No. 13-1371

In the Supreme Court of the United States

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS, *et al.*, *Petitioners,*

v.

THE INCLUSIVE COMMUNITIES PROJECT, INC., *Respondents.*

On Writ Of Certiorari To The United States Court Of Appeals For The Fifth Circuit

BRIEF AMICI CURIAE OF AARP, CALIFORNIA RURAL LEGAL ASSISTANCE, INC., DISABILITY LAW CENTER, FAMILY EQUALITY COUNCIL, LAMBDA LEGAL DEFENSE & EDUCATION FUND, INC., NATIONAL DISABILITY RIGHTS NETWORK, NATIONAL HOUSING LAW PROJECT, AND SERVICES AND ADVOCACY FOR GLBT ELDERS IN SUPPORT OF RESPONDENTS

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INTERESTS OF AMICI CURIAE[1]

Amici are non-profit organizations committed to the wellbeing, equality, independence and dignity of people throughout the United States. Because of their unique interests and expertise they have joined in this brief to argue the importance of fair and equal housing for all and, because of their unique interests and expertise that Congress in enacting the Fair Housing Amendments Act, sought to further the community integration of people with disabilities and to end restrictions on where families with children could reside.

The individual statements of interest of all amici are contained in Appendix 1. Amici are:

AARP, California Rural Legal Assistance, Inc., Disability Law Center, Family Equality Council, Lambda Legal Defense & Education Fund, Inc., National, Disability Rights Network, National Housing Law Project and Services & Advocacy for GLBT Elders.

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[1] Pursuant to Supreme Court Rule 37.6, counsel for amici represent that no counsel for a party authored this brief in whole or in part and that none of the parties or their counsel, nor any other person or entity other than amici, its members or its counsel, made a monetary contribution intended to fund the preparation or submission of this brief. All parties have consented to the filing of amicus briefs and have filed letters reflecting their blanket consent with the Clerk.

Summary of Argument

The passage of the Fair Housing Amendments Act (FHAA) in 1988 was a pivotal moment in the history of fair housing, coming two decades after the transformational enactment of the original law. Congress strengthened "[t]he policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States," 42 U.S.C. § 3601, by enhancing enforcement and adding disability and familial status to the classes of people against whom discrimination is prohibited. The purposes of the FHAA were three-fold, to provide an effective enforcement system against housing practices that discriminate on the basis of race, color, national origin, religion or sex through effective enforcement, to extend the principle of equal housing opportunity to people with disabilities and to extend fair housing protections to families with children. The brief of Respondents remove thoroughly presents the arguments that the Fair Housing Act (FHA) prohibits those housing practices that result in unjustified adverse discriminatory effects. In this brief amici argue that in passing the FHAA Congress renewed and enhanced the national commitment to ending all discriminatory housing practices in all its forms, including neutral policies that lead to segregation or have a disparate adverse impact on a protected class, focusing closely on the two protected classes added by the FHAA.

The decision of Congress to prohibit discrimination in housing based on disability and familial status was tied to its contemporaneous concerns with increasing economic opportunity, ending segregation and enabling groups of people to move into the American mainstream. The obstacles that Congress addressed by enacting the FHAA were not—and cannot—be remedied solely by the prohibition of intentional discriminatory acts. Rather, Congress ensured that those suffering the harm of unjustifiable discriminatory effects have a means to remedy the underlying policy, in a manner that meets the legitimate needs of businesses, municipalities or other entities, with less harmful discriminatory impact.

Many of the first cases brought to enforce the FHAA, by both people with disabilities and families with children, challenged the discriminatory effects of zoning and land use schemes that restricted their access to housing in preferred residential communities. By prohibiting such discriminatory effects, the FHAA strengthened the complementary goals of ending segregation and furthering community integration for people with disabilities. Obtaining a remedy in these disparate impact cases enabled people with disabilities who historically had been segregated, often in impersonal, distant and potentially abusive institutional settings, to move into *homes* in residential neighborhoods and, if needed, receive services there. Likewise, families with children escaped relegation into unaffordable, sub-par housing because of rules that, while not explicitly prohibiting children, nonetheless keep them out. Disparate impact cases continue to play a positive role in allowing our population to age in

place in their communities through a choice of suitable housing options.

The will of Congress to achieve integration and to eliminate the effects of discrimination is manifest in the legislative history of the statute and the statute's structure and language. For half a century courts have consistently interpreted the FHA and the FHAA as permitting disparate impact claims to fulfill the goals of Congress, holding plaintiffs to high standards of legal proof in consideration of the legitimate interests of defendants, while seeking to further the fundamental goals of equality and integration.

ARGUMENT

I. CONGRESS SOUGHT TO ENSURE THE FULL INTEGRATION OF INDIVIDUALS WITH DISABILITIES IN THE COMMUNITY WHEN IT ENACTED THE FAIR HOUSING AMENDMENTS ACT INCLUDING BY PROHIBITING THOSE HOUSING PRACTICES THAT HAVE THE EFFECT OF DISCRIMINATING ON THE BASIS OF DISABILITY.

A. Congress enacted the FHAA to prohibit the effects of policies based on stereotypes and ignorance that prevent people with disabilities from integrating into the American mainstream.

The Fair Housing Amendments Act (FHAA),

> is a clear pronouncement of a national commitment to end the unnecessary exclusion of persons with handicaps from the American mainstream. It repudiates the use of stereotypes and ignorance, and mandates that persons with handicaps be considered as individuals. Generalized perceptions about disabilities and unfounded speculations about threats to safety are specifically rejected as grounds to justify exclusion.

H.R. Rep. No. 100-711, at 18 (1988), *reprinted in* 1988 U.S.C.C.A.N. 2173, 2179.

In amending the Fair Housing Act (FHA) (to protect people with disabilities,) Congress extended its commitment to protect the civil rights of people with disabilities to participate in mainstream society, as it had mandated for entities receiving federal funding under the Rehabilitation Act of 1973, 29 U.S.C. §§ 791-796i. This Court found in *Alexander v. Choate*, 469 U.S. 287, 295-96 (1985), that in enacting Section 504 of the Rehabilitation Act (Section 504) Congress clearly sought to address not only intentional acts of animus, but also the effects of neglect and apathy toward people with disabilities, as Congress had recognized regarding the harm of racial segregation in enacting and enforcing Titles VI and VII of the Civil Rights Act:

> Discrimination against the handicapped was perceived by Congress to be most often the product, not of invidious

> animus, but rather of thoughtlessness and indifference -- of benign neglect. Thus, Representative Vanik, introducing the predecessor to § 504 in the House, described the treatment of the handicapped as one of the country's "shameful oversights," which caused the handicapped to live among society "shunted aside, hidden, and ignored." Similarly, Senator Humphrey, who introduced a companion measure in the Senate, asserted that "we can no longer tolerate the invisibility of the handicapped in America." And Senator Cranston, the Acting Chairman of the Subcommittee that drafted § 504, described the Act as a response to "previous societal neglect." Federal agencies and commentators on the plight of the handicapped similarly have found that discrimination against the handicapped is primarily the result of apathetic attitudes rather than affirmative animus.

Id. (internal citations and footnotes omitted). The FHAA requirements prohibiting discriminatory housing practices against people with disabilities were based heavily on case law developed primarily in the employment and services context. *See* H.R. Rep. No. 100-711, at 28-29.

Congress relied upon many of the building blocks of Section 504 to draft the FHAA. The FHAA's

definition of who is a person with a "handicap" uses the "definitions and concepts from that well established law." H.R. Rep 100-711 at 28; 29 U.S.C. § 705(20)(A) (Section 504, amended in 1992 from "individual with a handicap" to "individual with a disability"); 42 U.S.C. § 3602(h). The FHAA includes an affirmative obligation to make reasonable accommodations to rules, policies, or procedures, 42 U.S.C. § 3604(f)(3)(B), that is derived directly from Section 504. *See* H.R. Rep. No. 100-711, at 25 (citing *Southeastern Cmty. Coll. v. Davis*, 442 U.S. 397, 407-09 (1979); 45 C.F.R. § 84.12).

When Congress extended Section 504's protection of civil rights for people with disabilities through the FHAA, incorporating Section 504's language, concepts and structure, it recognized that intent was not an element of proof necessary to find a violation of Section 504. This Court's decision in *Alexander v. Choate* had stated (and other courts had subsequently held) that neutral rules with disparate effects could violate the Rehabilitation Act's prohibition on denying participation by people with disabilities in programs receiving federal financial assistance. *See* 469 U.S. at 294 n.11 (explaining that "when Congress in 1973 adopted virtually the same language for § 504 that had been used in Title VI, Congress was well aware of the intent/impact issue and of the fact that similar language in Title VI consistently had been interpreted to reach disparate-impact discrimination. In refusing expressly to limit § 504 to intentional discrimination, Congress could be thought to have approved a disparate-impact standard for § 504.") (citing *United States v. Rutherford*, 442 U.S. 544, 554

(1979); *Cannon v. Univ. of Chic.*, 441 U.S. 677, 698-99 (1979)).

In particular, people with mental disabilities had been subjected to a shameful history of severely inadequate and segregated housing. Even until the middle part of the last century, they were often locked away in large facilities in remote areas where they suffered brutality and neglect. Arlene S. Kanter, *A Home of One's Own: The Fair Housing Amendments Act of 1988 and Housing Discrimination Against People with Mental Disabilities*, 43 Am. U. L. Rev. 925, 929 n.15 (1994). As this Court has recognized, "persons with mental disabilities have been subject to historic mistreatment, indifference, and hostility." *Olmstead v. L. C. by Zimring*, 527 U.S. 581, 608 (1999) (Kennedy, J., concurring) (citing *e.g.*, *City of Cleburne* v. *Cleburne Living Ctr., Inc.*, 473 U.S. 432, 461-64 (1985) (Marshall, J., concurring in judgment in part and dissenting in part)). In the second half of the Twentieth Century, "this nation increasingly accepted the notion that training, treatment, and habilitation of people with mental disabilities is generally more effective when provided in small, community-based programs rather than in large, isolated institutions." Kanter, cited *supra* p. 8, at 929.at 929. As it turns out, similar types of settings often suit the needs of a wide range of people with disabilities, including those with age-related disabilities. *See infra* pp. 12-16.

Two years after passing the FHAA, in enacting the Americans with Disabilities Act of 1990, Congress again found that "historically, society has tended to isolate and segregate individuals with disabilities, and,

despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem." 42 U.S.C. § 12101(a)(2). The segregation of individuals with disabilities continues to be a pressing concern to the nation. Currently there are an estimated fifty-six million people in the United States who have some type of disability, or just under one-fifth of the nation's total population.[2] For America's aging population, which is in the midst of unprecedented growth,[3] the impact of disability and the importance of the FHAA's disability provisions are strikingly pronounced. The numbers of older adults with physical and cognitive limitations will increase sharply over the coming decades. *See* Joint Ctr. for Hous. Studies of Harvard Univ., *Housing America's Older Adults: Meeting the Needs of an Aging Population* 3-6 (Marsha Fernald ed., 2014), *available at* http://www.jchs.harvard.edu/sites/jchs.harvard.edu/files/jchs-housing_americas_older_adults_2014.pdf. Just like their younger counterparts, older people with disabilities want to be fully integrated in the

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[2] Matthew W. Brault, U.S. Census Bureau, *Americans with Disabilities 2010*, (issued July 2012), *available at* http://www.census.gov/prod/2012pubs/p70-131.pdf.

[3] The population aged 65 and over is projected to increase by 82% to 73 million by 2030, an increase of 33 million in just two decades. By 2040, the population aged 80 and over will be 28 million, more than three times the number in 2000. Joint Ctr. for Hous. Studies of Harvard Univ., *Housing America's Older Adults: Meeting the Needs of an Aging Population* 3-6 (Marsha Fernald ed., 2014), *available at* http://www.jchs.harvard.edu/sites/jchs.harvard.edu/files/jchs-housing_americas_older_adults_2014.pdf.

community and do not want to be segregated and isolated in institutions.[4]

B. The FHAA has been applied as Congress intended to prohibit neutral zoning and land use rules that have the effect of restricting people with disabilities from fully integrating into the community.

When Congress amended the FHAA to add disability as a protected class, Congress recognized that zoning and land-use policies often play a role in preventing individuals with disabilities from fully integrating into American society. Although state and local governments have the authority to regulate land use, Congress recognized "that authority has sometimes been used to restrict the ability of [the disabled] to live in communities." H.R. Rep. No. 100-711, at 24 (1988), *reprinted in* U.S.C.C.A.N. 2173, 2185 (citing *e.g.*, *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 435 (1985)). The House Report continued: "[A] method of making housing unavailable to people with disabilities has been the application or enforcement of *otherwise neutral rules* and regulations on health, safety and land use in a manner which

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[4] Nearly 90% of those over age 65 want to stay in their residence for as long as possible, and 80% believe their current residence is where they will always live. Nicholas Farber et al., *Aging in Place: A State Survey of Livability Policies and Practices* 1 Nat'l Conference of State Legislatures & AARP Pub. Policy Inst. (2011), *available at* http://assets.aarp.org/rgcenter/ppi/liv-com/aging-in-place-2011-full.pdf.

discriminates against people with disabilities." *Id.* (internal citations omitted) (emphasis added).

Congress thus recognized that integrating people with disabilities into American society required the examination of zoning policies to determine whether the otherwise neutral rules and regulations on health, safety, and land use have a discriminatory effect on people with disabilities.

> [The provision] is intended to prohibit special restrictive covenants or other terms or conditions, or denials of services because of an individual's handicap and *which have the effect* of excluding, for example, congregate living arrangements for persons with handicaps. . . . To the extent that terms, conditions, privileges, services or facilities *operate to discriminate* against a person because of a handicap, elimination of the discrimination would be required in order to comply with the requirements of this subsection.

Id. at 23-24 (emphasis added).

Over time, zoning policies have changed from what was traditionally a relatively simple division of a city (residential, business and industry) to what is now a very complex set of provisions and restrictions on land usage. Moira J. Kinnally, *Not in My Backyard: The Disabled's Quest for Rights in Local Zoning Disputes Under the Fair Housing, the Rehabilitation,*

and the Americans With Disabilities Acts, 33 Val. U. L. Rev. 581, 588-89 (1999). Local governments began using zoning to exclude certain people from certain areas of town. *Id*. at 589. Restrictions that limited housing opportunities for people with disabilities were often couched in neutral or nondiscriminatory terms, such as restrictions on occupancy or lease terms in certain residential areas. *Id*. In recent decades, zoning law has become even more constraining. Michael Lewyn, *New Urbanist Zoning for Dummies*, 58 Ala. L. Rev. 257, 263 (2006)("According to one survey…70% of municipalities made their zoning rules more restrictive between 1997 and 2002.").

FHAA challenges brought pursuant to disparate impact analysis have reached municipal zoning and land use policies that segregate people with disabilities in ways that clearly were intended to be remedied through the FHAA. *Alexander v. Choate*, 469 U.S. 287 (1985), detailed numerous examples that are clearly intended to be remedied by the Rehabilitation Act that "would ring hollow if the resulting legislation could not rectify the harms resulting from action that discriminated by effect as well as by design." *Id.* at 297 (footnote omitted). The same examples resonate with the goals of the FHAA.

> For example, elimination of architectural barriers was one of the central aims of the Rehabilitation Act, yet such barriers were clearly not erected with the aim or intent of excluding the handicapped. Similarly, Senator Williams, the chairman of the

> Labor and Public Welfare Committee that reported out § 504, asserted that the handicapped were the victims of "[discrimination] in access to public transportation" and "[discrimination] because they do not have the simplest forms of special educational and rehabilitation services they need. . . ." And Senator Humphrey, again in introducing the proposal that later became § 504, listed, among the instances of discrimination that the section would prohibit, the use of "transportation and architectural[sic] barriers," the "discriminatory effect of job qualification . . . procedures," and the denial of "special educational assistance" for handicapped children.

Id. at 295-96 (internal citations and footnotes omitted).

FHAA disparate impact cases have similarly challenged zoning policies and land uses that make housing unavailable to people with disabilities.[5] Several municipalities have attempted to exclude Oxford Houses—homes that provide psychological and social support to persons recovering from alcohol and drug addiction—through facially neutral zoning

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[5] Discriminatory zoning and land use policies may be challenged on the basis of disparate treatment, disparate impact, and the failure to make a reasonable accommodation, or the failure to permit a reasonable modification. *See, e.g.*, *Hollis v. Chestnut Bend Homeowners Ass'n*, 760 F.3d 531, 538 (6th Cir. 2014).

policies. In *Oxford House, Inc. v. Town of Babylon*, 819 F. Supp. 1179 (E.D.N.Y. 1993), the court rejected the town's argument that the home could not operate anywhere within its single-family zoning district because the residents would be unrelated transients rather than families. The court struck down the ordinance, finding that people in recovery required a group living arrangement for psychological and emotional support and that the zoning ordinance therefore had a greater adverse impact on persons with disabilities than on persons without. *Id.* at 1183. *See also Oxford House-Evergreen v. City of Plainfield*, 769 F. Supp. 1329, 1344 (D.N.J. 1991)(noting that people with disabilities "may never be perceived as 'stable' and 'permanent' by communities that object to their presence. If the exclusionary effect of the City's actions were upheld…no Oxford Houses could exist in New Jersey."). Similarly, in *NHS Human Services v. Lower Gwynedd Township.*, No. 11-2074, 2012 U.S. Dist. LEXIS 6904 (E.D. Pa. Jan. 20, 2012), individuals with intellectual disabilities survived a motion to dismiss their disparate impact challenge to a town's restrictive definition of "family" and its failure to grant an exception for four non-related intellectually disabled individuals and a full-time live-in caretaker. *Id.* at *23, 27-28; *see also Hill v. Cmty. of Damien of Molokai*, 911 P.2d 861 (N.M. 1996) (a housing development covenant limiting use to single-family residences had an impermissible disparate impact against group homes for people living with AIDS).

Efforts to provide community based housing for older people, that allows them to age in a residential setting in their communities rather than be segregated

into nursing facilities, has faced similar zoning and land use restrictions that disproportionately excludes housing for older people with disabilities. *See generally* Evelyn Howard et al., *Affordable Seniors Housing Handbook* 793-96 (2005). Such segregation is antithetical to Congress' "pronouncement … to end the unnecessary exclusion of persons with handicaps from the American mainstream." H.R. Rep. No. 100-711, at 18. In *Sunrise Development, Inc. v. Town of Huntington*, 62 F. Supp. 2d 762 (E.D.N.Y. 1999), for example, the challenged law required certain elderly care facilities to apply for zoning changes to locate in residential neighborhoods, while similar senior housing without personal care services could apply for a special use permit, a much easier process. *Id.* at 776. The court held that it appeared likely the law would have a disparate impact on people with disabilities. *Id.* at 776-77.

Courts have also held that zoning policies and licensing schemes can have a discriminatory disparate impact on people with disabilities where they require proposed group homes to provide notice to and obtain feedback from community members as a condition of zoning approval. *See, e.g., Potomac Grp. Home Corp. v. Montgomery Cnty.,* 823 F. Supp. 1285, 1289 (D. Md. 1993). The group home challenged the county's licensing scheme, which required group homes to notify every neighbor and local civic association of the specific type of "exceptional person" who would live there; neighbors and other groups were then given the opportunity to provide regular input to program review boards comprised of government and community members. *Id.* at 1289-90. This requirement had an

unjustifiable discriminatory effect because the notification and hearing process applied only to housing to be exclusively occupied by people who were disabled; no other type of residential housing in the county was held up to such public scrutiny. The court dismissed the defendant's purported justifications as offensive, rather than justified. *Id*. at 1296-97. *See also Sharpvisions, Inc. v. Borough of Plum*, 475 F. Supp. 2d 514, 525-26 (W.D. Pa. 2007) ("Defendants' policies have created restrictions on the establishment of homes for individuals with disabilities in single-family neighborhoods and the burdens placed on those persons with disabilities and those policies undoubtedly have a disparate impact on individuals with disabilities."); *Dr. Gertrude A. Barber Ctr., Inc. v. Peters Twp.*, 273 F. Supp. 2d 643, 655 (W.D. Pa. 2003) (non-disabled people had opportunity to enter into a variety of living arrangements under the challenged ordinance, but residents with disabilities were limited in their choices). Likewise, a court found that requiring housing for up to seven HIV positive residents to apply for a special exemption "has a discriminatory impact on HIV infected persons because it holds the future tenants up to public scrutiny in a way that seven unrelated non-HIV-infected persons would not be." *The Stewart B. McKinney Found., Inc. v. Town of Fairfield*, 790 F. Supp. 1197, 1219 (D. Conn. 1992).

Disparate impact cases brought to challenge the discriminatory effects of neutral policies will bring to light or remedy actions that are the functional equivalent of intentional discrimination. For example, one housing development group applied for a zoning

permit to build a rental apartment complex to house people with mental disabilities. *See Daveri Dev. Grp. v. Vill. of Wheeling*, 934 F. Supp. 2d 987, 993 (N.D. Ill. 2013). Social services would be available at the complex, but otherwise no medical care, services or supervision would be provided. *Id.* at 992-93. The village denied the proposal, relying on a rule that denied any "social service facility." *Id.* at 994. Attempting to justify this action, the village argued that the denial was for the prospective residents' own good, since "the zoning districts in which social services facilities are permitted are closer to the amenities that disabled residents would likely need." *Id.* at 1003-04. This reasoning, the court found, was based on improper "assumptions that disabled persons who are capable of living independently (albeit with access to social services) should be discouraged from interacting with the community at large," suggesting the action to deny the building permit was based at least on implicit bias if not intentional discrimination. *Id.* As this example illustrates, policies based on stereotypes and unfounded assumptions can be as damaging as those based on discriminatory animus. *See also Supp. Ministries for Pers. with AIDS v. Waterford*, 808 F. Supp. 120, 134-36 (N.D.N.Y. 1992) (amendment to town zoning laws to prevent residence for people living with AIDS violated FHA); *Ass'n of Relatives & Friends of AIDS Patients v. Regulations & Permits Admin.*, 740 F. Supp. 95, 107 (D.P.R. 1990) (denial of special use permit to AIDS hospice held to violate the FHA).

C. The FHAA has been applied as Congress intended to prohibit neutral occupancy and residency rules that have the effect of restricting people with disabilities from fully integrating into the community.

Common barriers to housing that people with disabilities face often occur through application and leasing policies and practices that have an adverse discriminatory effect and often lack an obvious or provable discriminatory intent. The first FHAA case dealing with rental housing was such a case. A public housing authority required all applicants for its elderly housing buildings to demonstrate the "ability to live independently." *Cason v. Rochester Hous. Auth.*, 748 F. Supp. 1002, 1004-05 (W.D.N.Y. 1990). To make this determination, the housing authority's screening procedure included conducting in-home evaluations of mood and mental status, having social workers make nursing and daily living activity assessments, and inquiring into an applicant's personal hygiene habits, prior hospitalizations, and medications. *Id.* at 1005. The court, in applying a disparate impact analysis, noted that discrimination against people with disabilities existed as much because of "thoughtlessness" as intentional discrimination and that "[p]ublic agencies must be especially vigilant to protect the disabled from all forms of discrimination—intentional as well as benign discrimination caused by the public's perception of what is 'best' for the disabled." *Id*. at 1003. The court held that plaintiffs had presented sufficient statistical evidence that people

with disabilities were rejected under the "independent living" policy with significantly greater impact than people without disabilities. *Id*. at 1007. Following the court's decision in *Cason*, Congress created a Task Force to assist the Secretary of Housing and Urban Development in establishing reasonable criteria for occupancy in federally assisted housing, consistent with civil rights laws including the FHAA and Section 504. *See* Housing and Community Development Act of 1992, Pub. L 102-550, §§ 641-643; H.R. Rep. No. 102-760, at 139-40 (1992), *reprinted in* 1992 U.S.C.C.A.N 3281, 3419-20 ("The Committee encourages the Task Force to review . . . the procedures developed in connection with *Cason v. Rochester Housing Authority*."). *See also* Public Assisted Housing Occupancy Task Force, *Report to Congress and to the Department of HUD* 5-7 (April 1994), *available at* http://www.huduser.org/portal/publications/affhsg/pub_assthsg_1994.html.

More recently, assisted living and retirement community residents have successfully challenged similar independent living policies that have a disproportionate adverse impact on older people with disabilities by limiting their ability to remain integrated in the community. In Consent Order, *United States v. Savannah Pines*, (No. 401-CV-3303) (D. Neb. 2003), *available at* http://www.justice.gov/crt/about/hce/documents/savannahsettle.php, a settlement reached after a motion to dismiss was denied, required an apartment style retirement community to eliminate restrictions in leases that required all residents to "live independently" without caretakers, required residents

with mobility impairments to purchase liability insurance for motorized wheelchairs and scooters, banned motorized wheelchairs and scooters from common areas including the dining hall, and mandated that residents with motorized wheelchairs or scooters live on the first floor. *See also* Consent Order*, Hyatt v. N. Cal. Presbyterian Homes and Servs. Inc.*, (No. 2008-cv-03265) (N.D. Cal. April 26, 2010) (settlement of resident's challenge to assisted living facility's policy preventing use of walkers in dining room and preventing residents with walkers from using buffet dining room).

Similarly, rules that place limits on the number of hours per day a resident can hire a personal assistant have been successfully challenged in Continuing Care Retirement Communities (CCRCs)[6] because such restrictions have an adverse disparate effect on people with disabilities. The consequence for violating such rules can be severe: eviction from ones home in a personalized, private independent living apartment and a requirement to move to an

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[6] CCRCs provide housing with different levels of support, such as independent living, assisted living, and skilled nursing, in one community, often in a campus setting. The number of CCRCs has increased significantly over the past several decades (in 2010, there were approximately 1900 CCRCs), and there is an increasing need for CCRCs as the population ages. Leading Age, formerly Am. Seniors Hous. Ass'n, CCRC Zone Task Force, *Today's Continuing Care Retirement Community (CCRC)* 5, 26 (Jane E. Zarem ed. 2010), *available at* http://www.naccrau.com/RGHyland/AAHSA%20on%20CCRC%20Characteristics.pdf.

institutional, assisted living setting.[7] In one case, a resident acquired ALS (Lou Gehrig's disease) and relied upon personal aides to continue her active social life; her CCRC demanded that she transfer from her apartment into an assisted living unit. She filed suit alleging the policy had a disparate impact against people with disabilities in violation of the FHA, and her case was settled with changes made to the mandatory transfer policy. Consent Order, *Bell v. Bishop Gadsden*, (No. 05-1953) (D.S.C. July 8, 2005). *See* D. Trey Jordan, *Continuing Care Retirement Communities Versus the Fair Housing Act: Independent Living and Involuntary Transfer*, 9 Marq. Elder's Advisor 205, 221 (2005). In another case, a resident who similarly hired a personal assistant was required by her CCRC to move from a spacious two bedroom apartment filled with her personal possessions, to assisted living that consisted of a shared room with a curtain divider, hospital bed, and a dresser. *See* Consent Order, *Herriot v. Channing House*, (No. 2006-cv-06323) (N.D. Cal. Oct. 10, 2006).

Technological advances have the potential both to ameliorate and to create barriers for people with disabilities. Recently, a Los Angeles housing provider began requiring all tenants to pay rent online. Andrew Chow, *Can a Landlord Demand Online-Only Rent Payment?*, FindLaw (Mar. 12, 2012, 8:04 AM), http://blogs.findlaw.com/law_and_life/2012/03/can-a-

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[7] For a general discussion of transfer requirements used by CCRCs, see Lauren R. Sturm, *Fair Housing Issues in Continuing Care Retirement Communities: Can Residents be Transferred without Their Consent?*, 6 N.Y. City L. Rev. 119 (2003).

landlord-demand-online-only-rent-payment.html. Policies like this may have a significant adverse impact on protected classes such as individuals with disabilities. Where such policies make housing unavailable to people with disabilities, they should be subject to challenge under the FHA, even if they were not enacted with particular discriminatory animus or the intent to exclude people with disabilities from equal housing opportunities. Similarly, where housing providers have policies in place that have the effect of discriminating against those with mental disabilities, such policies should be subject to challenge. For example, in *Fair Housing of the Dakotas, Inc. v. Goldmark Property Management*, 778 F. Supp. 2d 1028, 1032 (D.N.D. 2011), a housing provider allowed trained assistance animals for disabled residents at no cost, but a resident requesting a permit for an untrained assistance animal was subjected to a nonrefundable fee and a monthly charge. Plaintiffs established a claim for disparate impact toward people with mental disabilities because "animals used to ameliorate physical disabilities are almost always specially trained while animals used to ameliorate mental disabilities like depression or anxiety are not specially trained, but instead provide emotional support and comfort." *Id.* at 1038.

II. CONGRESS SOUGHT TO REMEDIATE THE INCREASED POVERTY AND POORER SOCIO-ECONOMIC AND EDUCATIONAL OPPORTUNITIES CAUSED BY DISCRIMINATION AGAINST FAMILIES WITH CHILDREN INCLUDING THE DISCRIMINATORY EFFECTS OF NEUTRAL POLICIES WHEN IT ENACTED THE FAIR HOUSING AMENDMENTS ACT.

A. At the time of the passage of the FHAA Congress was responding to a national housing crisis in which the effects of discrimination against families with children were closely connected to poverty and race.

When Congress passed the FHAA it acted in part because family discrimination had become a "national crisis." 134 Cong. Rec. H4612 (daily ed. June 22, 1988) (statement of Rep. Miller). This crisis was of historic proportions. In 1979 fifty-three percent of female headed families occupied rental housing and seventy percent of those lived in poverty.[8] One year later, one-third of the homeless population was families with

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[8] Edward Allen, *Six Years After Passage of the Fair Housing Amendments Act: Discrimination Against Families with Children* 9 Admin. L.J. Am. U. 297, 301 n. 21, 22 (1995) (citing Robert W. Marans et al., Institute for Social Research, *Measuring Restrictive Rental Practices Affecting Families with Children: A National Survey* 24 (1980)).

children.[9] In 1980, HUD found widespread, consistent and overwhelming discrimination against families with children under the age of 18.[10] One out of every four housing providers did not rent to families with children *at all*; another fifty percent imposed restrictions that were not placed on residents without children.[11] "Congress was also concerned that discrimination against children often camouflages racism or has an undesirable impact on minorities." *Soules v. United States Dep't of Hous. & Urban Dev.*, 967 F.2d 817, 821 (2d Cir. 1992) (citing H.R. Rep. No. 100-711 (1988)).[12] In adopting the new protected class, it was clear to

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[9] Allen, *supra* note 8, at 301 n.24.

[10] Congress was acutely aware of the HUD study, *see, e.g.*, 134 Cong. Rec. S10, *passim* (daily ed. Aug. 2, 1988) (comments by Senator Cranston, Kerry, Leahy and others).

[11] *Id. See also* Jonathan I. Edelstein, *Family Values: Prevention of Discrimination and the Housing for Older Persons Act of1995,* 52 U. Miami L. Rev. 947 (1998) (citing Robert W. Marans et al., Institute for Social Research, *Measuring Restrictive Rental Practices Affecting Families with Children: A National Survey* 24 (1980)). During the debate concerning the FHAA, Senator Domenici cited these figures in support of his claim that two million Americans were denied their choice of housing due to discrimination. *See* 134 Cong. Rec. S10, 544, S10, 553 (daily ed. Aug. 2, 1988) (statement of Sen. Domenici).

[12] The House Report acknowledged that discrimination against families has a discriminatory effect against minority households, and cited with approval the two federal Courts of Appeal that had at the time of the enactment of the FHAA held that adults only housing may state a claim of racial discrimination under the FHA. H.R. Rep. No. 100-711, at 21 (1988), *reprinted in* 1988 U.S.C.C.A.N. 2173, 2182.

Congress and to those whose studies it relied on, that family status discrimination was inextricably entwined with, not only issues of race discrimination, but also poverty. *See* Jane G. Greene & Glenda P. Blake, *A Study of How Restrictive Rental Practices Affect Families with Children* 3, 34 (1980) (research conducted for the Office of Policy Development and Research, HUD); Robert W. Marans et al., Institute for Social Research, *Measuring Restrictive Rental Practices Affecting Families with Children: A National Survey* 24 (1980)) (prepared for the Office of Policy Development and Research, HUD); *see also* H.R. Rep. No. 100-711, at 32 (1988), *reprinted in* 1988 U.S.C.C.A.N. 2173, 2184); Congress expanded the Fair Housing Act to protect against familial status discrimination in light of an express concern for the plight of single-parent families, young families with children, and poor families." 134 Cong. Rec. H4611 (daily ed. June 22, 1988) (statement of Rep. Miller). Congress intended to prohibit the exclusion of families with children from housing opportunities based on invidious discrimination and stereotypes. *See* H.R. Rep. No. 100-711, at 19. Restrictive residential occupancy standards were one of the housing problems that Congress specifically targeted in the enactment of the 1988 amendments to the FHAA. H.R. Rep. No. 100-711. Families with children have turned to the courts to challenge restrictive residential occupancy policies that on their face can appear quite neutral.

Congress intended to protect children in all families. The definition of "familial status" includes "one or more individuals (who have not attained the age of 18 years) being domiciled with—(1) a parent or another person

having legal custody of such individual or individuals; or (2) the designee of such parent or other person having such custody, with the written permission of such parent or other person." 42 U.S.C. 3602(k). It also protects "any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years." *Id.* Congress intended the broadest standing possible under the Constitution, and any member of the household, or any other person, who is aggrieved by a discriminatory act may bring a claim. H.R. Rep. No. 100-711, at 23. The Tenth Circuit applied this principle of broad standing, holding that a live-in boyfriend of a woman with three children could bring a fair housing claim as an aggrieved person based on a housing practice with discriminatory effects on families with children. *Mountain Side Mobile Estates P'ship v. HUD*, 56 F.3d 1243 (10th Cir. 1995).

B. The housing crisis for families with children continues.

Families with at least one child under eighteen currently make up one-third (33.6%) of all households. Rodney Harrell & Ari Houser, AARP Public Policy Institute, *State Housing Profiles: Housing Conditions and Affordability for the Older Population* 514 (3d ed. 2011), *available at* http://assets.aarp.org/rgcenter/ppi/liv-com/AARP_Housing2011_Full.pdf. Evidence of relative economic stress among families with children continues to be prevalent in recent studies. For instance, in 2011, nearly half (45%) of all children lived in low-income households—households subsisting at below 200% of the federal poverty level—a figure

reflecting a five percent increase over a mere five year period. *See* Sophia Addy et al., Nat'l Ctr. for Children in Poverty, *Basic Facts About Low-income Children: Children Under 18 Years* 1-2 (2011), *available at* http://www.nccp.org/publications/pdf/text_1074.pdf. Families with the lowest income relative to their area's median account for 71.4% of worst case housing needs, defined by HUD as either paying over half of their income for rent or living in severely inadequate conditions. U.S. Dep't of Hous. & Urban Dev., *Worst Case Housing Needs 2009: A Report to Congress* 3 (Feb. 2011), *available at* http://www.huduser.org/ Publications/pdf/worstcase_HsgNeeds09.pdf.

Families with children also include both families headed by grandparents and multigenerational families (households consisting of three or more generations of relatives). More than 5.8 million children live with grandparents who are the householders (7.9% of all children under 18 in the U.S.).[13] Increasingly, grandparents are taking on responsibility for caring for their grandchildren. Two and a half million grandparents are the householders and are responsible for the basic needs of one or more grandchildren who live with them. U.S. Dep't of Comm., Census Bureau, *Grandparents Day 2009: Sept. 13*, Newsroom Archive, (July 13, 2009), https://www.census.gov/newsroom/releases/archives/fa

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[13] AARP et al., *GrandFacts: National Fact Sheet for Grandparents and Other Relatives Raising Children* 1 (July 13, 2009), *available at* http://www.aarp.org/content/dam/aarp/relationships/friends-family/grandfacts/grandfacts-national.pdf.

cts_for_features_special_editions/cb09-ff16.html. Of these, almost twenty percent live in poverty.[14] Also of note is that multigenerational families are increasing, having grown particularly fast during the recent economic recession. In 2000, approximately five million multigenerational households existed in the United States. (4.8% of all households). Rodney Harrell, et al., AARP Public Policy Institute, *Multigenerational Households are Increasing* 1 (2011), *available at* http://assets.aarp.org/rgcenter/ppi/econ-sec/fs221-housing.pdf. In 2008, this figure increased to 6.2 million (5.3% of all households), and jumped again to 7.1 million in 2010 (6.1% of all households). *Id.* For some multigenerational households, shared living space is a choice that enhances familial closeness and bonding across the generations. The households of some groups, especially Latinos and Asians, tend to be larger than white non-Hispanic households because they include more children, multigenerational and extended families, or combinations of those. *See* U.S. Census Bureau, *Table AVG1. Family Status and Household Relationship of People 15 Years and Over, by Marital Status, Age, and Sex: 2010*, *America's Families and Living Arrangements: 2010*, https://www.census.gov/population/www/socdemo/hh-fam/cps2010.html (2010) (follow "Excel" hyperlink or "CSV" hyperlink). But for many others, it grimly reflects economic necessity, disability of a parent or adult child, or the absence or incapacity of the parent of a minor child. In the latter cases, family relationships may be strained by crowded living quarters, excessive caregiving responsibilities, and economic hardship. It is clear that

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[14] *Id.*

the consequences of limiting the housing supply adversely affects the most vulnerable populations, those with whom Congress was concerned at the time it enacted the FHAA.

C. The FHAA has been applied as Congress intended to prohibit neutral occupancy and residency rules that have the effect of restricting families with children from living in the housing they choose.

Residential occupancy standards limit the number of people that can occupy an apartment, condominium, single family home or other residential space. They are one type among many policies and restrictions that have limited the ability of families with children to find suitable housing. Marans et al. cited *supra* p. 25, at 21.

Housing providers (e.g. landlords, property managers) typically select standards more restrictive than those used by government. Tim Iglesias, *Moving Beyond Two Person Per Bedroom: Revitalizing Application of the Federal Fair Housing Act to Private Residential Application of the Federal Fair Housing Act to Private Residential Occupancy Standards*, 28 Ga. St. U. L. Rev. 620, 631 (2012). When governments set residential occupancy standards they are usually concerned with protecting public health and safety. *Id.* As a result, such governmental standards to protect health and safety tend to rely on fire and building codes and measurements of square footage and allow

more persons per space than housing providers. *Id.* at 703-04. Indeed "reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling" are exempted from coverage under the FHA. 42 U.S.C. § 3607(b)(1).[15] In creating this exemption, Congress meant to insulate governmental defendants from claims that their health and safety occupancy maximum standards violated the FHAA because it discriminated on the basis of the newly added status, families with children. *See City of Edmonds v. Oxford House, Inc.,* 514 U.S. 725, 735 n.9 (1995). Since such policies are neutral – they are not in any way directed at families with children and apply equally to all families and households with and without children—Congress and this Court, then, understood that governments were to be insulated from claims a violation resulted from a maximum occupancy restrictions resulting in unjustified adverse discriminatory effects.

Restrictive occupancy standards are a problem that continues to restrict where and in what conditions families with children can live. For instance, "[t]he two-person-per-bedroom standard excludes many families from a large portion of available rental housing: 28% of families in the United States who are renters are comprised of three to five members, and 71% of the rental apartments in the United States are comprised of studios, one-bedroom, and two-bedroom units. Of course, the situation is even worse for larger

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[15] The exemption does not apply to non-governmental entities imposing occupancy restrictions.

families." Iglesias, cited *supra* p. 29, at 632 (citing Public Use Microdata Sample (PUMS) of the 2008–2010 American Community Survey conducted by the U.S. Census Bureau).

Soon after passage of the FHAA, the federal courts established that occupancy limits with discriminatory effects could violate Section 3604(a) on the basis of family status. "[The] Fair Housing Act requires that a court examine the totality of the circumstances to determine whether the facially neutral standard results in discrimination against a protected class." *United States v. Badgett*, 976 F.2d 1176, 1179 (8th Cir. 1992) (reversing and remanding for further proceeding the finding that a housing policy requiring single occupancy for one-bedroom apartments was facially neutral and therefore not a violation of the FHAA). *Fair Housing Council v. Ayres,* 855 F. Supp. 315 (C.D. Cal. 1994) examined a limit of two persons per two-bedroom apartment in a residential complex where one plaintiff family consisted of a couple with a child seeking occupancy and another consisted of a couple who wished to remain after the birth of an expected child. The court held that no showing of intent was needed to establish a violation of the FHAA. *Id.* at 318. More traditional statistical showings can be used to show the discriminatory effects of these types of maximum occupancy rules. *E.g., United States v. Tropic Seas, Inc.*, 887 F. Supp. 1347, 1360 (D. Haw. 1995) (finding plaintiffs met their prima facie case because a maximum occupancy limit of three people per two-bedroom apartment would exclude 92-95% of all families with children but only 19-21% of families without children in two relevant geographic areas.).

Courts have no trouble recognizing that occupancy rules that appear neutral on their face may nevertheless exclude protected classes. *See, e.g., Reeves v. Rose*, 108 F. Supp. 2d 720 (E.D. Mich. 2000) (limitation of one-bedroom apartments to two people, and two-bedroom apartments to three people); *Hous. Rights Ctr. v. Snow*, No. CV 05-4644, 2006 U.S. Dist. Lexis 94472, at *5 (C.D. Cal. Dec. 12, 2006) (limitation of two persons per a one-bedroom unit). In *Gashi v. Grubb*, 801 F. Supp 2d. 12 (D. Conn. 2011), a couple already living in a one-bedroom apartment under a facially neutral occupancy policy (two persons per bedroom) gave birth to a son and, as a result, received a violation notice; they then sold their condo. The plaintiffs proved that in Stamford 30.76% of three person households were families with children but only 9.88% were households without children—sufficient evidence of a prima facie case. Plaintiffs prevailed on the merits because defendants failed to provide any proof that its policy was justified or had a legitimate purpose. *Id.* at 17.

Sometimes, instead of having a set maximum number of occupants, a housing provider may assess a rental charge for additional occupants in excess of a specified number. Such a policy has a disparate impact on families with children. Jennifer Jolly Ryan, *A Real Estate Professional's and Attorney's Guide to the Fair Housing Law's Recent Inclusion of Familial Status as a Protected Class*, 28 Creighton L. Rev. 1143, 1160-61 (citing *HUD v. Rose*, No. HUDALJ 09-92-1266-1, 1994 WL 270243, at *2 (H.U.D. A.L.J. Apr. 4, 1994) (HUD entered permanent injunction and consent order against an apartment complex owner, where the

apartment complex owner had a policy of charging $100 additional monthly rent for each occupant in excess of three). Other rules unrelated to occupancy can also have a disparate discriminatory effect on families with children. *See Vance v. Bakas*, No. C 05-3385 PVT, 2006 U.S. Dist. Lexis 11183, at *7 (N.D. Cal. Mar. 1, 2006) (dismissal of FHA claim not warranted where prospective tenants might be able to prove that the landlord's practice of refusing to rent to those who would use their apartment or home to operate home day care would have a disparate impact on family status).

Conclusion

Congress enacted the Fair Housing Amendments Act in 1988 amending the Fair Housing Act, to prohibit discrimination because of disability and familial status, and to end the segregation and further the integration of people with disabilities and families with children. For the law to fulfill its stated purposes, it must recognize claims based on discriminatory effects.

Respectfully submitted,

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Appendix Table of Contents

Appendix 1 – Statements of Interests

AARP

AARP is a nonpartisan, nonprofit organization, with a membership that helps people turn their goals and dreams into real possibilities, strengthens communities and fights for the issues that matter most to families, such as healthcare, employment and income security, retirement planning, affordable utilities and protection from financial abuse. AARP seeks through education, advocacy, and service to enhance the quality of life for all by promoting independence, dignity, and purpose. In its efforts to promote independence, AARP works to ensure the availability of affordable, accessible, and appropriate housing and the elimination of discrimination in housing. In addition, AARP supports the ability of older people to receive the services they need in their homes so they can age with dignity in their community. The ability of older people to remain in their communities as they age depends on their continuing ability to challenge laws and policies that discriminate because of their effect. The mission of AARP Foundation, an affiliate of AARP, includes improving the supply of affordable and adequate housing for low income Americans fifty and older. As part of its effort, this year AARP Foundation issued a report with The Joint Center for Housing Studies of Harvard University called "Housing America's Older Adults—Meeting the Needs of an Aging Population" that found that ensuring that these older adults have the housing they need to enjoy high-quality, independent, and financially secure lives has taken on new urgency not

only for individuals and their families, but also for the nation as a whole. Some of the results of that Report are cited in this brief.

CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

California Rural Legal Assistance, Inc. (CRLA) was created in 1966 as a statewide not-for-profit law firm to provide legal representation to rural low-income tenants, farmworkers and other rural residents throughout California. CRLA has enabled thousands of low income people and farmworkers to have access to justice in the civil legal system in California in substantive areas including fair housing and civil rights. Enforcement of fundamental rights to decent, affordable housing and fair access to housing is a priority for all of CRLA's twenty-one field offices throughout the state. CRLA clients face some of the worst housing conditions imaginable, living in canyons, under porches, in garages, in their vehicles and dwellings that lack the most basic amenities of heat, hot water, functional plumbing, electricity, potable water and structural integrity. They lack access to decent housing because of their low income and due to discrimination based on race, color, ethnicity, national origin, religion, disability and familial status. CRLA advocacy seeks to ensure that low income clients, 65% of whom are racial and ethnic minorities, gain access to decent, affordable housing they desperately need. CRLA receives HUD fair housing enforcement grants to target underserved rural communities in California where the fair housing and civil rights of our clients, frequently people with disabilities and families with

children, are violated by policies and practices that have discriminatory effect on them.

DISABILITY LAW CENTER

The Disability Law Center (DLC) is Utah's federally-mandated Protection and Advocacy agency. The DLC envisions a society where persons with disabilities are full and equal citizens under the law, are free from discrimination, and have access to the same opportunities afforded others. Our mission is to enforce and strengthen laws that protect the opportunities, choices, and legal rights of Utahns with disabilities. The DLC is also Utah's only private fair housing testing and enforcement agency, and in this capacity serves all protected classes.

FAMILY EQUALITY COUNCIL

Family Equality Council, founded in 1979, is a national nonprofit, nonpartisan organization working on behalf of the three million parents who are lesbian, gay, bisexual and transgender (LGBT) and their six million children across the country. Family Equality Council works to achieve social and legal equality for LGBT families by providing direct support, educating the American public, and advancing policy reform that ensures full recognition and protection for all families under the law at the federal, state and local levels. Family Equality Council is particularly concerned with the ability of families to access safe and affordable housing in communities and neighborhoods of their choice without fear of discrimination based on familial status.

LAMBDA LEGAL DEFENSE & EDUCATION FUND, INC.

Lambda Legal Defense and Education Fund, Inc. (Lambda Legal) is the nation's oldest and largest non-profit legal organization committed to achieving full recognition of the civil rights of lesbian, gay, bisexual, and transgender (LGBT) people, and people living with HIV through impact litigation, education, and public policy work. In furtherance of this mission, Lambda Legal has litigated numerous cases to address both the implicit and explicit discrimination that LGBT people and people living with HIV have historically faced in various realms, including in housing. Lambda Legal is committed to ensuring that non-discrimination protections are appropriately understood and applied to comprehensively address the housing disparities experienced by the diverse individuals and families of the communities we serve, including the particular housing vulnerability faced by older LGBT and HIV-positive people, and LGBT families with children.

NATIONAL DISABILITY RIGHTS NETWORK

The National Disability Rights Network (NDRN) is the non-profit membership association of protection and advocacy (P&A) agencies that are located in all 50 states, the District of Columbia, Puerto Rico, and the United States Territories. There is also a federally mandated Native American P&A System. P&A agencies are authorized under various federal statutes to provide legal representation and related advocacy services, and to investigate abuse and neglect of individuals with disabilities in a variety of settings.

The P&A System comprises the nation's largest provider of legally-based advocacy services for persons with disabilities. NDRN supports its members through the provision of training and technical assistance, legal support, and legislative advocacy, and works to create a society in which people with disabilities are afforded equality of opportunity and are able to fully participate by exercising choice and self-determination.

NATIONAL HOUSING LAW PROJECT

National Housing Law Project (NHLP) is a private, non-profit, national housing and legal advocacy center established in 1968. Our mission is to advance housing justice for low-income people by increasing and preserving the supply of decent, affordable housing; improving existing housing conditions, including physical conditions and management practices; expanding and enforcing low-income tenants' and homeowners' rights; and increasing housing opportunities for racial and ethnic minorities. Through policy advocacy and litigation, NHLP has been responsible for many critically important changes to federal housing policy and programs that have resulted in increased housing opportunities and improved housing conditions for low-income people. NHLP has worked with hundreds of advocates, attorneys, and agencies throughout the country on cases involving tenants and homeowners. For decades, NHLP has been involved in efforts to promote fair housing opportunity for all.

SERVICES & ADVOCACY FOR GLBT ELDERS

Services & Advocacy for GLBT Elders (SAGE) is the largest and oldest national organization dedicated to improving the lives of lesbian, gay, bisexual and transgender (LGBT) older adults. Founded in 1978, SAGE coordinates a network of affiliates across the country, offers supportive services and consumer resources for LGBT older adults and their caregivers, advocates for public policy changes that address the needs of LGBT older people, and provides training for aging providers and LGBT organizations, largely through its National Resource Center on LGBT Aging. Many LGBT older adults across the country struggle to find secure and affordable housing -- a reality that places them at a significant disadvantage at a vulnerable point in their lives. As a result, SAGE is committed to ensuring a robust Fair Housing Act that protects the ability of all older adults to age with security and dignity.