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ON BEHALF OF THE CONSORTIUM FOR CITIZENS WITH DISABILITIES HOUSING TASK FORCE
SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY
COMMITTEE ON FINANCIAL SERVICES
U.S. HOUSE OF REPRESENTATIVES**

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Chairwoman Roukema, Ranking Member Frank and members of the Subcommittee, the Consortium for Citizens with Disabilities (CCD) Housing Task Force is grateful for the opportunity to provide testimony on HR 3995, the Housing Affordability for American Act of 2002, and efforts to address the housing affordability crisis facing people with disabilities. We would like to take this opportunity to share our views on this important issue.

The Consortium for Citizens with Disabilities (CCD) is a Washington based coalition of approximately 100 consumer, advocacy, providers and professional organizations who advocate with and on behalf of people of all ages with disabilities and their families. The CCD Housing Task Force focuses specifically on housing issues that affect people with disabilities, particularly the availability of affordable and accessible community based housing options and the protection of their fair housing rights. The individuals who we represent - most of whom have very low incomes, many of whom depend solely on Supplemental Security Income or other disability benefits - may be current participants of HUD public and assisted housing programs, may be on federal housing program waiting lists, or may need to apply for federal housing assistance.

Last year – with the support of the Melville Charitable Trust and the Technical Assistance Collaborative (TAC), CCD published *Priced Out in 2000: The Crisis Continues* documenting the large and growing housing affordability crisis facing people with disabilities. This report contains the most complete, current and accurate analysis of housing affordability for the poorest of our nation's citizens - people with severe disabilities who are receiving federal Supplemental Security Income benefits. Across the country today, housing needs of people with disabilities, and the housing affordability crisis that they experience, is worse now than it has been in recent memory.

CCD is grateful for your leadership in introducing HR 3995. This legislation contains a number of provisions that will help ease the housing affordability crisis facing people with disabilities by reauthorizing and reforming a range of existing HUD programs. While CCD appreciates this effort, we also want to go on record in support of additional, more far reaching steps to both expand HUD's current programs and to develop new strategies to ensure that mainstream affordable housing programs more effectively serve people with disabilities. CCD further believes that it is critically important that this Subcommittee pay serious attention to the need for a new housing production program that focuses resources on the production of rental housing serving extremely low-income households.

Housing Needs of People With Disabilities

Before moving into CCD's views on HR 3995, I would like to briefly outline the current situation with respect to the housing needs of people with disabilities. Unfortunately, millions of people with disabilities today stand little chance of having a decent and affordable home of their own. This is particularly true for more than 3 million adults

with disabilities who receive federal Supplemental Security Income (SSI) benefits - equal to a monthly income of only about \$517 in 2001.

Because of their extremely low incomes, people with disabilities are facing a severe housing crisis - a crisis that is getting worse. Currently, people with disabilities - particularly people with disabilities receiving SSI benefits - have the highest incidence of unmet housing needs of any group eligible for federal housing assistance.

According to HUD's 1999 "Worst Case Housing Needs" report, the number of "worst case" renter households in the United States actually declined 8 percent between 1997 and 1999. However, this decline in housing need occurred only among elderly and family households and specifically did not benefit people with disabilities. In fact, HUD states that "new research with Supplemental Security Income program data suggests that [housing] needs among the disabled may have increased slightly between 1997 and 1999."

Further, HUD's 1999 report indicates that at least 1.3 million adults with disabilities receiving SSI had "worst case" housing needs in 1999. It is very important to note that HUD states that this needs estimates undercounts people with disabilities. Currently, HUD estimates only capture one segment of the very low-income population of people with disabilities - that is individuals who receive federal SSI benefits. HUD estimates completely exclude people with disabilities receiving other types of disability benefits such as Social Security Disability. HUD estimates also do not include people with disabilities who may be employed at low wage jobs, or who are in the process of applying for SSI, and need housing assistance.

HUD's estimates do not consider people with disabilities living unnecessarily in "restrictive" settings such as state institutions or nursing homes which, according to the U.S. Supreme Court's *Olmstead vs. L.C.* decision, violate the Americans with Disabilities Act (ADA). In 1999, the U.S. Supreme Court's *Olmstead* decision affirmed that under the ADA, people with disabilities have a basic civil right to live in the most integrated community-based setting appropriate to their needs. Most people with disabilities who will benefit from the *Olmstead* decision are SSI recipients. They will require federal housing assistance in order to be able to move into permanent housing in the community.

The lack of accurate data from HUD compelled the CCD Housing Task Force to publish its own housing needs estimates. Using HUD data which showed that more than 70 percent of households below 30 percent of median income have a severe rent burden, the CCD Housing Task Force estimated in 1996 that at least 1.8 million people with disabilities receiving SSI had worst case needs. In the year 2001, the number was certainly much higher.

Because of their extreme poverty, people with disabilities receiving SSI or other disability benefits cannot afford decent housing anywhere in the country without some type of government housing assistance. Yet relatively few non-elderly disabled households (ages 18-61) currently benefit from HUD subsidized housing programs. Recent HUD data indicate that fewer than 500,000 people with disabilities are being assisted by all HUD subsidized housing programs. Despite the fact that households with disabilities make up at least 25 percent of the households with "worst case" housing needs data published by HUD Policy Development and Research show that fewer than 13 percent of the households assisted by HUD are households with disabilities.

Moreover, key findings in the *Priced Out in 2000* document that this affordability crisis continues to worsen:

- People with disabilities are the poorest people in the nation. As a national average, SSI benefits in 2000 were equal to only 18.5 percent of the one-person median household income, and fell below 20 percent of median income for the first time in over a decade.
- In 2000, people with disabilities receiving SSI benefits needed to pay - on a national average - 98 percent of their SSI benefits to rent a modest one-bedroom unit priced at the HUD Fair Market Rent. An SSI recipient paying this amount for rent would have only \$11 per month left over for all other essential expenses, such as food, transportation, telephone, etc.
- Cost of living adjustments to SSI benefit levels have not kept pace with the increasing cost of rental housing. Between 1998 and 2000, rental housing costs rose almost twice as much as the income of people with disabilities.

- In 2000, there was not one single housing market in the country where a person with a disability receiving SSI benefits could afford to rent a modest efficiency or one-bedroom unit.
- "Housing Wage" data from the National Low Income Housing Coalition shows that people with disabilities who received SSI benefits needed to triple their income to be able to afford a decent one-bedroom unit. On average, SSI benefits are equal to an hourly rate of \$3.23, only one third of the National Low Income Housing Coalition's housing wage, and almost \$2 below the federal minimum wage.

In addition to the problems of affordability, there are several other important factors which have contributed to the housing crisis facing people with disabilities. These factors are discussed briefly below.

- The decline in the supply of subsidized housing available to people with disabilities. Since the implementation of "elderly only" housing policies, non-elderly people with disabilities have been increasingly denied access to federally subsidized housing developments. HUD, General Accounting Office and numerous CCD Housing Task Force studies all document that over 60 percent of privately owned HUD-assisted housing developments have occupancy policies which either severely restrict or completely exclude people with disabilities under age 62. CCD has estimated that over 273,000 units of HUD public and assisted housing which were -by law - available to people with disabilities prior to 1992 are now reserved exclusively for elderly households. Thus far, only 40,000 new Section 8 vouchers have been created to make up for this loss.
- Cuts in the Section 811 budget. Ironically, as the need for housing assistance for people with disabilities has grown substantially, federal funding for disability specific housing programs has declined dramatically. Cuts to the Section 811 program during the Clinton Administration have seen its funding fall from \$387 million in the early 1990s to its current level of \$217 million. This amount of funding must support 5 different activities, including: (1) new production activities; (2) tenant based rental assistance (up to 25 percent of the appropriation); (3) initial funding of Project Rental Assistance Contracts; and (4) renewal of Project Rental Assistance Contracts; (5) renewal of tenant-based subsidies. It is clear that an increase in appropriations is necessary to meet all of the above program objectives. The Section 811 program must continue to be a valuable tool for non-profit organizations to produce new, affordable, and accessible housing stock that is extremely difficult for people with the most severe disabilities to obtain in the private market.
- Lack of access by people with disabilities to other federal housing assistance programs including the HOME and CDBG programs, the federal Low Income Housing Tax Credit Program and the Consolidated Plan process. As they are currently administered by state and local housing officials, these federal programs are rarely used to expand housing supply for people with disabilities. The problem is two-fold: (1) these programs are almost never linked to the operating subsidies or project based rental assistance resources that are needed to develop housing that is affordable for people with disabilities below 30 percent of median incomes; and (2) state and local officials rarely prioritize or fund housing for people with disabilities through the Consolidated Plan process.
- People with disabilities continue to experience pervasive housing discrimination from affordable housing funders and providers. A 2001 Abt Associates reports that HUD assisted housing managers regularly prevent people with disabilities from applying for or moving into subsidized housing developments. Many PHAs, including some of the largest PHAs in the country, denied people with disabilities access to public housing without HUD approval to do so. Some organizations and agencies that receive federal funding do not comply with the Fair Housing Act Accessibility Guidelines, which are needed to produce new units of barrier free and otherwise accessible housing in the private rental market. Low Income Housing Tax Credit owners have a long track record of refusing to accept Section 8 rent subsidies from people with disabilities in wheelchairs who are desperate for accessible and affordable housing.

HR 3995 Contains Needed Improvements to HUD's Programs

CCD would like to express support for a number of provisions that address the housing crisis facing people with disabilities. However, as noted above CCD believes that many of these could be supplemented by changes and expansions that would ensure that limited federal resources most effectively target extremely low-income households facing the most severe affordability problems. CCD views the following provisions in HR 3995 as most important for addressing the needs of people with disabilities.

- Homeless Program Extensions - CCD is extremely supportive of provisions in HR 3995 extending the authorization of the Supportive Housing and Shelter Plus Care programs. These permanent supportive housing programs are two critically important resources for addressing the needs of people with disabilities experiencing chronic homelessness. As you know, people with severe disabilities are disproportionately represented among the chronically homeless population that are often forced to rely on shelters and transitional housing programs for long periods of time. Reauthorization of these programs is critically important if we are to achieve the President's goal of ending chronic homelessness over the next decade.
- Shelter Plus Care and Supportive Housing Contract Renewals - CCD is extremely grateful for the provisions in HR 3995 assuring renewal of operating subsidies and contracts through the Housing Certificate Fund (HCF). This proposal will ensure that non-profits and local Continuum of Care applicants can invest in permanent supportive housing with confidence that they are truly ending chronic homelessness. More importantly, it will provide stability in the lives of formerly homeless people with disabilities, knowing that they will not be losing their housing through no fault of their own.
- New HOME Housing Production and Preservation Program - CCD is pleased that HR 3995 includes a proposal to authorize a new affordable housing production program within HOME. As noted above, people with disabilities are disproportionately represented among households classified as "extremely low-income." CCD believes that if Congress is going to invest federal resources into a new production program, the highest priority should be placed on production of rental housing serving individuals and families at, or below 30 percent of area median income. CCD would like to urge you to consider modifications to this proposal to encourage production of property models that favor accessibility over those, such as townhouse developments, that do not. Where HOME participating jurisdictions are required to monitor projects and enforce program compliance, CCD would like to see explicit direction given to these communities to ensure that their projects comply with the appropriate accessibility standards of Section 504 and the Fair Housing Act.
- Thrifty Voucher Production Program - CCD supports inclusion of a new project-based voucher program that can be used in conjunction with new construction or substantial rehabilitation. This Thrifty Voucher Production (TVP) program offers tremendous promise in demonstrating how more affordable resources can be funded with fewer dollars, by subsidizing project-based operating costs, rather than debt service. CCD also strongly supports extending key provision of the TVP to the Section 8 project based program. These provisions include allowing property owners to establish waiting lists for properties, rather than using existing PHA project-based lists. Such owner or site-based waiting lists would vastly improve the access of people with disabilities to affordable housing opportunities, especially for people with severe disabilities leaving institutions or other restrictive settings that would have great difficulty accessing PHA waiting lists. Further, CCD would strongly encourage language requiring projects using TVP vouchers to comply with
- accessibility guidelines for substantially-renovated properties. Private multifamily housing, tax-credit housing and federally-funded or assisted housing are still being built in violation of the Fair Housing Act Amendments of 1988 or Section 504 of the Rehabilitation Act.
- Voucher Success Fund - CCD is extremely pleased that HR 3995 contains provisions allowing PHAs to use up to 5 percent of allocated Section 8 funds to directly support counseling, rental security deposits and other activities to help voucher holders secure rental housing. In many housing markets across the country, low utilization rates for tenant-based voucher-holders are related to extremely limited rental housing markets. However, beyond tight rental markets, many voucher-holders simply find it impossible to find landlords willing to accept Section 8. These difficulties are compounded for people with disabilities confronting stigma and discrimination. Making funds available for counseling and housing search assistance will help ensure that people with disabilities can actually obtain housing once they receive a voucher and help underperforming PHAs improve their section 8 utilization rates.
- The Elder Cottage Housing Opportunity [ECHO] program - CCD views this proposal as a commendable effort to help elderly people remain in their homes despite the arrival of grandchildren. CCD would encourage you to consider expanding this proposal to allow for adaptation of homes to permit people with disabilities to remain in their homes and avoid institutionalization or to enable people with disabilities residing in institutions to return to their homes. Such a policy becomes even more imperative in light of the Supreme Court decision in Olmstead.
- Housing Impact Analysis - This section of HR 3995 appears to require agencies such as HUD to develop an evaluation of the impact of federal regulations on housing affordability. On its face, that appears to be a

legitimate objective. At the same time, CCD is very concerned that such analyses might be used to undermine or weaken the very civil rights laws and regulations that enable people with disabilities to live in the community, e.g. the Fair Housing Act, the ADA and Section 504 of the Rehabilitation Act. CCD is by no means asserting that this is the intention of this provision, but nonetheless would strongly support a additional language excepting fair housing and civil rights protections from these regulatory analyses.

Section 811 issues

In addition to the various proposals contained in HR 3995, CCD would also like to offer to the Subcommittee a few ideas for reforming and modernizing the Section 811 program. As you know, Congress intended that the Section 811 program, as well as the Section 202 program, help very low-income people who need supportive housing in the community. When these two supportive housing programs were first authorized, it may have been appropriate for the policies and appropriations governing these programs to be so intrinsically linked. However, in the year 2002, the housing developed with Section 811 funds is very different from the housing developed with Section 202 funding.

While elderly households continue to prefer to live in larger housing developments reserved for elders, people with disabilities have expressed a clear preference for less stigmatizing, scattered-site, and low density models of housing that are well integrated within the community. Non-profit developers of Section 811 housing have found that low-density models of housing for people with disabilities are extremely difficult to develop using the current Section 811 program. Current Section 811 rules require an onerous development process (e.g. HUD has 375 pages of guidance and forms). The single-purpose corporation ownership arrangement is also incompatible with a low-density scattered site approach development and makes it impossible to acquire a percentage of the units in a larger affordable rental housing project.

Lower density projects are typically more difficult, and more expensive to develop because the developer must "spread" the fixed costs associated with the project (i.e., architectural and engineering fees, site work, development fees, etc.) over as many units as possible in order to meet the program's cost limits. This may work for Section 202 projects that may have 100 units or more, but does not work for a 6-unit project. The single purpose corporation requirement makes it much more difficult and costly to obtain and use other housing development financing to bridge "gaps" caused by limited Section 811 funding provided per project. "Gap" financing is often needed because the Section 811 costs limits are frequently too low to build good quality accessible housing on a scattered site basis.

As a result of these incentives in the Section 811 program, and reductions in funding over the past decade, many non-profits have been discouraged from even competing in the program. For example, last year, there were no applications submitted from the state of Hawaii, even though there is a desperate need for supportive housing for people with disabilities in that state. In 2000, the State of Alaska did not have any Section 811 applications submitted. In both these states, experienced section 811 non-profit developers have reported that the Section 811 application and HUD development process is too inefficient and costly to administer. The application process is extremely complicated, and often requires even experienced developers to pay \$10,000 or more for a specialized Section 811 consultant. Non-profit disability groups can rarely afford to pay this amount of "up front" money unless there is a reasonable chance that an good application will be funded. CCD has advocated for many years for simplification of the Section 811 program in order to develop housing that more accurately reflects the housing preferences of people with disabilities. While Section 811 program options have been expanded beyond group homes and independent living facilities to include units in condominium, cooperative and other multi-family developments, the program's development process and HUD's burdensome administration procedures make these models much more difficult - and expensive - to pursue

In CCD's view Section 811 can be reformed without abandoning its primary purpose as a production (as opposed to a tenant-based) program that directs funds through non-profit disability organizations. What is most important is to simplify the program and allow experienced non-profit sponsors to waive certain requirements (e.g., single purpose corporation for each project) that do little more than add fixed costs. More importantly, greater flexibility is needed to expedite the application process and allow non-profits to layer funding and partner with for-profits to integrate Section 811 housing into housing that is being developed across the community.

Finally, CCD would like to go on record with concerns about the future of the Section 811 “mainstream” tenant-based rental assistance program. First authorized a decade ago, this program has been funded 25 percent of the Section 811 appropriation since 1996 as five-year certificates. Because HUD never developed standards for this program, it has been administered as Section 8. However, last year HUD began renewing expiring “mainstream” vouchers through the Section 811 program, rather than the Housing Certificate Fund. In fact, for FY 2002 renewal of these tenant-based rent subsidies will consume the entire \$xx million increase appropriated for Section 811. Moreover, for FY 2003 HUD estimates that \$32 million will be needed to renew all these expiring rent subsidies – more than three times the proposed \$10 million increase recommended by the Bush Administration.

CCD strongly recommends that this Subcommittee direct HUD to develop standards for the Section 811 “mainstream” to ensure that it operates independently of Section 8 and has among its key features: non-profit disability organizations as the sole eligible applicant, segregated funding for renewal of expiring contracts to prevent diverting of resources from the Section 811 capital advance/project-based program and targeting to people with severe disabilities with high support needs.

Conclusion

Chairwoman Roukema and members of the Subcommittee, thank you for the opportunity to provide testimony on this important issue. The CCD Housing Task Force looks forward to working with all members of this Subcommittee to improve the performance of HUD's programs to make them more responsive to the needs of people with disabilities. I would be happy to respond to any questions.

