



Rutgers Center for
State Health Policy

NATIONAL ACADEMY
for STATE HEALTH POLICY

November 2004

Fact Sheet

Community Living Exchange

Funded by Centers for Medicare & Medicaid Services (CMS)

Housing Information Update #24:
Justice Department Settles Its First
Lawsuit in Delaware Alleging Disability-
Based Housing Discrimination

Michael Morris
Candace Baldwin



This document was prepared by Michael Morris and Candace Baldwin of the NCB Development Corporation.

Prepared for:



Rutgers Center for
State Health Policy

Susan C. Reinhard & Marlene A. Walsh



Robert Mollica

The Community Living Exchange at Rutgers/NASHP provides technical assistance to the Real Choice Systems Change grantees funded by the Centers for Medicare & Medicaid Services.

We collaborate with multiple technical assistance partners, including ILRU, Muskie School of Public Service, National Disability Institute, Auerbach Consulting Inc., and many others around the nation.

This document was developed under Grant No. P-91512/2 from the U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services. However, these contents do not necessarily represent the policy of the U.S. Department of Health and Human Services, and you should not assume endorsement by the Federal government. Please include this disclaimer whenever copying or using all or any of this document in dissemination activities.

This Information Update is the twenty-fourth in a series to be made available to improve awareness and understanding of alternative approaches to expand affordable and accessible housing choices for Americans with disabilities. These updates will feature new publications, policy developments at a federal, state, and local levels, and other strategies being pursued by grantees, community and faith-based organizations, and housing agencies to respond to the Olmstead “Community Inclusion” mandate. These Information Updates are being prepared by Michael Morris, Director of the National Disability Institute at the NCB Development Corporation on behalf of the Community Living Exchange at the Rutgers University Center for State Health Policy. To contact Michael Morris directly, his email address and phone number are mmorris@ncbdc.org, (202) 521-2930.

HOUSING INFORMATION UPDATE NUMBER 24

Justice Department Settles Its First Lawsuit in Delaware Alleging Disability-Based Housing Discrimination

On November 18, 2004, the U.S. Department of Justice (“DOJ”) announced that it reached an agreement with six firms involved in the design and construction of three housing complexes in Delaware and Maryland, resolving a lawsuit that alleged disability-related housing discrimination. The suit is DOJ’s first enforcement action in Delaware concerning the accessibility requirements of the federal Fair Housing Act.

“These requirements have been in place since March 1991,” said R. Alexander Acosta, Assistant Attorney General for the Civil Rights Division. “We trust that this court action will alert other architects, site engineers, builders, and developers of their obligations to ensure that persons with disabilities can use the multifamily housing complexes under construction in Delaware and Maryland today.”

According to the government's complaint, Pettinaro Construction Company, Inc.; Architecture Plus, P.A.; Landmark Engineering, Inc.; Hillcrest Associates, Inc.; Howard L. Robertson, Inc.; and Land Tech, L.L.C. violated the Fair Housing Act by designing and constructing housing complexes in a manner that left them inaccessible to people with disabilities. The properties are Rockwood Apartments in Bear, Delaware; Bethany Bay Resort Community in Sussex County, Delaware; and West Creek Village in Elkton, Maryland.

The agreement, which still must be approved by a federal court, affects 289 ground floor apartments at Rockwood and West Creek Village and 133 condominium units at Bethany Bay Resort Community. The agreement requires accessibility improvements to the apartment units and the complexes’ common areas. The agreement also provides \$60,000 in damages awards to four individuals and an organization injured by the violations; establishes a \$ 400,000 fund to compensate any other individuals injured by the inaccessible housing; and provides up to \$350,000 for accessibility improvements to the condominiums at Bethany Bay if private owners desire them. Enhanced accessibility features - including roll-in showers for persons who use wheelchairs - will also be available at all three complexes upon request.

“Today's action is a watershed event in Delaware because it marks the first Fair Housing Act disability enforcement action in our state. We hope the agreement we have reached makes clear to those who design, build, and develop housing projects that the federal anti-discrimination laws apply in full force and effect in Delaware,” said Colm F. Connolly, United States Attorney for the District of Delaware.

Since January 1, 2001, the Civil Rights Division has filed 145 lawsuits alleging discrimination in housing, including 65 based on disability discrimination and 35 based on the Fair Housing Act's design and construction provisions that formed the basis of this lawsuit.

For more information: visit the DOJ's website at www.usdoj.gov. The consent decree is available at www.usdoj.gov/crt/housing/caselist.htm. Information on the accessibility requirements of the Fair Housing Act may be found on the U.S. Department of Housing and Urban Development's website at: www.hud.gov/offices/fheo/disabilities/accessibilityR.cfm.