



**Testimony before the Joint Committee on Housing
In Support of *An Act Promoting Housing for People with Disabilities*
House Bill 1557 and Senate Bill 608
Submitted by
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Dear Chairman Honan, Chairman Eldridge and members of the Housing Committee,

Thank you for providing me with the opportunity to testify in favor of House Bill 1557 and Senate Bill 608, *An Act Promoting Accessible Housing for People with Disabilities*.

I am here today to discuss ways to address the shortage of affordable housing for persons with disabilities in Massachusetts. H. 1557 and S. 608 – identical bills filed by Chairman Kevin Honan and Senator Michael Moore and cosponsored by 28 legislators - provide two concrete steps to increase affordable housing for persons with disabilities. We respectfully request the Committee's support and a favorable report of this legislation.

The first part of the legislation recapitalizes Community Based Housing (CBH), the Facilities Consolidation Fund (FCF) and the Housing Innovations Fund (HIF). Each of these capital programs are projected to run out of authorization shortly – before the next legislative session could take action to address the issue. These programs are absolutely critical to the Commonwealth's Olmstead Plan to provide housing for persons with disabilities in the community to enable greater choices and not restrict persons with disabilities to isolated and costly institutions.

The CBH Program provides funding for the development of integrated housing for people with disabilities, including elders, with priority for individuals who are in institutions or nursing facilities or at risk of institutionalization. FCF provides funding for community-based housing for clients of the Department of Mental Health (DMH) and Department of Mental Retardation (DMR). HIF provides funding for the creation and preservation of alternative forms of affordable housing. These forms include, but are not limited to homes for formerly homeless veterans, single room occupancy (SRO) units and transitional housing. Each program has a tremendous track record and deserve to be extended through additional bond authorization.

The second aspect of the legislation addresses housing design issues for persons with disabilities. Designing affordable homes so that persons with physical disabilities can live in or visit these homes is an important policy goal of CHAPA. We want there to be strong rules and regulations in place to ensure that developers and architects provide appropriate levels of accessibility for the needs of persons with disabilities of all incomes and demographics. We also believe that the accessibility design process

needs to be clear to developers and architects in order for them to be able to achieve the high accessibility design benchmarks we believe are appropriate.

Since 1968, the Massachusetts Architectural Access Board (AAB) has been the state entity responsible for promulgating a specialized building code to make affordable housing, multifamily buildings and other buildings accessible to, functional and safe for by persons with disabilities. Congress has also taken steps to ensure persons with disabilities have equal access to housing through the Fair Housing Amendments Act of 1988, the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973.

While both state and federal governments have been well intentioned in their efforts, accessibility requirements imposed by each entity differ significantly. This has created confusion among disability advocates, developers, architects and builders over differences between federal requirements and the requirements of 521 CMR, the state accessibility building code. The confusion has unnecessarily reduced the number of Massachusetts units that are accessible and available to persons with disabilities. It has also driven up costs for design and for costs related to unintentional noncompliance with the various codes.

In looking at this issue, our organization wanted to take a fact-driven approach to analyze the various codes and requirements and make recommendations to achieve two goals: 1) increase accessible housing and 2) ensure an efficient design process. We formed a Committee of stakeholders in 2008 and commissioned a study by LCM Architects, a national leader on accessible design¹. In 2009, we released the LCM study, which identified 49 areas of the state accessibility building code that provided a lesser standard of accessibility than federal building codes.² The legislation addresses these areas in order to increase accessible housing opportunities and to make the regulations clearer and easier to understand. Here is a summary of key provisions:

- New and redeveloped rental housing would have to provide 5% fully accessible units if the development includes 15 or more units, consistent with federal requirements. New publicly-assisted condominium developments that are for-sale would also have to provide this percentage of fully accessible units. This is a significant improvement over the status quo. The current MAAB rental housing threshold is 20 or more units to trigger the fully accessible requirements. Currently, affordable for-sale condominium developments do not have to provide fully accessible units under MAAB requirements. By lowering the threshold to 15 units and including a new category of for-sale housing, there will be several developments that will offer accessible homes for persons with disabilities in every region of the Commonwealth.

For example, if a 16 unit apartment building is completely rehabilitated or redeveloped, 5% of the units would need to be accessible under the bill. Currently, an apartment building of this size would not trigger a requirement for 5% of the apartments to be fully accessible under existing MAAB requirements.

- The legislation also maintains requirements that rental developments with a lower number of units (3 or 4 units depending on the situation) be adaptable – a lower standard of accessibility but an important feature nonetheless.

¹ The Access Code Committee includes representatives from CHAPA, Harvard Univ., Mass. Housing Partnership, the Attorney General's Office, Metropolitan Boston Housing Partnership, Mass. Rehabilitation Commission, Inst. for Human Centered Design, the Disability Policy Consortium, MassHousing, DHCD, Boston Center for Independent Living, Lieb Studios Architecture, Administration and Finance, Disability Law Center, Maloney Properties, Town of Lexington, Inst. for Human Centered Design, Dept. of Developmental Services, Stavros Independent Living Center, and Mostue & Associates.

² Study is available at: http://www.chapa.org/files/f_1258067143FinalReport111209.pdf

- The legislation grants the MAAB broad authority to exceed federal requirements in housing accessibility if they so choose. It frees up their authority to increase accessibility up to and beyond federal requirements by removing language in the current statute that is overly restrictive. For example, the bill deletes specific and overly restrictive parking requirements and reserves the right to regulate this area with the AAB. Consequently, they will be able to respond to increased needs, market changes and federal policy changes quickly to promote a high level of accessibility.
- The legislation will create greater consistency and clarity, increasing compliance with federal and state accessibility requirements. It improves consistency by 1) incorporating federal Title VIII safe harbors and ADA/Section 504 referenced standards in the AAB accessibility building code regulations and 2) requires the AAB regulations to be consistent with the structure of the Massachusetts state building code. Many developers are willing to provide the proper types and the proper amount of accessible housing but they are unsure how to comply because of confusion between the various codes and laws. By increasing compliance, the Commonwealth will have a greater number of accessible homes and apartments without costly complaints to reach compliance.
- The bill requires free access to the accessibility building code, consistent with current practice. This will enable community monitors to continue to access the code without incurring a cost.
- The language modernizes the AAB statute by removing the words "handicapped person" and replaces them with the modern terminology, "persons with disabilities."

We understand that the Administration is exploring ways to update the MAAB regulations to increase accessibility, but these regulations have not been promulgated. We still believe that this legislation is necessary to make it clear that MAAB has the authority and is charged by the legislature to improve housing accessibility design standards. We also believe the 10-month regulatory process in the legislation is more than enough time to promulgate the new accessibility regulations.

Once again, thank you for providing me with the opportunity to testify in favor of House Bill 1557 and Senate Bill 608. We respectfully request that you favorably report these two critical components to increase affordable housing options for persons with disabilities and we are open to any dialogue that helps advance these policy initiatives.