

**STATEMENT OF KENNETH L. MARCUS**  
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**BEFORE THE**  
**UNITED STATES HOUSE OF REPRESENTATIVES**  
**COMMITTEE ON FINANCIAL SERVICES**  
**SUBCOMMITTEE ON HOUSING AND COMMUNITY**  
**OPPORTUNITY**  
**AND SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS**

**June 25, 2002**

Chairwoman Roukema, Chairwoman Kelly, and members of the subcommittees, my name is Kenneth Marcus, and I am the General Deputy Assistant Secretary for Fair Housing and Equal Opportunity at the United States Department of Housing and Urban Development.

I am honored to testify before you today on HUD's efforts to enforce those laws that protect the right of every American, including minorities and persons with disabilities, to freely choose where they will live. No one should be precluded from seeking the housing of their choice or purchasing the home of their dreams because of their race, color, religion, national origin, sex, familial status or disability. Secretary Mel Martinez has repeatedly emphasized that aggressive enforcement of the Fair Housing Act is a high priority of the Department of Housing and Urban Development.

In the 34 years since the Fair Housing Act was passed, significant progress has been made in reducing barriers to fair housing and expanding homeownership opportunity. More minority families own their homes today than ever before, including 48 percent of African-American households and 47.6 percent of Hispanic households.

Despite all that has been accomplished, we recognize that much more needs to be done. While the nation's homeownership rate is higher than ever, a large gap still exists between minorities and whites, 74.3 percent of whom own their homes. President Bush, just last week, acknowledged this disparity when he urged Americans, collectively, to work together to "close the homeownership gap by dismantling the barriers that prevent more minorities from owning a piece of the American dream."

Although discrimination in mortgage lending has been illegal for more than 30 years, a recent survey by the National Community Reinvestment Coalition shows high numbers of Americans still believe it occurs.

The extent to which discrimination against persons with disabilities exists today is also distressing. Despite general awareness of the 1988 Fair Housing Amendments Act and the types of discrimination it prohibits, as evidenced by a recent HUD study, we are finding that the rights of people with disabilities are still frequently ignored. Of the complaints filed with HUD and its partner state and local agencies, the number that allege discrimination on the basis of disability equals, and in some places surpasses, those based on race.

One of the main contributors to the challenges facing persons with disabilities is the acute lack of accessible housing units. Anecdotal evidence and cases investigated by federal agencies indicate a high degree of non-compliance with the provision of the Fair Housing Act that requires accessible design and construction for new multifamily buildings.

Noncompliance with the accessibility requirements combined with the failure of landlords to provide necessary accommodations and modifications has contributed to a

shortage of housing for persons with disabilities in both private and public housing developments.

These are the challenges HUD faces in meeting the needs of persons with disabilities, increasing minority homeownership, and enforcing the Fair Housing Act for all Americans.

Secretary Martinez takes very seriously HUD's charge as the principal federal enforcer of the Fair Housing Act and the laws prohibiting discrimination in federally-assisted housing. HUD and state and local agencies that enforce substantially equivalent laws receive an average of 10,000 complaints a year alleging Fair Housing Act violations. The most meaningful contribution HUD can make to the fight against housing discrimination is the prompt and successful resolution of complaints from individuals who come to us to report claims of discrimination.

HUD must improve its track record in its enforcement of the federal fair housing laws. During previous years, the Department developed such a bad reputation for its delays in processing Fair Housing Act cases that today many of the Department's constituents express reluctance to file complaints with the Department, out of a belief that nothing will come of it. At the end of FY 2000, the percentage of fair housing cases remaining open past the statutory deadline of 100 days was over 80 percent. At the end of the first fiscal year of the Bush Administration, FY 2001, we had reduced the aged-case inventory to 37.1 percent. This was the first time since the passage of Fair Housing Act Amendments of 1988 that HUD's aged-case backlog has dropped below 50 percent.

We are also working diligently to assist state and local partner agencies whom HUD funds under the Fair Housing Assistance Program (FHAP) to reduce their backlog of aged cases. HUD is pleased that the Congress provided funds in the FY 2002 appropriation to assist this effort.

Overall, HUD has stepped up its commitment to prompt, meaningful resolution of these cases and aggressive enforcement when the law has been violated.

We have examined the role that lending discrimination may play in the disparity in homeownership rates between whites and some minorities. A recent HUD-commissioned study, titled *All Other Things Being Equal: A Paired Testing Study of Mortgage Lending Institutions*, examined how lenders treated blacks and Hispanics at the pre-application stage, when they inquired about residential mortgage financing. The study revealed that while the majority of mortgage lending transactions do not involve discrimination, blacks and Hispanics, in the markets studied, tended to receive less information, less assistance, and worse terms.

HUD is stepping up its efforts to combat lending discrimination. The Department will soon provide a contract for an enforcement project that targets mortgage lending discrimination generally, and predatory lending in particular. This year's Fair Housing Initiatives Program (FHIP) encouraged grant proposals from fair housing groups who,

among their other activities, would place a special emphasis on educating and enforcing the Fair Housing Act against predatory lending practices. The recent FHIP Notice for Funding Availability also created a national campaign to educate the public on the dangers of abusive lending practices.

The Department, through FHIP, is focusing attention on problems faced by persons within the Colonias Southwest border area, which may include predatory-lending type practices. We believe that the plight of the persons living in the Colonias is a national problem that deserves national attention.

FHIP also reflects the Bush Administration's commitment to tapping the potential of faith-based and other grassroots organizations, including by partnering them with the traditional fair housing organizations. This both honors and reflects the roots of the fair housing movement within the community of faith-based organizers.

The President has launched his New Freedom Initiative, an effort designed to help persons with disabilities live more independently in all communities.

HUD has a great responsibility to make sure that its own programs are accessible to people with disabilities and otherwise safeguard their rights because a disproportionate share of people with disabilities rely on federally-assisted housing.

During a recent accessibility compliance inspection, HUD found the District of Columbia Housing Authority to be in violation of Section 504 by failing to provide enough accessible units for persons with disabilities. As a result, the Housing Authority signed a Voluntary Compliance Agreement that calls for the DCHA to make 6 percent of its housing stock (about 510 units) fully-accessible to persons with mobility impairments, and make up to 2 percent more (about 170 units) of its housing stock accessible, as needed, to residents who have visual or hearing disabilities. DCHA will meet the 6 percent fully accessible requirement by November 2006.

HUD also found the Boston Housing Authority in violation of Section 504 because it didn't make an adequate number of accessible units available to persons with disabilities. Under a Voluntary Compliance Agreement, the Boston Housing Authority agreed to make five percent of its housing stock, or 700 units, fully-accessible to persons with mobility impairments. Structural modifications must begin no later than July 1, 2002, and must be completed by December 5, 2005.

We have increased the number of Section 504 compliance reviews last year to 60. This year we will complete 80, and we are achieving substantial results. The Department has put renewed effort into training its staff to conduct these reviews effectively and prepare strong Voluntary Compliance Agreements to resolve all findings of non-compliance. In 2002, the Department's offices of Public and Indian Housing, Housing, and Community, Planning and Development have also reissued four notices informing thousands of federal funding recipients of the requirements of Section 504, Fair Housing Act, and the Americans with Disabilities Act.

In addition, we are working to increase the number of accessible, private housing opportunities that are available to persons with disabilities.

HUD has awarded over \$2.5 million to KPMG to develop and conduct training and technical guidance on the Fair Housing Act accessibility requirements for persons engaged in designing, approving, and building multifamily housing. As part of this project, KPMG will set up resource centers in different parts of the country where architects, builders, and others can obtain technical guidance on specific design questions.

HUD is also working with industry and others to achieve greater compliance. HUD and the National Association of Home Builders (NAHB) have signed a Partnership Accord, whereby HUD and NAHB will undertake a broad training, education and outreach effort targeted specifically at builders, property owners, civil engineers, architects, building code officials and State and local governments. Together, HUD and NAHB will encourage State and local jurisdictions to adopt and implement building codes that meet the requirements of the Act.

HUD has awarded a \$900,000 grant to the International Code Council, in partnership with the National Organization on Disability and with support from the National Association of Home Builders, to undertake a review of State and local building codes, and to encourage the adoption of codes that are consistent with the Fair Housing Act, its regulations, and HUD's accessibility guidelines. The effort calls for ensuring that more apartments, condominiums and other housing covered by the law are built to be accessible to people with disabilities, and to inform state and local governments about the safe harbors for compliance with the Act's requirements.

HUD is also implementing a Memorandum of Understanding with the Departments of Justice and the Treasury to ensure that low-income, residential rental housing placed in service under the IRS-administered low-income housing tax credit program is accessible to people with disabilities. The tax-credit program is currently the largest Federal producer of low-income housing, providing an estimated 100,000 new housing units per year, and it has led to the construction or reconstruction of over 1.2 million units of housing since its inception in 1986.

In addition to making sure that new housing is built correctly in the first place and taking action against those housing providers who have failed to comply with those provisions of the Fair Housing Act, HUD is enforcing the Fair Housing Act against those housing providers who refuse to make reasonable and necessary allowances in their building operation for people with disabilities.

Outside these individual cases that HUD and our partners receive, there's little research available on the full nature and extent of the discrimination people with disabilities face in private housing. HUD will soon seek competitive bids on a \$1 million contract to develop methods examining and measuring the discrimination experienced by persons with disabilities when they search for rental housing. This nationwide report, the first of its kind, examine the bias persons with mental and physical

disabilities experience when they seek housing as well as how housing providers address requests for reasonable accommodations and modifications as in the example above.

In closing, we believe that all of the foregoing efforts, when combined with appropriate enforcement actions and timely processing of complaints, will enable the Department and our nation to strike a decisive blow in the fight against discrimination.

We look forward to working with industry, community leaders, local governments, fair housing advocates, and Capitol Hill to bring everyone in America over the threshold to equal opportunity and justice.

This concludes my formal written statement and I am happy to answer any questions you may have.