

# Center for Disability Rights, Inc.

February 5, 2015

## **Re: Written Testimony to the Joint Committee on Housing, regarding the 2015-2016 Executive Budget**

Thank you to the Joint Committee for this opportunity to speak on housing in the 2015-2016 Executive Budget. My name is Adam Prizio and I am the Manager of Government Affairs at the Center for Disability Rights. The Center for Disability Rights (CDR) is a disability led, not-for-profit organization headquartered in Rochester, New York. CDR advocates for the full integration, independence, and civil rights of people with disabilities. CDR provides services to people with disabilities and seniors within the framework of an Independent Living Model, which promotes independence of people with all types of disabilities, enabling choice in living setting, full access to the community, and control of their life. CDR works for national, state, and local systemic change to advance the rights of people with disabilities by supporting direct action, coalition building, community organizing, policy analysis, litigation, training for advocates, and community education.

The ongoing and widespread lack of accessible, affordable, integrated housing prevents people with disabilities from living in the community. If no dwellings are accessible to a person with a disability, it is likely that they will be forced into an institution or a nursing facility. Not only is this a violation of their civil rights, but it also costs the State more money to provide a person services in an institution than to provide a person those same services in a home or community based setting, on average.

It is important for the Committee to know about two policies taking shape elsewhere that will dramatically increase the demand for accessible, affordable, integrated housing. This demand is already going unmet: we are already waiting years for accessible places to live, and the wait time is only going to get worse unless a great deal more accessible housing is created. The first policy is the Olmstead Plan, which was created in 2013 by the Governor's Olmstead Cabinet. The Olmstead Plan is a plan to increase community living for people with disabilities, and it includes a number of goals for State agencies to accomplish. One of these goals requires the Department

---

**Rochester Office** 497 State Street Rochester, New York 14608 (585) 546-7510 V/TTY (585) 546-5643 FAX  
**Egerton Community Center** 41 Backus Street Rochester, New York 14613 (585) 546-7510 V/TTY (585) 458-8046 FAX  
**Albany Office** 99 Washington Avenue, Suite 806B Albany, New York 12210 (518) 320-7100 V/TTY (518) 320-7122 FAX  
**Geneva Office** 34 Castle Street Geneva, New York 14456 (315) 789-1800 V/TTY (315) 789-2100 FAX  
**Corning Office** 23 West Market Street, Suite 103 Corning, New York 14830 (607) 654-0030 V/TTY (607) 936-1258 FAX

of Health to transition 10% of the long-term nursing facility population into home and community based settings -- out of institutions -- over the next five years. That is a transition of approximately 1,800 people per year, based on the figures available in 2013: it is likely that the figure has gone up in the intervening time. We are going to need accessible homes and apartments for people coming out of nursing facilities. If accessible housing is not made available, people will remain in nursing facilities against their will, in violation of their civil rights, and at greater expense to the State.

The second policy compounds the financial impact of transitioning people into home and community settings. The State is nearing implementation of the Community First Choice Option (CFC), a Federal funding mechanism that will bring additional money into the state on the basis of money spent on services and supports in home and community based settings. CDR has analyzed the New York Medicaid budget, and estimates that CFC will bring in between \$299 and \$439 million per year in additional funding.<sup>1</sup> The more people that live in the community, the more money the State will receive in turn. We are in the fortunate position that supporting the civil rights of people with disabilities is not only the right thing to do from a moral standpoint, but also the right thing to do from a fiscal standpoint.

For people with physical disabilities, living in the community is simply not an option without affordable, accessible, integrated housing. The supply of accessible housing must be dramatically increased in order to meet the current need, as well as the expected increased need that is due to accomplishing the transition contemplated in the Olmstead Plan. Accordingly, CDR urges the Commission to adopt the following positions with respect to the housing proposals included in the Executive Budget.

**All Housing created by State funding must be accessible, affordable, and integrated.**

In 2013, the State launched the House NY program to create and preserve housing units throughout the State.<sup>2</sup> The Governor stated that this program will create thousands of dwellings for low-income New Yorkers. The 2015-1016 budget calls for an investment of \$229 million in capital resources in House NY.<sup>3</sup> People with disabilities represent a large percentage of the people who would qualify for this housing.

Accordingly, CDR calls for **all** dwellings constructed under this program to meet the accessibility requirements listed in the Fair Housing Amendments Act (FHAA), including: (1) an accessible entrance on an accessible route; (2) accessible public and common use areas; (3) usable doors; (4) accessible route into and throughout the dwelling unit; (5) accessible light switches, electrical outlets, thermostats, and environmental controls; (6) reinforced walls in bathrooms for grab bars; and (7) usable kitchens and bathrooms. While the FHAA only requires buildings that have four or more units to meet these requirements, **all** housing units created under this initiative should meet these requirements, regardless of the type or amount of housing units.

New Yorkers with disabilities should have access to all of the types of housing that the Governor is making available to all other New Yorkers. If the Governor's initiatives include the creation of

---

<sup>1</sup> *Fiscal Analysis of CFC and the New York State Medicaid Budget*, available at <http://ilny.org/programs/cfc-tap/fiscal-analysis>

<sup>2</sup> 2015 State of the State, p. 168.

<sup>3</sup> 2015 State of the State, p. 168.

affordable single family dwellings, those dwellings should meet these minimum accessibility requirements. Furthermore, at least four percent of all dwelling units created should be accessible to New Yorkers with sensory disabilities.

**CDR urges full restoration of funding for the Access to Home Program and maintaining broad eligibility for the program.**

The Access to Home program has been flat-funded at \$1 million for yet another year.<sup>4</sup> This vital program provides home modifications for New York's people with disabilities and seniors who need home modifications in order to remain independent in their homes. The Access to Home program was originally funded at \$5 million and was not able, even at that level of funding, to meet the needs of eligible New Yorkers. The Access to Home program was also originally intended to provide assistance not only to home-owners but also to tenants who require modifications to their apartments. With the implementation of CFC and the Governor's Olmstead Plan, the State should be preparing for many more individuals to require modifications to make their homes and apartments accessible, and should, at a bare minimum, restore funding for Access to Home to the original \$5 million.

The 2015-2016 Executive Budget has also allocated up to \$19.6 million to Access to Home for the purpose of providing accessibility assistance to veterans with service-related disabilities.<sup>5</sup> Access to Home is meant to help all people with disabilities and seniors, not just veterans, and the inclusion of \$19 million in funding for Access to Home limited to veterans suggests that there is room in the budget to fund Access to Home for all New Yorkers at or above its original funding level while still providing generously for disabled veterans. It is also the case that the United States Government already funds accessibility improvements for veterans with service-related disabilities through the Specially Adapted Housing Grant and Special Housing Adaptation Grant programs. In light of the existence of these well-established programs, operated through the Department of Veteran's Affairs, it is likely that the \$19.6 million the State has allocated will go untouched. Rather than provide nearly 20 times more funding to assist only a small number of people with disabilities, CDR calls for the State to adequately fund Access to Home for **all** people with disabilities, including veterans both with service-related disabilities and with non-service-related disabilities, firefighters, police officers, and everyone else who requires an accessible home. We also encourage the State to provide assistance to help our veterans access those Federal services and programs to which they are entitled.

**CDR urges the State to delink housing from services and supports as a matter of policy.**

The State of the State boasts that the Medicaid Redesign Team has invested \$388 million in "supportive housing," which is housing coupled with individual-based services, and which provides housing to more than 8,000 Medicaid enrollees.<sup>6</sup> Unfortunately, failing to provide housing independent of supports and services is inconsistent with the "home and community based setting" rules and with the requirements of CFC.

There are three main characteristics that a setting must embody in order to be considered integrated and community-based: (1) People with disabilities should not be required to accept or

---

<sup>4</sup> Capital Projects Budget, p. 287.

<sup>5</sup> Aid to Localities Budget, p. 564

<sup>6</sup> 2015 State of the State, p. 298.

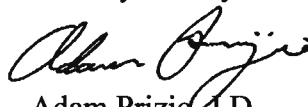
comply with services to get and/or maintain housing; (2) People with disabilities should be able to maintain their legal tenant and housing rights and still receive the services and supports they need; and (3) People with disabilities should be able to direct fundamental decisions that affect their lives and get the services and supports they need.

Funding which is allocated to creating supportive housing is not eligible for the CFC match if the consumer was not offered a meaningful choice to receive services in a residence that is not provider-controlled. At this point, provider-controlled residential options overwhelm the accessible housing options for a consumer to live in community: without more options for a consumer to receive services in their own residence, it is difficult to say that the consumer was offered a meaningful choice.

CDR urges the Committee to fund affordable, accessible and integrated housing options where a Medicaid recipient's housing is not conditioned upon whether or not they accept services to assure that individuals are provided a real opportunity to live independently in the community – including in a residential unit as required by the setting rules. This will ensure that the State is able to draw additional funding through CFC and to maximize the options for community living for people with disabilities.

In conclusion, we urge the Joint Committee to make sure that there is enough affordable, accessible, integrated housing for all disabled New Yorkers who wish to live in our communities and do not wish to remain locked in institutional settings. Not only is the availability of such housing a real constraint on the attainment of the Olmstead Goals, and therefore on the amount of money the State can receive through CFC, but it is also a matter of our civil rights.

Thank you for your time,



Adam Prizio, J.D.  
Manager of Government Affairs  
Center for Disability Rights  
99 Washington Avenue, Suite 806B  
Albany, NY 12210  
518-320-7100 ext. 2206  
aprizio@cdrnys.org