

November 1998

ASSISTED HOUSING

Occupancy Restrictions On Persons With Disabilities



**Resources, Community, and
Economic Development Division**

B-280681

November 12, 1998

The Honorable Jerry Lewis
Chairman
The Honorable Louis Stokes
Ranking Minority Member
Subcommittee on VA, HUD, and
Independent Agencies
Committee on Appropriations
House of Representatives

The Honorable Rodney P. Frelinghuysen
House of Representatives

Two provisions of the Housing and Community Development Act of 1992 allow the owners of certain federally assisted housing projects to establish occupancy policies that favor elderly tenants over nonelderly tenants with disabilities. Specifically, Sections 651 and 658 of Title VI of the 1992 act allow the owners of projects built primarily for the elderly (defined as those aged 62 or older) to restrict the occupancy of nonelderly persons with disabilities.¹ These owners are not required to receive approval from the Department of Housing and Urban Development (HUD) before imposing such a restriction, nor to notify HUD once the restriction occurs.² Therefore, little information on Title VI's effect is available. However, concerns have been raised that Title VI may make it more difficult for nonelderly persons with disabilities to obtain affordable housing. Since fiscal year 1997, the Congress has appropriated funds for incremental (new) Section 8 rental housing certificates and vouchers for the exclusive use of nonelderly persons with disabilities.³

In its July 11, 1997, report (H. Rep. 105-175) accompanying its fiscal year 1998 appropriations bill, the Subcommittee on VA, HUD, and Independent Agencies, House Committee on Appropriations, directed GAO to assess the effects of Sections 651 and 658 on nonelderly persons with disabilities. In

¹Occupancy by elderly tenants with disabilities is not restricted because they meet the age qualification.

²The owners and managers of private housing that receive federal assistance who decide to restrict the occupancy of nonelderly persons with disabilities pursuant to the 1992 act may not force such persons to move out of these units.

³Persons using Section 8 certificates and vouchers, which are administered by local housing authorities, pay a portion of their income—usually 30 percent—toward renting privately owned apartments that meet HUD's rent requirements and housing quality standards. HUD generally pays the difference between the tenants' portion and the total rent charged for a unit or, in the case of vouchers, a rent standard established by HUD.

response, this report provides information on (1) the extent to which the occupancy policies of eligible projects restrict occupancy to the elderly and the portion of units in eligible projects actually occupied by nonelderly persons with disabilities and (2) the use of Section 8 certificates and vouchers to assist nonelderly persons with disabilities affected by the act.

To obtain information on the effects of Sections 651 and 658, we surveyed a random sample of 1,223 of the 7,696 privately owned, HUD-assisted housing projects that are potentially eligible to restrict the number of nonelderly tenants with disabilities.⁴ Our survey results are generalizable to approximately 6,080 of the potentially eligible projects.⁵ This report discusses the responses of those projects whose managers told us that the projects were originally designed primarily for the elderly. We estimate that there are 4,157 such projects. To obtain information on HUD's use of Section 8 certificates and vouchers to assist persons with disabilities affected by the act, we interviewed appropriate HUD officials and obtained documentation where available. We also interviewed officials of associations representing (1) persons with disabilities, (2) the elderly, and (3) owners of privately owned assisted housing. Appendix I describes our survey methodology in more detail. Appendix II presents our survey and the aggregated responses to our questions. Appendix III provides the sampling errors for the responses to our survey.

Results in Brief

The majority of housing projects designed for the elderly have not used the 1992 act to restrict the occupancy of nonelderly persons with disabilities. Almost three-quarters of the officials for the projects designed for the elderly reported that they had adopted their current policies before 1993, when the law went in effect. That is, the policies for these projects have not changed as a result of the act. A similar number of officials reported that their projects' occupancy composition has remained about the same over the last 5 years. Regardless of when the occupancy policies were adopted, most projects allow persons with disabilities to reside in

⁴We did not assess whether the projects' policies were in compliance with HUD's regulations.

⁵Almost 80 percent of the projects we surveyed by mail responded. We also conducted a telephone survey of a sample of the projects that did not respond to our written survey to determine whether their answers differed from those who responded by mail. We found some significant differences between the two groups and have noted them, where appropriate, in this report. Sampling errors define the upper and lower bounds of the estimates made for our survey results. Sampling errors were calculated at the 95-percent confidence level. This means that 19 out of 20 times, the sampling procedures used would produce a range that includes the true value. Wherever sampling errors were less than 5 percent, we do not present them in this letter. Sampling errors greater than 5 percent follow their corresponding estimates.

them. About 42 percent allow the elderly and persons with disabilities to apply for all units, while about 24 percent reserve some units for nonelderly persons with disabilities. Elderly tenants currently occupy about 90 percent of the available units, while nonelderly persons with disabilities occupy 8 percent. Advocates for the elderly and persons with disabilities and HUD officials generally were not surprised by our survey results. Advocates for the elderly believe that our findings indicate that few projects have used the act to restrict the occupancy of persons with disabilities. In contrast, disability rights advocates believe that many projects were discriminating against persons with disabilities prior to the 1992 act and that the act merely legitimized those practices.

Local housing authorities have made limited use of the funds for Section 8 certificates and vouchers that HUD can award to assist nonelderly persons with disabilities who are not currently receiving housing assistance because owners restricted occupancy, as the 1992 act allows. Of the \$45 million appropriated for this purpose in fiscal years 1997 and 1998, only \$8.4 million had been awarded to 13 housing authorities as of September 30, 1998. HUD officials told us that these funds were not in greater demand for several possible reasons. First, the application process for these funds is more complicated than the process for funds in the mainstream housing opportunities program, which is another mechanism available for housing authorities to apply for certificates and vouchers for persons with disabilities. Furthermore, our survey found that very few owners of private projects were working with staff from their local housing authority to assist persons with disabilities affected by Sections 651 and 658. Finally, housing authorities prefer to apply for funds from the mainstream program for persons with disabilities. In September 1998, HUD transferred \$78.3 million of unobligated Section 8 funds for nonelderly persons with disabilities, of which \$36.6 million was from the \$45 million set-aside, into the mainstream program. These transferred funds were fully obligated by the end of fiscal year 1998, according to HUD.

Background

Assisted housing for the elderly (known as elderly housing) has been developed under several HUD programs, including the Section 202 program, which remains the primary assisted housing program for the elderly. All of these programs allow, to some degree, occupancy by some nonelderly persons with disabilities; however, the eligibility criteria for persons with disabilities depend on the housing program and, in some instances, on the year the project was developed and the definition of disability in effect for that year. Therefore, some elderly projects that accept a person with a

physical disability may have the legal discretion to not accept a person with either a developmental or mental disability. Many projects allowed persons with mobility impairments to occupy 10 percent of their units and elderly persons to occupy the remaining 90 percent. Other projects, such as certain Section 202 projects built before 1964, when persons with physical handicaps became eligible, were not required to accept any persons with disabilities.

In response to complaints that the lifestyles of young adults with disabilities residing in elderly housing conflicted with those of elderly tenants, the Congress, in Title VI of the Housing and Community Development Act of 1992, provided that owners of elderly housing may restrict the number of nonelderly persons with disabilities who may reside there, and defined the types of housing programs covered and the types of restrictions permitted.⁶ Specifically, Section 651 of Title VI states that eligible elderly projects with Section 8 project-based assistance may give preference to elderly families.⁷ If preference is given, the project must reserve some units—10 percent or fewer of the total units—for nonelderly persons with disabilities under the age of 50. If there is an insufficient number of elderly tenants, then the owner may give preference to persons with disabilities who are near-elderly (ages 50 through 61). Projects eligible under Section 658 have different restrictions. In essence, Section 658 permits elderly projects to return to their original occupancy policies, as agreed upon with HUD, if they had over the years allowed tenants other than those originally eligible to occupy units.

To offset the potential loss of housing for nonelderly persons with disabilities and to provide them with greater housing choices, local housing authorities may apply for HUD's Section 8 rental housing certificates and vouchers from one of three separate funding set-asides. Of the \$278.9 million that has been made available for certificates and vouchers for persons with disabilities since the 1992 act, \$136.9 million was set aside for housing authorities that have HUD-approved allocation

⁶Elderly housing generally consists of efficiency apartments and one-bedroom units, while family housing consists of apartments with two or more bedrooms. Some family projects also have efficiency or one-bedroom apartments for families with one or two members and do allow such families to reside there. However, elderly projects rarely include apartments with more than one bedroom, and their primary eligibility criteria are age and disability rather than family size.

⁷Section 8 project-based assistance, unlike Section 8 certificates and vouchers, is tied to specific property units. Rent is paid for eligible tenants when they occupy a specific housing development or unit.

plans,⁸ \$45 million was set aside for housing authorities to assist those nonelderly persons with disabilities who have been affected by private projects' establishment of occupancy policies restricting their number, and \$97 million was set aside for the mainstream housing opportunities program.⁹ Each set-aside has different application requirements and restrictions. Once housing authorities are awarded funds for a specific number of certificates or vouchers, they are responsible for providing the certificates and vouchers to eligible applicants.

The 1992 Act Has Had Little Effect on Occupancy Restrictions for Nonelderly Persons With Disabilities

Most elderly projects have not used the 1992 act to restrict the occupancy of nonelderly persons with disabilities. Specifically, occupancy policies and the relative percentages of elderly tenants and nonelderly tenants with disabilities have not changed much since the enactment of the 1992 act, according to survey responses. Advocates for the elderly and persons with disabilities and HUD officials differ on whether our survey results show that nonelderly persons with disabilities have been adversely affected by the act.

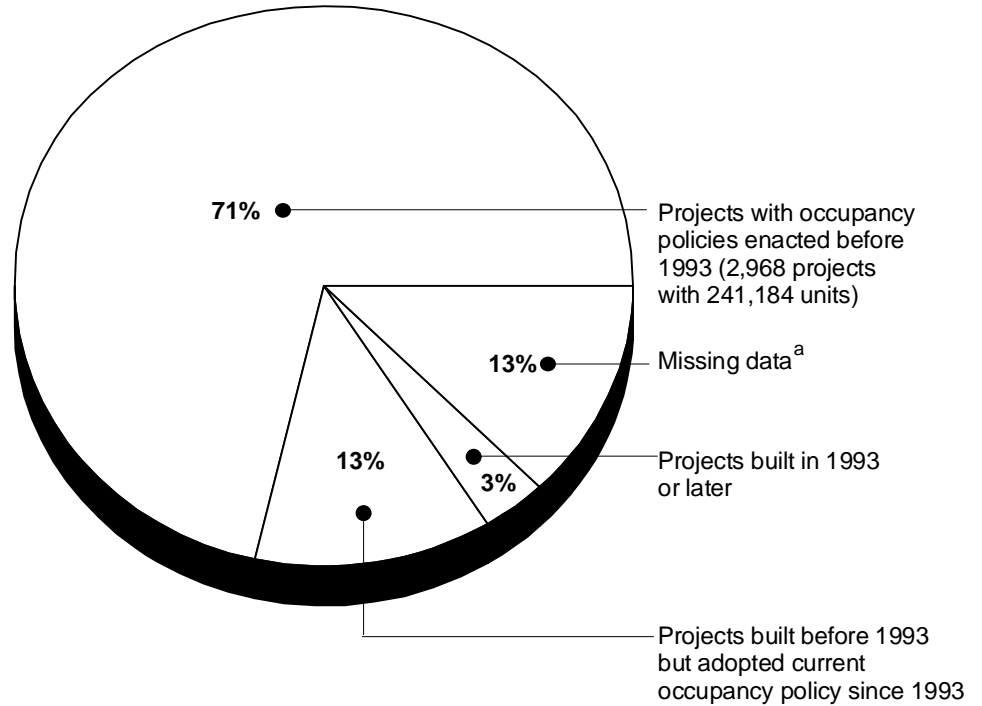
Most Occupancy Policies Precede the 1992 Act and Allow Occupancy by Some Persons With Disabilities

Of an estimated 4,157 projects originally designed for the elderly, about 71 percent—or 2,968 (± 207) projects with a total of 241,184 units (± 24,017)—had current occupancy policies that preceded the enactment of the 1992 act. In other words, these projects did not use the 1992 act to change their policies on the occupancy of nonelderly persons with disabilities. Officials for most of these projects reported that their current occupancy policies were adopted when the projects were developed. The remaining projects included those that adopted their current policies in 1993 or later but were built before 1993, those that adopted their current policies in 1993 or later but were built in 1993 or later, and those that did not provide complete data.

⁸A local housing authority wanting to restrict occupancy must submit to HUD an allocation plan that, among other things, describes the local supply and demand of affordable housing for nonelderly persons with disabilities and the steps the housing authority will take to secure alternative housing options.

⁹The mainstream housing opportunities program provides Section 8 certificates and vouchers to persons with disabilities to find affordable housing of their choice in their communities (hence, the term "mainstream"). The mainstream program does not have an age criterion for eligibility.

Figure 1: Most Occupancy Policies Precede the 1992 Act



^aRespondents did not complete questions on occupancy policy, date of policy, and/or date the project was built or substantially rehabilitated.

Of the projects that were built before 1993 but have adopted policies since then, 59.9 (± 10.3) percent adopted policies that restrict the number of nonelderly persons with disabilities, either by limiting their number or by renting only to elderly tenants. Another 24.3 (± 8.9) percent allowed only the elderly and persons with disabilities for all units. The remaining projects selected other policies or did not respond to our survey.

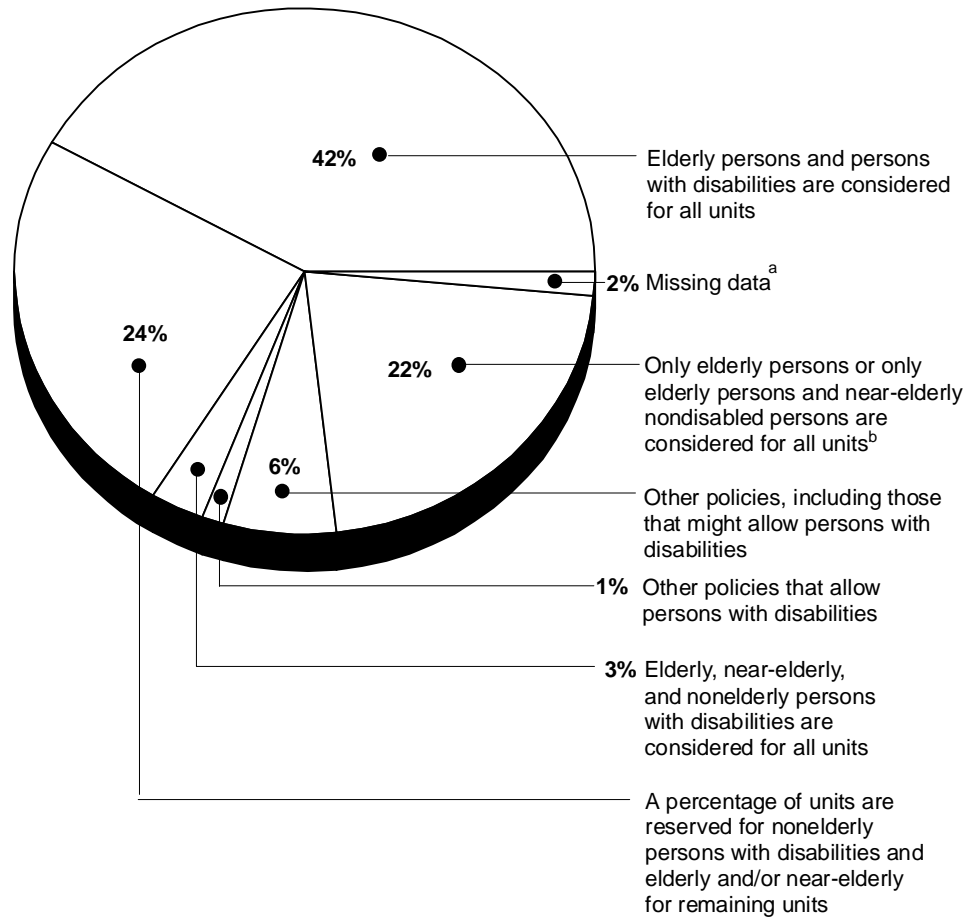
Regardless of when a project’s occupancy policy was adopted, at least 70 percent of the 4,157 projects built primarily for the elderly currently accept some persons with disabilities (see fig. 2). Most projects had one of three types of policies. One type of policy allows persons with disabilities and elderly persons to apply for all units—42 percent, or 1,738

(± 181) projects, had this policy.¹⁰ Under a second type of policy, projects reserve a percentage or number of units (most commonly 10 percent or fewer of the total units) for nonelderly persons with disabilities and allow the elderly and/or near-elderly to occupy the remaining units—24 percent had this policy.¹¹ A third type of policy restricts occupancy to the elderly—21 percent had this policy. Projects under Section 658 were twice as likely as those under Section 651 to restrict occupancy to elderly persons.

¹⁰Section 651 projects that responded to our telephone survey reported significantly more often than respondents to the mail survey that they accept both the elderly and persons with disabilities. There were no significant differences between Section 658 telephone and mail survey respondents.

¹¹Sections 651 and 658 projects that responded to our telephone survey reported significantly less often than respondents to our mail survey that they reserve units for nonelderly persons with disabilities, limiting the remaining units to the elderly.

Figure 2: Most Elderly Projects Allow Occupancy by Some Persons With Disabilities



^aRespondents did not complete question on occupancy policy.

^bIn this category, 21 percent allow only elderly persons.

Projects that reserved some units for nonelderly persons with disabilities generally limited these units to those with physical disabilities. That is, officials for almost 70.5 (± 6.8) percent of the projects that reserved some units reported that only persons with disabilities requiring physically accessible units were eligible for occupancy in those reserved units, while officials for about 26 (± 6.5) percent of the projects reported that they would consider persons with disabilities who do not require accessible

units. In contrast, projects that considered the elderly and persons with disabilities for all units more often had policies to admit persons with disabilities regardless of their need for accessible units.¹²

Percentages of Elderly and Nonelderly With Disabilities at Elderly Projects Have Remained Relatively Stable Over the Last 5 Years

According to officials for most of the projects, elderly persons currently occupy 90 percent of units, while nonelderly persons with disabilities occupy 8 percent overall.¹³ That is, of the 321,152 (\pm 25,979) units of federally supported housing located in elderly housing projects, about 287,629 (\pm 24,151) units are occupied by the elderly and 25,796 (\pm 4,169) units are occupied by nonelderly persons with disabilities. Nonelderly, nondisabled tenants reside in fewer than 2 percent of the units.¹⁴

The percentages of elderly residents and residents with disabilities have remained the same over the last 5 years, according to a majority of those responding. About three-quarters (77 percent) of the officials of elderly projects reported that the percentage of elderly tenants has remained the same; and 70 percent reported that the percentage of tenants with disabilities (regardless of age) has remained the same. Increases in the percentage of elderly tenants were experienced by 11 percent of the projects, while officials for 21 percent of the projects reported that they had increases in the percentage of tenants with disabilities.

Advocates and HUD Provide Different Reasons for Potentially Low Impact of 1992 Act

We provided the preliminary results of our survey to national representatives of, and advocates for, persons with disabilities, the elderly, and owners of projects that are eligible under Sections 651 and 658 to restrict the occupancy of persons with disabilities, as well as to HUD officials. These experts offered different interpretations of our findings—that most projects adopted their current occupancy policies before the 1992 act's enactment, that occupancy patterns have been stable, and that occupants are predominantly elderly. Specifically, they disagreed over the meaning of stability in policies and occupancy. Some believed that these results showed that nonelderly persons with disabilities were

¹²Section 651 projects that responded to our telephone survey were significantly more likely to report accepting both disabled persons who require physically accessible units and those who do not require such units than projects that responded by mail. There were no differences in these policies for Section 658 telephone and mail survey respondents.

¹³Another 4.6 percent of elderly projects did not provide sufficient data on occupancy for this analysis.

¹⁴Officials for some projects reported vacancies, although our survey did not ask about vacant units.

being adequately served, while others believed that they showed that project owners were continuing past discriminatory practices.

Officials representing project owners and the elderly believed that the survey data confirm their experience that projects have not generally used the 1992 act to restrict occupancy by persons with disabilities. They believed that it is a misperception that project owners and managers favor elderly tenants over younger tenants with disabilities. Instead, they explained that many younger persons with disabilities (1) do not want to live with elderly persons and prefer other types of housing, including housing projects and group homes just for persons with disabilities or (2) want to choose their own housing using Section 8 certificates and vouchers. Therefore, younger persons with disabilities are not applying in higher numbers for admission to elderly housing. The officials believed that our survey results confirm these views because our survey found that nonelderly persons with disabilities represented 8 percent of applicants on elderly projects' waiting lists.¹⁵ As a result, elderly housing is primarily composed of elderly tenants.

In contrast, advocates for persons with disabilities maintained that few projects used the 1992 act to restrict the occupancy of such persons because many projects were already imposing such restrictions—which could have been illegal—before the 1992 act was passed. In other words, the 1992 act codified existing occupancy practices, regardless of whether those practices were legal. The advocates maintained that such practices occurred because of discrimination against people with disabilities and ignorance of the law and HUD's occupancy regulations. In their view, the project owners were and are able to maintain such potentially illegal practices because HUD is not required to approve changes to the projects' occupancy policies and because HUD is not enforcing compliance with its occupancy regulations. The advocates also believed that project owners use "redlining," telling potential applicants that a waiting list is closed or a project is accepting persons with only certain types of disabilities, such as physical disabilities. Finally, the advocates said that most low-income people will not file complaints against a project out of ignorance or fear of retaliation or intimidation. If they do file a complaint, they are more likely to do so with a local organization than with HUD. As a result, HUD does not know the extent to which persons with disabilities experience discrimination.

¹⁵Waiting lists are an imperfect measure of demand because they reflect demand only at the time the individuals are listed or lists are updated. They do not reflect the demand of those persons who need housing but, for various reasons, are not listed.

Finally, HUD officials believed that our survey results confirm that, overall, persons with disabilities have not to date been harmed by the 1992 act. HUD program officials disagreed with the assertion of the disability rights advocates that the 1992 act codified potentially illegal practices. While the officials acknowledged that some projects maintained illegal occupancy practices before the act's passage, they did not believe that such practices were widespread. Otherwise, they believed, significantly more complaints would have been brought to HUD's attention. However, HUD officials were surprised by some of our findings. For instance, they did not understand why 11 percent of the projects eligible under Section 651 reported that they accept only elderly tenants. According to HUD's program officials, Section 651 projects that accept only the elderly should be rare. Furthermore, they were surprised that the percentage of nonelderly persons with disabilities on waiting lists was so small.

Use of Section 8 Certificates and Vouchers to Offset the Impact of Private Projects' Occupancy Restrictions Is Limited

Of the \$278.9 million that has been made available for incremental (new) Section 8 certificates and vouchers for persons with disabilities since the passage of the 1992 act, \$45 million (\$25 million in fiscal year 1997 and \$20 million in fiscal year 1998) was specifically for offsetting the effects of occupancy restrictions by private projects that meet the criteria of Sections 651 and 658.¹⁶ Housing authorities can apply for certificates and vouchers funded from this program if they can identify nonelderly persons with disabilities in their communities who are not receiving housing assistance because of private projects' occupancy restrictions.

As of September 30, 1998, only about 19 percent of the \$45 million had been used to assist persons with disabilities affected by private projects' occupancy restrictions. HUD had awarded about 1,610 certificates and vouchers worth about \$8.4 million to 13 housing authorities for this purpose, leaving about \$36.6 million unobligated. In addition, HUD had \$41.7 million unobligated from the funding set-aside targeted to local housing authorities with approved allocation plans. As a result, in September 1998, HUD transferred a total of \$78.3 million in unobligated funds from these two funding set-asides into the mainstream program for Section 8 certificates and vouchers, raising the amount of funding

¹⁶Our report entitled *Public Housing: Impact of Designated Public Housing on Persons With Disabilities* (GAO/RCED-98-160, June 9, 1998) discusses in detail the use and limitations of Section 8 certificates and vouchers for persons with disabilities. This report focuses only on Section 8 certificates and vouchers awarded to offset the effects of private projects' restrictions of occupancy to the elderly.

available in that program from \$48.5 million to \$126.8 million.¹⁷ All told, 276 housing authorities have submitted applications for approval, requesting 22,000 certificates and vouchers worth almost \$633 million. According to HUD, by the end of September 1998, it had obligated all \$126.8 million of the mainstream Section 8 certificates and vouchers.

We were not able to account for housing authorities' greater interest in applying for mainstream certificates and vouchers for persons with disabilities than in applying for certificates and vouchers to assist nonelderly persons with disabilities affected by private projects' occupancy restrictions. According to HUD officials, it is possible that the mainstream program is more popular in part because housing authority officials are more familiar with its application process. Furthermore, housing authority officials may find the process for applying for mainstream certificates and vouchers simpler than the process for applying for certificates and vouchers set aside for housing authorities that have approved allocation plans or that can identify persons affected by occupancy restrictions in private housing. Because of legislative requirements, the mainstream program has fewer application requirements than the other two set-asides have. For instance, a housing authority desiring certificates and vouchers in connection with an allocation plan must first submit the plan to designate housing. Information for this plan could require participation from current tenants, the local government, and advocacy groups.

Similarly, a housing authority that applies for certificates and vouchers to assist persons with disabilities affected by private projects' occupancy restrictions have additional requirements. The housing authority must first identify those private projects that have restricted occupancy and then submit statements signed by the owners of the private projects certifying that the projects have established occupancy policies favoring the elderly and providing the number of nonelderly disabled families on their waiting lists. In addition, the housing authority must identify the number of other nonelderly disabled families residing in the community who would qualify for these certificates and vouchers. According to HUD Section 8 officials, even though HUD has encouraged the owners of private projects to cooperate with the housing authorities to determine the need for certificates and vouchers, many housing authorities have found that project owners are often reluctant to cooperate. Only 1.8 percent of the managers of elderly housing projects reported in our survey that they are

¹⁷While \$48.5 million of this amount can be used to assist any family or individual with disabilities regardless of age, the \$78.3 million must be used for nonelderly persons with disabilities.

working with a housing authority to help persons with disabilities find housing.

Communication problems among HUD's offices and among HUD, housing authorities, and private projects may have contributed to the low level of interest in the Section 8 certificates and vouchers set-aside. According to HUD's former Section 8 director, he had asked the Office of Housing's Multifamily Housing Division to (1) notify project owners that Section 8 certificates and vouchers were available for qualified persons with disabilities who are affected by the owners' changes in occupancy policies and (2) request that the project owners notify their local housing authority to assist them in identifying eligible candidates for certificates and vouchers. However, because of changes in HUD's management and organization, the division has not acted on his request. Likewise, the Section 8 office has not formally provided housing authorities with information about Sections 651 and 658, including the allowable occupancy policies and how these policies affect low-income nonelderly persons with disabilities looking for affordable housing. Moreover, other than issuing an April 30, 1998, notice of funding availability for the fiscal year 1998 funds, HUD has not made any formal efforts to educate housing authorities on the type of funding available for nonelderly persons with disabilities.

Recognizing that housing authorities do not always apply for some of these funds, the Subcommittee on VA, HUD, and Independent Agencies, House Committee on Appropriations, in HUD's fiscal year 1999 appropriations, provided the Secretary of Housing with waiver authority to allow nonprofit organizations to apply for these certificates and vouchers.

Conclusions

While our survey data might indicate that, to date, few nonelderly persons with disabilities have been affected by the occupancy restrictions enacted by privately owned elderly housing projects, the impact could be greater as more elderly projects enact occupancy restrictions in accordance with Sections 651 and 658 of the 1992 act. Section 8 certificates and vouchers are also available to assist nonelderly persons with disabilities who may no longer be eligible for elderly projects, but much of these Section 8 funds remained unspent because, among other reasons, housing authorities may find the application process cumbersome in comparison with that for the mainstream program. Regardless, as demonstrated by the oversubscription of the mainstream program, which has an application process that is more familiar to housing authorities, there is a

demonstrated demand for certificates and vouchers for persons with disabilities.

Agency Comments

We provided a draft of this report to HUD for its review and comment. HUD agreed with the report and responded that it found the information in the report to be useful for continuing to implement its programs for elderly persons and persons with disabilities. The Department also provided some technical clarifications, which we incorporated where appropriate. HUD's letter appears in appendix IV.

We conducted our review from December 1997 through October 1998 in accordance with generally accepted government auditing standards.

We are sending copies of this report to the appropriate Senate and House committees; the Secretary of Housing and Urban Development; and the Director of the Office of Management and Budget. We will also make copies available on request.

Please call me at (202) 512-7631 if you and your staff have any questions about this report. Major contributors to this report are listed in appendix V.



Judy A. England-Joseph
Director, Housing and Community
Development Issues

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Abbreviations

HUD Department of Housing and Urban Development
VA Veterans Administration

Survey Methodology

To obtain information on the impact of Sections 651 and 658 of Title VI of the Housing and Community Development Act of 1992, we surveyed a stratified random sample of 1,223 privately owned, federally assisted housing projects that were potentially eligible to restrict the occupancy of nonelderly persons with disabilities. We identified potentially eligible projects using a list of projects that receive federal assistance provided by the Department of Housing and Urban Development (HUD). These projects receive assistance through the following programs:

- **Programs eligible under Section 651:** Section 8 New Construction Program, Section 8 Substantial Rehabilitation Program, State Housing Agencies program (insofar as it involves new construction and substantial rehabilitation), the New Construction Set-Aside for Section 515 Rural Rental Housing Projects Program, and the Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects (insofar as it involves substantial rehabilitation). Projects receiving assistance through these programs may also be known by the section of the National Housing Act, as amended, authorizing the assistance: Section 221(d)(3) (excluding below-market interest rate), Section 221(d)(4), or Section 231.
- **Programs eligible under Section 658:** Section 202 of the Housing Act of 1959 as it existed before the enactment of the Cranston-Gonzalez National Affordable Housing Act; Section 221(d)(3) of the National Housing Act, using a below-market interest rate determined by Section 221(d)(5); and the Section 236 Interest Reduction Subsidy or other programs providing assistance under Section 236 of the National Housing Act.

The data HUD used to develop the universe of projects affected by the 1992 act came from the Multifamily Data Warehouse, Field Office Multifamily National System, and Tenant Rental Assistance Certification System. None of these systems has undergone detailed data reliability assessments. We spoke with HUD officials familiar with the data to assess the accuracy of the data fields that were critical to the creation of the project universe and to our use of the data for the survey mailing. We determined that the data were sufficiently reliable for our purposes.

From the lists we obtained from HUD, we eliminated family projects, which HUD defines as being not elderly or handicapped. We thus obtained a list of 1,938 projects that were potentially eligible to restrict the occupancy of nonelderly persons with disabilities under Section 651 and 5,758 projects that were potentially eligible to restrict the occupancy of such persons under Section 658, for a total of 7,696 potentially eligible projects. Those projects that are actually eligible are the ones that were originally built for

the elderly. We relied on a survey question to identify which of the potentially eligible projects were actually eligible.

We randomly sampled 646, or a sampling fraction of one-third, of the Section 651 projects and 577, or a sampling fraction of about one-tenth, of the Section 658 projects, for a total of 1,223 projects. We mailed a questionnaire addressed to the project manager at the addresses provided by HUD for these projects. We sent follow-up mailings to encourage responses and called some respondents by phone to clarify unclear responses.

Managers at 523 of the Section 651 projects (81 percent) and 452 of the Section 658 projects (78 percent) responded to our survey. In our analyses of survey data, we weighted each survey in proportion to its sampling fraction. The results of our survey are presented as estimates for the 6,080 (± 190) potentially eligible projects that we estimate would have responded to our survey if we had mailed the survey to all projects.

Sampling Error

Because we used a sample (called a probability sample) to develop our estimates, each estimate has a measurable precision, or sampling error, that may be expressed as a plus/minus figure. A sampling error indicates how closely we can reproduce from a sample the results that we would obtain if we were to take a complete count of the universe using the same measurement methods. By adding the sampling error to and subtracting it from the estimate, we can develop upper and lower bounds for each estimate. This range is called a confidence interval. Sampling errors and confidence intervals are stated at a certain confidence level—in this case, 95 percent. For example, a confidence interval at the 95-percent confidence level means that in 95 out of 100 instances, the sampling procedure we used would produce a confidence interval containing the universe value we are estimating.

Analysis of Survey Nonresponses

About 6.5 percent of the addresses for surveyed projects provided by HUD were identified by the U.S. Postal Service as inadequate for mail purposes. We were able to obtain corrected addresses for some projects and mailed surveys to the managing agent or owner of the project listed in HUD's database for others. We were able to obtain an additional 31 completed responses in this manner. This effort reduced the nonresponse rate for undeliverable surveys to 4 percent of the total universe, a rate we judged to be satisfactory.

To test for potential differences between the projects that did and did not respond to our survey, we performed two analyses. The first analysis was a statistical comparison of respondents to our mail survey with those who did not respond on background information provided by HUD for all projects. This information included the type of funding received by the project, the primary type of occupancy in the project, and the total number of units in the project. The only statistically significant difference between the mail respondents and nonrespondents for Section 651 projects was the primary type of occupancy. The projects of nonrespondents were significantly more often devoted only partially to the elderly than those of respondents and less often devoted wholly to the elderly. For Section 658 projects, the projects of nonrespondents had significantly fewer units than those of mail respondents (48.2 ± 8.9 versus 64.2 ± 5.7). In addition, the projects of significantly more Section 658 nonrespondents than respondents were funded under the Section 202 program for the handicapped while more of the projects of respondents than nonrespondents were funded under the pre-1974 Section 202 program for the elderly.

The second analysis was a comparison of those who responded to our mail survey and those who did not respond to items from our questionnaire. To acquire information on these questions from nonrespondents, we conducted a follow-up telephone survey of a random sample of those who did not respond to our mail survey—91 of the 123 Section 651 nonrespondents as of May 4, 1998, and 94 of the 126 Section 658 nonrespondents as of June 11, 1998.

We obtained some information about all 91, or 100 percent, of the projects in our telephone survey of Section 651 projects and 86, or 91 percent, of the projects in our telephone survey of Section 658 projects. In most cases, we spoke with either project managers or representatives of the projects or their managing agents. From discussions with project representatives and HUD, we determined that 3 of the 91 Section 651 projects did not belong in our universe because 2 are no longer receiving HUD subsidies and 1 no longer exists. We identified one Section 658 project that no longer receives HUD subsidies.

We tested for statistically significant differences between the mail respondents and the telephone respondents on four survey questions: (1) the number of units; (2) the primary purpose for which the project was built; (3) the project's current policy on occupancy by persons with disabilities; and (4) the project's willingness to accept persons with

disabilities who require physically accessible units, persons with disabilities who do not require physically accessible units, and/or near-elderly persons with no disabilities. There were no differences between the mail respondents and telephone respondents whose projects were built primarily for the elderly in the number of units in the projects. There was a significant difference between telephone and mail respondents for Section 651 projects in whether projects were built primarily for the elderly. That is, Section 651 projects surveyed by telephone were significantly less often built primarily for the elderly than were the Section 651 projects responding by mail. We also found statistically significant differences in the projects' occupancy policies and the types of disabled persons the projects accepted for occupancy. Officials of those Section 651 projects surveyed by telephone reported significantly more often than mail respondents that they accept both elderly and disabled persons for occupancy and reported less often than the mail respondents that they reserve units for nonelderly disabled persons, limiting the remaining units to the elderly. There were no significant differences between Section 658 telephone respondents and mail respondents on the policy of accepting elderly and disabled persons in all units. However, Section 658 telephone respondents reported significantly less often than mail respondents that they reserve units for nonelderly disabled persons. Section 651 telephone respondents were also significantly more likely to report accepting both disabled persons who require physically accessible units and those who do not require such units, while there was no difference in these policies for Section 658 telephone and mail respondents.

Results of Data Reliability Checks

To assess the reliability of responses to our survey and HUD's data, we compared the two on the number of units in each project and the section of the act under which the project received assistance. For the number of units, the two sets of numbers were highly correlated (Pearson correlation coefficient of .98 for Section 651 projects and .90 for Section 658 projects). However, the survey responses differed significantly from HUD's data on the section of the act under which the project received assistance. As many as 26 percent of the Section 651 projects that identified themselves as receiving Section 8 subsidies reported differently from HUD on whether they received new construction or substantial rehabilitation funding, and 23 percent of the respondents who reported the section of the act under which they received funding provided an answer different from HUD's records. Only 6 percent of the Section 658 projects assigning themselves to

classifications under a section of the act used classifications different from those HUD designated.

To test the completeness of the universes covered by Sections 651 and 658 of the 1992 act provided by HUD headquarters, we compared the listings provided by HUD headquarters with similar listings of projects provided to us by the HUD field offices at five locations across the country.¹ Because the HUD headquarters lists were not generated at the same time as the field office lists, we recognized that some minor differences would exist. In most cases, the listings provided to us by HUD agreed with the listings provided by the field staff. In the two locations that had differences, these differences were minor.² Thus, we concluded that the information provided by HUD headquarters was sufficiently complete for our survey.

¹These five locations were Anaheim and San Francisco, California; Fall River, Massachusetts; Corinth, Mississippi; and Woodbury, New Jersey.

²In one location, the HUD headquarters list omitted one project. In another location, the headquarters list had one additional project and the local list had one additional project. The total number of projects in these locations from the headquarters list was 47.

Survey Results of Privately Owned Housing Projects

United States General Accounting Office



Survey of Privately Owned Housing Projects

Introduction

The U.S. General Accounting Office is an agency that gathers information for the U.S. Congress. We have been asked to provide information about federally supported housing projects that have units available to persons with disabilities. We are asking a random sample of housing project owners to complete and return this survey.

Since we are only able to survey a small sample of project owners, your response is critical in order for us to summarize the results on a national level in our report to the Congress. Please answer the survey questions only for the housing project named on the label.

We would appreciate receiving your response in the enclosed postage paid return mail envelope within two weeks, if at all possible. This will help us avoid costly follow-up. In the event the envelope is misplaced, our return address is:

Mathew Scire
U.S. General Accounting Office
441 G Street, N.W., Room 1826
Washington, D.C. 20548-0001

Thank you for your assistance. If you have any questions, please feel free to call Mathew Scire at (202) 512-6794, email (scirem.rced@gao.gov).

Please base your responses to this survey only on the housing project printed on the label below.

Address of Housing Project in the Survey

→**Analysis Note:** Percentages within a question do not always sum to 100% because not all respondents answered each question. A table following this survey presents the sampling errors for estimates presented here.

→**Analysis Note:** Responses to Q2 differed significantly from HUD's records and are therefore not reported.

1. How many units (e.g., apartments) in total are there in this housing project? *(Enter number.)* (5-10)

439,170 Total units in 6,055 project

2. Under which, if any, of the following programs has this project received federal support and/or subsidies? *(Check all that apply.)*

- * Section 202 (11-31)
- * Section 221(d)(3)
- * Section 221(d)(4)
- * Section 221(d)(5) BMIR (Below Market Interest Rate)
- * Section 231
- * Section 236 Interest Reduction Subsidy
- * Other Section 236
- * Section 515 under the Rural Housing Service (formerly Farmer's Home Administration)
- * State Housing Finance Agency New Construction and Substantial Rehabilitation Program
- * Section 8 New Construction
- * Section 8 Substantial Rehabilitation
- * Section 8 Housing Assistance for the Disposition of HUD-owned Projects
- * Other *(Please specify.)*
- * None of the above
- * Do not know the program under which we receive assistance

3. In what year was your project built or substantially rehabilitated? *(Enter year.)* (32-35)

3.4% 1993 or later
92.9% prior to 1993

**Appendix II
Survey Results of Privately Owned Housing
Projects**

<p>4. How many units (e.g., apartments) in this project are federally supported? <i>(Enter number.)</i> ⁽³⁶⁻³⁹⁾</p> <p>407,399 TOTAL units of federally supported housing in 6,047 projects</p>	<p>7. Over the past 5 years, has the percentage of tenants (heads of household or spouses) in your federally supported housing units who are elderly increased, decreased or stayed about the same? <i>(Check one.)</i> ⁽⁶⁵⁾</p>
<p>5. To the best of your knowledge, was this project—in whole or in part—originally designed primarily for the elderly? <i>(Check one.)</i></p> <p>4,157 Yes →<i>Please continue.</i> ⁽⁴⁰⁾</p> <p>1,780 No →<i>Skip to Question 20.</i></p> <p>92 Unsure →<i>Please continue.</i></p>	<p>3.5% Percentage of elderly tenants greatly increased</p> <p>7.2% Percentage of elderly tenants somewhat increased</p> <p>76.9% Percentage of elderly tenants remained about the same →<i>Skip to Question 9</i></p> <p>8.3% Percentage of elderly tenants somewhat decreased</p> <p>3.1% Percentage of elderly tenants greatly decreased</p>
<p>6. How many of your federally supported housing units (e.g., apartments) are currently occupied by persons (heads of household or spouses) in each of the following categories? <i>(Enter number or zero for each.)</i> ⁽⁴¹⁻⁶⁴⁾</p> <p>287,629 Elderly persons, age 62 and over</p> <p>1,034 Persons with no disability, age 50-61</p> <p>3,680 Persons with no disability, age 18-49</p> <p>25,796 Persons with disabilities</p> <p>11,838 Persons with disabilities, age 50-61</p> <p>9,608 Persons with disabilities, age 18-49</p> <p>2,046 Units used for administrative purposes (e.g., maintenance/management apartments, offices)</p> <p>321,152 TOTAL Units of federally supported housing (same number as Question 4)</p>	<p>8. To what extent were changes in the percentage of elderly tenants in your project over the last 5 years due to changes in your policies concerning how many persons with disabilities can reside in your project? <i>(Check one.)</i> ⁽⁶⁶⁾</p> <p>52.9% Little or no extent</p> <p>22.0% Some extent</p> <p>5.4% Moderate extent</p> <p>11.0% Great extent</p> <p>7.0% Very great extent</p>
<p>→Analysis Note: Data in Qs. 3, 6-21 are reported for projects that answered 'yes' to Q5. Data in Q6 are reported for 3,964 projects with complete data in Q6.</p>	<p>9. Over the past 5 years, has the percentage of tenants (heads of household or spouses) in your federally supported housing units who are persons with disabilities increased, decreased or stayed about the same? <i>(Check one.)</i> ⁽⁶⁷⁾</p> <p>4.2% Percentage of tenants with disabilities greatly increased</p> <p>17.2% Percentage of tenants with disabilities somewhat increased</p> <p>70.1% Percentage of tenants with disabilities remained about the same →<i>Skip to Question 11</i></p> <p>5.0% Percentage of tenants with disabilities somewhat decreased</p> <p>1.7% Percentage of tenants with disabilities greatly decreased</p>

**Appendix II
Survey Results of Privately Owned Housing
Projects**

10. To what extent were changes in the percentage of **tenants with disabilities** in your project over the last 5 years due to changes in your policies concerning how many persons with disabilities can reside in your project? *(Check one.)* (68)
- 61.4% Little or no extent
- 15.9% Some extent
- 6.9% Moderate extent
- 7.0% Great extent
- 5.8% Very great extent
11. Currently, how many persons are there on the waiting list for your federally supported housing units? *(Enter number.)* (69-71)
- 291,468 TOTAL persons on waiting list in 4,070 projects
12. How many of the persons on your waiting list are in each of the following categories? *(Enter number or zero for each.)* (24-15)
- 240,344 Heads of household or spouses, age 62 and over
- 3,761 Heads of household or spouses with no disability, under age 62
- 22,149 Heads of household or spouses with disabilities, under age 62
- 267,485 TOTAL persons on waiting list
- Analysis Note:** Data in Q12 are reported for 3,925 projects with complete data in Q12.
13. Is your waiting list currently open? *(Check one.)* (16)
- 89.7% Yes →*Skip to Question 15*
- 9.2% No →*Please continue.*
- Analysis Note:** In Q16 an * indicates that the sampling error exceeds the estimate which is therefore not reported.
14. About how long ago was your waiting list last open? *(Check one.)* (17)
- 19.7% Less than a month ago
- 16.8% 1 - 3 months ago
- 10.8% 4 - 6 months ago
- 17.9% 7 -12 months ago
- 28.9% More than a year ago
15. Do you currently place a limit on the number of persons (heads of household or spouses) with disabilities under age 62 who can reside in your building? *(Check one.)* (18)
- 41.6% Yes →What is that limit? _____
- 54.9% No (19-21)
16. Which of the following best describes your policies concerning who qualifies for occupancy (heads of household or spouses) in your project? *(Check one.)* (22)
- 23.8% Reserve a certain percentage or number of units for non-elderly persons with disabilities; only elderly persons are considered for remaining units
- 0.7% Reserve a certain percentage or number of units for non-elderly persons with disabilities; only elderly persons and near-elderly (age 50-61) non-disabled persons are considered for remaining units
- 1.1% Reserve a certain percentage or number of units for persons with disabilities; non-elderly persons with disabilities, the elderly and the near-elderly are considered for remaining units
- * Only elderly persons and near-elderly non-disabled persons are considered for all units
- 3.0% Elderly, near-elderly, and non-elderly persons with disabilities are considered for all units
- 21.2% Only elderly persons are considered for all units
- * Only persons with disabilities are considered for all units
- 41.8% Only elderly persons and persons with disabilities are considered for all units
- 6.3% Other *(Please specify.)*

**Appendix II
Survey Results of Privately Owned Housing
Projects**

17. About when were your policies concerning who qualifies for occupancy in your project put into effect? *(Enter year.)*

(23-26)

16.4% 1993 or later

73.9% prior to 1993

18. Do you currently have a certain percentage or number of federally supported units that are reserved for use by persons with disabilities (heads of household or spouses)? *(Check one.)*

(27)

41.9% Yes

57.0% No →*Skip to Question 20*

19. What percentage of your federally supported units (e.g., apartments) are reserved for persons with disabilities (heads of household or spouses) in each of the following age categories? If units are not reserved for specific age groups, just enter the total percentage of units reserved for persons with disabilities. *(Enter percentage or zero for each.)*

(28-36)

 * Percentage of units reserved for persons with disabilities, aged 18 to 49

 * Percentage of units reserved for persons with disabilities, aged 50 to 61

TOTAL percentage of units reserved for persons with disabilities:

78.6% Less than or equal to 10% of units

13.4% 10% of units or greater

8.0% Missing

→**Analysis Note:** In Q19 an * indicates that the data were not sufficiently reliable to report.

20. Which, if any, of the following persons (heads of household or spouses), under the age of 62, are currently eligible for occupancy in your project? *(Check all that apply.)*

(37-40)

68.8% Persons with disabilities who require a physically-accessible unit

42.8% Persons with disabilities who do not require a physically-accessible unit

5.1% Persons with no disability who are age 50 - 61 (near elderly)

21.0% None of the above

21. Certain Public Housing Authorities (PHAs) were given additional Section 8 rental certificates and vouchers to help move persons with disabilities from federally supported public and private housing projects or waiting lists to housing in the private market. Are you working with a PHA for this purpose? *(Check one.)*

(41)

75 Yes *(Please identify the PHA.)*

3,960 No

122 Missing

22. Please provide below the name, title, phone number and email address, if available, of the person we should contact if we need further information concerning the survey response.

Name _____

Title _____

Phone _____

Email _____

23. Please provide any additional comments you may have.

(42)

Thank you for your cooperation.

Sampling Errors for Questions in the Survey of Privately Owned Housing Projects

Survey question	Estimate based on response	Sampling error for response
1a	439,170	27,930
1b	6,055	21.9
3a	3.4	1.7
3b	92.9	2.2
4a	407,399	25,582
4b	6,047	33
5a	4,157	197
5b	1,780	194
5c	92	46
6a	287,629	24,151
6b	1,034	544
6c	3,680	1,238
6d	25,796	4,169
6e	11,838	1,863
6f	9,608	1,292
6g	2,046	268
6h	321,152	25,979
7a	3.5	1.5
7b	7.2	2.1
7c	76.9	3.3
7d	8.3	2.0
7e	3.1	1.4
8a	52.9	8.2
8b	22.0	6.9
8c	5.4	3.3
8d	11.0	4.9
8e	7.0	4.2
9a	4.2	1.6
9b	17.2	2.8
9c	70.1	3.6
9d	5.0	1.7
9e	1.7	1.1
10a	61.4	7.0
10b	15.9	5.3
10c	6.9	3.2
10d	7.0	3.5
10e	5.8	3.6
11a	291,468	109,188

(continued)

**Appendix III
Sampling Errors for Questions in the Survey
of Privately Owned Housing Projects**

Survey question	Estimate based on response	Sampling error for response
11b	4,070	199
12a	240,344	95,974
12b	3,761	1,757
12c	22,149	10,402
12d	267,485	105,558
13a	89.7	2.5
13b	9.2	2.4
14a	19.7	11.1
14b	16.8	9.7
14c	10.8	7.5
14d	17.9	10.4
14e	28.9	12.3
15a	41.6	4.0
15b	54.9	4.0
16a	23.8	3.5
16b	0.7	0.4
16c	1.1	0.7
16d	*	
16e	3.0	1.2
16f	21.2	3.5
16g	*	
16h	41.8	3.9
16i	6.3	1.9
17a	16.4	2.9
17b	73.9	3.5
18a	41.9	4.0
18b	57.0	4.0
19a	78.6	5.1
19b	13.4	4.2
19c	8.0	3.4
20a	68.8	3.8
20b	42.8	3.8
20c	5.1	1.4
20d	21.0	3.5
21a	75	47
21b	3,960	201
21c	122	56

Comments From the Department of Housing and Urban Development



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-8000

OFFICE OF THE ASSISTANT SECRETARY
FOR HOUSING-FEDERAL HOUSING COMMISSIONER

October 23, 1998

MEMORANDUM FOR: Judy England-Joseph, Director Housing and
Community Development Issues, GAO

FROM: William C. [Signature] Assistant for Housing-Federal
Housing Commissioner, (Designee) H

SUBJECT: Comments on Draft Audit Report - Occupancy Restrictions
on Persons with Disabilities

Thank you for the opportunity to comment on the draft audit. The Department finds the information, contained in the report, very helpful. The information will assist HUD in its continuing efforts to ensure that elderly persons and persons with disabilities have access to adequate, safe and affordable housing, and that owners' occupancy policies are free of discriminatory practices. Since the 1992 legislation is relatively new, HUD plans to continue observing owners' occupancy policies under the new law.

Based on its experience with the program, HUD will explore further ways and means to promote users' familiarity with and utilization of the program. Again, the Department appreciates GAO's review and will use the information contained therein to assist its efforts in this important area.

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