



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

September 22, 2016

Electronic submission to www.regulations.gov

Regulations Division
Office of General Counsel
Rules Docket Clerk
Department of Housing and Urban Development
451 7th Street SW
Room 10276
Washington, DC 20410-0500

**Re: Affirmatively Furthering Fair Housing: Local Government Assessment
Tool-Information Collection Renewal: Solicitation of Comment 30-Day Notice
Under Paperwork Reduction Act of 1995 Docket No. FR-5173-N-10-B**

To Whom It May Concern:

Thank you for the opportunity to comment on the proposed “Affirmatively Furthering Fair Housing: Local Government Assessment Tool-Information Collection Renewal: Solicitation of Comment 30-Day Notice Under Paperwork Reduction Act of 1995”, Vol. 81, Federal Register No. 163, Docket No. FR-57601-N-10-B (August 23, 2016). Please accept this letter as the comments of the Co-Chairs of the Consortium for Citizens with Disabilities (CCD) Housing Task Force and the CCD Rights Task Force. CCD is the largest coalition of national organizations working together to advocate for federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society.

The CCD Housing Task Force and Rights Task Force recognize and appreciate efforts by the Department of Housing and Urban Development (HUD) to address in the proposed Assessment Tool some of the comments we submitted previously. However, we remain concerned that significant gaps in HUD-provided national data will impede local governments in adequately assessing and addressing the fair housing needs of people with disabilities. To ensure that people with disabilities are not left out of fair housing planning efforts and deprived of needed housing opportunities, we believe it is critical to strengthen the Assessment Tool in the ways suggested below.

HUD Should Provide Existing Federal Data and Require Local Governments to Use Existing State and Local Data Concerning Housing Needs of People with Disabilities

Rather than simply exclude from consideration important data that would capture housing needs of people with disabilities, HUD should provide federal data from the Medicaid program and from its own data collection, and require that the local governments use local data and local knowledge.

While there may not be “uniform” data concerning people with disabilities similar to the data concerning race and ethnicity, the lack of such data is not a reason for fair housing planning to exclude consideration of the major sources of information concerning the needs of people with disabilities. Yet that is precisely the impact that HUD’s failure to provide more data concerning people with disabilities would have. The result would be diminished access to needed housing for people with disabilities and continued violations of their civil rights to live in the most integrated setting appropriate. Existing federal data as well as state and local data would capture some of the housing needs of people with disabilities.

We recommend the following three-part approach to ensure the housing needs of people with disabilities are assessed to the same degree as the housing needs of other protected classes:

1. HUD should provide local governments with **data that are readily available in federal systems**, including:
 - Data from the Money Follows the Person program for the 40 participating local governments, as well as from Medicaid home and community-based waiver programs and options, available from the Center for Medicare and Medicaid Services (CMS);
 - Data on people with disabilities living in nursing facilities and intermediate care facilities for individuals with developmental disabilities, available from CMS;¹
 - Data on people with disabilities experiencing homelessness; available in the HUD Homeless Management Information System and/or Annual Homeless Assessment Report databases.
2. **Where HUD-provided national data are unavailable, HUD should NOT permit local governments to assert that “data and knowledge are unavailable,”** which HUD currently proposes to be a potentially “complete and acceptable response.” Instead, HUD should require local governments to seek out and use “local data” and “local knowledge.” This should include, among other things, data concerning individuals with disabilities served in home or community-based settings (including Medicaid and local government-funded services), and

¹ For nursing facilities, data from the CMS Minimum Data Set on individuals with disabilities living in nursing facilities who have answered “yes” to question Q0500B, “Do you want to talk to someone about the possibility of leaving this facility and returning to live and receive services in the community?”

those served in institutional settings such as nursing homes, board and care homes (sometimes called “adult homes” or “adult care homes”), and assisted living facilities, and individuals ready for discharge from psychiatric hospitals. As HUD is providing only very limited disability data, unless HUD requires local governments to use local data and local knowledge to address the questions in Section V.D., “Disability and Access Analysis,” the exercise will be futile and will result in a disparate and potentially disadvantageous consideration of people with disabilities in Assessment of Fair Housing (AFH) Plans.

3. HUD should provide **additional Guidance to local governments** as to the types of local data and local knowledge that are likely to be available and how to find these.

Relationship between the State and Local Assessment Process

While *Olmstead* planning is primarily a state activity, local governments also have *Olmstead* obligations, and in some states, disability service systems are largely controlled by local government agencies. Moreover, state government efforts to assist people with disabilities to move from institutions or homelessness into affordable, accessible, integrated housing cannot be achieved without the participation of local governments and local housing agencies. The Assessment Tool and HUD’s Affirmatively Furthering Fair Housing Rule Guidebook provide very little guidance in this regard. We recommend HUD develop additional Guidance to better ensure that connections are made between the states and local governments engaged in AFH planning.

Thank you for the opportunity to comment on “Affirmatively Furthering Fair Housing: Local Government Assessment Tool-Information Collection Renewal: Solicitation of Comment 30-Day Notice Under Paperwork Reduction Act of 1995”, Vol. 81, Federal Register No. 163, Docket No. FR-57601-N-10-B (August 23, 2016).

Sincerely,

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