

**ACCESSIBLE AND AFFORDABLE HOUSING:  
DESIGN, MARKETING, AND MANAGEMENT CONCERNS  
OF DISABLED INDIVIDUALS AND COMMUNITY DEVELOPMENT  
CORPORATIONS IN MASSACHUSETTS**

by

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B. A., Economics  
Princeton University, 1989

Submitted to the Department of Urban Studies and Planning and  
the Center for Real Estate  
in Partial Fulfillment of the Requirements for the Degrees of

**Master of City Planning**

and

**Master of Science in Real Estate**

at the  
Massachusetts Institute of Technology  
June 1993

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**ABSTRACT**

This work analyzes the conflict between disability groups promoting fully-integrated, physically accessible housing and the community development corporations promoting affordable housing in Massachusetts.

The history, demographics, and goals of each group are reviewed. The relevant federal and state laws are summarized. A presentation is made of several debates over design, marketing, and management issues. A framework for understanding the terms of the debate is proposed. Using this tool, suggestions for reducing the conflict and rethinking the debate are offered in a way that could benefit both groups.

Thesis Supervisor: John E. Davis

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"Housing is perhaps the most intensely personal issue involved in architectural and transportation barrier removal. To own a home of one's own is as much a dream for disabled people as it is for other Americans and even more of a necessity because of inaccessible apartment buildings and the impracticality of making structural modifications there. And the concept of home includes the relaxation of privacy, the enjoyment of prized possessions, the sharing of family togetherness... each evening as we return from work, the thought of home brings with it a special feeling of comfort and security that makes all the effort worthwhile."

Frank Bowe, Handicapping America

"The core of CDC activity remains housing development, reflecting the recognition of community development corporations that a decent place to live is the necessary base from which people can begin to rebuild shattered lives and devastated communities."

National Congress for Community Economic Development (NCCED), Changing the Odds

"To understand what somebody is saying, we must understand more than the surface meaning of words; we have to understand the context as well."

E.J. Hirsch Jr.,  
Cultural Literacy: What Everyone Needs To Know

## ACKNOWLEDGEMENTS

Special thanks to my advisor, Professor John Davis, for his invaluable suggestions and for helping to me organize and clarify my thoughts during this entire process. Also, I would like to acknowledge and thank the two other members of my committee, Professor Richard Schramm and Lisa Sloane, for their helpful comments and useful advice. Also, I would like to express my gratitude to Margaret Talbott for editing the drafts of this work.

I am indebted to the many professionals who were gracious enough to give some time from their busy schedules in order to be interviewed for this work: Larry Brayman, Speed Davis, Colleen Duffy, Virginia Guild, Roger Hertzog, Tom Kegelman, Julianne Mortel, Jean Nachinoff, Elaine Ostroff, Fran Price, and Ron Rothenberg.

Finally, I would like to thank my parents, family, and friends for their patience and for their support.

The responsibility for the errors and omissions in this document is entirely my own.

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## Chapter 1 : Introduction

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This thesis has two objectives. The practical objective is to propose a few methods for reducing conflict between two groups: the advocates of physically accessible housing and the advocates of affordable housing. The theoretical objective is to understand the language of these "socially-motivated" groups and to create a framework for thinking about the discourse between them.

Both groups have accomplished many admirable achievements in Massachusetts and point to their work in this state as models for potential future activity across the United States. Substantial material has been written contrasting the goals of these organizations with the competing objectives of private, for-profit groups. With respect to the disabled, debates over housing, architectural access, and employment have been framed in this manner. Also, tensions between locally-based community development corporations (CDCs) and private interests over issues such as gentrification, proper land use, economic development, and resident displacement have been analyzed in a similar context.

In their respective situations, each group has fought to maintain a special position and to emphasize the socially-motivated character of their concerns. But what happens when the goals of these two groups intersect? An important area of intersection between them is the design, marketing, and management of physically accessible units in CDC properties. For example, structural design considerations

necessary to meet the needs of a disabled resident might raise the cost of new construction. This added cost could make the affordable housing development infeasible.

In these situations, the social good of accessible housing is brought into conflict with the social good of affordable housing. How can this conflict be reduced or even resolved? More generally, how can the language that each group uses to defend its social objectives be understood? Is there an analytic tool that can be used to help evaluate these voices? Can such a framework be applied to other situations? This thesis will grapple with all of these questions.

Although settings occupied exclusively by the disabled, such as institutional arrangements, group homes, and other forms of community living are mentioned, they are not the primary focus of this work. The focus is on fully-integrated living arrangements. Similarly, the connection between disability and participation in CDC activities are not analyzed. Both are potentially interesting fields of study, but beyond the scope of this thesis.

Also, this paper is limited to the experience of these groups in Massachusetts. As will be shown later, certain legislative activities, governmental organizations, and historical forces are unique to this state. While many of the observations and findings are probably still applicable to other parts of the United States, cross comparison with the experiences in other states might be another useful subject of inquiry.

This remainder of this work is organized into seven chapters. The relationship between physically accessible housing and the disabled is reviewed in Chapter 2. Chapter 3 outlines federal and Massachusetts efforts designed to meet these housing needs. Chapter 4 looks at the relationship between affordable housing development and community development corporations. The story of Carol Avenue Cooperative, told in Chapter 5, is an interesting example of the conflict between the worlds of accessible and affordable housing. Chapter 6 presents examples of other projects where each group was dissatisfied with the performance of the other. Chapter 7 proposes a theoretical framework for understanding the dialogue between the two groups and offers observations and lessons that may help to mitigate the potential for conflict in the future. Chapter 8 concludes with a summary of the issues. Finally, the three appendices expand on the definitions, general provisions, and scope of application of the legislation in the chapter of federal and state law.



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## Chapter 2 : Housing and the Disabled

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This chapter will explore the relationship between the disabled and housing in the United States. A few statistics are presented to familiarize the reader with the size, scope, and composition of the disabled population. A brief sketch of the history of disability policy and the disability movement is presented. The overarching goals behind the disability movement are discussed. Finally, the housing-specific goals and the attitudes of disability advocates toward the public, not-for-profit, and private housing sectors are reviewed.

### 2.1 Statistics

What is the size of the disabled population? This question is one of the most basic and one of the most confusing in disability policy. Congress found that "some 43,000,000 Americans have one or more physical or mental disabilities, and the number is increasing as the population as a whole is growing older."<sup>1</sup> Michael LaPlante, director of the federally-funded Disability Statistics Program, estimated the total to be about 34 million.<sup>2</sup> LaPlante noted that his estimate depended heavily on

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<sup>1</sup> United States, Americans with Disabilities Act of 1990, Section 2(a)(1).

<sup>2</sup> Mitchell P. LaPlante, "The Demographics of Disability," The Americans with Disabilities Act : From Policy to Practice, ed. Jane West (New York: Milbank Memorial Fund, 1991) 62-65.

the specific characteristics surveyed and were highly sensitive to the instrument used. He speculated that under a different set of guidelines, the total might have been significantly different.<sup>3</sup> LaPlante also disagreed with the 43 million estimate mentioned above, arguing that certain omissions and certain inclusions in the study from which it was cited give an inaccurate reflection of the size of the disabled population. Either way, it is likely that between 13% and 18% of the United States population is disabled.

Given this approximation of the total population, what are the specific disabilities within this group? In a recent report entitled The Scope of Physical Disability in America - Populations Served, from the National Center for Medical Rehabilitation Research (NCMRR) determined the following:<sup>4</sup>

• People with hearing impairments: <sup>5</sup>	22 million
• People who are totally blind:	120,000
• People who are legally blind:	60,000
• People with epilepsy: <sup>6</sup>	2 million
• People who are partially or completely paralyzed:	1.2 million
• People with developmental disabilities:	9.2 million
• People with speech impairments:	2.1 million
• People with mental retardation: <sup>7</sup>	2.0-2.5 million
• People who use wheelchairs:	1 million

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<sup>3</sup> LaPlante tried to relate his analysis of the legal definitions of disability used in federal non-discrimination statutes for the disabled. A more general discussion of these definitions and their effect on the legal size of the disabled community is contained in Appendix A.

<sup>4</sup> Categories are not mutually exclusive.

<sup>5</sup> Includes 2 million who are deaf.

<sup>6</sup> 80% of people with epilepsy do not have seizures because they take medication.

<sup>7</sup> 90% of people with mental retardation have mild mental retardation.

Although it is important to have a general understanding of the size of total disabled population, this thesis will focus exclusively on physical disability, especially on those disabilities that influence the nature of the built residential environment.

Two other ways of measuring physical disability are by determining the use of assistive technology, such as TTYs, wheelchairs, walkers, and other devices; and by estimating the presence of adaptive technology in the home, such as grab bars, ramps, and extra wide doors. The 1990 National Health Interview Survey (NHIS) investigated these two topics and obtained the following results:<sup>8</sup>

**Assistive Technology - Persons Using...**

• Any form of assistive technology	13.1 million
• Mobility technology	6.2 million
• Canes or walking sticks	4.4 million
• Walkers	1.7 million
• Wheelchairs	1.4 million

**Adaptive Technology - Persons Living In Homes with...**

• Adaptive Technology	7.1 million
• Hand rails	3.4 million
• Ramps	2.1 million
• Wide doors	1.7 million
• Raised toilets	1.3 million

Studies have also been conducted of the age, income characteristics, and the health care costs of people with disabilities. Disability is positively correlated with

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<sup>8</sup> Categories are not mutually exclusive.

age. "About 9 percent of adults aged 18 to 44 years were limited in activity and 22 percent of those aged 45 to 64 years."<sup>9</sup> It is also negatively correlated with income. "Fifty percent of adults with disabilities [have] household incomes of \$15,000 or less. Only 25 percent of persons without disabilities had incomes in this bracket."<sup>10</sup> Still,

"disabled people come from every socioeconomic strata. Those who are financially self-sufficient have generally been able to acquire housing and other services... inability to work and lack of educational and employment opportunities caused by inaccessible buildings and discriminatory program practices have kept many other disabled people in the low-income category and thus made them less attractive as a market for housing and any other services."<sup>11</sup>

Also, some of disabled have enormous health care needs. It was recently estimated that "15 percent of the people with disabilities incur 41 percent of the nation's total medical costs."<sup>12</sup>

In Massachusetts, there are approximately 270,000 adults living with significant disabilities.<sup>13</sup> Estimates provided by various state agencies are as follows:

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<sup>9</sup> LaPlante 62.

<sup>10</sup> United States, The Americans with Disabilities Act of 1989 : Report from the Senate Committee on Labor and Human Resources, Rept. 101-116 (20 August 1989) 9.

<sup>11</sup> Ronald L. Mace, "Design for Special Needs" in Housing : Symbol, Structure, Site, ed. Lisa Taylor, (New York : Smithsonian Institution, 1990) 51.

<sup>12</sup> Joseph P. Shapiro, "The Health Care Conundrum," in "Access Activism," Utne Reader, (March/April 1993) 109.

<sup>13</sup> Neal Schwartz, A Move Toward Independence: Housing for People with Disabilities, (Boston: Citizens Housing and Planning Association, January 1991) 1.

• Mentally Ill	44,000
• Mentally Retarded	18,500
• Visually Impaired	26,980
• Deaf / Hard of Hearing	35,000
• AIDS / ARC	5,000
• Developmental Disabilities <sup>14</sup>	141,163

The difficulties of measuring the size of the disabled population create uncertainty for housing developers, owners, and managers. First, total demand for units designed to accommodate the needs of the disabled is unclear. Second, the total demand for specific design features is very hard to determine. Third, there is little data on the accessibility characteristics of the existing housing stock. What is available is usually not sufficiently disaggregated by geographic region. These issues create additional problems for all developers, including not-for-profit housing groups that want to provide quality units for the disabled.

## 2.2 History of Disability Policy

Robert Haveman presents a useful way to understand the history of disability policy in the United States during the twentieth century.<sup>15</sup> He focuses on three general themes: (1) income assistance, (2) job skills and employment opportunities, and (3) civil rights. He argues that the roots of nearly all federal and state legislative activity can be found in these three ideas. Although almost every piece of legislation

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<sup>14</sup> Includes physical, health related, central nervous system, epilepsy, and others.

<sup>15</sup> Robert H. Haveman, Halberstadt, and Richard V. Burkhauser, Public Policy Toward Disabled Workers (Ithaca: Cornell University Press, 1984).

embodies at least one of these criteria, in the case of multiple influences, usually one will predominate. The purpose of the brief historical sketch in this section is to provide a very short glimpse at the general evolution of disability policy and activities in the United States.

Originally, care for the disabled was predominately through the use of institutions and hospitals. Provider care was necessary and many people were separated completely from the rest of society. For some segment of the disabled population this form of comprehensive assistance was appropriate. But for many it was not. The following three themes represent attempts to move away from institutionalization toward other, more appropriate policies.

First, there has been a strong tradition of income-support programs and other forms of direct assistance for the disabled in the United States, dating back to the establishment of workers compensation in the early 20th century. The Social Security Act of 1935 provided funds for the blind, but it was not until 1956 that a separate disability insurance fund was created. Many persons are also eligible for Supplementary Security Income, enacted in 1972. In addition, several housing programs provide income supports and rent subsidies. (These programs are discussed in Section 3.1.) Haveman refers to these strategies as "ameliorative" because they were direct or indirect wealth transfers designed to compensate for the presence of a disability.

The second theme of job skills and employment opportunities was based on the

recognition that many people were being unnecessarily confined to institutions when they were quite capable of performing a variety of jobs and tasks in the employment sector of the economy. This economic, or cost-benefit, argument was reflected most strongly in the many skill-building and vocational rehabilitation programs adopted for the disabled. Most of this legislation was passed with the goal of improving the ability of individuals to generate economic activity for society and higher personal income for themselves. Not only were these efforts directed at increasing participation in the labor force, but they also were targeted to reduce the necessity of the income-support programs described above. Dominant concepts emphasized the unnecessary waste of available human capital, the greater economic benefits available to society, and the potential lower cost of smaller social programs. The President's Committee for the Employment of People with Disabilities and many state vocational rehabilitation commissions have played an important role in this effort. Many of these organizations have become job creation programs themselves, since they hire many people with disabilities as employees.

Thirdly, the language of the civil rights movement has also permeated the world of disability advocates. Some advocates see strong parallels between their fight for non-discrimination and the experience of many other socially disenfranchised groups in the 1960s. In fact, Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972 inspired protections later afforded to the disabled in employment, education, physical access to the built environment, and housing. While a large number of laws have been passed in this spirit, three important

examples are the Architectural Barriers Act of 1968, the Rehabilitation Act of 1973, and the Fair Housing Amendments Act of 1988. (These laws are discussed in Section 3.2.) In addition, these laws have stimulated people with disabilities to greater involvement in all aspects of society, further shifting the emphasis away from the provider-care approaches that were the only model available at the beginning of the century. Independent living movements, disability legal aid societies, and information centers have grown out of this civil rights movement.

### 2.3 General Goals

What are the general goals and concerns of the physically disabled today?

Three broad goals have been identified: (1) independence, of (2) integration and full participation into all aspects of society, and of (3) barrier-free environments to permit the independence and the integration that they seek.

The first theme, independence, became the rallying cry for the Independent Living Movement, which began in Berkeley, California in the 1970s. Its underlying principle is

"that people with disabilities *themselves* - not their counselors or other professionals - should have the primary influence on their own lives. People with disabilities should assert that influence in order to gain their maximum potential and make their own choices."<sup>16</sup>

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<sup>16</sup> Paul G. Hearne, "Employment Strategies for People with Disabilities: A Prescription for Change," in The Americans with Disabilities Act : From Policy to Practice, ed. Jane West (New York : Milbank Memorial Fund, 1991) 123.



One of the important ideas that is emphasized by the independence movement is that the disabled person must try to move away from a fully-assisted approach, such as can be found in an institution, toward a goal of complete self-direction and independence. This independence also implies a sense of privacy. Lisa Sloane, a housing consultant in Boston who has worked with many disability groups, emphasized that "there is a preconception that people with disabilities 'need something'. This is not the point, they should be treated like other people. Invasiveness is inappropriate... so are too many questions and too many details."<sup>17</sup> Speed Davis, Director of the Massachusetts Office on Disability, concurred with this sentiment, arguing that many people "want to know how to help," implicitly assuming that help is necessary. According to him, "if a disabled person wants help, they will ask for it."<sup>18</sup>

The second theme, integration, is strongly related to the first theme, but emphasizes a slightly different set of values. Not only is it important for the disabled to be able to act independently, but they must also be able to integrate themselves into all aspects of life. For example, it is not sufficient for disabled people to receive job training skills. They must also have the opportunity to work for any company or in any position for which they are qualified. In addition, it is not enough to be able to live independently in a private apartment. They must also be able to live in any

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<sup>17</sup> Lisa Sloane, Housing Consultant, personal interview, 16 February 1993.

<sup>18</sup> Speed Davis, Director, Massachusetts Office on Disability, personal interview, 10 March 1993.

setting of their choice. Similar to the idea of independence, this theme emphasizes a move from the fully-segregated institutional care approach, to partially-integrated approach such as group homes and independent care facilities, and ultimately to fully-integrated approach. Concerns about "stigma" and "discrimination" as well as the goals of "mainstreaming", "respect", and "changes in attitude" are frequently heard phrases that reflect the goal of maximum feasible integration.

The final theme, barrier-free environments, increases the opportunities for independence and integration for the physically disabled. Ron Rothenberg, President of HomeBase Realty, a Waltham, Massachusetts brokerage firm that specializes in physically accessible housing, spoke about the importance of a barrier-free environment. "Barriers make me angry," he said. "The social idea that the handicapped must be challenged is wrong." Rothenberg referred disparagingly to what he called "the polio approach" of the 1950s when it was argued that the stairs in the home were good for people with polio because its gave them an "obstacle" to overcome. He felt that "the home should be a place of peace, of ease, not a place of challenge."<sup>19</sup>

Disability groups have focused their efforts on two interrelated tasks. First, they administer a wide variety of services such as vocational rehabilitation programs, information referral systems, special education, personal assistance providers, and health care services. Second, they advocate for more effective government intervention in areas such as employment, architectural accessibility, health care,

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<sup>19</sup> Ron Rothenberg, President, HomeBase Realty, personal interview, 26 February 1993.

education, and housing for the disabled.

#### 2.4 Housing Goals and Concerns

What are the goals and the concerns the physically disabled face in finding suitable housing? One recent study analyzed the housing needs perceived by individuals with severe mobility impairments and by rehabilitation service providers.<sup>20</sup> The providers felt that the three most important reasons for inadequate housing were an insufficient supply of barrier-free housing (27%), available housing not being accessible (20%), and waiting lists for subsidized housing that were too long (20%). According to the providers, the most important services were transportation (98%), attendant care (88%), financial aid (88%), homemaking services (76%), and home health care (64%). When asked to evaluate a set of factors in selecting a residence, people felt that accessibility to public transportation (20%), affordable cost (18%), interior barrier-free design (16%), and closeness to family (16%) were important.

Many local advocates echoed the responses gathered in these surveys. Jean Nachinoff, Information and Referral Specialist at the Boston Center for Independent Living (BCIL); Speed Davis; and Lisa Sloane reiterated these concerns. Nachinoff felt that the need for affordable housing took precedence over the need for accessible housing. She stated that "many tenants focus on getting a [residential] unit to the

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<sup>20</sup> Ruth A. Fanning et. al., "Housing Needs of Individuals with Severe Mobility Impairments : A Case Study," Journal of Rehabilitation, (April/May/June 1991) 7-13.

exclusion of all other concerns." Still, she felt that providing services, especially personal care and nighttime attendants, was very important.<sup>21</sup> Davis thought an ideal environment would "be a process driven by the individual, where they could choose a neighborhood, have reasonable access to buildings, and a custom-designed package of services."<sup>22</sup> Similarly, Sloane emphasized the need for affordable units, but also highlighted both transportation and safety as important concerns.<sup>23</sup>

Another interesting issue is how disability advocates perceive the public, not-for-profit, and private residential sectors. Nachinoff focused on the difference in the quality of the properties available for rent. As the Information Referral Specialist at BCIL, she is responsible for "teaching [disabled] people how to find housing."<sup>24</sup> She felt that the private sector was the easiest to deal with because they have nice properties, large budgets, quality upkeep and management practices, and careful tenant selection processes. In comparison, the public housing sector was the hardest because the people responsible for the properties are overworked and suffer from enormous demands on their time and expertise, the owners have the least amount of money for the properties in the most difficult areas, and the properties have long waiting lists and will always have the emotional and cultural stigma of a public

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<sup>21</sup> Jean Nachinoff, Information and Referral Specialist, Boston Center for Independent Living (BCIL), personal interview, 16 February 1993.

<sup>22</sup> Davis, personal interview.

<sup>23</sup> Sloane, personal interview.

<sup>24</sup> Nachinoff, personal interview.

housing project. Not-for-profits she perceived as somewhere in the middle. They have tight budgets and deal with some complicated tenants, but still do not have the negative cultural history typically associated with public housing.

In contrast, Davis thought that the key criteria was attitude. Davis, who has worked with CDCs and their officers in various capacities, felt that the non-profits are the easiest group. In his opinion, CDCs were "people-oriented and involved in providing for those who need it." He felt that the second easiest group was the private developers. According to Davis, they are only in the market to make money through housing, but at least their attitude toward disability is relatively neutral. Interestingly, he felt that the public housing professionals are the most difficult because they work in the most difficult, most stressful environments. "They suffered from negative public opinion about their properties and their work, dealt with the most difficult sociological problems, and spent their lives dealing with people who are at bottom."<sup>25</sup> He feared that they may have become hardened, which may adversely impact the quality of their work.

Sloane thought that the primary concerns were the institutional structure for communication and the capacity of the developers to meet the needs of the disabled. For that reason, Sloane felt that the public sector was the easiest group with which to work because the regulations clearly apply, the process was familiar, and a system was already in place to reach them. The hardest were the private developers,

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<sup>25</sup> Davis, personal interview.

primarily because they are not yet used to the process. She thought that not-for-profits were in the middle. For most of the not-for-profits, informational networks were not in place and capacity concerns might limit their incorporation of the needs of the disabled into their housing plans. In her opinion, most of the not-for-profits were focused on housing production and not as concerned with management issues and service provision. Also, she felt that sometimes CDCs act no differently from private real estate firms in their roles as developers, owners, and managers of housing.

The statistics on the disabled population, the general goals of this group, and their housing objectives have been influential in effecting legislative activity on behalf of the disabled. The next chapter reviews these efforts.

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## Chapter 3 : Housing-Related Disability Laws

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Both the federal and Massachusetts governments have passed legislation to assist the disabled in finding housing that meets their needs. Partially-integrated settings, such as group homes, as well as fully-integrated settings, such as percentage set-asides, have received support. Most of the partially-integrated efforts have been in the form of subsidies, while most of the fully-integrated efforts have been in the form of base design requirements and minimum set-asides. There are also substantive differences between the legal definitions of disability used in these two sets of statutes.<sup>1</sup>

Although this chapter will focus primarily on fully-integrated housing, a discussion of efforts to promote partially-integrated settings is presented to demonstrate the overall housing strategy. This is followed by an analysis of the primary federal and state laws that have generated nearly all of the integrated-living arrangements in the state. Finally, a few studies are reviewed to show the impact of these laws on the housing process.

### 3.1 Partially-Integrated Housing Models

At the federal level, the most important program for partially-integrated settings is the HUD Section 202 Direct Loans for Housing for the Elderly and

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<sup>1</sup> A discussion of these distinctions is contained in Appendix A.

Handicapped. Originally passed in 1959, this law provided long-term loans to eligible, non-profit developers to build multi-family rental or cooperative housing exclusively for the elderly or the handicapped. Over time, Congress concluded that although the needs of the disabled and the elderly were somewhat similar, both groups would be better served by individual programs.

In the National Affordable Housing Act (NAHA) of 1990, the old Section 202 program was split into two parts: "new" Section 202 and Section 811. The new Section 202, Section 202 Supportive Housing for the Elderly, was applicable only to the elderly, defined as ages 62 and above. A second program, Section 811 Supportive Housing for People with Disabilities, was created to serve the housing needs of non-elderly disabled and to enable "persons with disabilities to live with dignity and independence within their communities."<sup>2</sup> Under both new programs, interest-free capital advances and project rental assistance are available for private, non-profit developers that construct multi-family rental housing for the respective groups.

Under Section 811, eligible structures include group homes, independent living facilities, and intermediate care facilities. More importantly, dwelling units in multifamily housing developments, condominium housing, and cooperative housing are also eligible under this new program. The assisted housing should

"(A) provide persons with disabilities occupying such housing with supportive services that address their *individual needs*; (B) provide such persons with opportunities for *optimal independent*

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<sup>2</sup> United States, National Affordable Housing Act of 1990, Section 811(a).



*living* and participation in normal daily activities, and (C) facilitate *access* by such persons to the community at large and to suitable employment opportunities *within such community*." [italics added]<sup>3</sup>

These phrases reflect the overarching goals of disability advocates described in the previous chapter.

In addition, Massachusetts has been involved in a variety of activities to promote partially-integrated housing models at the state level. The two most important state efforts are the following: (1) Chapter 689, also known as the Housing for People with Special Needs program, and the (2) Housing Innovations Fund (HIF). Chapter 689 provides "homes in small-scale residential settings for people with mental illness, mental retardation, and people with substance abuse problems."<sup>4</sup> HIF provides mortgage assistance for innovative residential projects and is administered by the state Executive Office and Communities and Development (EOCD).

### 3.2 Fully-Integrated Housing Models

Three phases of governmental regulations have promoted fully-integrated physically-accessible forms of housing. The first phase, in the late 1960s, emphasized the general need for architectural barrier removal, which indirectly included barriers in housing. The second phase, in the 1970s, strove for non-discrimination and full participation in all government supported programs and

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<sup>3</sup> Ibid. Section 811(c)(2).

<sup>4</sup> Neal Schwartz, A Move Toward Independence: Housing for People with Disabilities, (Boston: Citizens Housing and Planning Association, January 1991) 2.

activities, which also indirectly included housing. The third phase, in the late 1980s, combined these goals and targeted them specifically toward housing. Together, these phases have had a significant impact on the design, marketing, and management of fully-integrated units for the disabled.

All of these laws were influenced by the civil rights activity of the 1960s.

Yet, there exists a crucial difference between these laws on behalf of the disabled and the civil rights laws that preceded them. The earlier legislation was predicated on the assumption that

"there are no inherent differences or inequalities between the general public and the persons protected by these statutes, and therefore, there should be no differential treatment... on the other hand... handicapped persons may require different treatment in order to be afforded equal access to federally-assisted programs and activities, and *identical treatment may, in fact, constitute discrimination.*"<sup>5</sup> [italics added]

This idea implied that in certain circumstances treating the disabled in manner no different from other individuals could constitute discrimination. Equal treatment may not be equal access. Different treatment may be necessary. In a practical context, the issue was even more complex because

"the problem of establishing general rules as to when different treatment is prohibited or required is compounded by the diversity of existing handicaps and the differing degree to which particular persons may be affected."<sup>6</sup>

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<sup>5</sup> United States, Federal Register, 17 May 1976, 41 FR 20296.

<sup>6</sup> Ibid.

Therefore, the problem of different requirements of individuals with identical disabilities and of different requirements for individuals with different disabilities makes the implementation of this approach extremely difficult. This tension between designing generally applicable policies and of meeting individual housing needs is a theme that recurs throughout disability policy.

One other important point is that these laws, especially in their design guidelines, have focused heavily on the needs of the physically disabled who have mobility impairments. Noting and justifying this "wheelchair bias", HUD responded that

"the emphasis... is realistic because the requirements for wheelchair access are met more easily at the construction stage. Individuals with nonmobility impairments more easily can be accommodated by later nonstructural adaptations to dwelling units."<sup>7</sup>

These civil rights concerns influenced all three phases, which are discussed below.

### **First Phase: Architectural Barrier Removal Legislation**

Before analyzing architectural barrier removal, it is important to note that the first relevant federal law affecting the disabled is significant not for what it includes, but rather for what it omits. The Fair Housing Amendment Acts of 1968 banned discrimination in the sale or rental of housing based on race, color, religion, sex, or national origin. Discrimination based on handicap was not included.

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<sup>7</sup> United States. 24 CFR Ch.1, Subch. A, App. III.

Notwithstanding this setback, laws promoting architectural accessibility were passed at both the state and federal level.<sup>8</sup> In 1967, Massachusetts passed Chapter 724, which mandated architectural accessibility to publicly owned buildings.<sup>9</sup> Over time, the scope of the law was expanded to cover all portions of any building open to the public. The Massachusetts Architectural Access Board (MAAB) is the state government entity responsible for the implementation of the act. In 1975, MAAB issued guidelines specifying design requirements for a variety of property types and architectural features. With respect to housing, the MAAB mandated a 5% set-aside of accessible units in apartments with more than 20 units. Both substantially rehabilitation and new construction is covered. According to the MAAB, "accessibility" within the units had two components. First, sufficient clearance for wheelchairs had to be provided in areas such as doorways, bathrooms, and kitchens. Second, key design features, such as lower light switches, lower kitchen countertops, and bathroom grab bars had to be installed. The set-aside units were to be located throughout the development and to proportionally reflect the pool of existing unit types within the project. In addition, public area accessibility requirements were imposed on all apartments and condominiums in excess of 12 units. Variances could be sought if compliance was impractical. Most variances requested for a relaxation of the location (e.g. clustered v. scattered) or the unit type (e.g. 1-bedroom v. 2-bedroom) of the disabled units.

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<sup>8</sup> A summary of covered housing structures is contained in Appendix C.

<sup>9</sup> A summary of "accessible housing" laws is contained in Appendix B.1.

At the federal level, the less stringent Architectural Barriers Act (ABA) of 1968 was passed to provide accessibility to all federally-owned and federally-assisted buildings, including multifamily housing. As originally conceived, this effort was [merely a symbolic gesture. In its original form, the law suffered from minimal implementation. This situation continued until ABA was linked to the federal law passed in the second phase, the Rehabilitation Act of 1973.

### **Second Phase: General Non-Discrimination and Full Integration Legislation**

In 1973, the federal government passed the Rehabilitation Act of 1973 (the "Rehab Act"). This law required non-discrimination and full integration in programs and activities receiving federal assistance, including housing. In addition, it added an enforcement mechanism for the ABA.

Section 504 of the Rehab Act banned discrimination in employment, programs, and activities of development organizations that received federal financial assistance in excess of \$2,500. In designing its regulations, HUD interpreted this ban as requiring a 5% set-aside of accessible units, not to be less than one unit, in all new and substantially altered multifamily housing projects in excess of five units. A 2% set-aside of units was also required for individuals with vision or hearing impairments, also not to be less than one unit. In addition, to comply with the rules promulgated in the Rehab Act, the federal government issued a guideline to insure a minimal level of accessibility that would be used by all administrative agencies. This guideline, the Uniform Federal Accessibility Guidelines (UFAS), took eleven years to be issued and

was jointly published in 1984 by HUD, the General Services Administration (GSA), the Department of Defense (DoD), and the United States Postal Service (USPS). For residential properties under its jurisdiction, HUD broadened the UFAS standard to include all projects with five or more units, as opposed to 15.

This section also required that landlords and other real estate professionals only provide "reasonable accommodations," those adjustments that would not place an "undue burden" on the federally-assisted group. Thus, civil rights for the disabled is the only civil rights protection that is bounded by financial considerations. Many supporters of disability rights feared that this phrase would eliminate the effectiveness of the law. "Reasonable accommodation" and other economic tests have been included in subsequent legislation and has remained a point of contention for many disability advocates.

In addition, Section 502 of the Rehab Act created the Architectural and Transportation Barriers Compliance Board (ATBCB), a multi-agency federal review board to insure compliance with the barrier removal requirements specified in ABA. The ATBCB was given the authority to create a design standard, the ATBCB code, to serve as the ABA building code for accessibility. Until the completion of this new code, the 1961 American National Standards Institute (ANSI) A117.1, entitled "Standards for Making Buildings and Facilities Accessible to, and Usable by, Physically Handicapped People" was to be used. This ANSI code, and its revision ANSI 117.1-1971, served as the compliance standard for ABA starting in October 1969. ATBCB guidelines were issued in 1981 and 1982, and were eventually

replaced by the UFAS guidelines in 1984. At present, UFAS is the basic design guideline for both ABA and the Rehab Act. Still, the multiplicity of design codes can be confusing because when properties are tested for compliance, the relevant code at the time of the construction work is the appropriate standard.

Although these first two phases of legislation were not focused explicitly on housing, they both used specific accessibility codes and unit set-asides within multifamily structures to promote the needs of the disabled. In both cases, design considerations were emphasized, but other parts of the real estate process, especially marketing and management, were not substantially affected. Additionally, these laws applied only to government-owned and assisted projects.

Many disability advocates noted several problems with this approach. The set-aside units were stigmatized as "the handicapped units" and the unique design features made them hard to market to the non-disabled. Also, the individual fixtures, such as the sinks and bathroom components, had an institutional quality to them, further reducing the appeal of the units. Rothenberg noted that many prospective tenants in search of accessible housing would ask to be shown the set-aside units, but would ultimately choose other units within the complex and adapt them to meet their individual needs.<sup>10</sup>

### **Third Phase: Housing Legislation**

In contrast to the earlier legislative activity, the third phase was exclusively

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<sup>10</sup> Rothenberg, personal interview.

about housing. The scope of the non-discrimination ban in housing was extended to all forms of housing and to the private market. In addition, the design method to create functional units was shifted from an "accessible" set-aside approach to an "adaptable" approach.<sup>11</sup> Finally, at the state level, Massachusetts initiated an innovative central housing registry to ease the complications of finding and marketing accessible and adaptable units.

Under the federal Fair Housing Act of 1988, parties involved in real estate cannot discriminate against individuals based on handicap or familial status. This protection applies to three forms of discrimination: (1) sale or rental of dwellings; (2) terms, conditions, privileges of sale or rental, and provision of services or facilities in connection with a dwelling; and (3) limitations on the types of inquiry that can be made about disability.<sup>12</sup>

In addition, given the problems with the previous accessibility approach, the 1988 act emphasized a new design method to meet the needs of the disabled. This method is outlined in the Fair Housing Act Accessibility Guidelines (FHAAG). Under the older UFAS standard, accessible units contained fixtures that were installed as part of the initial construction work, including features such as lower countertops, grab bars in showers, different bathroom fixtures, and door latches. In contrast, FHAAG promoted the creation of the maximum feasible number of units with

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<sup>11</sup> A summary of "Adaptive Legislation" is contained Appendix B.2.

<sup>12</sup> United States. 24 C. F. R. §100.202.



adaptable features. Buildings with adaptable features contain some basic support construction work, but allow fixtures to be "adjusted, added, or removed as needed, to suit the occupant whether disabled, elderly, or non-disabled."<sup>13</sup> The regulations define "adaptability" as follows:

"Adaptability means the ability of certain elements of a dwelling unit, such as kitchen counters, sinks, and grab bars, to be added to, raised, lowered or otherwise altered, to accommodate the needs of persons with or without handicaps, or to accommodate the needs of persons with different types of disability."<sup>14</sup>

In theory, the adaptable approach would increase both the pool of units available to disabled residents and the ease with which these units could be marketed to non-disabled individuals. Therefore, only the space requirements, such as bathroom sizes and door widths, associated with the previous regulations were maintained. Yet, blocking behind the bathroom wall for grab bars and other structural work necessary to support adaptations were required at the time of construction, when the installation of these supports is the cheapest. As far as the installation of fixtures, the federal government grants to occupants the right to make physical modifications to the premises, but requires the occupant to pay for the cost of installation. Under certain circumstances, the occupant is also responsible for the cost of removal as well. For the low-income segment of the disabled population, these costs may be prohibitively expensive.

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<sup>13</sup> Jim Bostrom, "Adaptable Housing: More Units, More Choices?" Mainstream 12(5), (September 1987) 25.

<sup>14</sup> United States, 24 CFR §8.1.

Only new buildings with four or more units that are ready for first occupancy after March 13, 1991 are covered by this new method. All units are covered in these buildings if they have elevators and only ground floor dwelling units in these buildings if they lack an elevator.

In 1990, Massachusetts incorporated the federal Fair Housing Amendments into state law. In addition, the state modified three of the federal requirements. First, the threshold number of units required for a building to be covered by the adaptable design was lowered from four to three. Second, the MAAB architectural access codes are currently under revision and it is likely that many of the unit-specific design requirements will be also be more restrictive than the FHAAG code. Third, the burden of paying for the installation of "reasonable physical modification" is borne by the landlord for the first 10% of the units within the structure.

In addition to these changes, the Massachusetts Rehabilitation Commission (MRC) was given the responsibility for the creation of a central housing registry. The registry would contain data on all accessible and affordable units throughout the state and of the housing preferences of disabled individuals. This marketing tool would be made available to the Independent Living Centers across Massachusetts, who would match prospective tenants and landlords. The MRC would have to receive from landlords at least fifteen days notice of unit availability and during that time period the unit could not be rented to anyone who is not disabled.

Perhaps the two important differences in this third phase of legislation are the shift from an accessible to an adaptable housing strategy and the greater emphasis on

the marketing and the management aspects of the real estate process. First, this shift has moved some of the design considerations and costs from the development phase to the operations phase of the property. Accessibility codes affected primarily the capital costs incurred during the construction or rehabilitation of the building. Adaptable housing shifted some of these costs to the latter parts of the housing process. This change has indirectly affected both the management and marketing costs associated with housing for the disabled by requiring later physical adaptations when an existing or potential tenant deems such an alteration is necessary. Also, the non-discrimination clause and the housing registry represent a shift in understanding, recognizing that simply mandating a supply of integrated housing stock is insufficient. Yet, although the scope of housing policy for the disabled has increased in this phase, the design requirements apply only to multifamily structures. The adaptability of single family homes, the dominant housing type in the United States, is still not part of any existing legislation, federal or state.

### **Views of Disability Advocates on Legislation**

Reflecting on the accessibility versus adaptability debate, the disability advocates interviewed were strongly in favor of the second approach. Ostroff thought that the history of accessible design was an evolving approach. In her opinion, when first proposed, accessible housing was innovative. Over time, the flaws in accessible housing became evident. Problems surfaced such as the location within a building, the institutional quality of the units, and whether the units really met the needs of

users. To her, adaptable housing is the next step.

Davis felt that "set-asides are a halfway measure [and that] we do not need grab bars in every bathroom in the country... what we do need is the ability to install them when they are necessary."<sup>15</sup> Also, he expressed a general preference for "in-place" models where the characteristics of the units change around the resident, rather than the resident having to move from unit to unit. For example, he described the unnecessarily compounded lifestyle changes of auto accident victims who become disabled. In addition to the difficulties of physical rehabilitation, having to change their residence sometimes "forces people to uproot their roots, which should not have to happen."<sup>16</sup> If the person were initially living in an adaptable unit, they may not have to make such a severe change.

Nachinoff echoed the importance of in-place models and of remaining in a community. Still, she warned that the key issue for many of her clients was not really accessibility or adaptability, but affordability. First, many of the disabled do not have physical requirements that affect the selection of a unit. Second, she described many callers who desperately want or need to find a new unit immediately and cannot be selective about the specific physical features of the unit.

Finally, Sloane argued that the adaptable approach was superior, because "there is no single prototype for the disabled."<sup>17</sup> An adaptable model that

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<sup>15</sup> Davis, personal interview.

<sup>16</sup> Ibid.

<sup>17</sup> Sloane, personal interview.

accommodates life cycle changes and differences in needs would be better. The approach to avoid is the "policy analysts who like to put people in boxes... pigeonholing them.. this would be a big mistake."<sup>18</sup> Flexibility and recognition of the individual nature of disability and of the individual nature of need were paramount.

### 3.3 Impact of Legislation

The cost of different design codes and the presence of discrimination in the marketing of units to the disabled are both topics on which studies have been performed. However, little systematic research has been performed on the presence or absence of additional management costs associated with disabled residents.

Two of the most important cost estimates analyzing the impact of selected accessibility codes and laws, namely the SUNY Buffalo cost studies in 1979 and the Preliminary Regulatory Impact Analysis of the 1988 Fair Housing Act, have yielded interesting results. Researchers at the State University of New York at Buffalo evaluated the estimated costs and cost-benefit of accessibility for a variety of building types, including residential facilities.<sup>19</sup> Cost estimates were prepared for nine prototypical structures including a high rise residential tower and a garden apartment complex. Using the ANSI 117.1-1978 adaptability standard, the study analyzed the cost impact of both existing and new building types. The costs associated with

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<sup>18</sup> Ibid.

<sup>19</sup> See Chollet (1978) and Schroeder & Steinfeld (1978).

renovation and new construction were estimated. For new buildings, two scenarios were proposed: one where adaptation features could conveniently be installed at a later date ("adaptable") and one where the features were actually installed during the construction process ("adapted"). The "percent accessible" reflects the fraction of units in the prototype that were designed to meet the accessibility standard. The percentages in the table represent the average per-unit percentage cost increase over an inaccessible unit.

Cost Estimates	Renovation	Redesign (New Construction)	
		Adaptable	Adapted
<b>I. High Rise Tower</b>			
100% accessible	9.5%	0.98%	1.6%
50% accessible	4.8%	0.54%	0.84%
10% accessible	1.0%	0.19%	0.25%
5% accessible	0.58%	0.15%	0.18%
<b>II. Garden Apartment</b>			
100% accessible	7.2%	0.59%	0.93%
10% accessible	1.75%	0.12%	0.20%

**Table 3.1 Cost Estimates**

In the high rise tower and the garden apartment complex, renovation work was found to be more expensive than new construction. At the lower percentage accessibility requirements analyzed by Steinfeld, the effect on cost, especially with respect to new construction, appears to be very small.

A second source for estimates of the cost of accessibility is the HUD

Preliminary Regulatory Impact Analysis for FHAAG.<sup>20</sup> Issued on September 7, 1990, the analysis compared three potential design strategies to meet the federal requirements. First, HUD proposed its own set of guidelines. Second, the National Association of Home Builders (NAHB) and the National Coordinating Council on Spinal Cord Injuries (NCCSCI) proposed an alternative guideline. Finally, a case-by-case approach was suggested, in which adaptations would be made as needed.

Two firms were selected to provide redesigns of five prototypical apartments according to both the HUD and the NAHB/NCCSCI guidelines. The prototypes included a two-bedroom, one-bath unit (2BR/1BA); two one-bedroom, one-bath units (1BR/1BA); a two-bedroom, two-bath unit (2BR/2BA); and a three-bedroom, two bath unit (3BR/2BA). In addition, another firm was hired to estimate site adaptation requirements, and a final firm was contracted to price the unit and site alterations.

Based on these models, as well as a series of assumptions about economic growth, disability population size, and housing stock generation, HUD concluded the following:

<b>Cost Estimates</b>	<b>HUD</b>	<b>NAHB/ NCCSCI</b>	<b>Case by Case</b>
Total Annual Cost	\$87.2 m	\$69.9 m	-
Average Cost per covered unit	\$606	\$488	\$100- \$3,000
% Increase in cost on a \$65,000 unit	0.9%	0.7%	-

**Table 3.2 HUD Regulatory Impact Analysis**

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<sup>20</sup> United States, Federal Register, 7 September 1990: 37072-37129.

The HUD estimates are higher than the relevant estimates in the Steinfeld study, although the difference between the two percent increases is not great. In both cases, the impact remains less than 1% of total development cost.

In addition to the cost studies, surveys have been conducted to test the willingness of landlords to rent units to individuals with disabilities. Most of these surveys were conducted prior to the passage of the Fair Housing Act. However, one recent survey found that 24% of the landlords discriminated against callers claiming to have mental retardation and 16% discriminated against people who claimed to be blind.<sup>21</sup> With respect to the individual comments of landlords, one was concerned about the level of danger associated with the mentally retarded and another wondered whether an individual with mental retardation could be around other people. At the other end of the spectrum, the authors of the survey also note that two landlords, who had previous experience with blind tenants, stated that they "would try to work something out" for the caller who was blind. Community education programs are suggested as a way for overcoming many of the stereotypical misconceptions about the needs of the disabled.

In conclusion, the federal government has conducted two different housing efforts for the disabled. On one hand, partially-integrated policies have focused on

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<sup>21</sup> Debra C. May, et. al., "Housing Discrimination : Apartment Rentals to People who are Blind or Mentally Retarded," Journal of Applied Rehabilitation Counseling 23 (Summer 1992) 26-28.



providing subsidies to create opportunities for development. On the other hand, fully-integrated policies have focused on crafting appropriate regulation to insure the incorporation of these units into traditional forms of housing. Fully-integrated housing originally emphasized accessibility and now emphasize adaptability. Mandated, fully-integrated units have had an impact on the design, marketing, and management costs of development. With respect to these regulations, it is reasonable to expect that most developers and owners would try to minimize these costs and would argue for their relaxation.

The effect of these disability laws on multifamily housing has increased greatly in the past five years. The next chapter analyzes community development corporation (CDCs) and highlights their similarities to differences from private, for-profit landlords and developers.

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## Chapter 4 : Housing and Community Development Corporations

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Community development corporations (CDCs) have played an active role in revitalizing distressed communities across the United States. This chapter briefly presents statistics on the size and the accomplishments of the CDC movement, discusses their general and housing goals, reviews their history since the 1960s, and highlights key organizational issues that they confront in achieving their objectives.

### 4.1 Statistics

How big is the CDC movement? In terms of housing, what have they accomplished? The National Congress for Community Economic Development (NCCED) is the professional association for CDCs in the United States. Recently, NCCED conducted two surveys of its members, entitled *Against All Odds* (1988) and *Changing the Odds* (1991). For the surveys, CDCs were defined as private, locally-based nonprofit organizations actively engaged in one or more of three types of community development: affordable housing, commercial/industrial development, and business enterprise. To be included in the survey, the group must have completed at least one development project. Types of organizations included community development corporations, Neighborworks organizations, community action agencies,

and local development corporations.<sup>1</sup>

In the 1991 survey, NCCED estimated that there were approximately 2,000 CDCs in the United States, 88% of which had participated in the creation of affordable housing. Over 420 of these CDCs have each completed more than 100 units of housing. Nearly 320,000 units of housing were produced by CDCs, almost 87,000 of which were completed between 1988 and 1991. All of these production figures grew significantly from the estimates in the first survey. Virtually all of the residential units were provided for households earning less than 80% of median income. Finally, 64% of the CDCs perceived themselves as urban, 19% as rural, and 17% as mixed urban and rural. CDCs receive their funding from Community Development Block Grants (CDBG), state government programs, private foundations, banks, local government programs, intermediaries, and corporations.

In addition to these national surveys, the Massachusetts Association of Community Development Corporations (MACDC) has produced two surveys, most recently in 1992.<sup>2</sup> According to these studies, total CDC housing production in Massachusetts exceeds 12,000 units, of which 2,531 were developed between January 1990 and June 1992. Excluding public housing, this amount was about 60% of the total publicly assisted housing built in Massachusetts during that period. While half

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<sup>1</sup> National Congress for Community Economic Development (NCCED), Changing the Odds: The Achievements of Community-Based Development Corporations, (Washington D.C.: December 1991) 2.

<sup>2</sup> Massachusetts Association of Community Development Corporations (MACDC), 1992 Production Report (January 1, 1990 - June 30, 1992), (Boston : June 1992) 3.

of the units were rental apartments, CDCs have also developed cooperative housing, single family homes, single-room occupancy housing, and a variety of special needs housing. Twelve of the 47 Massachusetts CDCs, or 24%, are located in Boston.

#### 4.2 History

When did CDCs originate? Most authors trace the current CDC movement back to the Great Society programs of the 1960s. "The decade of 1965-75 was a period in which CDCs were created, received federal, foundation, and corporate assistance, and gathered their initial development experience."<sup>3</sup> This first wave of CDCs was based in the community action agencies (CAAs), established to include the needy in the debate about the future of distressed urban areas. The second wave grew out of the protests in the 1970s against the redlining and selective mortgage practices of local lending institutions. The third wave was a response to local fears and dissatisfaction over gentrification and to the reduced federal government and for-profit involvement in affordable housing.

At first, the concept of CDCs speaking on behalf of communities was an innovation.

"The idea of community-based economic development for an impoverished community was not popular. Poverty was mainly

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<sup>3</sup> Keating, W. Dennis, Keith P. Rasey, Norman Krumholz, "Community Development Corporations in the United States: Their Role in Housing and Urban Economic Development" in Government and Housing : Development in Seven Countries, eds. Willem van Vliet and Jan van Wessep, vol. 36 (Newbury Park : Sage Publications, 1990) 212.

conceptualized as a problem of individuals, not a problem of communities. Fix up the individual person, and he would take care of himself... the preferred programs of assistance sought, in effect to rebuild people... however meaningful those programs were (and are today), the communities where poor people live were bypassed."<sup>4</sup>

During the first two decades, CDCs relied heavily on direct federal support and on government involvement in housing markets to fund their projects. In 1968, the Community Self-Determination Act was proposed to expand the number and scope of CDCs. This act was not passed by Congress, but the attractiveness of geographically-based collective models for political and economic action remained. Funding was eventually obtained through the Office of Equal Opportunity (OEO) Special Impact Program and through the Community Services Administration. In addition, the Neighborhood Self Help Development (NSHD) Program established during the Carter Administration provided direct assistance to CDCs. Finally, programs such as Community Development Block Grants (CDBG), Urban Development Action Grants (UDAG), Neighborhood Housing Services (NHS), Section 8 rental assistance, and low income housing tax credits (LIHTC), helped CDCs meet the costs of creating and maintaining affordable housing.

The federal government played a less active role in housing in the 1980s. CDCs were forced to pursue other sources to supplement their eroding pool of federal resources. Philanthropic organizations, such as the Local Initiatives Support Coalition (LISC) and the Enterprise Social Investment Corporation (ESIC), came forward to fill

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<sup>4</sup> Stewart E. Perry, Communities on the Way, (New York : State University of New York Press, 1987) 10.

part of the gap.

Title II of the 1990 National Affordable Housing Act (NAHA) authorized project funding, and since 1992 operational funding, for CDCs that qualify as community housing development organizations (CHDOs). One other important federal legislative activity is the National Community Economic Partnership Act (NCEPA). In its original form, this bill would have provided operating and capital support to qualified CDCs for their activities in distressed areas. NCEPA failed to pass the Senate during the recent 102nd Congress.

#### 4.3 General Goals

What is the mission and what are the goals of CDCs? CDCs believe their mission is "to target their programs to low-income people and economically distressed areas and to respond to ethnic diversity."<sup>5</sup> Community renewal and individual empowerment are advanced by the multiple roles played by CDCs:

"First, as a political institution, it provides a mechanism through which the poor can achieve meaningful participation in the control of significant aspects of community life. Second, the CDC as a service organization provides needed services to the community while avoiding the handout syndrome surrounding public welfare. Third, as a an economic institution, the CDC promotes the economic development of the community through investment in community business."<sup>6</sup>

CDCs have played an important role in four aspects of community

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<sup>5</sup> National Congress for Community Economic Development (NCCED) 2.

<sup>6</sup> Frederick D. Sturdivant, "Community Development Corporations: The Problems of Mixed Objectives," Law and Contemporary Problems 36 (January 1971) 44.

development: affordable housing production; economic development and job creation; service provision; and advocacy and organizing activities. A few excerpts from the recent NCCED survey show the commitment of CDCs to these activities. "CDCs are engaged in a variety of housing activities, designed to provide decent shelter for low-income people and other individuals with special needs, including homeless, elderly, and disabled people."<sup>7</sup> Also, "CDC economic development activities have focused increasingly on supporting micro-enterprises, in addition to continued involvement in commercial and industrial development projects and job creation and retention."<sup>8</sup> Finally, "CDCs engage in a wide range of community-building and support services, as part of their comprehensive approach to renewal."<sup>9</sup> This thesis will focus only on housing, but is important to recognize the broad scope and variety of CDC involvement in distressed communities.

#### 4.4 Housing Goals

What are the housing goals of CDCs? Affordable housing production has played a crucial part in the growth of CDCs in the United States. It has been a powerful vehicle used by CDCs to fulfill their goals of providing shelter for local residents, creating jobs for local construction firms, and improving the physical character of the neighborhood.

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<sup>7</sup> NCCED 5.

<sup>8</sup> NCCED 6.

<sup>9</sup> NCCED 7.

CDCs have been involved in providing both partially-integrated and fully-integrated housing for the disabled. Many have participated in the creation of group homes and independent living centers under Section 811 of NAHA. In Boston, five CDCs have formed an single room occupancy (SRO) special needs housing collaborative under which each is producing separate projects with target populations of 1/3 mentally-ill, 1/3 AIDS patients, and 1/3 low-income residents. Also, in many other low-income housing projects, CDCs have been subject to the federal and state accessibility requirements outlined in the previous chapter. Roger Hertzog, former development director for Inquilinos Boricuas en Accion (IBA), a Boston CDC, felt that "CDCs are generally sympathetic to the goals of disability advocates, and the strength of the disability advocates within the local community influences the CDC's perspective."<sup>10</sup>

#### 4.5 Organizational Concerns

What organizational issues do CDCs face? Many researchers have investigated the organizational concerns of CDCs.<sup>11</sup> The authors have focused on both the multiple objectives and the capacity concerns of CDCs. In her 1990 article, Bratt

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<sup>10</sup> Roger Hertzog, former Development Director, Inquilinos Boricuas en Accion (IBA), personal interview, 4 March 1993.

<sup>11</sup> See Sturdivant (1970); Mayer (1984); Bratt (1986); Perry, (1987); Bratt (1990); Mayer (1991).



highlights six general issues that CDCs face.<sup>12</sup> Her first concern is the type of housing that should be built. Socially-controlled housing such as cooperatives have radically different effects on individuals and neighborhoods than housing that promotes private ownership and accumulation of wealth. The second dilemma lies in defining the community to be served by the CDCs. Serving the needs of indigent people outside the neighborhood and of non-majority populations within the neighborhood can complicate the mandate of the CDC. Third, the CDC is frequently caught between the financial and economic motivations of a landlord/developer and of an advocate/tenant organizer. The fourth issue facing CDCs is determining what fraction of resources should be allocated to advocacy and what fraction to project development. Fifth, Bratt emphasizes the capacity dilemma of maintaining a quality staff while offering low salaries and few opportunities for professional growth. Finally, she points out the question of how a CDC should adapt over time as the neighborhood changes around it.

Mayer adds three other observations.<sup>13</sup> First, the average CDC housing production level is not very large. Second, the pressure to keep salaries low and minimize the administrative costs of running the CDC may impose a limit on the quality and the skills of the staff. Finally, the need to deal with many community

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<sup>12</sup> Rachel Bratt, "Community-Based Housing : Strengths of the Strategy Amid Dilemmas That Won't Go Away," Neighborhood Policy and Programmes : Past and Present, ed. Naomi Carmon (New York: St. Martin's Press, 1990) 181-200.

<sup>13</sup> Neil Mayer, "Preserving the Low-Income Housing Stock: What Nonprofit Organizations Can Do Today and Tomorrow," Housing Policy Debate 2(2), (1991) 499-533.

concerns, some not even related to affordable housing, can slow the development process.

In addition to these general concerns, CDC as developer/landlords are worried about construction costs, unit vacancies, management expenses, and sources of funding. Whenever possible, CDCs prefer project-based subsidies over tenant-based subsidies, such as below-market interest rate mortgages and Section 8 project-based vouchers, because these programs attach the subsidy to the development. Obtaining quality administrative support and technical assistance are also necessary for the successful production of affordable housing.

All of these dilemmas affect the short-term and the long-term viability of CDCs. How they manage these issues is a good indicator of the future prospects of the organization.

Much has been written about the success of community development corporations in developing affordable housing, promoting economic development, and providing services to its residents and to its neighborhood. In addition, several researchers have analyzed the organizational concerns of CDCs and how these corporations might evolve in the future. In contrast, little has been written about the interplay between the goals of CDCs and the goals of other socially motivated organizations, such as advocates on behalf of the disabled. How does the interplay between these groups manifest itself? The next two chapters analyze several past conflicts between CDCs and disabled in Massachusetts.

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## Chapter 5 : The Carol Avenue Cooperative

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The purpose of the next two chapters is to illustrate a few examples of conflicts between the supporters of accessible housing and the supporters of affordable housing in Massachusetts. These accounts do not imply that all CDC projects suffer from these difficulties. In fact, many projects, including some performed by the CDCs described in the next two chapters, have been successful. Rather, focusing on these unfortunate events helps to clarify some of the difficulties and to generate some ideas for avoiding them in the future. In this chapter the story of Carol Avenue is briefly presented and discussed. In the next chapter, additional stories are recounted to provide a broader range of examples.

### 5.1 History

Allston-Brighton is the 4.5 square mile northwestern section of Boston. According to the 1990 census, the population of the neighborhood was 70,284 persons, or 12.2% of the total Boston population. The Boston Globe noted that

"Allston Brighton has seen huge numbers of buildings converted to market price condominiums in recent years. As of July 1985, the area contained 4,120 condominiums, or 23 percent of the total number in the city as a whole."<sup>1</sup>

The area and its affordable housing stock has also become a point of entry of poor

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<sup>1</sup> Ethan Bronner, "Neighborhood Split on Proposed Cooperative," Boston Globe 30 September 1986, final ed., 18.

Southeast Asian immigrants.

The Allston Brighton Community Development Corporation (ABCDC) was founded in 1980 "by and for community residents in response to the need for a local development corporation ... that will develop projects that will enhance the quality of life for neighborhood residents of all ethnic, social and cultural backgrounds."<sup>2</sup> One of the explicit goals of ABCDC was "developing and preserving affordable housing opportunities for Allston Brighton residents."<sup>3</sup>

ABCDC has been active in increasing the stock of affordable housing, employment opportunities for local residents, greenspace, and cultural activities. To date, nearly 70 units of housing have been acquired and renovated by the CDC. ABCDC is a participant in the SRO Special Needs Collaborative (mentioned in Chapter 4) and is developing a 12-unit SRO on Ashford Street in South Allston. The CDC is also actively pursuing one of the many HUD expiring use projects in Allston. The ABCDC Community Parks Improvement Program helps provide jobs for youths and beautification of the city. Also, ABCDC hosts the Allston Brighton Ethnic Festival, "a neighborhood tradition [that] brings together the ethnically diverse residents of the many cultures that make up Allston Brighton."<sup>4</sup>

In 1984, severe overcrowding conditions in buildings along one stretch of

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<sup>2</sup> Allston Brighton Community Development Corporation (ABCDC), Annual Report 1991 (1992) 1.

<sup>3</sup> Ibid.

<sup>4</sup> ABCDC 18.

Carol Avenue in Brighton gave the properties a poor reputation among local residents. #6, #10, and #12 Carol Avenue contained only 37 units yet housed about 300 Cambodian residents. The overcrowding was reduced by court order, but the order also caused many of the units to become vacant. As of late 1986, only 12 units were occupied. During this episode, Harry Yee, the lawyer on behalf of the families, felt that "these people were victimized." He lamented that "today, there are only a dozen families left and seven of them can't afford to stay ... We've searched all over and no private landlord will take them because they are large families with seven or eight members."<sup>5</sup>

A fourth adjacent property that was owned by the same landlord, #4 Carol Avenue, was purchased by a private investor in 1985, who hoped to renovate the structure and to convert the units to market-rate condominiums. ABCDC purchased the remaining three buildings in 1986 for nearly \$2,000,000. Through the acquisition, ABCDC hoped to prevent displacement of the largely Southeast Asian tenant base, maintain mixed income housing, and halt gentrification in Brighton. From the outset, ABCDC intended to renovate the units and convert the ownership structure of the properties to a new limited-equity cooperative, to be called the Carol Avenue Cooperative (the "Coop").

When ABCDC made its intentions public, not all of the neighborhood residents were in favor of the Carol Avenue plan. Sylvia Crystal, who lived around the corner from the project, was one of the most outspoken critics. She argued that

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<sup>5</sup> Bronner 18.

"If these buildings go off the market, we will lose people in Brighton who can afford market rates but can't find them... Those people could be the future of Brighton, the ones who make a community... There are some people in the community who believe that trying to sell to both Americans and Asians could lead to tension. Can we take that chance?"<sup>6</sup>

Supporters of the project were equally vocal. Don Gillis, Director of Neighborhood Services for Mayor Flynn, said that "we would like to see these folks [the community development corporation] be given a chance."<sup>7</sup> Others felt the CDC plan was a good idea.

This issue of whether or not the CDC spoke for the community was highlighted by the very public resignation of four CDC board members in April 1987. The resigning members claimed that ABCDC (1) lacked the support of the neighborhood, (2) authorized the borrowing of money without proper safeguards, (3) hired nonunion labor, and (4) used its influence to support the positions of newer community residents with close ties to Mayor Flynn. One resigning member, Edna Krensky, the former Corey Hill Neighborhood Association representative on the CDC board, was disturbed over what she saw as the disproportionate influence of the newer residents at the expense of older civic association members. Don Gillis felt that the fallout was "a situation in which people are criticizing doers who are results-oriented

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<sup>6</sup> Ibid.

<sup>7</sup> Alex Rothenberg, "Groups Clash Over Proposal for Cooperative in Boston," Boston Globe, 1 October 1986, 31.

and are trying to do things in the neighborhood."<sup>8</sup>

Throughout this internal conflict, the Carol Avenue project was advancing. As part of the permitting process, Robert Goldstein, Project Manager for ABCDC, contacted the Massachusetts Architectural Access Board (MAAB or "Access Board") to determine the effect of the state accessibility regulations on the renovation. He described the scope of work as "that of a remodeling job with no structural improvements or alterations."<sup>9</sup> The total number of units in the three buildings would also be reduced from 37 to 34.

The MAAB regulations do not provide explicit guidance for limited-equity cooperatives. Section 8 of the MAAB code stipulates that apartments must have accessible common areas and entrances, as well as a five percent (5%) set-aside for physically accessible units. Section 9 provides that the entrances and common areas of condominiums must be accessible, but no accessible units are required. Goldstein assumed that the limited-equity cooperative was a form of owner-occupied housing, and therefore was covered by the less stringent Section 9 regulation. On that assumption, he requested advice only as to what regulations applied to the ground-level entrances of the buildings. Most had two steps and were probably too small to fit the required 1 foot/12 feet ramps.

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<sup>8</sup> Charles A. Radin, "Four Quit Development Group," Boston Globe, 2 April 1987, 18.

<sup>9</sup> Robert Goldstein, letter to the Massachusetts Architectural Access Board (MAAB), 27 January 1987.

Moderate rehabilitation work was performed throughout 1987 for a total cost of about \$800,000. Construction financing was provided by First Mutual of Boston and by the Boston Public Facilities Department (PFD). ABCDC hoped to complete the cooperative by early 1988. Despite the earlier request for information to MAAB, no alterations were made by ABCDC to improve the access to the entrances of the buildings.

As the renovation neared completion, ABCDC marketed the remaining vacant units. In the late summer of 1987, Goldstein showed a basement apartment in one of the buildings to Mary Fisher, a masters degree student at the Boston College Institute for Religious Education and Pastoral Ministry. The front door to the unit was located on the rear of the structure and could only be reached by traveling through an alley and climbing a series of steps. Fisher, who used a wheelchair, was looking for a handicap accessible unit, but was willing to move into an inaccessible unit on the condition that necessary modifications would be made promptly. She occupied the unit in September. The alterations were supposed to performed within 60 days.

ABCDC had hoped to finance the cost of the accessibility renovations by slightly increasing the size of the permanent loan at the upcoming closing. But the original permanent lender, a local bank, pulled out because of risks associated with the entire project. Without a takeout loan, the interest costs on the construction loan continued to increase. This financial burden prevented the conversion to a coop and



delayed the physical adaptations indefinitely. In fact, a permanent lender, the Massachusetts Government Land Bank (the "Land Bank"), was not found until 1988. While these financial difficulties were occurring, renovation funds were unavailable and Fisher was forced to remain in an inaccessible unit.

Fisher described some of the difficulties she encountered while living in the unit that did not meet her needs. Her basement unit did not have an accessible secondary exit in case of fire. She also noted that

"for example, last weekend and on two previous ice/snow storms this winter the stairs were icy and snow covered. There was no snow, shovel, sand and salt out. Nor does the superintendent live on the property. This was dangerous for me as well as The Ride (a local shuttle service for the disabled) drivers who "bent" the rules to assist me."<sup>10</sup>

In 1987, Edna Krensky filed a complaint with the Access Board claiming that the building entrances were in violation of the MAAB condominium regulations requiring public access to the common areas of the units. On December 8, 1988, Virginia Guild, who had become the Executive Director of ABCDC, applied on behalf of the Coop for a variance from the common area requirements. A hearing was scheduled for January 30, 1989. During the time between the variance request and the hearing, the Disabilities Law Center, a Boston legal research and assistance organization for the disabled, filed a complaint of behalf of Fisher claiming that the Coop was in violation of apartment regulations for accessibility and therefore a 5%

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<sup>10</sup> Mary Fisher, letter to the Massachusetts Architectural Access Board (MAAB), 13 February 1989.

set-aside of two units should also be provided. Prior to the hearing, Fisher hired attorney Robert Costantino to represent her interests.

At the hearing, ABCDC acknowledged that the units at the present time were rental units, but would become coop-owned in the near future. ABCDC also conceded that Fisher's unit was inaccessible, but claimed that the renovations would begin in February. The Board took the case under advisement and requested further data including a plot plan and a plan of the surrounding area.

After the hearing, Tise Architects of Cambridge, who was responsible for the renovation project, suspended its preliminary work on the design modifications for Fisher's unit, pending the outcome of a new feasibility study on providing two accessible units in the Coop. Tise conducted a preliminary evaluation for the most effective location of the accessible units, should the variance request fail. Tise concluded that Fisher's unit and the adjacent unit were probably the best choices. A wheelchair ramp would be installed alongside the building in the alleyway and connected to a wheelchair lift in the rear. The lift would connect to a new foyer that would serve as a landing for wheelchairs and as an entrance to the units. The total unit and site cost was estimated to be about \$100,000, which would increase the average construction cost per unit at the coop by about \$3,000. Also, since the other apartment was occupied, the current tenants would have to be relocated.

In between the first two hearings, ABCDC maintained its claim that the Coop was more like a condo than a rental project, but suggested a few alternative

approaches to resolving the dispute if the MAAB should find otherwise. First, ABCDC could provide an extra unit in its next development or could dedicate one of the units in the Coop specifically for visually or hearing impaired residents. Based on the size of the Tise cost estimates, ABCDC reiterated its goal of adapting Fisher's unit, but stressed that the alterations were being done because the CDC wanted to meet the needs of one of its tenants, not because the CDC had to comply with the access code. At about the same time, the Land Bank notified ABCDC that the project would be in technical default on its loan if a coop were not established by March 31st, a date that was rapidly approaching.

The MAAB conducted its second hearing on March 27, 1989. The MAAB decided that "the property as it exists, is rental and as such, the five percent (5%) rule ... applies and two fully accessible wheelchair units are required"<sup>11</sup> The Access Board required two wheelchair accessible apartment plans by May 1st. Also, with respect to the common areas, the MAAB determined that a buzzer/bell and voice intercom system had to be installed in all three buildings and access into the main entrance foyers had to be provided within one month. A new hearing was scheduled for one week later, April 3rd.

On March 30th, ABCDC submitted a memorandum of facts to the MAAB and requested a continuance because the lenders had not had sufficient time to review the

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<sup>11</sup> Massachusetts Architectural Access Board (MAAB), decision re: 6, 10, 12 Carol Avenue, Brighton, 27 March 1989.

necessary materials. In addition, the prospective members of the Coop contacted the Access Board. Citing what it perceived as the inflexibility of the MAAB, the Coop claimed that "there is really no room for such a set-up in front of our property, and even if it were possible to devise something the buzzers still would be far more susceptible to vandalism and bad weather."<sup>12</sup> The Land Bank was also notified of the MAAB decision and the additional delays caused the loan to go into technical default. The hearing was rescheduled for April 18, 1989.

At the final hearing, the MAAB heard additional testimony and an update about the state of the accessibility modifications. After the hearing, the MAAB upheld its previous decision. This was the final order of the Board and additional appeals would have to be taken to the Massachusetts Superior Court.

ABCDC decided not to appeal the ruling and began searching for additional financing. PFD, EOCD-HIF, the Land Bank and other potential sources were approached. The MAAB took an unusually active role in supervising the timing and construction schedule for the adaptations.

The CDC made many efforts to involve Fisher in the redesign of her existing unit. Some of the designs incorporated features that were above and beyond the requirements stipulated in the MAAB Code. For example, a study/second bedroom was added to the unit to allow a personal care attendant to have a private room in the

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<sup>12</sup> Carol Ave Coop, letter to Massachusetts Architectural Access Board (MAAB), 6 April 1989.

apartment.

The schematic plans and final plans were presented to the Access Board. After MAAB approval was obtained, the lenders reviewed the revised project to determine if it was still feasible for affordable housing. Design costs, marketing costs, and potential lost income caused by reconfiguring existing two-bedrooms units into single bedrooms were all matters of concern. ABCDC was hoping that some of these costs would be reduced because they already had a potential tenant within the complex, namely Fisher.

The project continued to suffer many delays. Costantino complained that ABCDC was making the financing more difficult to obtain by including unrelated balcony renovations as part of the new funding request. After two years, his client still was not living in an accessible unit, a promise that was made to her in the fall of 1987. He emphasized the need for strict MAAB supervision over the project. In conclusion, he noted

"One wonders what the limits of human endurance are. How much can one person endure physically and psychologically before reaching the breaking point?"<sup>13</sup>

On December 28th, Costantino sent a letter to the ABCDC notifying them of Fisher's intention to terminate her lease as of February 1st. She had found a fully-accessible unit elsewhere the area and was in the process of transferring her possessions to her new address.

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<sup>13</sup> Robert Costantino, letter to Massachusetts Architectural Access Board (MAAB), 23 August 1989.

Construction of the accessible units began in 1990 and was finished in 1991. ABCDC finally converted 6-10-12 Carol Avenue to a cooperative in 1992. All of the units within the coop are currently occupied. A person with a mobility-related disability briefly occupied one of the two units, but in general, the marketing efforts of the accessible units to the disabled were not successful. Currently, the two units are occupied by people without disabilities. The complex wheelchair ramp/lift system is infrequently used.

Ironically, the building purchased by the private developer, #4 Carol Avenue, was an unsuccessful market rate project and is currently in foreclosure.

## 5.2 Additional Comments

Two of the participants, Virginia Guild of ABCDC and Julianne Mortel of Tise Associates, reflected on the Carol Avenue experience.<sup>14</sup> Guild was upset with the difficulty that ABCDC had finding tenants who could have taken advantage of the accessible design features. She felt that "we [ABCDC] were the good guys" who initially voluntarily accepted a disabled person into their development. She wondered whether disability advocates understood the limited financial capacity of CDCs and that "architectural requirements are expensive." She was dissatisfied with the inflexible position of the MAAB, but noted that after the hearing one member commented asked: "What would you have done in our place?" Guild was not sure

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<sup>14</sup> Virginia Guild, personal interview, 9 March 1993. Julianne Mortel, Tise Associates, personal interview, 18 March 1993.

that she would have, or could have, acted any differently had she been on the MAAB. On the other hand, she felt that the CDC was taken advantage of because there was an implicit assumption that the CDC would be able to ultimately get funding for the renovations. "Who else but a CDC would be willing to go through this? A private developer would have walked."

Julianne Mortel of Tise Associates was also affected by the experience. She believed that working on the Carol Avenue Cooperative "helped an able bodied architect understand the constraints of accessible design."<sup>15</sup> The majority of her experience had been designing for what she referred to jokingly as the "prototypical temporarily-able bodied person." Mortel felt that the current accessibility "codes are a minimalist approach, very rarely designed for specific needs or people." She thought that more input and more design would generate better design. "You don't want it to look institutional, don't want it to look different." For example, she felt that almost all architects use the same ugly sink fixture because everyone knows that model meets the accessibility code. For this reason, she believes that not only do the architects have to change, but the manufacturers have to provide new products as well. While working on the accessible units, she also became more sensitive to the psychological significance of architectural modifications. Mortel observed that "you do not want to push the institutional setting. AIDS patients and other people with debilitating diseases do not want to be reminded of the future." Rather, a system of

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<sup>15</sup> Mortel, personal interview.

gradually phased-in needed adaptations could provide a stable, functional environment for the resident.

She noted that sometimes the accessibility codes are not clear and allow more than one option. Before her experience with Mary Fisher and the Carol Avenue Coop, she did not have any basis on which to choose one accessibility option over another. The personal experience she gained has helped her to make these kind of choices. To her, floor area is always the key variable, since everything else can be altered. For example, Mortel observed that sometimes the accessibility codes and other building codes do not match up very well. One interesting example Mortel described relates to window design. For example, the fire code may specify casement windows to allow for a second means of egress from an apartment. But the depth of the window ledge and the need to lift the window frame may make the window difficult for a wheelchair user to manipulate. To meet this need, many awning window systems with long, movable rods have been developed to permit the opening of a window without greater physical exertion and without vertical movement. Mortel herself designed an unobtrusive combination window that contains an awning window within one of the casement window frames to meet both requirements. The window resembles all of the other windows in the building except for a second frame around one of the panels. The only difficulty is that the windows must be custom made and are rather expensive. Finally, she felt that sometimes the issue is one of the attitude of the owner and the architect. "Sometimes the owner just focuses on the dollars of the project and the architect does not want to compromise the design."



From the perspective of the disabled community, this story could be viewed as an example of unkept promises, and perhaps the institutional incompetence, of a not-for-profit developer required to provide accessible housing. From the perspective of a CDC, this case could be viewed as an example of the funding problems that plague CDC housing projects, the difficulty of determining the community to be served, and the ramifications of good intentions that yield unfortunate results. A third way of looking at the Carol Avenue experience is as a case where regulation interfered with the possibility of a discussion between two socially-motivated groups that locked themselves into a battle between the competing goods of affordable and accessible housing, using the languages of civil rights and of economics. This interpretation will be revisited in Chapter 7. Before discussing the particulars of this point of view, a few examples of other CDC experiences are presented.

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## Chapter 6 : Other CDC Experiences with Fully-Integrated Housing

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In this chapter, the experience of three other CDCs are recounted. These discussions reflect only the difficulties faced by these groups. Once again, the purpose of this chapter is not to imply that every project was rife with difficulties, but rather to present a few examples of important, representative problems that CDCs face. First, the problems of two CDCs, IBA and Urban Edge, are analyzed. In both cases, the CDC had trouble during the marketing phase of their projects. Then, the experiences of a CDC located outside the Boston area are presented to demonstrate similarities and differences between two geographic regions of the state.

### 6.1 IBA - Taino Tower

Carol Avenue focused mostly on the design phase of a renovation project. Taino Tower, built by Inquilinos Boricuas en Accion (IBA), focuses primarily on the difficulty of marketing accessible units. IBA is a CDC that "is dedicated to (a) fostering the human, social, and economic well-being of Villa Victoria [a neighborhood in the South End of Boston] residents, (b) promoting and advocating for Latinos city-wide, and (c) perpetuating the rich Latino cultural and artistic heritage."<sup>1</sup> Since 1968, the CDC has developed over 880 units of affordable housing; 24,000

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<sup>1</sup> Massachusetts Association of Community Development Corporations, Membership Directory 1992, (1992) 31.

square feet of commercial space; and a multi-purpose cultural center. In addition, IBA has created a variety of commercial enterprises, including a housing management company, a child development center, a credit union, and a security company.<sup>2</sup>

Taino Tower is a mixed-use, mixed-income project with 27 residential units and 3,500 square feet of commercial space within an old church. The CDC acquired the building from the city in the mid 1980s. The work performed was essentially new construction. The 5% MAAB accessibility set-asides for the 27-units translated into a requirement of two units, one 1-bedroom (designated as a low-income unit) and one 2-bedroom (designated as a moderate-income unit).

According to Robert Hertzog, former Development Director in charge of Taino Tower, IBA has, for a long period of time, tried to arrange its meetings in physically accessible locations. The potential problem of the disabled being seen as outsiders who take units away from community members was not an issue because typically the CDC made units available to people outside of the existing community anyway. Therefore, he sensed little or no resentment among the community over providing the accessible units.

Hertzog felt that there were three constraints that affected the project : historic preservation, affordability, and architectural access. The church facade was maintained to meet the concerns of the historic preservation groups. Meeting the other two objectives was much more difficult.

The financing was highly complex. Predevelopment, construction, gap, and

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<sup>2</sup> Ibid.

permanent financing were obtained from a variety of sources, including local banks, CEDAC, LISC, the Boston Community Loan Fund (BCLF), and the Boston Redevelopment Agency (BRA). The individual units were classified as either low-income, moderate-income or market-rate. Subsidies were obtained from the state government to help make the low and moderate-income units affordable.

Hertzog felt that the accessible units would add to the common area costs and the individual accessible unit costs. He did not think that any of these would be large, and none were broken out separately in the development budget. Nor was a separate architect contracted to design the accessible units. Special amenities included wall mounted ovens, adjustable tracks for counters and shelving, side-by-side refrigerators, and bigger bathrooms with better finishes and plumbing fixtures.

IBA began to market the two units in the summer of 1990, about 60% through the construction phase of the project. Initially, one marketing agent was used. The agent had experience only with market-rate condominiums and was replaced midway through the marketing program. Ron Rothenberg of HomeBase Realty (see Chapter 3) and many disability groups services were contacted. Each provided many leads, but no one took the units. Hertzog remembered that a deaf person saw the unit, and ultimately chose a conventional unit in the Tower instead.

Although there was no legal requirement to do so, IBA extended its marketing effort for two years to find a disabled resident. After about one and half years, the one-bedroom was occupied by a person with a debilitating disease. After two years, IBA finally allowed a non-disabled person to occupy the two-bedroom unit. This

occupant subsequently altered many of the accessibility design features in the apartment.

Looking back on the project, Hertzog noted that "nobody was really watching the marketing effort. They [the accessibility requirements] were just a design requirement that IBA had to do just to get a building permit."<sup>3</sup> Still, even though there was no statutory requirement, IBA tried to have the unit used for its intended purpose. The foregone income caused by the delay and the removal of the design features were significant costs to a project that was run on a very thin budget. Hertzog also wondered if any work was being performed to calculate housing demand for the disabled. He said that market studies may have been done but he did know of their existence.

Upon reflection, he also observed that the design for the two-bedroom unit could have been better. The unit was located on the floor where the old church exterior met the new exterior of the building addition above. The concrete reinforcement blocks that were used to secure the connection between the two facades blocked wheelchair access to the windows along that wall of the apartment. Hertzog felt that this error was a "design flaw" which made the unit more difficult for a mobility-impaired occupant.

Also, with respect to management concerns at Taino Tower, the only issue that he could recall was that OKM Associates, the management company, was unsure

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<sup>3</sup> Hertzog, personal interview.

about how to provide a fire alarm system for the deaf tenant. Ultimately, a fire warning light was installed for that tenant. In Hertzog's opinion, this problem was an extremely minor one and was easily solved by OKM.

In general, the negative influence of poor design on the entire housing process was also mentioned by two housing disability specialists, Lisa Sloane and Elaine Ostroff. Sloane believed that design is primarily the architect's responsibility.<sup>4</sup> She felt that a large learning curve exists for creating good design for the disabled. Certain parts of design criteria and features are still "clunky," but she expects things to improve over time. Ostroff noted that "accessible design sometimes has an institutional quality." She believed that "accessible design should be good design and [that to achieve good design] we need to redefine the role of the architect."<sup>5</sup> Her firm is part of a national faculty program curriculum development effort to make physically accessible design more understandable to future architects.

## 6.2 Urban Edge - Stony Brook Village

Urban Edge, a CDC located in the Jamaica Plain and Roxbury section of Boston, also faced a marketing concern with respect to one of their properties, Stony Brook Village. The mission of the CDC, which has been in existence since 1974, is

"to increase the supply of affordable housing to low- and moderate-income residents...[revitalize] Jamiaca Plain, the Egelston Square section of Roxbury, and the surrounding

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<sup>4</sup> Sloane, persona interview.

<sup>5</sup> Elaine Ostroff, personal interview, 15 March 1993.

neighborhoods. Integral to all Urban Edge projects and activities is the promotion of equal opportunity, access to housing, and employment for local and minority residents."<sup>6</sup>

Urban Edge has renovated over 110 units of owner-occupied housing and 230 units of subsidized rental housing. It is the owner and manager of 425 units of rental and co-op housing. The CDC also sponsors after-school programs for elementary and middle-school students, a teen center, "Hands Across Egelston Square", and other community events.

Stony Brook Village is a 50-story townhouse development in the Jamaica Plain neighborhood of Boston. According to Larry Brayman, former Development Director at Urban Edge, the CDC had its "eye on this site since the Southwest Corridor plan of the 1970s."<sup>7</sup> Urban Edge was created around the issue of the Southwest Corridor, a federal highway transportation link that was supposed to provide a connection from downtown Boston to the southwest corner of 495, through Jamaica Plain and several other Boston neighborhoods. After the plan was defeated, Urban Edge became involved in several housing projects and "land banking" efforts in the area. An RFP was sent out for Stony Brook Village in the late 1980s.

Urban Edge wanted a cooperative ownership structure for Stony Brook, which required a complicated set of minimum and maximum income requirements for the different residential components of the project. Half of the units were targeted toward

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<sup>6</sup> MACDC, Membership Directory 58.

<sup>7</sup> Larry Brayman, former Development Director, Urban Edge, personal interview, 12 March 1993.

people with less than 50% of the median income and half to people with incomes between 50% and 60% of the median. In addition, the MAAB required a 5% set-aside of 3 physically-accessible units.

The CDC investigated the possibility of building fully-accessible townhouses but found that the cost of elevators and other forms of mechanized vertical transport in the units would be equivalent to providing additional balconies for all of the townhouses in the complex. Ultimately, the accessible units were designed as flats with duplexes above them. Although the flat/duplex structures are a separate housing module, they were very similar to the townhouses in appearance. Maintaining the appropriate proportional relationship to the rest of the project, Urban Edge built one two-bedroom unit and two three-bedroom units with accessible features. According to Brayman, the development costs were not broken out, but were included under other line items in the budget.

To date, two of the three accessible units have been successfully marketed to people with disabilities. Fran Price, Project Manager at Urban Edge, felt that there were two primary reasons as to why the remaining unit has been difficult to rent.<sup>8</sup> First, she was not sure how many SSI recipients could meet the minimum income levels established by the project. Second, she felt that the Jamiaca Plain neighborhood was perceived as an inner-city minority area and that many potential tenants wanted housing elsewhere.

Price was also upset about the lack of support that Urban Edge received from

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<sup>8</sup> Fran Price, Urban Edge, phone interview, 1 March 1993.



the disability advocates. She made many marketing contacts including hospitals, social service agencies, BCIL, and the MRC. None proved successful. She was somewhat disappointed with the performance of the disability advocates and their ability to provide tenants for accessible units. Referring to the difference between the elaborate design criteria on wheelchair access and the marketing assistance, she claimed that "there is a big push, but then a lack of support." Also, Price was concerned about the specifics of how disabled individuals would fit into a cooperative housing arrangement, given its emphasis on "community" and individual responsibility. Finally, she "wondered why advocates are so frustrated when housing is available?"

Larry Brayman, former Development Director at Urban Edge, reflected on the general political context in which CDCs and disability advocates operate.<sup>9</sup> He saw the issue "not as a housing question, but as a resource question." If both groups had better access to financial resources, the potential for local conflict would be reduced. "CDCs spend too much time running around slapping 'band-aids' and addressing the latest screw up with the latest available program." He thought that a more comprehensive, integrated planning approach, coupled with sufficient resources, would be much more effective for both groups.

Both Brayman and Price had heard of the new state effort to help with

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<sup>9</sup> Brayman, personal interview.

marketing, the MRC housing registry. Price thought that the registry was a good idea and was surprised that it had not been created sooner. Brayman also thought that the registry was a good idea, noting that "people [with disabilities] looking for housing need help." He thought that there were two reasons why anyone would continue to try to rent an accessible unit to a disabled person after the mandatory waiting period. First, they may be unable to rent the unit to anyone else. Second, they may continue to pursue tenants who can benefit from the accessible features out of social obligation.

With respect to management, Brayman felt that, in general, owners might be concerned about excessive damage, the associated increased maintenance cost, and abnormal wear and tear on the unit. The owners may be concerned about liability and the impact of the presence of someone with disabilities on the other residents in the project.

### 6.3 Nueva Esperanza - Various Projects

Nueva Esperanza, located in Holyoke, Massachusetts, was incorporated in 1982. The goals of the CDC are "to deliver more affordable housing to low-income families; to develop community leadership; to encourage neighborhood economic development; and to promote the availability of appropriate community education and human service programs."<sup>10</sup> Key accomplishments of Nueva Esperanza include the rehabilitation of over 100 units of affordable rental housing, a community resource

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<sup>10</sup> MACDC, Membership Guide 1992 46.

center, a community land trust program, and a youth leadership program.

Tom Kegelman, former project manager for Community Builders, was involved with several Nueva Esperanza projects. He recounted several incidents that occurred during his tenure supervising the management of these properties. First, he pointed out several important differences between the services available in western and eastern Massachusetts. According to Kegelman, the expansive public transit network in the greater Boston area affords greater flexibility in unit selection to people with disabilities. This flexibility also increases the employment opportunities open to them. In contrast, the western portion of the state relies heavily on special buses and other inconvenient modes of transport. He notes that Amherst is better than Holyoke, because of greater political activism, sensitivity, and support services. In areas other than Amherst, he senses an attitude of "who cares?"<sup>11</sup> Also, some of the Holyoke projects have safety concerns. Kegelman felt that "high risk areas create a conflict between independence and security" for disabled residents and he was not sure he would want to live there under those circumstances.

Typical adjustments that management has made to accommodate tenants in Nueva projects include latch type handles for doors, oversized doors, more conscientious snow removal, and other attentions to climactic influences on access to the units. Still, Kegelman felt that some awkward situations have developed. For example, one unit was advertised as "limited accessibility" because the main entrance had three steps before entering the vestibule. He noted that a three step entrance is a

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<sup>11</sup> Tom Kegelman, phone interview, 15 March 1993.

common style throughout Holyoke, though he does not know why. Only the former retail facilities that have been converted into housing can provide ground level access without steps. Typically, these steps will not accommodate ramps and force the use of complex design solutions, like the wheelchair ramp at Carol Avenue. Kegelman recounted the experience of a wheelchair-bound disabled Vietnam War veteran whose roommate had to provide physical assistance by carrying the veteran whenever he wanted to enter the building. When an accessible route is provided along an alleyway or through the back of the building, the presence of gravel and mud can limit the usefulness of the route.

"Design is a customized sort of thing." The idea that one kind of design fits all is "kind of crazy" according to Kegelman. For example, a unit designed especially for a person with a hearing impairment had high volume alarms. The alarms were removed by a tenant who did not like the noise. Kegelman also provided a few interesting examples of other difficulties. One issue that he recounted involved the family of a young girl who was wheelchair-bound. The unit in which they lived had a tough, level loop carpet designed to withstand the wear and tear of the wheelchair. What the parents really wanted was a plush wall-to-wall carpet because their daughter enjoyed relaxing on the floor more than sitting in the wheelchair.

Kegelman concluded that people need "need creativity, intelligence, and good rationing because dollars are scarce and there is not much funding to do these kinds of projects."<sup>12</sup>

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<sup>12</sup> Kegelman, phone interview.

The financial ramifications of these CDC experiences can be very large, as in the case of Carol Avenue, or very small as in many of the management situations described by Kegelman. Also, the commitment of time and effort can be antagonistic, unsuccessful, or productive. Frequently, each of these sensations can occur within a single project.

Many disability groups, including BCIL, Massachusetts Office on Disabilities, and the MRC have been organizing management training seminars to acquaint property managers with the needs and concerns of people with disabilities. Yet, with respect to fully-integrated settings, these efforts have reached managers with only a few disabled tenants. The economies of scale typically associated with the training programs of managers of partially-integrated settings are absent.

Still, some general observations can be drawn from these events. The examples presented in this chapter parallel several of the experiences of ABCDC at the Carol Avenue project. Design considerations were seen as very important and were recognized and dealt with by many of the participants. Marketing was a concern in many of the cases as well. There appeared to be a lack of connection between the disability advocates deploring the lack of accessible housing and the CDCs who could not understand why their units remained vacant or were occupied by non-disabled residents. Management concerns, while relevant, were not as important as the other two issues. In part, this lack of importance is attributable to the ease of making minor physical adjustments for many of needs of the disabled. The general

response of CDCs appears to be similar to the comments of the managers who had previous experience with and who were willing to accommodate to the blind tenants mentioned in Chapter 2. In part, this lack of importance is attributable to the fact that after occupancy, the tenant is no longer viewed a statistic, and the tone of the discussion changes from a theoretical policy debate to a discussion of the needs of an identifiable person. In conclusion, the CDC experience indicates that all three issues are interrelated and influence each other in important ways.

The next chapter tries to make sense of the language and the terms of the debate that has been presented so far in this work. A framework for understanding this discussion is proposed and possible directions for solutions suggested by this framework are explored.

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## Chapter 7 : The Language of Socially-Motivated Groups

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The discussion between the advocates for physically accessible and affordable housing has often been distorted at best and contentious at worst. Is there a way to understand the discussion that has taken place between these groups? How can this understanding help to reduce the conflict? How can it increase the opportunities for common ground and coalitions? What insights does this understanding provide? Can this framework be applied to other situations?

One potentially useful way for organizing the claims of the two groups is to use, albeit in a slightly different context, the three themes employed by Haveman to understand the legislative history of the disabled (Chapter 3). Using this approach, the first theme is a moral appeal based on social obligation, which states that in a just society, there is an ethical obligation to help the disadvantaged and assist the poor. Second, there is a cost-benefit argument which asserts that action should be taken because the social benefits outweigh the social costs. For example, one such argument could claim that providing job training reduces unemployment rolls and helps people get jobs, which is better for the entire economy. Third, there is a legal claim which argues that the issue is not one of moral kindness, nor of financial benefit, but of civil rights and statutory protections against unfair treatment. This framework can serve as an analytic tool for individuals within the matrix, as well as

for outsiders who mediate the discussions between participants.

Clearly, the lines that divide these arguments become blurred at the edges. For example, morality can take many forms. If it is assumed that utilitarianism is the relevant moral standard, then the first and the second themes are identical. For the purpose of this chapter, the word "moral" is assumed to represent an ethical obligation to help others that is not predicated in economic benefit nor compelled by law. The term "economic" encompasses the line of argument that compares the financial and non-financial costs and benefits to determine if a policy or course of action is worth pursuing. Finally, the term "legal" includes only those arguments that are legitimated by the existence of codified civil rights and protections. Although the legal protections may merely represent the implementation of some of the moral arguments discussed above, there is a qualitative difference between the two because only one is supported by the force of law. Notwithstanding these complications, in general the three themes are distinct.

Both disability groups and community development corporations have relied on these arguments to advance their causes. However, there is a subtle difference between the goals of disabled groups and CDCs. Disability groups focus heavily on the needs of the individual. The theme of independence in the disability movement represents the struggle of trying to increase the activities that any one person can accomplish on his or her own. On the other hand, CDCs advocate independence for their constituents, usually described as "empowerment", but also have a commitment



to the physical environment in which they are located. This second commitment, to a geographically fixed location, a neighborhood or community, complicates the actions of CDCs. Sometimes they are forced to choose between these two objectives, sometimes they can simultaneously achieve both. On the other hand, while there is clearly a community of disabled individuals, this community is more of a personal network, in which it is a human, as opposed to a physical, link that connects the members of the group.

These ideas can be represented in the form a matrix, shown below:

	Disability Groups	Community Development Corporations	
		Individuals	Community
Moral			
Economic			
Legal			

**Table 7.1 Language Matrix**

One other important characteristic of this matrix is that as the debate shifts from a moral one, to a economic one, to a legal one, the options and negotiations available to the parties become reduced. As the Carol Avenue project demonstrated, once the debate reached the level of a legal battle before the MAAB, the ability of the parties to deal with each other became severely constrained.

Given this framework, where has the debate over fully-integrated housing taken place? The relative strength of these competing claims can be represented as follows:

	Disability Groups	Community Development Corporations	
		Individuals	Community
Moral	Weak	Weak	Weak
Economic	Absent	Strong	Strong
Legal	Strong	Absent	Absent

**Table 7.2 Strength of Claim in Current Debate**

The strongest claims of disability groups and CDCs respectively have been the legal language of civil rights, physical access, and non-discrimination in the case of the former, and the economic language of profit maximization and cost minimization in the case of the latter. Both have resorted, on occasion, to moral appeals to "social obligation" and "moral responsibility", but clearly the legal-economic relationship has predominated in the ongoing debate over fully-integrated, accessible housing.

From the perspective of disability advocates, the economic argument is absent because their constituents are imposing financial costs in exchange for what are frequently non-economic benefits, such as domestic comfort. As noted previously, the civil rights position for the disabled is the strongest claim.

From the perspective of CDCs, both the voices of the individual tenants who must bear the additional cost of accessibility and of the community who might have benefited from a different allocation of CDC resources are very strong. The power of

the economic argument is reinforced by the recognition of financial hardship as a limit on the amount of accommodation that has to be made to disability rights. Because of these factors, the economic argument is the most powerful for CDCs.

Interestingly, the juxtaposition of these two claims, economics versus legal rights, reflects the confrontational "tenant versus landlord" situation that typically occurs between disability advocates and the private for-profit sector. In addition, the civil rights argument is absent for CDCs because of the lack of a legal right or protection for affordable housing activity, such as a right to housing.

All three issues of design, marketing, and management are debated in these terms. Design is the longest, most pronounced, and probably most clearly defined debate. This statement does not imply that all of the issues with respect to design have been resolved, but rather that the discussion has a relatively long history and many concerns have been addressed. Marketing is more recent, but the provision of non-discriminatory residential protections and the creation of the housing registries in Massachusetts and elsewhere indicate that it is becoming the important new issue in this debate. At this point, management is not as contested, but this trend may reverse itself in the future as adaptability replaces accessibility standards, shifting a large portion of the budget for physical modifications from development costs to operating capital expenditures.

Given this framework, what alternatives are available to alter or improve the discussions and relations between the two groups? There are three possibilities: (1) a

cost mitigation approach, (2) a moral emphasis approach, and (3) an inclusionary approach.

First, the costs associated with remaining in this configuration within the matrix could be reduced (Table 7.3). Possible solutions might include further design research to determine demand and supply for adaptable features and units; increased quality and standardization of fixtures to meet the needs of the disabled; and marketing cost reduction strategies such as the housing registry. For example, in Taino Tower and Stony Brook Village, the existence of the registry may have shortened the leasing period for the accessible units. In addition, better design may help to lessen the stigma associated with these units, thereby increasing their marketability.

These activities would also benefit the private for-profit sector but would not capitalize on the social-motivations of not-for-profit housing groups. Still, even if these efforts are successful, the fundamental position of conflict between rights and economics would remain.

	Disability Groups	Community Development Corporations	
		Individuals	Community
Moral	--	--	--
Economic	--	Reduce	Reduce
Legal	--	--	--

**Table 7.3 Cost Mitigation Approach**

Second, efforts could be made to shift the debate to another portion of the matrix (Table 7.4). As noted throughout, the conflict between disability advocates and CDCs has been confined to fully-integrated living arrangements. In contrast, efforts to build partially-integrated projects have placed disability groups and CDCs on the same side of the fence. In these situations, both groups find common ground in the language of a moral obligation in promoting this kind of housing. They also manage to form coalitions against opponents, such as local residents who are not in favor of group homes. If this moral connection and similar income characteristics could be emphasized, the financial costs of producing accessible housing may not seem so large and the discussion could be shifted to another plane. Increasing the moral link between the two groups could help them to build coalitions and to focus on collaborative efforts.

	Disability Groups	Community Development Corporations	
		Individuals	Community
Moral	Increase	Increase	Increase
Economic	--	--	--
Legal	--	--	--

**Table 7.4 Moral Emphasis Approach**

Suggestions along these lines are less quantitative, but perhaps more beneficial. Disability advocates should be encouraged to take a more active role in CDC boards, staffs, and activities. The presence of an individual with a physical disability at Urban

Edge CDC, for example, helped to sensitize many of the staff to the needs of the disabled and also affected the design of several projects, including Stony Brook Village. Perhaps if IBA had involved a disability specialist in the design of Taino Tower, the design difficulty with the windows in one of the accessible units may have been avoided. Similarly, CDCs need to learn more about the practical needs of the disabled and property management strategies in order to reduce the possibility of making mistakes in the future.

Third, the participants along the top of the matrix could be reorganized so that CDCs could accept the disabled as a group that falls under their mandate (Table 7.5). If they could incorporate this group into their mission, then the needs of the disabled will not be perceived as distinct. This approach is slightly different from the moral emphasis approach, because in that case each group remains separate.

	Community Development Corporations		
	Disabled	Individuals	Community
Moral	--	--	--
Economic	--	--	--
Legal	--	--	--

**Table 7.5 Inclusionary Approach**

In this situation, the substance of the debate of affordability versus adaptability is unchanged, but it becomes an internal debate within the CDC, as opposed to a conflict with an outside group. The suggestions that were previously made under the moral emphasis approach would apply in this scenario as well, but the scope of involvement and cooperation between the two groups would be larger.

This framework could be applied to analyze other conflicts between socially-motivated groups. For example, the conflict between historic preservation and affordable housing, as well as the conflict between the elderly and the mentally disabled over integrated living arrangements, could be analyzed using a similar matrix. Also, instead of focusing on conflicts, this tool could be used to determine if socially-motivated groups have common goals or interests that might serve as the basis for future coalitions and joint activities.

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## Chapter 8 : Conclusion

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In conclusion, a few observations about the future of the relationship between the advocates of accessible and affordable housing are presented. These ideas are divided into three categories: thoughts about (1) disability, (2) community development corporations, and (3) the design, marketing, and management of physically accessible units in CDC properties.

In recent years, the political influence and visibility of the disabled has increased dramatically. The impact of the Fair Housing Amendments Act of 1988 and the Americans with Disabilities Act of 1990 cannot be underestimated. One of the most important issues that this group will face is the nature of its coalition. There is a consensus about the inclusion of certain core groups, such as the individuals who use wheelchairs. But the political efficacy of the movement as a whole may lie in its ability to maintain and broaden its constituency in the future. As the needs of various components of the disabled population are met, the stability of the existing coalition is threatened. Many people are at least temporarily physically disabled at some point during their lives and could benefit from a universal accessible design. Also, what if arthritis and other limiting conditions were to be included in the legal definition of disability? Finally, the ability to form stronger links with other, older civil rights groups can add to the political power of the disabled.



Nationally, developers of new, multifamily residential projects for occupancy after March 1991 are subject to the adaptable housing design standards of the federal Fair Housing Amendments Act of 1988. In addition, Massachusetts requires that developers of multifamily, rental residential projects are subject to the set-aside accessible housing standards that have evolved under Chapter 724. Given the broad applicability of these laws, what is to be gained by focusing primarily on CDCs?

First, CDCs have a long history of involvement with the stock of disabled housing and could provide several lessons to the for-profit sector, which has only recently been subject to federal regulation. In exchange for financial assistance, many CDC projects have been subject to the older physical accessibility requirements under the Architectural Barriers Act of 1968 and the Rehabilitation Act of 1973. Some organizations have almost a twenty year experience with the provision of integrated physically accessible housing. Much of this CDC involvement with the design, marketing, and management of physically accessible units could be instructive for the for-profit firms.

Second, the housing activity of CDCs represent the intersection between the development of partially and fully-integrated living arrangements. They have become experienced in both activities, including the creation of special needs housing, such as group homes, single room occupancy (SROs) projects, and homes for AIDS patients. This dual involvement may cause the knowledge gained in partially-integrated projects to be incorporated into their work in fully-integrated settings.

Third, given the large proportion of the disabled population that is low-

income, it is likely that, absent any additional subsidies, most of them will be eligible and competing for the type of affordable housing built by CDCs.

Fourth, CDCs have a unique mission, because they are not profit-maximizing firms, but rather are attempting to balance several objectives, including the well-being of the individual residents in their projects and of the community in which they operate. Therefore, if innovations and understanding between the disabled and the general housing development sector are to increase, it is likely that these changes would begin in this segment of the housing market.

Finally, recent press statements indicate a strong possibility that their influence and their role in revitalizing distressed areas will increase under the Clinton administration. This greater level of responsibility, and perhaps, the accompanying financial support, might increase the capacity of CDCs or might overwhelm it. Either way, it is likely that CDCs will undergo significant change in the next few years. Under these circumstances, and considering the moral connections discussed in the previous chapter, both the disabled and CDCs could benefit from a politically expedient relationship in this environment.

Three topics in fully-integrated, physically accessible housing also bear watching. First, with respect to design, there is potentially a hidden danger with the policy of adaptable housing. Admittedly, it is too early to quantify the effect of the new regulations on the United States housing market. Still, the "stigma" associated with accessible set-aside units was a two-edged sword. On the one hand, the units

were highly visible reminders of the needs of the disabled. On the other hand, the units frequently were inefficiently designed and poorly marketed. Under adaptable housing, in theory, the needs of disabled residents will be served more efficiently, but the visible reminder is no longer as evident. This disappearance is politically tolerable only if the adaptability approach actually does create a better set of choices. If no such improvement occurs, then the disabled will have exchanged a visible, flawed approach for an invisible, flawed approach and may have squandered political capital in the process.

Second, with respect to the registry and other similar marketing approaches, the purpose of the effort should be made explicit. Are they policy planning tools or state-supported brokerage listings? Is it important to know the status of the entire accessible housing stock or just the status of currently vacant units? How much information should be acquired about units? About disabled individuals? What about privacy concerns? As the MRC experiment continues, these issues will be explored.

Finally, it will be interesting to see whether physically accessible design considerations are ever applied to single family homes. About 65% of the United States housing stock is single family, and another 10% contains between 2 to 4 units. Although the achievements of disabled groups in the market for multifamily housing have been impressive, the majority of the housing stock in this country remains physically inaccessible. What happens to the design requirements in this sector of the housing market will bear watching.

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## Appendix A : Legal Definitions of Disability

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Government had struggled to craft a definitive and operational definition of disability since the earliest statutes pertaining to the disabled. With respect to housing, two "parallel" definitions have evolved. The first relates to housing statutes and activities that provide subsidy and financial assistance for development of housing for the disabled. The second relates to housing statutes and activities that provide non-discrimination rights and protections for the disabled. This appendix reviews the evolution of these definitions and highlights the differences between them.

### A.1 Disability in Housing Development Statutes

The earliest definition appeared in the Housing Act of 1959, which was the first major piece of housing legislation to explicitly recognize the need for residential facilities targeted to and designed for the disabled. Section 202(d)(4) of the Act (as amended) defines a person as being "handicapped" if that person has an impairment which

- "(A) is expected to be of long-continued and indefinite duration;
- (B) substantially impedes his ability to live independently;  
and
- (C) is of such a nature that such ability could be improved by more suitable housing conditions."<sup>1</sup>

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<sup>1</sup> United States, 12 U.S.C. 1701q(d)(4).

This definition lacks a scientific determination of disability, predicates access to the program on the inability of the individual to live a functional independent life, and is only available for people with manifest permanent or chronic impairments. This concept of disability appears throughout most federal legislation designed to promote partially integrated, multi-family housing developments for the disabled.

#### A.2 Disability in Discrimination Protection Statutes

In contrast, the definition of disability incorporated in the legislative acts relevant to discrimination protections adopts a different approach. One of the first major pieces of disability civil rights legislation with an explicit definition on disability was the Rehabilitation Act of 1973. This act was primarily a vehicle for increasing employment opportunities for the disabled within organization receiving federal contracts or assistance. In addition, Section 504 of the law contained a protection against discrimination in both the programs and activities of these groups. Because of the focus on employment, the law as originally passed by Congress defined a "handicapped individual" as someone who

- "(i) has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment; and
- (ii) can reasonably be expected to benefit in terms of employability from vocational rehabilitation services." <sup>2</sup>

This structure and language is very similar to the first definition presented above, but

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<sup>2</sup> United States, Rehabilitation Act of 1973, Section 7(8)(A).

it also created two difficulties. First, the law covered discrimination in all federally-assisted programs and activities. While this protection was most obviously applicable to employment, it also covered housing and a host of other activities for which this "employability" standard made little sense. Second, the severely disabled, the elderly disabled, children with disabilities and other disabled groups were not employable and therefore did not meet the "employability" standard. This meant that they were not covered under the definition and therefore ineligible for discrimination protection in housing and other activities as well.

Congress addressed these concerns with a set of amendments to the Rehabilitation Act passed in 1974. The definition of a person who is "handicapped" was changed to include anyone who

- "a. Has a *physical or mental impairment* that *substantially limits* one or more of the *major life activities* of such individual or
- b. Has a record of having such an impairment or
- c. Is regarded as having such an impairment."<sup>3</sup> (italics mine)

After adopting this definition, administrative officials were afraid that they had overly broadened the definition to include drug users and alcoholics. HEW, which was responsible for designing the regulations, received an opinion from the Attorney General that such parties were indeed included as disabled under the new definition. The law was subsequently amended in 1978 to specifically exclude from this definition are current substance abusers who, because of their abuse, are incapable of

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<sup>3</sup> United States, 29 U.S.C. §791 7(8)(B)).

participating the program or would pose a direct threat to the safety and property of others.<sup>4</sup> The definition has essentially remained stable since that revision.

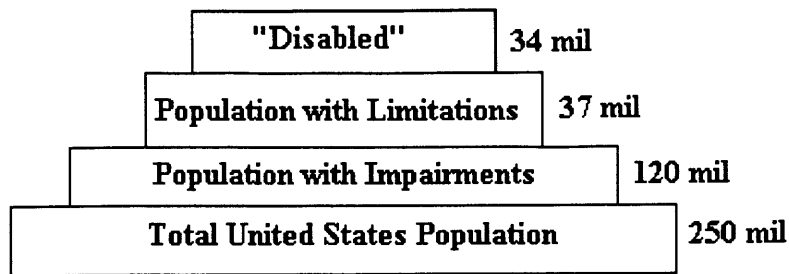
The language contained in Fair Housing Amendment Act is almost identical to the amended Rehabilitation Act, except the accompanying regulations further stipulate that transvestites are specifically excluded from this definition.<sup>5</sup> Also, since the term "handicap" has fallen out of favor, it was replaced by "disability" both in the Fair Housing Act and in subsequent legislation, such as the Americans with Disabilities Act of 1990 (ADA). Although there is a large difference in the perception and self-identification associated with these two terms, there is no legal distinction between them.

This second definition of disability, based on scientifically measurable criteria, is more elaborate than the definition used in the laws promoting residential development. An analysis of the regulations issued by HUD explaining these terms, such as "impairment", "substantial limitation", and "major life activity", will help to provide a clearer picture of the parties whom the law tried to protect. The general relationship between these terms is shown in Figure 2.1.

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<sup>4</sup> United States, 29 U.S.C. §791 7(8)(C)(v).

<sup>5</sup> United States, 24 CFR §100.201.



Source: LaPlante, 1990.

**Figure A.1: Relationship of Definitions**

### **Impairments**

A physical or mental impairment is a necessary but not a sufficient condition to qualify as disabled under part (a) of the definition. A "physical or mental impairment" includes

- "a. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems; neurological; musculoskeletal, special sense organs, respiratory, including speech organs; cardiovascular, reproductive; digestive; genito-urinary; hemic and lymphatic skin; and endocrine; or
- b. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

The term 'physical or mental impairment' includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart



disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism."<sup>6</sup>

The regulation also reiterates that the phrase "individuals with handicaps" does not include anyone whose current use of drugs or alcohol makes them incapable of participating in the program or activity whose inclusion would constitute a direct threat other program participants. The Fair Housing Act has a similar definition except for the explicit addition of persons with Human Immunodeficiency Syndrome (HIV) to the list of diseases and conditions.<sup>7</sup> Also, it should be noted that this list includes not only physical and sensory losses, but also chronic conditions, which will increase as the demographics of the country becomes increasingly aged.

### **Substantial Limitations**

Not all impairments "substantially limit" the capacity of the people who suffer from them. Two methods have been used to collect data on the level of limitation within a given population, functional limitation and activity limitation. A functional limitation is the inability to perform certain actions, such as walking and speaking. In contrast, an activity limitation is the inability to perform certain activities, such as working, dressing, cooking, and playing sports. Functional limitations are less restrictive because possessing such a limitation does not necessarily imply that specific activities cannot be accomplished, since many activities can be performed using a

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<sup>6</sup> United States, 24 CFR §8.3.

<sup>7</sup> United States, 24 CFR §100.201.

variety of different actions. "Substantial" indicates that not just any limitation is sufficient, but that a limitation of a substantial degree in performing activities is required.

### **Major Life Activities**

Even if the limitations suffered by an individual with an impairment are substantial, these limitations must affect at least one major life activity in order for the person to qualify as disabled. According to the regulations, a "major life activity" is defined as

"functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working."<sup>8</sup>

This definition incorporates both types of limitations. Seeing, hearing, and breathing are activity limitations. Working and performing manual tasks are activity-based.

In addition to part (a) of the definition, which covers those who are currently disabled, two other groups are included under the legal definition of disability. Part (b) of the definition adds anyone who "has had a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities."<sup>9</sup> This extends coverage to individuals with past conditions and to those who have been misdiagnosed. Part (c) extends the definition even further to

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<sup>8</sup> United States, 24 CFR §8.3.

<sup>9</sup> United States, 24 CFR §8.3.

include someone "who has none of the impairments ... but is treated by a recipient as having such an impairment."<sup>10</sup> The logic behind this final provision is to extend protection to those people who may not perceive themselves as being restricted, but may still suffer from the discriminatory attitudes of others.

Therefore, this last clause reflects a social component of disability that is absent in the first, more scientific, part (a) of the definition. Therefore, not only does the clinical definition of disability in civil rights legislation differ from the definition in housing development statutes, but also the inclusion of people covered by parts (b) and (c) further expands the size of the disabled population.

Given these legal definitions of the disabled, how many people in the United States are included in these various categories? In his 1991 survey, LaPlante found that the category of impairments is the broadest of adverse medical conditions and includes approximately 120 million people in the United States (see Figure A.1). Of the 120 million people with impairments, well over 37 million experience selected functional limitations, and at least 34 million persons experience limitation in at least one major life activity.<sup>11</sup> This 34 million figure is the number cited in Section 2.1 of this thesis.

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<sup>10</sup> Ibid.

<sup>11</sup> Mitchell P. LaPlante, "The Demographics of Disability," The Americans with Disabilities Act : From Policy to Practice, ed. Jane West. (New York: Milbank Memorial Fund, 1991).

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## **Appendix B : Summary of Federal and State Laws**

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This appendix contains a summary of the following federal and state laws promoting fully-integrated living arrangements for the disabled:

### Table B.1 Accessible Housing Legislation

- Architectural Barriers Act of 1968 (US)
- Rehabilitation Act of 1973 (US)
- Chapter 724 of 1967 (MA)

### Table B.2 Adaptable Housing Legislation

- Fair Housing Amendments Act of 1988 (US)
- Housing Bill of Rights for People with Disabilities of 1989 (MA)

**Table B.1 "Accessible Housing" Legislation**

Issue	Architectural Barriers Act (1968), as amended	Rehabilitation Act (1973), as amended	Chapter 724 (1967), as amended
<b><u>A. General</u></b>			
1. Scope	Federal	Federal	Massachusetts
2. Legislation	42 U.S.C. §4151 et seq.	29 U.S.C. §791 et seq.	M.G.L. 22 §13A
3. Relevant Housing Regulation	24 C.F.R. §40 24 C.F.R. §41	24 C.F.R. §8	521 C.M.R.
4. Brief Description	Provides accessibility in <b>federally owned and federally assisted buildings</b> . Supervisory Architectural and Transportation Barriers Compliance Board (ATBCB) created in 1973. Assigned responsibility for minimum standards in 1978.	Provides <b>non-discrimination in programs and activities receiving federal assistance</b> , including HUD projects.	Originally applied only to publicly-owned buildings. Expanded in 1974 to include <b>portions of all buildings open to the public</b> . Supervisory agency, the Massachusetts Architectural Access Board (MAAB), had its powers expanded in 1976.

**Table B.1 "Accessible Housing" Legislation**

Issue	Architectural Barriers Act (1968), as amended	Rehabilitation Act (1973), as amended	Chapter 724 (1967), as amended
5. Applicability to Privately-Owned Residential Structures	<p>Quid pro quo for federally assisted structures - In exchange for a grant or loan made by the United States government for the purpose of constructing or altering a qualified, privately-owned residential structure, recipient must make structures physically accessible.</p>	<p>Quid pro quo for federally assisted programs and activities - In exchange for a contract with the federal government in excess of \$2,500, recipient must make program and activities relating to privately-owned and qualified residential structures physically accessible.</p>	<p>No quid pro quo - Accessibility is mandated for all qualified residential structures.</p>
6. Underlying Approach to Meeting the Needs of the Disabled	<p>Provides accessible design and unit set-asides</p>	<p>As applied to residential structures, provides accessible design and unit set-asides</p>	<p>Provides accessible design and unit set-asides</p>
<b><u>B. Physical Design Requirements</u></b>			
1. Design Criteria & Types of Privately-Owned Structures Affected	(see Appendix C)	(see Appendix C)	(see Appendix C)

**Table B.1 "Accessible Housing" Legislation**

Issue	Architectural Barriers Act (1968), as amended	Rehabilitation Act (1973), as amended	Chapter 724 (1967), as amended
2. Physical Modifications to Premises	(not applicable)	Law provides for "program accessibility." Design alterations is one method for achieving compliance, but is not always the only or most appropriate approach.	(not applicable)
3. Physical Accessibility Standard	Uniform Federal Accessibility Standards (UFAS): adopted 1984.  Prior to adoption, various ATBCB and ANSI standards applied.	UFAS (except where superseded by HUD-specific regulations): adopted 1988.  Prior to adoption various ANSI standards applied.	Massachusetts Architectural Accessibility Board Guidelines (MAAB): adopted 1975.  Revised in 1977, 1982, and 1986. Currently under revision.
<u>C. Other Aspects of Legislation</u>			
1. Reasonable Accommodation	(not applicable)	Recipient must make effort to achieve reasonable accommodation in programs and activities (see B(2) above).	(not applicable)

**Table B.1 "Accessible Housing" Legislation**

<b>Issue</b>	<b>Architectural Barriers Act (1968), as amended</b>	<b>Rehabilitation Act (1973), as amended</b>	<b>Chapter 724 (1967), as amended</b>
2. Marketability of Units	(not applicable)	Landlord must take reasonable non-discrimination steps, including preference to other individuals within project who could use accessibility features.	(not applicable)
3. Waivers, Variances, and Modifications	Waiver or modification of requirement required from HUD. Petitioner must demonstrate waiver is "clearly necessary and consistent with the ABA."	Waiver not required. Must comply to maximum extent feasible, at long as grant recipient does not incur an undue burden. If change would fundamentally alter the program or activity, alteration not required.	Variance available if compliance is impractical. Impracticable when either technologically infeasible or when imposes excessive costs without any substantial benefit to the physically handicapped.
<b><u>D. Enforcement Mechanisms</u></b>			
1. Covenants and Other Binding Agreements	(not applicable)	HUD can require non-discrimination covenants running with the land. Also, condition of reversion can be included in the covenant.	(not applicable)



**Table B.1 "Accessible Housing" Legislation**

Issue	Architectural Barriers Act (1968), as amended	Rehabilitation Act (1973), as amended	Chapter 724 (1967), as amended
2. Complaints and Civil Actions	Aggrieved party can file complaint with HUD or ATBCB. HUD will conduct periodic compliance review.	Aggrieved party can file complaint with civil rights official, usually Office of Fair Housing and Equal Opportunity at HUD, on behalf of individual or class. HUD will conduct periodic compliance reviews.	Aggrieved party can file complaint with MAAB.

**Table B.2 "Affordable Housing" Legislation**

Issue	Fair Housing Amendments (1988)	Housing Bill of Rights for People with Disabilities (1989)
<u>A. General</u>		
1. Scope	Federal	Massachusetts
2. Legislation	42 U.S.C. §3601 et seq.	Chapter 722, Mass Acts of 1989, amending many chapters of M.G.L., including Chapter 151B
3. Relevant Housing Regulation	24 C.F.R. 100	521 C.M.R.
4. Brief Description	Prevents discrimination based on handicap and familial status in the sale, rental, or service provision of housing. Extension of Civil Rights Act of 1964.	Prevents discrimination based on handicap and familial status in the sale, rental, or service provision of housing. Incorporates federal law into state law and adds selected rights and protections for affected groups.
5. Underlying Approach to Meet Needs of the Disabled	Providing accessible site and common area design and adaptable units	Providing accessible site and common area design and adaptable units.
<u>B. Physical Design Requirements</u>		
1. Design Criteria & Types of Private-Owned Residential Structures Affected	Multifamily - buildings of 4 or more dwelling units with elevators AND ground floor dwelling units in other buildings consisting of 4 or more dwelling units (see Appendix C)	Multifamily - buildings of 3 or more dwelling units with elevators AND ground floor dwelling units in other buildings consisting of 3 or more dwelling units (see Appendix C)

**Table B.2 "Affordable Housing" Legislation**

Issue	Fair Housing Amendments (1988)	Housing Bill of Rights for People with Disabilities (1989)
2. Physical Modification to Premises	Landlord cannot deny a request for a <b>reasonable modification</b> but tenant is responsible for costs of installation, and may be responsible for its removal at the end of the tenancy.	Landlord cannot deny a request for <b>reasonable modification</b> . In housing with ten or more units, assuming modification would not impose an undue burden, <b>landlord is responsible for costs</b> . Otherwise tenant is responsible for costs of installation, and perhaps removal. Landlord does not have to pay for modifications in excess of ten percent (10%) of units.
3. Physical Accessibility Standard	Fair Housing Act Accessibility Guidelines (FHAAG): adopted 1991.	Mass Architectural Access Board Guidelines (MAAB): Currently under revision to include adaptability requirements.
<u>C. Other Aspects of Non-Discrimination</u>		
1. Reasonable Accommodation	Landlord cannot refuse a <b>reasonable accommodation</b> to rules, procedures, practices, or services, if the accommodation is necessary is necessary for the use and enjoyment of the premises.	(Same)
2. Marketing of Units	(not applicable)	MRC has the responsibility to establish a central registry of qualified accessible and adaptable housing in Massachusetts. Landlord must give 15 days notice of available unit to MRC. During those 15 days, landlord can only rent the unit to someone in need of wheelchair accessibility.

**Table B.2 "Affordable Housing" Legislation**

<b>Issue</b>	<b>Fair Housing Amendments (1988)</b>	<b>Housing Bill of Rights for People with Disabilities (1989)</b>
3. Waivers and Exemptions	Waiver not required. Developer can claim exemption stating that compliance is impractical because of site specific concerns and can build units out of compliance. Developer risks having to subsequently alter the physical design of the project.	All new construction must conform to MAAB regulations prior to receiving certificate of approval. MAAB has the authority to grant waivers. No construction can take place until either the plans has been approved or a waiver has been granted.
4. Availability of Financing for Adaptations	(not applicable)	MHFA has authority to grant home improvement loans to owners making existing housing accessible.
<b><u>D. Enforcement Mechanisms</u></b>		
1. Complaints and Civil Actions	Individuals can file complaints with HUD. HUD can also initiate its own complaints. Attorney General can pursue civil suit if pattern of ignoring law is present. Fines may be assessed up to \$50,000.	Individuals can file complaints with appropriate commissions. Hearings or civil suits may result. In addition to fines up to \$50,000, courts may also assess punitive damages.

## **Appendix C : Summary of Housing Covered Under Laws**

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This appendix contains a summary of the dwellings types (single family, multifamily), the project types (moderate rehabilitation, substantial rehabilitation, new construction), and the accessibility requirements covered under the following five accessibility and adaptability housing laws:

### **Accessibility Legislation**

- Architectural Barriers Act of 1968 (US)
- Rehabilitation Act of 1973 (US)
- Chapter 724 of 1967 (MA)

### **Adaptability Legislation**

- Fair Housing Amendments Act of 1988 (US)
- Housing Bill of Rights for People with Disabilities of 1989 (MA)

LEGISLATION: ARCHITECTURAL BARRIERS ACT (FEDERAL)  
 REGULATION: 24 CFR 40; 24 CFR 41  
 ORIGINAL PASSAGE: 1968  
 ACCESS STANDARD: UFAS

	MODERATE REHAB				SUBSTANTIAL REHABILITATION			
	Less than 50% of full and fair cash value				More than 50% of full and fair cash value			
	ACCESSIBLE ROUTE	ACCESSIBLE ENTRANCE	ACCESSIBLE TOILET	ACCESSIBLE UNITS	ACCESSIBLE ROUTE	ACCESSIBLE ENTRANCE	ACCESSIBLE TOILET	ACCESSIBLE UNITS
<b>One or Two Family (Rent)</b>								
Less than 15 units in project	NO	NO	NO	NO	NO	NO	NO	NO
More than 15 units in project	NO	NO	NO	NO	YES	YES	YES	5%
<b>One or Two Family (Own)</b>								
Less than 15 units in project	NO	NO	NO	NO	NO	NO	NO	NO
More than 15 units in project	NO	NO	NO	NO	UP TO BUYER	UP TO BUYER	UP TO BUYER	UP TO BUYER
<b>Multifamily</b>								
Less than 15 units	NO	NO	NO	NO	NO	NO	NO	NO
More than 15 units	NO	NO	NO	NO	YES	YES	YES	5%

	NEW CONSTRUCTION			
	ACCESSIBLE ROUTE	ACCESSIBLE ENTRANCE	ACCESSIBLE TOILET	ACCESSIBLE UNITS
<b>One or Two Family (Rent)</b>				
Less than 15 units in project	NO	NO	NO	NO
More than 15 units in project	YES	YES	YES	5%
<b>One or Two Family (Own)</b>				
Less than 15 units in project	NO	NO	NO	NO
More than 15 units in project	UP TO BUYER	UP TO BUYER	UP TO BUYER	UP TO BUYER
<b>Multifamily</b>				
Less than 15 units	NO	NO	NO	NO
More than 15 units	YES	YES	YES	5%

**Comments**

- (1) ACCESSIBLE UNITS indicates the number or percentage of accessible units that must be set-aside for individuals with disabilities.
- (2) FULL AND FAIR CASH VALUE is either 100% equalized assessed value of the building, replacement cost, or fair market value.

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LEGISLATION: REHABILITATION ACT (FEDERAL)  
 REGULATION: 24 CFR 8  
 ORIGINAL PASSAGE: 1973  
 ACCESS STANDARD: UFAS

	MODERATE REHAB				SUBSTANTIAL REHABILITATION			
	Less than 75% of replacement cost				More than 75% of replacement cost			
	ACCESSIBLE ROUTE	ACCESSIBLE ENTRANCE	ACCESSIBLE TOILET	ACCESSIBLE UNITS	ACCESSIBLE ROUTE	ACCESSIBLE ENTRANCE	ACCESSIBLE TOILET	ACCESSIBLE UNITS
Single Family	NO	NO	NO	NO	NO	NO	NO	NO
Multifamily								
Less than 5 units	NO	NO	NO	NO	NO	NO	NO	NO
5 - 15 units	MAX FEASIBLE	MAX FEASIBLE	MAX FEASIBLE	UNIT BY UNIT	YES	YES	YES	NO
More than 15 units	MAX FEASIBLE	MAX FEASIBLE	MAX FEASIBLE	UNIT BY UNIT	YES	YES	YES	5% / 2%

	NEW CONSTRUCTION			
	ACCESSIBLE ROUTE	ACCESSIBLE ENTRANCE	ACCESSIBLE TOILET	ACCESSIBLE UNITS
Single Family	NO	NO	NO	NO
Multifamily				
Less than 5 units	NO	NO	NO	NO
5 - 15 units	YES	YES	YES	5% / 2%
More than 15 units	YES	YES	YES	5% / 2%

**Comments**

- (1) ACCESSIBLE UNITS is defined as the number or percentage of accessible units that must be set-aside for individuals with disabilities.
- (2) 5% / 2% is defined as 5% (or least one unit) for people with mobility impariments and 2% set-aside (or at least one unit) for people with hearing or vision impariments.
- (3) MAXIMUM EXTENT FEASIBLE is defined as the amount of work that could be performed without creating an undue burden on the landlord.
- (4) UNIT BY UNIT is defined as requiring compliance unit by unit as alterations are made, unit structure is in full compliance.

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LEGISLATION: MASSACHUSETTS '67 LAW (MASSACHUSETTS)  
 REGULATION: 521 CMR  
 ORIGINAL PASSAGE: 1967  
 ACCESS STANDARD: MAAB

	MIMIMAL ACTIVITY	MODERATE ACTIVITY			SUBSTANTIAL ACTIVITY				
	Less than 25% assessed value	Less than 25% assessed value			More than 25% assessed value of building				
	Less than \$50,000	More than \$50,000			WORK?	PUBLIC ENTRANCE	PUBLIC TOILET	PUBLIC AREAS	ACCESSIBLE UNIT
WORK IN COMPLIANCE?	WORK?	PUBLIC ENTRANCE	PUBLIC TOILET						
<u>Single Family</u>	NO	NO	NO	NO	NO	NO	NO	NO	NO
<u>Multifamily (Rental)</u>									
Less than 12 units	NO	NO	NO	NO	NO	NO	NO	NO	NO
12 – 20 units	YES	YES	YES	YES	YES	YES	YES	YES	NO
More than 20 units	YES	YES	YES	YES	YES	YES	YES	YES	5%
<u>Multifamily (Condo)</u>									
Less than 12 units	NO	NO	NO	NO	NO	NO	NO	NO	NO
More than 12 units	YES	YES	YES	YES	YES	YES	YES	YES	NO

Comments

- (1) ACTIVITY includes (A) construction, (B) reconstruction, (C) change of use, and also (D) remodeling or (E) alteration whose average cost exceeds 5% of the assessed value of the building. New construction (where no previous building is located on site) is covered under SUBSTANTIAL ACTIVITY.
- (2) Terms MINIMAL, MODERATE, and SUBSTANTIAL are not part of regulation, but are used for convenience.
- (3) WORK IN COMPLIANCE? or WORK? indicates whether work performed must be in compliance with MAAB standard.
- (2) PUBLIC ENTRANCE indicates whether an accessible entrance is required.
- (3) PUBLIC TOILET indicates whether a public toilet usable by person in a wheelchair is required.
- (4) PUBLIC AREAS indicates whether general public function areas, recreation areas, health facilities, pools ... elevators, primary entrances as well as the stairs and corridors leading to accessible units must be made accessible.
- (5) ACCESSIBLE UNIT indicates the minimum percentage or number of required physically accessible units.
- (6) HOUSING BILL OF RIGHTS changed 5% requirement from accessible units to adaptable units with 5' turning radius for a wheelchair in kitchens and and bathrooms.

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**LEGISLATION:** FAIR HOUSING AMENDMENTS ACT (FEDERAL)  
**REGULATION:** 24 CFR 100  
**ORIGINAL PASSAGE:** 1988  
**ACCESS STANDARD:** FHAAG

	EXISTING				NEW CONSTRUCTION			
	Rehabilitation		Reasonable Modification		Construction		Reasonable Modification	
	PUBLIC AREAS	INDIVIDUAL UNITS	PUBLIC AREAS	INDIVIDUAL UNITS	PUBLIC AREAS	INDIVIDUAL UNITS	PUBLIC AREAS	INDIVIDUAL UNITS
<u>Single Family</u>	NO	NO	NO	NO	NO	NO	NO	NO
<u>Multifamily (No Elevator)</u>								
Less than 4 units	NO	NO	NO	NO	NO	NO	NO	NO
More than 4 units	NO	NO	YES	YES	YES	GROUND	YES	GROUND
<u>Multifamily (Elevator)</u>								
Less than 4 units	NO	NO	NO	NO	NO	NO	NO	NO
More than 4 units	NO	NO	YES	YES	YES	ALL	YES	ALL

**Comments**

- (1) PUBLIC AREAS includes all public use and common use areas. All doors must be accessible. Also, adaptive design features such as an accessible route, environmental controls, reinforcements in bathroom walls for grab bars, and wheelchair clearance space in kitchens and bathrooms must be provided.
- (2) GROUND is defined as ground floor dwelling units only.
- (3) ALL is defined as all units in a dwelling.
- (4) Landlord cannot deny reasonable physical accomodation. Tenant must pay for costs.

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**LEGISLATION:** HOUSING BILL OF RIGHTS (MASSACHUSETTS)  
**REGULATION:** 521 CMR  
**ORIGINAL PASSAGE:** 1989  
**ACCESS STANDARD:** MAAB

	EXISTING				NEW CONSTRUCTION			
	Rehabilitation		Reasonable Modifications		Construction		Reasonable Modifications	
	PUBLIC AREAS	INDIVIDUAL UNITS	PUBLIC AREAS	INDIVIDUAL UNITS	PUBLIC AREAS	INDIVIDUAL UNITS	PUBLIC AREAS	INDIVIDUAL UNITS
<u>Single Family</u>	NO	NO	NO	NO	NO	NO	NO	NO
<u>Multifamily (No Elevator)</u>								
Less than 3 units	NO	NO	NO	NO	NO	NO	NO	NO
More than 3 units	NO	NO	YES	YES	YES	GROUND	YES	GROUND
<u>Multifamily (Elevator)</u>								
Less than 3 units	NO	NO	NO	NO	NO	NO	NO	NO
More than 3 units	NO	NO	YES	YES	YES	ALL	YES	ALL

Comments

- (1) PUBLIC AREAS includes all public use and common use areas. All doors must be accessible. Also, adaptive design features such as an accessible route, environmental controls, reinforcements in bathroom walls for grab bars, and wheelchair clearance space in kitchens and bathrooms must be provided.
- (2) GROUND is defined as ground floor dwelling units only.
- (3) ALL is defined as all units in a dwelling.
- (4) Landlord is responsible for costs of reasonable modifications (assuming no undue burden) in publicly assisted housing projects with ten or more units. No more than ten percent (10%) of the units must be modified.

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## Bibliography

- "Access Activism." Utne Reader. March/April 1993: 98-110.
- Adams, Patricia F. Veronica Benson. Current Estimates from the National Health Interview Survey. Hyattsville, Maryland : National Center for Health Statistics. Vital Health Stat 10(181). 1991.
- Allston Brighton Community Development Corporation. Annual Report 1991. 1991.
- Berkowitz, Edward D. Disabled Policy : America's Programs for the Handicapped. Cambridge: Cambridge University Press, 1987.
- Bloom, Jennifer Kingpon. "Funds Sought to Match Disabled with Housing." Boston Globe. 4 March 1991.
- Bostrom, Jim. "Adaptable Housing: More Units, More Choices?" Mainstream 12(5). September 1987: 25.
- Bowe, Frank. Handicapping America : Barriers to Disabled People. New York: Harper & Row Publishers, 1978.
- Bratt, Rachel G. "Community-Based Housing Programs: Overview, Assessment, and Agenda for the Future." Journal of Planning Education and Research 5 (1986): 164-177.
- . "Community-Based Housing : Strengths of the Strategy Amid Dilemmas That Won't Go Away." Neighborhood Policy and Programmes : Past and Present. Ed. Naomi Carmon. New York: St. Martin's Press, 1990. 181-200.
- Bronner, Ethan. "Neighborhood Split on Proposed Cooperative." Boston Globe. 30 September 1988.
- Carol Avenue Cooperative. Letter to the Massachusetts Architectural Access Board (MAAB). 6 April 1989.
- Carling, Paul J. "Access to Housing: Cornerstone of the American Dream." Journal of Rehabilitation (July/August/September 1989): 6-8.
- Chollet, Deborah J. A Cost-Benefit Analysis of Accessibility. prepared by Syracuse University for the U.S. Department of Housing and Urban Development, Office of Policy Development and Research. 1979.

Crane, William and Ernest Winsor. "Housing Rights Law for People with Disabilities." Massachusetts Lawyers Weekly. 18 M. L. W. 1253. 26 March 1990.

Dean, Deborah Gore. "Fair Housing for the Disabled." Journal of Rehabilitation. (April/May/June 1987): 17+.

Dietl, Dick. "The Time is Right, The Model House is Here." Disabled USA (December 1987): 4-11.

Discrimination on the Basis of Disability: Federal and Massachusetts Laws. prepared by the Disabilities Law Center. Boston: N. Neil Pike Institute on Law and Disability, Boston University School of Law, 1992. 53-66.

Fanning, Ruth A. et. al. "Housing Needs of Individuals with Severe Mobility Impairments : A Case Study." Journal of Rehabilitation (April/May/June 1991): 7-13.

Fisher, Mary. Letter to the Massachusetts Architectural Access Board (MAAB). 13 February 1989.

Goebel, Paul R. and Dean E. Lively, Jr. "Are You Discriminating." Journal of Housing. (May/June 1989): 145-150.

Goetz, Edward G. "Local Government Support for Nonprofit Housing : A Survey of U.S. Cities." Urban Affairs Quarterly 27 (March 1992): 420-435.

Goffman, Erving. Stigma: Notes on the Management of Spoiled Identity. Englewood Cliffs, NJ: Prentice Hall, 1963. 147 pp.

Goldstein, Robert. Letter to the Massachusetts Architectural Access Board (MAAB). 27 January 1987.

Haveman, Robert H., Halberstadt, and Richard V. Burkhauser. Public Policy Toward Disabled Workers. Ithaca: Cornell University Press, 1984. 583 pp.

Hearne, Paul G. "Employment Strategies for People with Disabilities: A Prescription for Change," in The Americans with Disabilities Act : From Policy to Practice, ed. Jane West. New York : Milbank Memorial Fund, 1991. 360 pp.

Hirsch, E. J. Jr. Cultural Literacy : What Every American Needs To Know. Boston: Houghton Mifflin, 1987.

- Hogan, Michael F. and Paul J. Carling. "Normal Housing : A Key Element of a Supported Housing Approach for People with Psychiatric Disabilities." Community Health Mental Journal 28 (June 1992): 215-226.
- Hughes, Susan L. et. al. "Joint Impairment and Self-Reported Disability in Elderly Persons." Journal of Gerontology: Social Sciences. Vol. 48. No. 2. (1993) : S84-S92.
- "In Search of Barrier Free Housing." Paraplegia News (May 1981): 19-37.
- Jones, Barbara and D. K. Slagle. "Adaptable Housing." Paraplegia News (May 1983): 36-37.
- Keating, W. Dennis, Keith P. Rasey and Norman Krumholtz. "Community Development Corporations in the United States : Their Role in Housing and Urban Development." Government and Housing : Developments in Seven Countries. Ed. Willen van Vliet and Jan van Weesep. Volume 36. Urban Affairs Annual Reviews. Newbury Park: Sage Publications, 1990.
- Kenneally, Christopher. "For the Disabled, Housing Remains a Challenge." Boston Globe. 3 November 1990.
- Kuehn, Robert H. Jr. Letter to Architectural Access Board and MHFA Adaptable Housing Subcommittee. 24 April 1991.
- LaPlante, Mitchell P. "The Demographics of Disability." The Americans with Disabilities Act : From Policy to Practice. Ed. Jane West. New York: Milbank Memorial Fund, 1991. 360 pp.
- LaPlante, Mitchell P. Gerry E. Hendershot. Abigail J. Moss. "Assistive Technology Devices and Home Accessibility Features: Prevalence, Payment, Need, and Trends." Advance Data From Vital and Health Statistics No. 217. Hyattsville, Maryland: National Center for Health Statistics. 1992.
- Lewis, Beatrice Esther. Inventors, Explorers, Experimenters: How Parents Adapt Homes for Children with Disabilities. diss. Massachusetts Institute of Technology. June 1985.
- Mace, Ronald L. "Design for Special Needs." Housing : Symbol, Structure, Site. Ed. Lisa Taylor. New York : Smithsonian Institution, 1990. 176 pp.
- Massachusetts Association of Community Development Corporations (MACDC). Annual Report: July 1991 - June 1992. 1992.

- . 1992 Production Report. 1992.
- . Membership Directory 1992. 1992.
- McGauchey, Rita. "Will the New Standard Act for Accessibility Curb the Proliferation of Design Requirements." Rehabilitation Literature 41 (July-August 1980): 174-176.
- Massachusetts. Massachusetts General Laws 22 §13A.
- . Chapter 724. Massachusetts Acts of 1967.
- . Chapter 722. Massachusetts Acts of 1989. Housing Bill of Rights for People with Disabilities.
- . 521 C. M. R. Architectural Access Board.
- . Decision of Massachusetts Architectural Access Board (MAAB) Re: 6, 10, 12 Carol Avenue, Brighton. 27 March 1989.
- May, Debra C. et. al. "Housing Discrimination : Apartment Rentals to People who are Blind or Mentally Retarded." Journal of Applied Rehabilitation Counseling 23 (Summer 1992): 26-28.
- Mayer, Neil S. Neighborhood Organizations and Community Development : Making Revitalization Work. Washington D.C.: Urban Press Institute, 1984. 230 pp.
- . "The Role of Nonprofits in Renewed Federal Housing Efforts." MIT Center for Real Estate Development Policy Paper #16. May 1988.
- . "Preserving the Low-Income Housing Stock: What Nonprofit Organizations Can Do Today and Tomorrow." Housing Policy Debate 2(2) (1991): 499-533.
- National Congress for Community Economic Development (NCCED). Changing the Odds : The Achievements of Community-Based Development Corporations. December 1991.
- "National Handicapped Housing Institute." Paraplegia News (July 1980): 30-31.
- Newman, Sandra and Raymond J. Struck. "Housing and Supporting Services : Federal Policy for the Frail Elderly and Chronically Disabled." MIT Center for Real Estate Policy Paper #17. May 1988.

- Noll, Tom. ed. A Consumer's Guide to Home Adaptation. Boston: The Adaptive Environments Center, June 1989.
- Patrick, Donald. "Integrated Services for the Severely Physically Handicapped." Rehabilitation Counseling Bulletin (June 1975): 232-239.
- Perry, Stewart E. Communities on the Way : Rebuilding Local Economies in the United States and Canada. New York: State University of New York, 1987. 254 pp.
- Pope, Andrew M. and Alvin R. Tarlov eds. Disability in America : Toward a National Agenda for Prevention. Washington D. C.: National Academy Press, 1991. 362 pp.
- Radin, Charles A. "Four Quit Development Group." Boston Globe. 2 April 1987.
- Rothenberg, Alex. "Groups Clash Over Proposal for Cooperative in Brighton." Boston Globe. 1 October 1986.
- Rybczynski, Witold. Home : The Short History of an Idea. New York : Penguin Books, 1986. 256 pp.
- Sanford, Jon A. et. al. Development of a Housing Inventory Protocol for the National Housing Registry Demonstration Project (draft report). prepared for the Massachusetts Rehabilitation Commission (MRC). North Carolina: Center for Accessible Housing. 4 September 1992.
- Schroeder, Steven and Edward Steinfeld. The Estimated Cost of Accessible Buildings. prepared by Syracuse University for the U.S. Department of Housing and Urban Development, Office of Policy Development and Research. 1979.
- Schilling, Gail L. "Housing for Physically Disabled Individuals : The Home Builders' Perspective." Journal of Rehabilitation (July/August/September 1992): 25-30.
- Schwartz, Neal. A Move Toward Independence: Housing for People with Disabilities. Boston: Citizens Housing and Planning Association, January 1991.
- Sit, Mary. "Housing Hunting Tests Disabled." Boston Globe. 10 January 1993: A1+.

Sturdivant, Frederick D. "Community Development Corporations : The Problem of Mixed Objectives." Law and Contemporary Problems 36 (January 1971): 35-50.

United States. Department of Commerce Bureau of the Census and the Department of Housing and Urban Development Office of Policy Development and Research, Annual Housing Survey for the United States in 1989. February 1992.

---. Department of Commerce Bureau of the Census and the Department of Housing and Urban Development Office of Policy Development and Research, Annual Housing Survey for the Boston Metropolitan Area in 1989. February 1992.

---. Federal Register. 17 May 1976: 20296.

---. Federal Register. 7 September 1990: 37072-37129.

---. President's Committee on Employment of People with Disabilities. Facts About Disability. March 1992.

---. Senate. The Americans with Disabilities Act of 1989 : Report from the Committee on Labor and Human Resources. Rept. 101-116. 20 August 1989.

---. 29 U. S. Code §791 et seq. Rehabilitation Act of 1973 as amended.

---. 42 U. S. Code §4151-4157. Architectural Barriers Act of 1968 as amended.

---. 42 U. S. Code §3601 et seq. Fair Housing Amendments Act of 1988.

---. 42 U. S. Code §8013 et seq. Section 811 of the National Affordable Housing Act (NAHA) of 1990.

---. 24 C. F. R. §40.

---. 24 C. F. R. §41.

---. 24 C. F. R. §8.

---. 24 C. F. R. §100.

Zdenek, Robert O. "Investing In Distressed Communities." Economic Development Commentary 16 (Winter 1993): 17-24.



## Interviews

Josh Barrett. Phone interview. 5 March 1993.

Larry Brayman. Personal interview. 12 March 1993.

Speed Davis. Personal interview. 10 March 1993.

Colleen Duffy. Personal interview. 12 March 1993.

Virginia Guild. Personal interview. 9 March 1993.

Roger Hertzog. Personal interview. 4 March 1993.

Tom Kegelman. Phone interview. 15 March 1993.

Julianne Mortel. Personal interview. 18 March 1993.

Jean Nachinoff. Personal interview. 16 February 1993.

Elaine Ostroff. Personal interview. 15 March 1993.

Fran Price. Phone interview. 1 March 1993.

Ron Rothenberg. Personal interview. 26 February 1993.

Lisa Sloane. Personal interview. 16 February 1993.