deposit to the landlord. After the first year the landlord may initiate a new lease or allow the family to remain in the unit on a month-to-month lease.

When the family is settled in a new home, the family is expected to comply with the lease and the program requirements, pay its share of rent on time, maintain the unit in good condition and notify the PHA of any changes in income or family composition.

**Landlord's Obligations:** The role of the landlord in the voucher program is to provide decent, safe, and sanitary housing to a tenant at a reasonable rent. The dwelling unit must pass the program's housing quality standards and be maintained up to those standards as long as the owner receives housing assistance payments. In addition, the landlord is expected to provide the services agreed to as part of the lease signed with the tenant and the contract signed with the PHA.

Housing Authority's Obligations: The PHA administers the voucher program locally. The PHA provides a family with the housing assistance that enables the family to seek out suitable housing and the PHA enters into a contract with the landlord to provide housing assistance payments on behalf of the family. If the landlord fails to meet the owner's obligations under the lease, the PHA has the right to terminate assistance payments. The PHA must reexamine the family's income and composition at least annually and must inspect each unit at least annually to ensure that it meets minimum housing quality standards.

HUD's Role: To cover the cost of the program, HUD provides funds to allow PHAs to make housing assistance payments on behalf of the families. HUD also pays the PHA a fee for the costs of administering the program. When additional funds become available to assist new families, HUD invites PHAs to submit applications for funds for additional housing vouchers. Applications are then reviewed and funds awarded to the selected PHAs on a competitive basis. HUD monitors PHA administration of the program to ensure program rules are properly followed.

### **Additional Information and Other Subsidy Programs**

For additional information about the voucher program, contact either the local PHA serving your community or the Office of Public Housing within your local HUD office. There may be a long wait for assistance under the housing voucher program. If the PHA also administers the public housing program applicants for the housing choice voucher program may also ask to be placed on the waiting list for the public housing program. HUD also administers other subsidized programs and you may obtain a list of programs in your area from the Office of Housing at your local HUD office.

**Taken from the HUD website at:  
<http://www.disabilityinfo.gov/Housing/101/>**

## **Public Housing Annual Plans by Steve Gold**

In other information bulletins, we listed information regarding Housing Authority's accessibility and Section 8 requirements. See [www.stevegoldada.com](http://www.stevegoldada.com) and click on Archives. A number of persons asked how they could convince their Housing Authorities to comply with the 5% accessibility requirement and the Section 8 voucher increases in the fair market rents above 110%. Many people acknowledged that they had had very little contact with their Housing Authorities, were not familiar with the legal handles, and did not know how to apply pressure.

We do not expect Housing Authorities to just "roll over" and admit their wrongdoings. Rather, it takes organizing by the disability community to force the Housing Authorities to comply. It takes beating them at their own game, which requires knowing what they have to do or risk HUD's potential intervention.

One handle for organizing is HUD's ANNUAL PLAN form that each Housing Authority must complete. Therefore, each year the disability community can pressure both the Housing Authority' Board of Directors (who ultimately run the HA) and the administrative public housing authority officials to complete these Annual Plans by giving people with disabilities a high priority for housing, for Section 8s, and for new construction.

Every housing authority must prepare and complete an Annual Plan (and a 5 Year Plan). HUD's form # 50075 (See [www.HUD.gov](http://www.HUD.gov) and then go to forms) must be completed.

Disability advocates MUST become an integral part of this process to ensure that housing authorities give people with disabilities a high priority. Before the Annual Plan is submitted to HUD, make sure you have a draft and testify at the public hearings.

These forms require each Housing Authority to answer specific questions. For example:

1. Has your Housing Authority agreed to "Target available assistance to Families with Disabilities"?
2. Has your HA agreed to "Seek designation of public housing for families with disabilities."?
3. Does it "Carry out the modifications needed in public housing based on the section 504 Needs Assessment for Public Housing?"
4. What about "Apply for special-purpose vouchers targeted to families with disabilities?" How about "Affirmatively market to local non-profit agencies that assist families with disabilities?"

Those are options available on the HUD Form and will be checked off OR NOT by your local Housing Authority, depending on your efforts. If the Housing Authority does not check it off, we cannot hold them accountable.

5. How does your Housing Authority's "Policies governing eligibility, selection and admissions "relate to disabilities?
6. Has your Housing Authority checked off "Preferences" for admission and for Section 8 vouchers? Are disabled persons given Preference?
7. Has it checked off Inaccessibility as a form of involuntary displacement?
8. If it has checked off Homelessness, does your Housing Authority acknowledge (per HUD Guidelines) that persons in nursing homes are "homeless" and therefore receive the Preference?
9. Is "Disability" listed as an "Other preference?"
10. Do the Answers they checked off reflect the real life experiences of people with disabilities in your community?

These are all things you can comment on.

**From Steve Gold's Treasured Bits of Information Newsgroup Archives  
Information Bulletin # 21**

# Low and Very Low Income Rental Properties

## by Steve Gold

Since 1992, HUD has allocated federal funds under the HOME (Home Investment Partnership) program. States receive 40% and local governmental entities receive the remaining 60% of an allocation.

Many places have used their HOME funds to subsidize low income and very low-income rental properties. Approximately 128,000 dwelling units have received HOME funds for rental units.

These rental properties MUST comply with the Section 504 of the Rehabilitation Act, which requires a minimum of 5% of the units be fully accessible. They must comply also with the federal Fair Housing Act. (Regarding section 504 and the 5% rule, see my Information Bulletin #1 on page 38.

HOME rental units must also accept Section 8 vouchers. See above webpage for a number of Information Bulletins about Section 8 vouchers and for the FY 2000 and 2001 Section 8 voucher list by city and state.

Many places use their HOME rental funds TOGETHER with other federal funds (for example, Community Development Block Grants) and tax credits (see Information Bulletin #12 below). That makes the HOME recipients really vulnerable to challenge under 504, Fair Housing, and the Internal Revenue Code.

We have obtained a breakdown of HOME completed rental projects of 50 or more dwelling units - about 42,000. (Most jurisdictions use HOME funds for rental projects of 6 - 49 units). Go to the webpage and click on Archives for "HOME Rental 50 Plus Units" for a city and state breakdown of units from 1992 thru July, 2001.

At "HOME Rental 50 Plus Units," we list in order:

- A. The number of Completed Units;
- B. The HOME Participant (which can be either a State or specific local governmental unit);
- C. The street address of the rental units;
- D. The City where the units are located and
- E. The State.

It is IMPORTANT to know the "HOME Participant" because that entity received the federal funds and it is legally responsible for accessible and affordable units.

At least 5% of these units should be accessible and have people with disabilities living in them. That is the law. You must enforce it. We do not expect many States or local governments have voluntarily complied. Please check out the street addresses and find out if both 5% are accessible AND have people with disabilities living in them.

**From Steve Gold's Treasured Bits of Information Newsgroup Archives  
Information Bulletin # 14**

## **Affordable Private housing - A Secret Surprise by Steve Gold**

Persons with disabilities' number one complaint regards lack of affordable accessible housing. We provided information regarding Section 8 Vouchers that are specifically for persons with disabilities available by state and by specific housing authority. (See [www.stevegoldada.com](http://www.stevegoldada.com) Information Bulletin #11). These Section 8 Vouchers must be used for persons with disabilities.

Unknown to many advocates, all Section 8 Vouchers MUST be accepted by CERTAIN private landlords in good private housing and apartment complexes! Some of you will be surprised with this list of housing. This is how it works.

Since 1988, the IRS has authorized tax credits for the new construction or rehabilitation of affordable rental housing. These federal tax credits are an extraordinary deal for corporations and wealthy individuals. Developers of rental housing entice investors with these tax credits, which last for 10 years.

In exchange for tax credits, a developer must set aside a certain percent of the dwelling units for low-income families. Rents for persons must be limited to 30 percent of income. Most of us would not know that a new apartment complex received these tax credits. Why? Because most developers do NOT advertise that they must accept a Section 8 Voucher.

We have put together, by state, city, zip code, and street address, the housing developments and number of dwelling units that received tax credits from 1991 through 1998 for ONLY new construction. "Tax Credits Between 1991 and 1998 for ONLY New Construction." If you want more information, e.g., from 1988 through 1998 and for all acquisitions, rehabilitation, as well as new construction, see <http://lihtc.huduser.org>

In order for you to have a complete list, you must contact your State's Housing Finance Agency for developments, which received tax credits from 1998 to the present. We strongly recommend you get this complete list because some of the newer apartments might still either not be built or have vacancies.

One big caveat is accessibility. Since 1988, each of these housing developments also had to comply with the Federal Fair Housing Act that required at least that the new construction have accessible units (as do all private and public developments). That's another reason to start with the most recent developments. Also, because many developments combine tax credits with other federal programs and therefore are recipients of federal funds, they could be subject to Section 504's requirement of 5% accessible units. (See Information Bulletin # 1 on page 38)

Because tax credits are so valuable to businesses and wealthy people, if the landlord gives you any difficulty E28093 you should write to them and tell them that you will contact the IRS about the tax credits. Because they do not want their tax credits either

jeopardized, reviewed or audited at by IRS this action should make the developers comply. If they do not comply, then write IRS.

Tax credit dwellings, apartments and developments offer great organizing opportunities and real housing.

**From Steve Gold's Treasured Bits of Information Newsgroup Archives  
Information Bulletin # 12**

## **HUD's Subsidized Multifamily Units**

**by Steve Gold**

There is a "new" source of information available that can assist disability advocates find affordable and accessible units. HUD has posted a web site for its "Subsidized Multifamily Units" at [www.hud.gov/offices/hsg/mfh/hto/inventorysurvey.cfm](http://www.hud.gov/offices/hsg/mfh/hto/inventorysurvey.cfm) Once you go there click on "Subsidized Apartment Search." Scroll down "Select State to Search" to your state, click "next" and then you scroll down and click on ONLY one of the following - City, County or Zip code. Once you are in your city or county, I would skip the rest and hit next.

You will then have the property name, address and telephone number, the name of the "contact" and the type of property. There are three types of properties - Family, Elderly and Disabled-only. They do not list the total number of units, nor whether any are in fact accessible. Obviously, only the "Family" units will be integrated – both non-disabled and disabled persons

These properties were all "funded" from HUD sometime in the past, and HUD classifies them as "Multifamily" units. Many of these properties currently have project-based rental vouchers attached to the unit, which makes them "affordable" because the tenant must pay only 30% of her/his income.

What is critical for disabled advocates to remember is that ALL three types of property must comply with Section 504 of the Rehabilitation Act and therefore comply with the "accessibility" requirements. IF the properties were altered or rehabilitated since 1988, then at least 5% of the units must be fully "accessible." EVEN IF they were not altered or rehabilitated since 1988, they MUST make units accessible for a person with a disability who needs accessibility. That is, the owner must make specific units accessible as they are need and the landlord must pay for the accessibility. Also, IF they have units that they identify as "accessible," then disabled persons should be in those units.

### **WHAT ADVOCATES SHOULD DO:**

1. Make a list of all the "Family" properties in your area.
2. You or your disabled clients should telephone the property managers/owners. Ask them for the total number of units, how many are accessible units, and are people with disabilities residing in them.
3. If there are any vacant units, get them. If there is a waiting list, get on it.
4. Make the owners of these HUD-funded properties comply with Section 504 with the accessibility requirements.

**From Steve Gold's Treasured Bits of Information Newsgroup Archives**  
**Information Bulletin # 54**

## **CDBG and HOME Funds in FY 03**

**by Steve Gold**

Advocates for Affordable, Accessible, Integrated Housing for persons with disabilities should be aware of HUD's FY 2003 Budgets for two housing programs -- \$4.9 billion for Community Development Block Grants (CDBG) and nearly \$2 billion in the HOME program.

Most Statewide Housing Programs received funds for both CDBG and HOME. Also, many cities, counties and other local housing agencies received either or both CDBG and HOME FY 2003 funds. To find out if YOUR State housing program and if YOUR city or local housing program received either OR both FY 2003 CDBG and HOME funds and to find the exact amount of such funds, go to <http://www.hud.gov/offices/cpd/about/budget/budget03/index.cfm> . Scroll down to the map and click on your State.

Uses of the CDBG federal funds are quite discretionary. They are used to build new housing, to rehabilitate existing housing, to fund home modifications so existing housing becomes accessible, to fund rental or home ownership and for rent supplements. To find out if YOUR State's CDBG AND/OR local CDBG funds are being used for any Affordable, Accessible, Integrated Housing, it is necessary to obtain and read the "Consolidated Plans" that your State AND/OR local housing agency submit to HUD -- AFTER TWO annual public hearings are held.

If Affordable, Accessible, Integrated Housing has not been included in prior years in BOTH your State's AND local Consolidated Plans, go to your next public hearing and demand to know why. Without your pressure, Affordable, Accessible, Integrated Housing might not happen.

Use of the HOME federal funds can be for: rental properties; home down payments; rehabilitation of homes; and tenant based rental assistance, i.e., backdoor section 8 housing vouchers for rental supplements. The HOME tenant rental assistance is particularly critical because this year Congress has substantially reduced other Section 8 voucher programs.

Both CDBG and HOME are "federal financial assistance" and therefore must comply with Section 504 of the Rehabilitation Act. -- they must have 5% accessible units; people with disabilities must be given priority for the accessible units; the range of available accessible units must be comparable to the choice of nondisabled persons. Also, recipients of HOME funds cannot discriminate against a person who has a Section 8 voucher.

Take on your State and local housing HOME agencies to ensure Section 504 compliance.

**From Steve Gold's Treasured Bits of Information Newsgroup Archives  
Information Bulletin # 51**

## **More CDBG and HOME by Steve Gold**

In "CDBG and HOME funds in FY 2003," Information Bulletin #51, we gave the address for the HUD website to find out the amount of federal financial assistance HUD allocated both YOUR State and local areas with FY 2003 CDBG and HOME funds. Because there was a large response, I decided to dig a little deeper.

If you go to that HUD website you can find in Access Database the data for CDBG and HOME funds allocated in FY 2000, 2001 and 2002. (The FY 2003 is in an Excel file.). Now you have real ammunition to find out if those federal funds were used to provide "Affordable, Accessible, Integrated Housing."

We suggest you go to the HOME funds first, because they all must be used for housing (unlike CDBG where approximately only 25% goes for housing). What the HOME data does NOT distinguish is whether your HOME funds were used for new construction, rehabilitation, AND/OR rental subsidies. It is important to know exactly how the HOME funds were used in your State and local areas, because the requirement for "Accessible" housing units is triggered when there is new construction and rehabilitation -- not when the HOME funds are used like a Section 8 voucher, i.e., rent subsidies.

After you learn how much HOME funds were allocated to YOUR state and local areas in FY 2000, 2001, and 2002, you must then find out IF any was used for new construction or rehabilitation. If some HOME funds were used for either new construction or rehabilitation, then get the name (and address) of the units and go find out if AT LEAST 5% of the housing units are accessible! If they do not meet the 5% mandate OR if nondisabled persons are living in an accessible unit, then your civil rights have been violated. Don't mourn, do something about it.

Another reason to get this information back to FY 2000 is that the owners of those units cannot discriminate against persons who have a Section 8 voucher. Once you find out the addresses of the developers who built new construction or rehabilitation with HOME funds, do some "testing" to see if they are discriminating.

**From Steve Gold's Treasured Bits of Information Newsgroup Archives  
Information Bulletin # 52**

## **CDBG and Housing May 2004** **by Steve Gold**

Nationally, about \$3.5 billion dollars were spent nationally under HUD's federal Community Development Block Grant (CDBG) program in each of the past three fiscal years (01, 02 and 03). A breakdown of the \$3.5 billion shows:

- nearly \$1 billion went each year for "housing;"
- a little less than \$1 billion went for "public improvements" (including street improvements, sidewalks and removal of architectural barriers); and
- another \$500 million went for "public services" (including services for the disabled, rental housing subsidies, and security deposits).

A number of people have asked how their local and State officials have ACTUALLY SPENT the CDBG funds that your communities received – 'show me where the money went.'

HUD has available the actual expenditures for each of FY 01 and FY 02 by grantee (either YOUR local and/or State housing offices) throughout the country. This information is very important for disability advocates for a number of reasons:

1. If CDBG funds were used for construction and/or rehabilitation of housing (whether single-unit or multi-unit and whether privately or publicly owned - it does not matter), there MUST be AT LEAST 5% accessible units and they MUST accept section 8 vouchers OR be affordable to SSI recipients. You should know where these houses are located and check them out. They probably are listed in your Consolidated Plans.
2. If the "public improvement" and/or "public services" funds were used for streets and sidewalks, they better be fully accessible. Same for every type of "public improvement."
3. If the CDBG funds did not go for disability issues, you should inquire about it and find out why they did not.
4. Getting this information for the past few years, gives you a lot of ammunition in your fight this and next year. If the disability community was shortchanged in the past, force your officials to make it up. Remember they must have Consolidated Plans for the allocation of CDBG funds, and they must have two public hearings before these Plans can be approved.

Here is how to find out how YOUR CDBG funds were actually expended.

Step # 1 - go to:

[www.hud.gov/offices/cpd/communitydevelopment/budget/disbursementreports/index.cfm](http://www.hud.gov/offices/cpd/communitydevelopment/budget/disbursementreports/index.cfm)

Step # 2 - at the bottom of that page is a map; click on your state.

Step # 3 - then click on your city. A "Use of CDBG funds by [the name of your city]" will appear.

Step #4 - there are two separate years in PDF format. These are actual disbursements. Under the Activity Group, you will find "HR" for housing, "PI" for public improvements, and "PS" for public services.

The expenditure of CDBG funds is discretionary and your local housing professionals and politicians could expend 100% of the CDBG funds on "accessible, affordable, integrated" housing - IF you are at the table and you are applying sufficient pressure. They could use these funds to make your cities and counties a model for the disability community – **IF the disability community made CDBG funds a disability issue.**

**From Steve Gold's Treasured Bits of Information Newsgroup Archives  
Information Bulletin # 65**

# **HOME Investment Partnership Program**

## **by Steve Gold**

During the past eleven years, HUD allocated more than \$15 billion HUD funds to the HOME program. The disability community should know how the HOME program works, who benefits and what advocates can do to make it more disability focused so we increase "Affordable, Accessible and Integrated" housing.

### **How does the HOME program work?**

HOME funds are allocated by formula - 40% of the funds go to State housing agencies (for redistribution to small and rural communities) and 60% go to your larger city and county housing agencies. BUT because your State and local agencies have discretion in how they use these funds, your input in holding them accountable is critical. Their Consolidated Plans must describe how their HOME funds will be allocated.

HOME funds can be used either for the following activities:

- new construction;
- rehabilitation;
- acquisition; OR
- Tenant Based Rental Assistance, (TRBA also know as rental housing vouchers).

It can be for rental new construction, rehabilitation or acquisition OR for homeownership. Your State and local housing people decide.

### **Who has benefited in the past?**

Of the \$15 billion, more than half went either to construct RENTAL units or to individuals who could use the TBRA as vouchers (with the other half going to homeowners or home buyers). These funds produced nearly 329,701 new rental units WITH ANOTHER 96,948 TBRA vouchers. 57% of the rental units were used by low-income persons whose income was 0 -30 % of median income (SSI levels) and another 31% by persons with 30 -50% of median income.

### **Why do we need to know about HOME?**

Knowing where HOME rental funds are being used is important for two reasons:

1. The HOME rental units must accept Section 8, Mainstream or other federal housing vouchers as rental payment. With a voucher, the tenant pays only about a third of her/his income. These rental units cannot legal deny a person because they have a voucher.
2. The HOME funds are "federal financial assistance," and the new construction, rehabilitation and acquisition must comply with Section 504 and have AT LEAST 5% of the units fully accessible for persons with disabilities.

## **What advocates should do?**

You can find out by State the total amount of HOME funds your State received statewide. See [www.hud.gov/offices/cpd/about/budget/budget03/index.cfm](http://www.hud.gov/offices/cpd/about/budget/budget03/index.cfm) But to learn how these funds were actually spent in your State and your local areas, you will have to read your State and local Consolidated Plans for the past years.

How these funds will be used in the future (rental versus home ownership, or construction versus TRBA) depends on what your State and local housing officials write in their Consolidated Plans. You must have input into this decision making. If you do not make sure the funds are allocated to benefit the disability community, then probably they will not be. Specifically:

1. Learn how HOME funds were actually spent both by your State and local housing agencies by reviewing their Consolidated Plans. These are public documents and must be available to you.
2. Decide how your disability community wants these funds to be allocated in the future (e.g., what percentage to construct rental units, home ownership or rental vouchers, etc.).
3. Find out when and where the State and local housing agencies will hold public hearings regarding their Consolidated Plans for the next year. You have to use the Consolidated Plan as one political pressure point in the struggle for "Affordable, Accessible and Integrated" housing.
4. Pressure your State and local agencies to spend the HOME funds to benefit people with disabilities. These decisions are part of the political process and subject to your political pressures.

**Steve Gold's Treasured Bits of Information Newsgroup Archives  
Information Bulletin #60**

## **2003 HOPE VI Housing by Steve Gold**

HUD has awarded \$433 million to 24 public housing authorities for new construction of both rental and/or home ownership. Advocates in these cities should contact their Housing Authorities NOW and make sure that AT LEAST 5% of the units are fully accessible and that persons with mobility disabilities will reside in them. Here are the Housing Authorities and the 2003 Development names:

- 1 ATLANTA, GA, McDaniel Glenn;
2. BENTON HARBOR, MI, Whitfield I;
3. BIRMINGHAM, AL, Tuxedo Court;
4. CAMDEN, NJ Franklin D. Roosevelt Manor,
5. CHARLOTTE, NC, Piedmont Courts;
6. CHESTER, PA, Chester Towers;
7. COLUMBIA, SC, Hendley Homes;
8. CUYAHOGA, OH, Valleyview Homes;
9. DAYTONA BEACH, FL, Martin Luther King Jr. Apartments;
  
10. FRESNO, CA, Yosemite Village;
11. INDIANAPOLIS, IN, Brokenburr Trails;
12. LOUISVILLE, KY, Clarksdale Phase II;
13. MEMPHIS, TN, Lamar Terrace;
14. MERIDIAN, MS, Victory Village;
15. MILWAUKEE, WI, Scattered Sites;
16. MOBILE, AL, Albert Owens/Jesse Thomas Homes;
17. NASHVILLE, TN, John Henry Hale Homes;
- 18 NEW ORLEANS, LA, William J. Fischer Homes;
19. RALEIGH, NC, Chavis Heights;
20. SPARTANBURG, SC, Phyllis Goins;
21. ST. LOUIS, MO, Cochran Gardens;
22. STAMFORD, CT, Fairfield Court; 23. WASHINGTON, DC, Eastgate Gardens;
- 24 YONKERS, NY, Mulford Gardens.

Most of these grants were for \$20 million each. These grants are quite competitive. To see if your Housing Authority even applied, go to <http://www.hud.gov/offices/pih/programs/ph/hope6/grants/fy03/index.cfm>

Also, if you want to know if your Housing Authority received a HOPE VI grant in the past, go to [http://www.housingresearch.org/hrf/hrf\\_SiteProfile.nsf](http://www.housingresearch.org/hrf/hrf_SiteProfile.nsf) which lists by city each HOPE VI development that have been awarded historically.

**Steve Gold's Treasured Bits of Information Newsgroup Archives  
Information Bulletin # 71**

## **Federal HOME MODIFICATION Funds for Accessibility by Steve Gold**

Advocates should know that federal funds are available to achieve accessibility via home modification. Specifically, under the HUD funded HOME Investment Partnership Program ("HOME") and the Community Development Block Grant ("CDBG"), federal funds can be allocated and used to implement or expand a home modification program in your communities to increase housing accessibility. These federal funds can be allocated either to home owners or renters who have disabilities.

Both HOME and CDBG funds are allocated annually to cities and counties which have the requisite number of people. (Your State Housing Agency may also receive HOME and CDBG funds to allocate to less populated geographic areas.)

The grantees of HOME and CDBG funds (whether your city, county or State) have DISCRETION regarding how they will allocate these funds. HUD has explicitly authorized Home Modification as a reimbursable "rehabilitation" function under both federal programs.

The decision regarding how these funds are actually allocated is up to your local and/or State officials - and you. As you know, the public officials must develop a Consolidated Plan listing how these funds will be used. Therefore, if disability advocates want and need a Home Modification program in their communities, you must be active players in your local Consolidated Plan process.

You must understand the politics of and become active in your Consolidated Plan development and allocation. Remember that the officials hold two public hearings a year before the Consolidated Plan can be approved or implemented! My bet is that in most areas of the country, the disability community has not made either their voices or their needs heard in this process.

These public hearings present a great opportunity for organizing, and you can WIN. You can have a Home Modification program so persons with disabilities can remain in their own homes and apartments and not be unnecessarily institutionalized.

If your local and/or State housing officials don't believe these funds can be used for Home Modification to achieve accessibility, you should cite 24 Code of Federal Regulations section 92.206(a)(2) (HOME funds may be used "to make essential improvements, including... improvements necessary to permit use by persons with disabilities") and 24 Code of Federal Regulations section 570.202(b)(11) (CDBG funds may be used for "improvements designed to remove... architectural barriers that restrict the mobility and accessibility of ... disabled persons.")

**Steve Gold's Treasured Bits of Information Newsgroup Archives  
Information Bulletin # 64**

# **Statewide Housing Strategies**

## **by Steve Gold**

While most housing issues are local to your city or county, there are State-wide housing handles that disability advocates could use to increase the supply of Affordable, Accessible, and Integrated Housing. These State-wide issues offer a good opportunity to unite different sections of your State disability community around a common problem.

Every State has a State housing agency that, at least, allocates the Low-Income Housing Tax Credits. Most State housing agencies receive Community Development Block Grants that are used for low-income housing, and many states allocate Section 8 rental housing vouchers and have a HOME program, whether for new construction or rental assistance. Quite a few have some responsibility for housing codes.

### **Here are some ADVOCACY suggestions:**

1. Force your State housing agency to comply with applicable accessibility requirements of Section 504 and the Federal Housing Act Amendments. Does your State housing department require all developers who receive federal funding to comply with 504 and FHHA? Why not?
2. Amend your States' Low-Income Housing Tax Credit Allocation Plan to require compliance, by all recipients of these tax credits, with Section 504 accessibility requirements. Make sure your State Housing Agency then monitors LIHTC compliance.
3. Remember that recipients of LIHTC are prohibited from discriminating against Section 8 voucher holders. If your State housing agency has received Section 8 vouchers, make sure that it requires the recipients of the LIHTC do not discriminate against the Section 8 voucher recipients.
4. Do your States' Community Development Block Grant and HOME funding recipients comply with Section 504 and FHAA? Does your State agency monitor this compliance? Look into whether your State is using its CDBG funds for a Home Modification programs.
5. Ask your State Welfare Department how they have tied Section 8 vouchers with Home and Community-Based Waiver programs to ensure that housing is not a barrier for disabled persons to move from nursing homes.
6. Review the State agency's Consolidated Plan and present testimony twice a year to focus on the needs of the disability community.

Do not be surprised if both your elected State officials and your State housing agency officials have never focused on the disability issues. It's a great opportunity to put Affordable, Accessible, Integrated housing issues on the State agenda.

**Steve Gold's Treasured Bits of Information Newsgroup Archives**  
**Information Bulletin # 47**