

THE ABILITY CENTER

GREATER TOLEDO • OTTAWA COUNTY • BRYAN

Partnering to Build Communities
that Work for Everyone

abilitycenter.org

SYLVANIA OFFICE:

5605 Monroe Street
Sylvania, Ohio 43560

419.885.5733 (V/TTY)
866.885.5733 (Toll-free)
419.882.4813 (Fax)

OTTAWA CO. OFFICE:

1848 E. Perry Street
Suite 110
Port Clinton, OH 43452

419.734.0330 (V/TTY)
877.734.0330 (Toll-free)
419.732.6864 (Fax)

BRYAN OFFICE:

1425 E. High Street
Bryan, OH 43506

419.633.1400 (V/TTY)
855.633.1400 (Toll-free)
419.633.1410 (Fax)

PUBLIC POLICY:

670 Morrison Road
Suite 200
Gahanna, OH 43230

614.575.8055 (Voice)
866.575.8055 (Toll-Free)
614.861.0392 (Fax)

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April 29, 2015

Ohio Housing Finance Agency
57 East Main Street
Columbus, Ohio 43215

Re: 2016-2017 Qualified Allocation Plan

Dear Ohio Housing Finance Agency,

The Ability Center of Greater Toledo is a Center for Independent Living (CIL) serving a seven-county, northwest Ohio area dedicated to assisting people with disabilities to live, work, and socialize within a fully accessible community. As a Center for Independent Living, we are designed to advocate on behalf of tenants that the Low Income Housing Tax Credit Program is designed to serve, and we appreciate the opportunity to offer the following comments on the 2016-2017 Qualified Allocation Plan (QAP). We understand that OHFA is moving towards more policy-based allocation pools, and we hope that our comments can assist you in furthering those policies. We had a chance to attend the public forum held in Toledo in the fall and, in addition, supply these written comments.

I. There is an increasing need for housing for people with disabilities in Ohio.

1. The policy implications of *Olmstead v. L.C.*'s integration mandate establish a great need for low-income, integrated, accessible housing for people with disabilities in high opportunity areas.

The 1999 Supreme Court's decision in *Olmstead v. L.C.* highlighted states' mandate under the Americans with Disabilities Act to provide services for people with disabilities in the most integrated setting appropriate. The mandate emphasizes the choice for all people with disabilities to receive services in inclusive, community based settings rather than institutional settings, such as nursing facilities, ICF/IID facilities, and psychiatric hospitals.

Because of the federal policy emphasis on *Olmstead* implementation, Ohio is currently undergoing policy changes that will further implement that mandate to provide services for people with disabilities in their homes. To this end, the Ohio Association of County Boards recently co-authored an appeal to the state of Ohio to increase the availability of low-income housing for the thousands of people with developmental disabilities set to move into community housing.¹

¹ Ohio Department of Developmental Disabilities; Ohio Association of County Boards; and Ohio Council on Developmental Disabilities, *The Perfect Storm Awaits! Toward a Policy Imperative on Housing* (July 2013) available at <http://ddc.ohio.gov/Cal/CLCAgenda7-13.pdf> (accessed January 20, 2015).

OUR MISSION: To assist people with disabilities to live, work and socialize within a fully accessible community.

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Among the statistics quoted in their appeal, they noted that 7,300 people receiving services from the DODD currently reside in institutional care facilities.² Additionally, there are over 32,000 adults with disabilities, most who reside at home with their families, on waiting lists for Medicaid support services.³ The recent budget proposal from the DODD focuses on placing more money into providing community based living services for those with developmental disabilities.⁴ Because people with disabilities currently living with family will no longer be moving into institutional settings once family is no longer an option, and reliance institutional settings will be decreasing, these changes will significantly increase the need for affordable, accessible housing for people with disabilities in the community.

Ohio is also an aging state. By 2035, people aged 65 and over will comprise one-fourth of Ohio's population.⁵ The current *Olmstead* policy focus is on aging in place, and many of those aging individuals will also be searching for inclusive, affordable, accessible housing. In August, the Ohio Department of Medicaid reported that they had transitioned their 5,000th individual from a long-term care facility into their own home since the Home Choice Program began in 2008.

Given our mission, and our part in the transitions, the Ability Center has seen first-hand the difficulty that people with disabilities have finding integrated, affordable, and accessible housing. Given that difficulty, we would ask OHFA to incentivize developments in its QAP that will increase the availability of affordable, inclusive, accessible housing for individuals with disabilities that will also allow them to live in opportunity areas and will support their transition from institutional settings into living in the community.

2. OHFA has identified people with disabilities as a group with a significant need for additional affordable, accessible housing.

OHFA has already identified people with disabilities as a group in significant need of affordable, accessible housing. According to OHFA's 2013 "Ohio Housing Needs Assessment," statewide, 45.1% of non-institutionalized persons with disabilities reported an income of less than \$15,000.00 in comparison with 29.2% of the general population.⁶ 23% of non-institutionalized individuals with disabilities were below 100 percent of the poverty level in comparison to 13.7% of the general population.⁷ 48.6% of owner-occupied households sixty-five and over statewide were cost-burdened, where over 30% of their income went to housing costs, in 2011.⁸

In 2009, statewide, 19% of households in public housing were identified as disabled households.⁹ 20% of households using housing choice vouchers were disabled households.¹⁰ In its assessment, OHFA noted that more than 20% of disabled renter-occupied households in Ohio experienced a worst case housing need in 2012, which meant that they were extremely low-income, did not receive any form of government assistance, pay more than 50 percent of their household income for housing, and/ or live in

² *Id.*

³ *Id.*

⁴ "Our Future: A Brighter Future for all Ohioans," Ohio Department of Developmental Disabilities, available at <http://dodd.ohio.gov/OurFuture/Pages/default.aspx>.

⁵ http://miamioh.edu/cas/_files/documents/scripps/publications/2014/01/County-Reports-Council-on-Aging-SW%20Ohio-PSA%201/Ohio-All-Charts_Report.pdf.

⁶ *Id.* at 41.

⁷ *Id.* at 43.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

severely inadequate conditions.¹¹ Given the current needs, and increasing needs, of people with disabilities to find housing, the Ability Center urges OHFA to incentivize qualifications that increase the availability of affordable, integrated, accessible housing for individuals with disabilities in Ohio. To this end, we have made suggestions regarding the 2016-2017 QAP below.

II. The QAP should take into account the push for implementation of the *Olmstead* mandate and the transition of people with disabilities from segregated, institutional settings into inclusive, community settings.

Olmstead implementation will both increase the need for affordable housing and gives state programs a mandate to provide services in the most integrated setting appropriate.

1. The QAP should require all housing built with the LIHTC program to be visitable.

OHFA has already shown a commitment to creating visitable housing that is in compliance with the Fair Housing Act requirements and has a commitment to universal design requirements, as shown in its 2015 QAP plan. 2105 QAP at 38-40. Since 2007, the year that OHFA adopted visitability requirements, over 1,000 units have been built that incorporate visitability features, and that housing is an important step into creating a fully accessible community.

However, OHFA has provided an exception to visitability under its "Reconsideration of Visitability Requirements." 2016-2017 QAP at 63. The section allows developers to waive visitability requirements due to site limitations or existing construction. While it makes sense for developers to work with OHFA architects on accessible design issues, due to the great lack of available, subsidized, accessible housing, developers should not be recipients of the LIHTC program unless they are able to create visitable housing. OHFA's previous successes in creating visitable housing demonstrate that there are plenty of options for developers to meet those requirements, and those are the projects that should receive support from OHFA.

Additionally, Toledo, in particular, has a local law requiring all newly constructed one, two, and three family units that receive a federal subsidy to meet visitability requirements. TMC 1347.02. A waiver of visitability requirements from OHFA could undermine the City of Toledo's own attempt to create visitable dwelling units. We appreciate and support OHFA's dedication to accessible housing and ask the QAP requires that all LIHTC developments meet visitability requirements.

2. The QAP should require additional fully accessible, Type A units above and beyond the requirements of the Fair Housing Act.

Finally, as noted above, the numbers of people transitioning from institutional facilities into community living are greatly increasing, making the general lack of affordable, accessible, housing stock a higher emergency. Many of the people transitioning were admitted to nursing facilities and intermediate care facilities due to great physical needs that require fully accessible units, under Ohio Commercial Building Code, Type A units. While those units can be used for people without disabilities, many people with disabilities cannot use units that are not type A. Thus, OHFA should include a requirement for fully accessible, Type A units that is above and beyond the requirements of the Fair Housing Act, such as a 10%, rather than a 5%, requirement. More fully accessible units would make housing much more available for those with disabilities.

¹¹ *Id.* at 105.

3. The QAP should contain a threshold requirement for supportive housing for those with disabilities and/or special needs.

Given the increasing need for community housing for people with disabilities in Ohio and the federal *Olmstead* mandate, OHFA should follow the lead of Alaska, Delaware, the District of Columbia, Indiana, Iowa, and North Carolina in creating a threshold requirement to dedicate a percentage of units for persons with disabilities and/or special needs populations and people transitioning from institutional settings.¹² In particular, OHFA should set a threshold requirement that the greater of six or 10% of units of LIHTC should be prioritized for people with disabilities and/or special needs populations. A threshold requirement would help meet the increasing need for housing for people with disabilities and yet would maintain that housing in inclusive, community settings.

4. The QAP should contain a point incentive for increasing the percent of supportive housing dedicated to those with disabilities and/ or special needs.

OHFA could further follow this objective by, in addition to threshold requirements, providing point incentives for dedicating a greater percentage of units for people with disabilities and/or special needs populations and people transitioning from institutional settings. For example, Massachusetts has a scoring incentive for developments that dedicate at least 15% of units for individuals or households with special needs and/ or person with disabilities.¹³ Creating a threshold requirement and incentive points for dedicating units to people with disabilities and/or special needs populations would ensure a greater availability of housing for people with disabilities who are transitioning from institutional settings into the community.

5. The QAP should encourage the development of units in suburban or other high opportunity areas.

The Ability Center supports the 2016-2017 QAP's focus on awarding incentive points for developments in high opportunity areas such as developments located within high-income census tracts. 2016-2017 QAP at 27. A national review of QAP for LIHTC conducted by the Center for Supportive Housing noted that 22 agencies across the country have incentives geared towards locating housing in areas of opportunity such as basis boosts and scoring incentives.¹⁴ The location of housing in opportunity areas is important to increase the quality of life of people located in those settings as well as given them better opportunities for employment and education. Additionally, because affordable housing hasn't traditionally been located in those areas, it helps create a more inclusive community and give consumers choice regarding the areas in which they wish to live.

However, the Ability Center would encourage OHFA to increase the number of incentive points for areas of opportunity, as they are outweighed by the number of points offered for other incentives. Developments in opportunity areas may also have trouble competing for points in the cost section of the QAP. The Ability Center encourages OHFA to increase incentive points to locate developments in opportunity areas.

6. The QAP should not incentivize senior-only housing.

¹² Leigh Wilson, Hilary Gawrilow, Center for Supportive Housing, *Housing Credit Policies in 2014 that Promote Supportive Housing*, 7 (December 2014) available at http://www.csh.org/wp-content/uploads/2014/12/2014_QAP_Report.pdf.

¹³ *Id.* at 11.

¹⁴ Leigh Wilson, Hilary Gawrilow at 10.

The QAP should incentivize building accessible housing without age limitations. The 2016-2017 QAP has a policy pool for senior-only housing. 2016-2017 QAP at 38. There is a great need for affordable, accessible housing for all individuals with disabilities, but in recent years many affordable, accessible housing in high opportunity areas have been limited to senior-only housing. .

This denies people with disabilities under the age of fifty-five access to the majority of the new, affordable, accessible housing in high opportunity areas. While seniors are able to live in non-senior, low-income, accessible housing, individuals with disabilities under 55 cannot live in senior housing. This disparity serves to block people from entering into housing. According to the Center for Supportive Housing review, a QAP in the District of Columbia has actually created incentive scoring, 20 points, for developers who create housing 1) with the greater of 10% of units or 5 that provide federally project-based subsidies; 2) conform to HUD regulations regarding Section 504; and 3) that are actively marketed to people with disabilities that are non-elderly.¹⁵

While Ohio is an aging state, not everyone transitioning out of nursing homes into community apartments are over the age of 55. Because community services were traditionally unavailable for people with physical disabilities, many people entered nursing homes to care for their needs. The Ability Center Nursing Home Transition Program has transitioned 306 people with *disabilities under the age of 55* into the community and 286 people *over the age of 55* into the community. The majority of those individuals had severe enough physical disabilities to require fully accessible units.

If OHFA wishes to maintain its senior-housing pool, we would ask the OHFA open senior housing admission to non-elderly people with disabilities.

The Ability Center supports OHFA in its mission to promote affordable and sustainable housing for low-income individuals, and we appreciate many of the incentives, especially the requirement of local support, which were thoughtfully placed in the 2016-2017 QAP plan. However, we would like to see a plan that offers more incentives for developers to create affordable and accessible housing that is available to all people with disabilities who wish to live in the community. We appreciate your request for input and look forward to working with you more in the future.

Sincerely,



Katie Hunt Thomas

Ability Center of Greater Toledo

¹⁵ *Id.* at 15.