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United States General Accounting Office
Washington, DC 20548

Resources, Community, and
Economic Development Division

B-284417

June 30, 2000

The Honorable Larry E. Craig
The Honorable Ted Stevens
The Honorable Michael Crapo
United States Senate

Subject: Fair Housing: HUD's Implementation of the Fair Housing Act's Accessibility Provisions

The Fair Housing Amendments Act of 1988 amended title VIII of the Civil Rights Act of 1968 (Fair Housing Act) to include handicap and familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under 18) as bases for the prohibition of discriminatory housing practices in addition to the existing bases of race, color, religion, sex, and national origin. The Fair Housing Act, among other things, specifies that discrimination includes the failure to meet accessibility requirements in the design and construction of any multifamily dwelling that was first available for occupancy after March 13, 1991.¹ The act also allows the Department of Housing and Urban Development (HUD) to investigate, conciliate, and prosecute complaints related to housing discrimination.

You asked us to provide information on (1) the organizations involved in administering fair housing programs and (2) the primary fair housing functions of those organizations. You also asked us to focus on activities related to the accessibility requirements, which include providing wheelchair access to common areas and within units by widening doors and hallways, modifying kitchens and bathrooms, and relocating electrical outlets and light switches. This report summarizes the information we provided to your staff at a briefing on June 15, 2000. The slides used for that briefing appear as enclosure I.

In summary, the organizations involved in administering fair housing programs and activities include HUD; state and local government agencies, whose participation is voluntary; private and nonprofit grantees; and the Department of Justice's Civil

¹Multifamily dwellings include (1) all units in buildings with an elevator that have four or more units and (2) the ground floor units in other buildings that have four or more units.

Rights Division. HUD's and Justice's roles are set forth in the Fair Housing Act. The primary fair housing functions of these organizations include (1) enforcing federal fair housing requirements; (2) educating various organizations about fair housing requirements; (3) monitoring the performance of organizations as they administer fair housing requirements; and (4) performing other activities, such as responding to public inquiries, conducting research, and addressing known administrative problems.

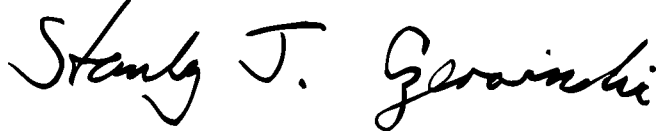
As part of enforcement, complaints about noncompliance with fair housing requirements, including the accessibility requirements, may be reported by individuals or grantees acting as advocates for individuals. Enclosure II provides additional state information on accessibility design and construction complaints as they compare to all Fair Housing complaints opened from fiscal year 1991 through fiscal year 1999. Complaints generally are resolved through settlement, conciliation, dismissal, an administrative hearing, or a civil court action. HUD's education activities include issuing guidance on the act's accessibility requirements and providing training and information about the accessibility requirements to the general public, advocacy groups, and the housing industry. In addition, HUD is primarily responsible for ensuring that accessibility programs and activities are properly implemented by its grantees and by state and local governments.

We provided HUD with a draft of our report for its review and comment. HUD generally agreed with the information presented in the draft report and provided technical clarifications, which we incorporated where appropriate.

In performing our work, we interviewed officials from HUD's Office of Fair Housing and Equal Opportunity in Washington, D.C., and in the mid-Atlantic region. We also interviewed officials from the Department of Justice's Civil Rights Division, as well as industry experts and fair housing advocates. We visited state and local Fair Housing Assistance program (FHAP) agencies in Pennsylvania and Maryland, and Fair Housing Initiatives Program (FHIP) grantees located in Philadelphia and Baltimore. In addition, we reviewed HUD documents, including HUD internal guidance and files related to FHAP awards and FHIP grants, reviewed related HUD Inspector General and GAO reports; and analyzed data from HUD's enforcement case management information system. While we did not systematically review the quality of the data in HUD's case management information system, we asked state FHAP agencies to verify their case records by comparing them with the data provided by HUD. We performed our work from December 1999 through May 2000 in accordance with generally accepted government auditing standards.

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We are sending copies of this report to the Honorable Andrew Cuomo, Secretary of Housing and Urban Development. We will also make copies available to others on request. Key contributors to this report were Nancy Boardman, Nancy Simmons, and John Vocino. Please contact me at (202) 512-7631 if you or your staff have any questions.

A handwritten signature in black ink that reads "Stanley J. Czerwinski". The signature is written in a cursive style with a large, prominent 'S' at the beginning.

Stanley J. Czerwinski
Associate Director, Housing and
Community Development Issues

Enclosure - 2



**HUD's Implementation of the
Fair Housing Act's
Accessibility Provisions**

**Briefing for
Senators Craig, Crapo, and Stevens**

June 15, 2000

GAO/RCED-00-160R

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Objectives

- Which organizations are involved in administering the fair housing provisions?
- What are the primary fair housing functions of those organizations?

GAO/RCED-00-160R

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Fair Housing Act

- Prohibits discrimination in housing based on race, color, national origin, religion, sex, disability, and familial status (including children under the age of 18 living with parents or legal custodians, pregnant women, and people with custody of children under 18).
- Authorizes the Department of Housing and Urban Development to administer the act.
- Does not require states and localities to enforce the federal requirements.

Fair Housing Act

- For persons with disabilities, discrimination includes
 - refusing to sell or rent housing,
 - setting different terms and conditions for housing,
 - refusing to make reasonable modifications or accommodations,
 - not meeting accessibility design and construction requirements in multifamily housing that was first occupied after March 13, 1991.

Fair Housing Act

- Accessibility design and construction requirements include
 - access to common areas,
 - wider doors and hallways to accommodate wheelchairs,
 - accessible electrical outlets and switches,
 - reinforced bathroom walls,
 - kitchens and bathrooms that are wheelchair accessible.

Fair Housing Act

- Complaints related to discrimination based on disability are fewer than those based on other factors, such as race or familial status.
- Complaints involving accessibility issues are much fewer than those involving other issues, such as refusal to rent or to make reasonable accommodations.
- Almost 71,000 fair housing complaints were filed from fiscal year 1991 through fiscal year 1999.
 - 842 involved accessibility design and construction issues.
 - HUD processed 536 complaints; state and local agencies processed 306 complaints.



Organizations involved in administering fair housing provisions

- Department of Housing and Urban Development (HUD)
- State and local governments:
 - Fair Housing Assistance Program (FHAP) agencies
- Private/nonprofit organizations:
 - Fair Housing Initiatives Program (FHIP) grantees
- Department of Justice (DOJ)

GAO/RCED-00-160R

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Department of Housing and Urban Development

- Provides information on fair housing nationwide.
- Performs education and outreach activities and monitors the performance of its grantees.
- Handles complaints from 17 states not covered by FHAP agencies.
- Coordinates with the FHAP agencies.
- Has fair housing staff located in Washington, D.C., and in 52 of HUD's 80 field offices.

GAO/RCED-00-160R

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State and local governments-- FHAP agencies

- HUD delegates FHAP responsibilities to agencies whose fair housing laws are substantially equivalent to its own.
- FHAP agencies investigate and resolve complaints within their jurisdiction.
- HUD reimburses FHAP agencies for fair housing activities.
- FHAP agencies have other state and local civil rights responsibilities.
- As of May 31, 2000, there were 32 states and the District of Columbia, and 52 local FHAP agencies.

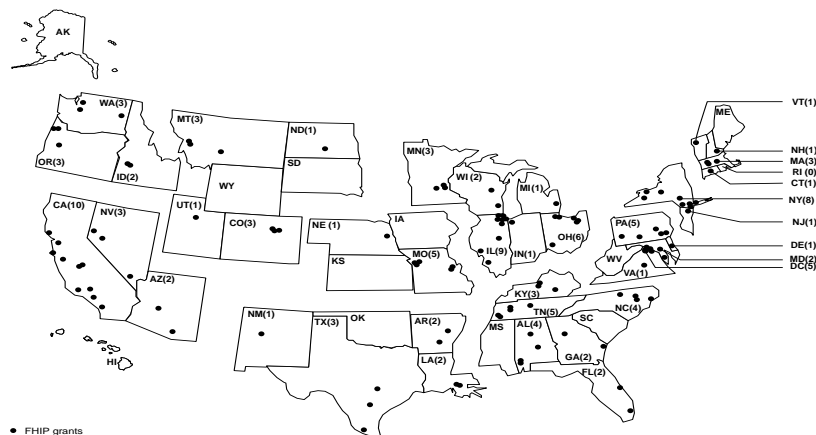
State and local governments--FHAP agencies (as of May 31, 2000)



Private/nonprofit organizations--FHIP grantees

- Organizations compete for FHIP grants on the basis of criteria posted in notices of funding availability.
- Grants may cover enforcement, education and outreach, and/or capacity-building.
- A FHIP grantee can provide services and advocacy outside the scope of its grants when using other funding sources.
- FHIP grantees also supplement HUD's efforts.
 - 116 FHIP grants were awarded in fiscal years 1997 and 1998.

Private/nonprofit organizations--location of FHIP grants awarded in fiscal years 1997 and 1998





Department of Justice

- Conducts testing to identify fair housing compliance.
- Handles cases that involve
 - pattern and practice,
 - zoning issues, and
 - criminal activity.
- Files suit in federal district court at the request of a complainant who is found by HUD to have a legitimate complaint.



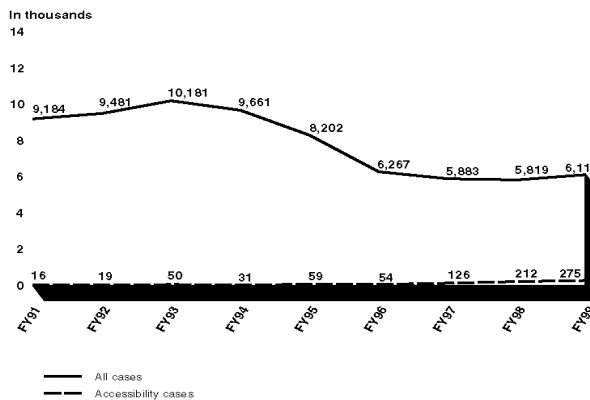
Primary functions involved in administering fair housing provisions

- Enforcement--testing for compliance and identifying and resolving complaints.
- Education and outreach--explaining what fair housing means and requires.
- Monitoring--reviewing the performance of implementing organizations.
- Other--responding to public inquiries, conducting research, and collaborating with others.

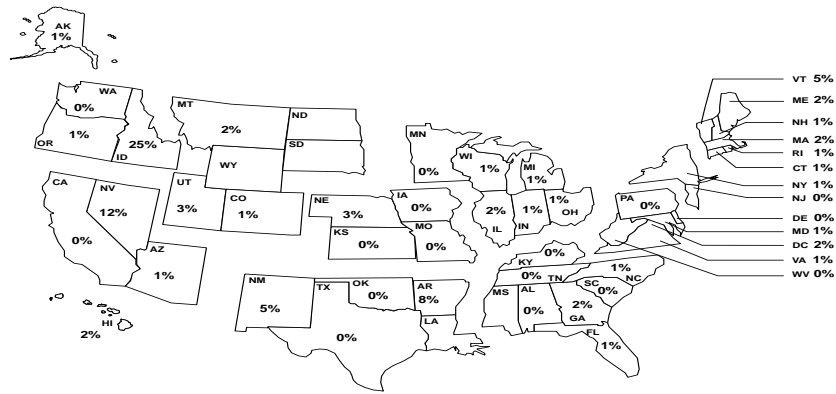
Enforcement

- FHIP grantees and Justice conduct testing that includes compliance with accessibility requirements.
 - Complaints also can be filed when noncompliance is identified by individuals or advocacy groups.
 - FHIP grantees refer complaints to FHAP agencies or HUD.
- FHAP agencies and HUD enter complaints related to federal law into an automated tracking system.
 - If the complaint occurs in a state or local area that has a FHAP agency, the complaint is filed through the agency.
 - Other complaints are filed directly with HUD through any HUD office or the Internet.

Enforcement--Number of complaints opened, fiscal years 1991-99



Enforcement--Accessibility complaints as a percentage of all complaints opened, fiscal years 1991-99



Source: GAO's analysis of HUD's data.
 Note: Numbers are rounded to the nearest percentage. States without percentages had no cases related to accessibility issues.

Enforcement

- Complaints are generally resolved in one of the following ways:
 - Settlement--agreement between complainant and respondent resulting in a withdrawal of the complaint.
 - Conciliation--agreement between complainant and respondent facilitated by HUD or a FHAP agency.
 - Dismissal--no basis for pursuing the complaint.
 - Administrative hearing--through HUD's administrative law judge or an equivalent state or local process.
 - Civil action--through the appropriate federal, state, or local court.
 - Individuals can bring suit on their own.

Education and outreach

Explaining what fair housing means and requires:

- HUD issued guidelines covering accessibility requirements.
- HUD provides training and information to the housing industry, advocacy groups, and the general public on accessibility requirements.
- HUD provides mandatory training for FHAP agencies and FHIP grantees.
- FHIP grantees develop products that explain fair housing requirements to the public and the housing industry.

Monitoring

- HUD monitors FHAP agencies and FHIP grantees to ensure their compliance with requirements by
 - conducting annual reviews;
 - reviewing quarterly, financial and annual reports;
 - reviewing FHAP case records and FHIP enforcement logs;
 - comparing actual progress to planned progress;
 - approving reimbursements; and
 - identifying and resolving performance problems.

Monitoring

- Each FHIP grantee must
 - notify HUD of all complaints resulting from FHIP-funded activities and
 - reimburse the federal government when it receives non-FHIP funds resulting from its enforcement activities.
 - Each FHIP grantee must not
 - have been employed within a 12-month period by a person or organization to be testing,
 - solicit funds or provide services within a 12-month period to a person or organization that has been tested, or
 - use other funds for FHIP-funded activities.
-

Other Functions

- General inquiries from the public are first referred to the local HUD community builder or program office, then to a regional office or headquarters, if necessary.
 - HUD is developing a process that the public can use to register complaints about FHIP grantees' activities.
 - HUD has contracted for a nationwide study on conformity with accessibility requirements.
 - HUD is collaborating on the development of national model building codes.
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Enclosure III

Fair Housing Complaints Filed, by State, Fiscal Years 1991-99

State	Total complaints filed	Accessibility design and construction complaints filed
AK	135	1
AL	447	2
AR	716	64
AZ	1,573	19
CA	9,042	33
CO	1,976	28
CT	822	11
DC	173	4
DE	205	1
FL	3,443	40
GA	1,379	38
HI	541	12
IA	1,309	1
ID	334	86
IL	2,717	56
IN	1,683	9
KS	1,458	6
KY	984	5
LA	1,082	0
MA	2,286	44
MD	1,147	11
ME	145	4
MI	1,088	10
MN	788	4
MO	3,219	10
MS	257	0
MT	575	13
NC	1,200	12
ND	154	0
NE	882	28
NH	178	2
NJ	1,347	7
NM	448	22
NV	578	81
NY	2,490	23
OH	4,307	59
OK	999	1
OR	1,264	9
PA	2,864	6
RI	260	4
SC	467	1
SD	132	0
TN	975	2
TX	6,607	19
UT	673	19
VA	1,152	13
VT	62	3
WA	2,720	11
WI	1,093	7
WV	301	1
WY	111	0
National total	70,789	842

Enclosure III



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-2000



OFFICE OF THE ASSISTANT SECRETARY
FOR FAIR HOUSING AND EQUAL OPPORTUNITY

June 23, 2000

Mr. Stanley J. Czerwinski
Associate Director, Housing, Community
Development and Telecommunications Issues
Resources, Community, and Economic Development Division
United States General Accounting Office
Washington, DC 20548

Dear Mr. Czerwinski:

We have reviewed your draft correspondence entitled Fair Housing: HUD's Implementation of the Fair Housing Act's Accessibility Provisions (GAO/RCED-00-160R) (job code 385836).

The following are our edit changes to the report:

Page 9 - State and local governments - FHAP agencies

- The last bullet should read: As of May 31, 2000, there were 32 states and the District of Columbia and 52 local FHAP agencies. NOTE: By making the above change, page 9 and 10 are consistent.

Page 18 - Enforcement

- Settlement - agreements between complainant and respondent resulting in a withdrawal of the complaint
- Conciliation - agreement between complainant and respondent facilitated by HUD or a FHAP agency.

We appreciate the opportunity to comment on the draft report and look forward to receiving the final report.

Sincerely,

A handwritten signature in cursive script that reads "Eva M. Plaza".

Eva M. Plaza
Assistant Secretary for Fair Housing
and Equal Opportunity

(385836)

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