



National Council on the Handicapped

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An Independent
Federal Agency

June 25, 1987

Senator Paul Simon, Chair
Subcommittee on the Constitution, Senate Judiciary Committee
462 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Senator Simon:

We are writing to you in regard to the leadership role of the Judiciary Committee regarding the application of Federal Fair Housing legislation to persons with disabilities. The recently proposed Kennedy/Specter substitute bill for S.558 introduces into the legislation a concept that has been a central element of the recommendations of the National Council on the Handicapped in regard to housing -- a requirement of accessibility in the future construction of multifamily rental housing.

As you are aware, the National Council on the Handicapped is an independent Federal agency comprised of 15 members appointed by the President and confirmed by the Senate. The Council is statutorily mandated to review all laws, programs, and policies of the Federal Government affecting persons with disabilities, and to make such recommendations as it deems necessary to the President, the Congress, the Secretary of the Department of Education, and certain other Executive agency officials.

The Council's members and staff are predominantly individuals with disabilities and parents of children with disabilities; consequently, the Council represents, to a large degree, the voice of the disability community within the Federal Government. Whereas many government agencies deal with issues and programs affecting people with disabilities, the National Council is the only Federal agency charged with addressing, analyzing, and making recommendations on issues of public policy which affect people with disabilities regardless of age, disability type, perceived employment potential, economic need, specific functional ability, status as a veteran, or other individual circumstance.

One particularly problematic area for persons with disabilities is housing. An acute lack of housing opportunities for persons with disabilities severely impedes the social integration and independence of Americans with disabilities. People with disabilities seeking appropriate housing often encounter blatant prejudice and exclusionary rules and practices. In other circumstances, they are excluded by the existence of physical barriers such as stairs, narrow doorways, and inaccessible revolving doors.

In 1986, the National Council on the Handicapped issued Toward Independence, its statutorily mandated report to Congress and the President. In a letter of thanks to the Council for the report, President Reagan endorsed the goals of equal opportunity and full social participation in the report and applauded Toward Independence as "a comprehensive agenda for progress toward these goals." One of the primary topic areas addressed in the report was that of housing, and the Council made several legislative recommendations to promote equal access to housing opportunities for people with disabilities. One of the major proposals was to amend the Fair Housing Act to expand its coverage to include persons with disabilities. President Reagan had previously called for such an expansion of Fair Housing legislation to include persons with disabilities, and had noted an apparent Congressional consensus in favor of such an expansion of coverage (President Reagan, "Message to the Congress Transmitting Proposed Fair Housing Legislation," July 12, 1983, Presidential Documents, pp. 991-992). The Council is pleased to see that both the original version of S.558 and the substitute bill would add discrimination on the basis of handicap as a type of discrimination prohibited under the Fair Housing Act.

The Supreme Court of the United States has noted that discrimination against persons with disabilities is "most often the product, not of invidious animus, but rather of thoughtlessness and indifference -- of benign neglect" (Alexander v. Choate, 469 U.S. 287, 295 (1985)). The Court expressly recognized that a major way in which persons with disabilities are discriminated against is by "architectural barriers" (Id. at p. 297). Since at least 1980, advocacy groups of persons with disabilities have been asking the Congress and the Senate Judiciary Committee for clarification regarding the requirement of accessibility in new construction.

Such concerns have caused the Council to call for an adaptability standard to insure that accessibility features are built into new housing: "In the Council's view, equal housing opportunity laws should require the architectural accessibility of all housing constructed in the future that is subject to these laws. This ... requirement will involve some costs, but, according to studies, relatively small ones" (Toward Independence, Appendix, pp. F-27 - F-28). The Council has examined existing studies of the costs of making multifamily housing units adaptable and noted that such features amount to less than 1% of new housing costs for multifamily dwellings (Id. at pp. F-28 - F-29). Based upon the small proportion of adaptability costs compared to overall project costs, and the great benefits that result to society and individuals with disabilities by reducing dependency costs and increasing

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opportunities for productivity and independence of persons with disabilities, the Council has recommended that accessibility be built into all construction that is subject to the Fair Housing Act (Id. at p. F-29).

The Council applauds the inclusion in the substitute bill of provisions that would begin to impose an accessibility requirement on the construction of new multifamily housing units. The Council believes that the construction of housing to meet the needs of persons who currently have disabilities and the growing population of elderly individuals who can benefit from accessibility is a critical legislative initiative, and an essential component of our Nation's Fair Housing requirements. We congratulate you on your involvement and leadership on these issues, and look forward to assisting the Committee with any additional information you may request regarding the Council's recommendations and its views concerning equal housing opportunities for individuals with disabilities.

Sincerely,



Sandra S. Parrino
Chairperson