

Testimony of

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Technical Assistance Collaborative Inc.

and

Consortium for Citizens with Disabilities Housing Task Force

regarding

The Frank Melville Supportive Housing Investment Act of 2009 (S 1481)

Senate Committee on Banking, Housing and Urban Affairs

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## **Introduction**

My name is Ann O’Hara and I am the Associate Director of the Technical Assistance Collaborative (TAC), a national non-profit organization whose mission is to advance evidenced based and promising policies and practices in affordable housing and community based supportive services for people with the most significant and long-term disabilities. On behalf of TAC and the Consortium for Citizens with Disabilities (CCD), I am pleased to provide testimony on S. 1481 – the Frank Melville Supportive Housing Investment Act of 2009 – which will enact important new policies and reforms to U.S. Department of Housing and Urban Development (HUD) Section 811 Supportive Housing for Persons with Disabilities program (Section 811).

The Consortium for Citizens with Disabilities (CCD) is a coalition of national disability organizations working together to advocate for national 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 has established a Housing Task Force to focus on the housing needs of people with disabilities, including those with very low incomes – the group with the highest incidence of “worst case” housing needs in the United States. Among the organizations in the CCD Housing Task Force are the National Alliance on Mental Illness, The Arc of the United States, United Cerebral Palsy, Lutheran Services in America, the American Network of Community Options and Resources (ANCOR), the National Disability Rights Network, The Bazelon Center for Mental Health Law, United Spinal Association, United Jewish Communities, and the American Association of People with Disabilities.

TAC and the CCD Housing Task Force would like to thank the sub-committee for your leadership on critical affordable housing issues over the past year, including legislation that protects renters in foreclosure, the new Homeless Prevention Rapid Re-Housing Program included in ARRA, and the HEARTH Act. In addition to S. 1481, we urge the Congress to provide \$1 billion in funding for the National Housing Trust Fund as proposed by Senator Reed in S 1731, and recommend passage of the Section 8 Reform Act (SEVRA). Both these programs are also vitally important to people with disabilities with very low incomes.

## **Section 811 Reforms Essential**

The Section 811 program is the only HUD program solely dedicated to creating permanent, affordable, and accessible housing linked with voluntary community-based services and supports that people with most significant and long term disabilities want and need in order to live as independently as possible in the community. The CCD Housing Task Force strongly supports S. 1481 – legislation that is essential to revitalize and improve the Section 811 program. This innovative legislation can expand the creation of new Section 811 units by 300 – 400 percent per year without any increase in Section 811 appropriations.

Unfortunately, despite the fact that Section 811 has historically been an important federal resource to help people with disabilities achieve the goal of community integration, the program has many problems and now produces less than 1,000 new units each year. The program is inefficient, plagued with bureaucratic “red tape”, and rarely leverages financing from other federal and state affordable housing programs. Most importantly, the housing produced by Section 811 during recent years often does not reflect the housing needs and housing preferences of many people with disabilities. This legislation – which will inaugurate a new era in the Section 811 program – is extremely important for the disability community because its enactment will signal a renewed federal commitment to address the enormous and unrelenting housing crisis faced by millions of extremely low income people with disabilities. This crisis is documented in the TAC/CCD Housing Task Force bi-annual *Priced Out* study, which compares HUD Fair Market Rents for modest rental housing to the income of non-elderly adults with disabilities who rely on federal Supplemental Security Income (SSI) for all their basic needs.

## **Disability Income and Housing Affordability**

*Priced Out in 2008*<sup>1</sup> documents that the national average income of an individual receiving SSI was only \$668 per month (\$8,016 per year) – equal to only 18% of Median Income for a single person household. The

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<sup>1</sup> Priced Out in 2008. Technical Assistance Collaborative Inc. and Consortium for Citizens with Disabilities Housing Task Force. April 2009.

average monthly one-bedroom HUD Fair Market rent in 2008 was \$749 – which is 112 percent of the entire monthly income of a single individual receiving SSI. HUD’s studio/efficient unit Fair Market rent in 2008 was \$663 – only \$5 less than an individual’s SSI payment. In 2008, one bedroom Fair Market Rents ranged from a high of 198 percent of SSI in Hawaii to 70 percent of SSI in North Dakota -- the most affordable state.

Over 4.2 million non-elderly adults relied on federal SSI in 2008. Unfortunately, recent HUD *Worst Case Needs* reports to Congress – which assesses the needs of very low income renters – used a flawed methodology which undercounted the needs of people with disabilities<sup>2</sup>. TAC/CCD responded by doing its own study authored by Katherine Nelson, a highly respected former HUD researcher who developed HUD’s Worst Case needs reports until 2003. Our study<sup>3</sup> found that between 1.3 and 1.4 million very low income non-elderly disabled households without children were paying more than 50 percent of their income towards housing costs.<sup>4</sup> These simple statistics begin to illustrate the housing crisis which confronts people with disabilities in every state in the nation.

### **Critical Permanent Supportive Housing Needs**

Unfortunately, this crisis is further illuminated through data on the number of people with disabilities living in restrictive settings including public institutions, nursing homes, and segregated Adult Care facilities as well as adults with disabilities who remain at home with aging parents. Because these individuals are not considered renters they are typically not counted in any federal estimates of Worst Case housing needs. They do, however, provide the most compelling evidence of the critical need for a robust and reinvigorated Section 811 program:

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<sup>2</sup> HUD Policy Development and Research officials concur that their methodology understates the housing needs of people with disabilities.

<sup>3</sup> The Hidden Housing Crisis: Worst Case Housing Needs of People with Disabilities

<sup>4</sup> The CCD study used data from two sources in its study. The first source, the Annual Housing Survey (AHS) is the data source which HUD has used for many years to estimate Worst Case needs. The CCD study also took advantage of more accurate and detailed data now available from the American Community Survey. HUD has not yet taken advantage of the American Community Survey data to produce Worst Case estimates. As a result, HUD did not accept the CCD study’s estimates. However, HUD did agree that their initial estimates regarding people with disabilities were flawed. HUD recently released a new – and much higher estimate – on their website.

- In 2007, there were 412,324 non-elderly disabled adults between the ages of 31-64 residing in Medicaid-funded institutions. An additional 16,000 were age 30 or under;<sup>5</sup>
- As the outcome of recent *Olmstead* litigation, the State of New Jersey is required to 1,065 new units of permanent supportive housing in the community during the next five years for people with mental illness who are institutionalized or at-risk of institutionalization. New Jersey also has 2,300 individuals with developmental disabilities living in state facilities waiting to move into the community;<sup>6</sup>
- The State of Illinois has an estimated 12,000 people with mental illness currently living in expensive nursing home beds primarily because there is no permanent supportive housing available in the community;<sup>7</sup>
- The State of North Carolina has more than 5,000 adults with disabilities living in restrictive Adult Care Homes rather than in integrated supportive housing in the community;<sup>8</sup>
- In August of 2009, a federal judge in New York ruled that 4,300 adults with serious mental illness in New York City were living unnecessarily in expensive and segregated Adult Care Homes that were even more restrictive and institutional than psychiatric hospitals;<sup>9</sup>
- The City and County of San Francisco are under a court order to create 500 new units of permanent supportive housing to replace the “beds” in the government-owned Laguna Honda nursing home;
- The State of Alabama currently spends more than \$900 million on high cost institutional long-term care (71 percent of its total long-term care expenditures), which could be significantly reduced if more permanent supportive housing units were created.

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<sup>5</sup> Nursing Home Data Compendium compiled in 2008 for the Center for Medicare and Medicaid Services by Thompson/Medstat

<sup>6</sup> The Arc of New Jersey and the Bazelon Center for Mental Health Law

<sup>7</sup> Study: Supportive Housing Saves Illinois Tax Dollars by Carla Johnson, Associated Press

<sup>8</sup> Unpublished Study of North Carolina’s Adult Care Homes

<sup>9</sup> Bazelon Center for Mental Health Law

- In 2004, there were 711,000 people with intellectual or developmental disabilities living with aging parents/caregivers (one of whom is over 65)<sup>10</sup>. This data included 22,734 individuals in New Jersey and 10,110 people in Louisiana.

Ten years ago, the U.S. Supreme Court handed down its landmark *Olmstead* decision affirming the civil rights of persons with the most serious and long-term disabilities to live in the most integrated setting possible that meets their needs. Across the United States today, people with disabilities and their families and advocates, as well as state human services agencies, and community-based service providers are struggling – unsuccessfully – to create the permanent supportive housing envisioned by the *Olmstead* decision. The sole purpose of the Section 811 program is to create this kind of housing – deeply affordable and accessible permanent rental housing linked with community-based services and supports that people with disabilities want. It is the only federal program authorized to achieve this critically important federal housing policy objective. That is why there is such an urgent need to enact S. 1481.

### **Section 811 is Cost Effective**

Permanent supportive housing created through Section 811 is extremely cost effective. It has been well documented in numerous studies that people living in permanent supportive housing cost the government less than institutional care or other inappropriate settings. For example:

- A recent study published in the *Journal of Health and Social Policy* found that the average total public expenditure for a person with a significant and long term disability receiving Medicaid Home and Community Based Services waiver services (who must meet the eligibility criteria for institutionalization) was about \$44,000 less per year than for a person receiving institutional services;<sup>11</sup>
- A 2009 cost study of 96 people with serious and persistent mental illness living in various Section 811-properties in Columbus Ohio found that the cost of providing mental health services to individuals living

<sup>10</sup> The State of the States in Developmental Disabilities – 2005. David Braddock, Richard Hemp and Mary C. Rizzolo et al. Coleman Institute for Cognitive Disabilities, University of Colorado.

<sup>11</sup> M. Kitchener et al, “Institutional and Community-Based Long-Term Care: A Comparative Estimate of Public Costs” *Journal of Health and Social Policy*, 22, no. 2 (2006): 31-50

in Section 811 housing was 40 percent less than the cost of services<sup>12</sup> for those same individuals during the year just prior to moving in (\$13,942 one year prior to Section 811 housing vs. \$8,039 during the first year living in Section 811 housing). These costs – and cost savings – were virtually identical to savings achieved for 157 homeless individuals with mental illness in Columbus who received housing through the HUD McKinney-Vento Shelter Plus Care program;<sup>13</sup>

- A cost study of people with severe mobility impairments who moved from a nursing home to a new Section 811 project in Allentown PA in 2004 found that the cost of Medicaid services per individual was reduced from \$70,000 to only \$28,000 per year<sup>14</sup>.
- A recent supportive housing study in Illinois published by the Associated Press found that supportive housing provided through programs such as Section 811 saved Illinois taxpayers nearly \$2,500 for each resident served. This study included 10 non-elderly adults with mental illness who lived in nursing homes as well as people with mental illness who were homeless.

Current federal, state and local efforts to achieve the promise of community integration envisioned in the Americans with Disabilities Act are stalled because of the critical shortage of affordable and accessible supportive housing. Important Medicaid reforms to expand self-directed services, promote rehabilitation and recovery for people with disabilities, and control facility-based Medicaid long-term care costs (almost \$60 billion for institutional care in 2007<sup>15</sup>) cannot succeed unless programs such as Section 811 are revitalized and reformed to respond to this important federal and state policy priority.

## **Summary of S. 1481**

S. 1481 will “fast-track” and create a sustainable “pipeline” of thousands of new permanent supportive housing units every year through the following new Section 811 policies:

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<sup>12</sup> Mental health services, alcohol and drug services and the costs of in-patient hospitalization

<sup>13</sup> Susan Weaver, Executive Director, Community Housing Network, Columbus, Ohio

<sup>14</sup> Center for Outcome Analysis, 2004

<sup>15</sup> Source: CMS 64 data, Center for Medicaid and State Operations, Division of Financial Operations, September 26, 2008

## **1. Authorizing a new and innovative Section 811 Project Rental Assistance Contract (PRAC)**

### **Demonstration Program**

This policy is designed to include integrated supportive housing units within rental housing complexes financed with federal Low Income Housing Tax Credit (LIHTC), HOME, or other capital programs. Successful models of this approach have been implemented in the States of North Carolina (more than 2,000 units created) and Louisiana (more than 700 units committed). Through this integrated development model, the typical property has between 5-10 percent of the units set-aside as permanent supportive housing. These results can be replicated nationally through a new Section 811 PRAC Demonstration program which will provide the essential rental subsidy needed to reduce rents to SSI-affordability levels for a small percentage (up to 25 percent of the total) of units in new or rehabilitated affordable rental housing developments. Several other states have already expressed serious interest in this innovative and integrated model. This policy will help ensure that a significant percentage of the hundreds of thousands units routinely created every year through the LIHTC and HOME programs are dedicated to providing supportive housing for people most in need of housing assistance. S 1481 provides that PRAC Demonstration funding be linked with Medicaid and other state supportive services policies/funding streams to ensure the availability of supportive services for Section 811 tenants.

## **2. Reforming the existing Section 811 Capital Advance/PRAC program**

These reforms will help leverage other capital funding for Section 811 production and reduce barriers to “mixed-finance” Section 811 projects created through mission-driven non-profit developers. These reforms will also increase the number of units created each year through the current 811 production program and will help non-profit Section 811 sponsors to create integrated housing properties that include units for people with disabilities as well as units for other households that need affordable housing. For example, non-profit organizations creating new affordable rental housing developments would be able to use Section 811 Capital

and PRAC funding to create a set-aside of supportive housing units in a property financed with HOME or National Housing Trust Fund resources.

**3. Shifting fiscal responsibility for the Section 811-funded Mainstream Housing Choice Voucher program to the Section 8 budget**

The Mainstream Voucher program converts precious Section 811 appropriation funding into Section 8 Housing Choice Voucher funding which HUD provides primarily to Public Housing Agencies (PHAs). These 811 funds pay for approximately 14,000 Section 8 Housing Choice Vouchers that may – or may not – be assisting people with disabilities. This ill-conceived approach initiated by HUD in 1997 has been a failed policy since its inception. Although funded and renewed from 811 appropriations, these Mainstream Housing Choice Vouchers have almost never been used to create new permanent supportive housing units, are not targeted to people with the most serious and long-term disabilities, and – because of poor HUD oversight and monitoring – may be assisting non-disabled households. These vouchers now cost over \$85 million every year – more than one-third of the entire Section 811 appropriation. While the Mainstream Voucher program certainly helped thousands of very low income people with disabilities obtain decent and affordable housing, we must emphasize that this program did not accomplish anything that the Section 8 Housing Choice Voucher cannot do. It is clear that there is only one good solution to fix this troubled program. S. 1481 will enact policies that will: (1) continue to permanently set-aside these rental subsidies for people with disabilities as Congress intended; and (2) authorize that these vouchers be permanently funded through the Housing Choice Voucher program.

**4. Streamlining Section 811 processing requirements and removing out-dated regulatory barriers.**

The Section 811 statute has remained virtually unchanged for the past 16 years – and the bureaucracy that surrounds the program reflects the “staff intensive” way that HUD did business many years ago. The program has an excessive amount of bureaucratic “red tape” and processing requirements which have created multi-year delays in project development. Currently, Section 811 units cannot be combined with other affordable rental

housing development, a barrier which has suppressed program innovation and fostered segregated rather than integrated housing opportunities. It is extremely important that when S 1481 is enacted, Congress send a powerful message to HUD that the 450+ pages of Section 811 guidance, rules, and regulations be completely replaced by a reasonable set of regulations and policies that promote more efficient and effective housing development practices.

## **Conclusion**

The CCD is confident that this new legislation will work. At least 8-10 State Housing Agencies have already expressed interest in the PRAC Demonstration program model. Non-profits that have worked with the Section 811 program for years have also expressed their support for the improvements that S 1481 includes. In fact, most existing Section 811 program sponsors have declined to apply for new Section 811 projects in recent years – not because the housing is not needed but because the program is so difficult to work with. In the last few Section 811 competitions HUD has received less than 150 Section 811 applications per year – a fraction of the demand 10 years ago.

Time is running out on the Section 811 program while the need to create new permanent supportive housing units has never been greater. In FY 2008, only 930 new Section 811 units were awarded and without this legislation, that number of new units could soon fall below that level. Enacting S 1481 is also critical because the basic Section 811 model – which for 30+ years has produced small group homes and single population independently living facilities – no longer responds to the housing needs and choices of most people with disabilities who prefer to live in housing that is truly integrated within local communities.

By enacting S 1481, Congress can ensure that a reinvigorated Section 811 program is ready to create as many as 3,000 or more new permanent supportive housing units every year – without any increase in current appropriations levels. The removal of many bureaucratic barriers which cause protracted delays in the Section 811 development process will also produce these new units more efficiently. Shifting renewal costs associated

with the seriously flawed 811-funded Mainstream Housing Choice Voucher program – which has drained funding away from essential permanent supportive housing production since 1997 – is also long-overdue.

Finally, enacting S. 1481 is important because it honors a very humble man – Frank Melville – who was the first Chair of the Melville Charitable Trust and whose commitment to people with disabilities and people who are homeless led to the creation of more than 100,000 units of affordable housing for people with disabilities. It is only fitting that the next 100,000 units produced should be financed by legislation that bears his name. TAC and the CCD Housing Task Force look forward to working with Congress and with Section 811 stakeholders across the nation to ensure that this essential and critically needed legislation is enacted as soon as possible.