

# Fair Housing in Integrated & Supportive Housing

*Fair & Supportive Housing Symposium  
January 8, 2014*

The Source for  
Housing Solutions



# Agenda

- **Expert Panel**
  - Fair Housing Laws
  - Affirmatively Furthering Fair Housing
  - Applying Fair Housing Rules to Supportive Housing
  - Fair Housing in Practice; a PSH example
  
- **Question & Answer Session**
  - Live audience discussion with the expert panel

# Today's Panelists

**Facilitator: Jamie Ewing, Program Manager, Illinois, CSH**

## **Panelists:**

- **Marian Honel, Manager, Fair Housing Division**
  - Illinois Department of Human Rights
- **Morgan Davis, Executive Director**
  - Chicago Area Fair Housing Alliance
- **Jane Bilger, Senior Program Manager, Consulting & Training**
  - CSH
- **Audra , Principal Consultant**
  - A. Hamernik & Associates, Inc.



CSH advances solutions that use housing as a platform for services to improve the lives of the most vulnerable people, maximize public resources and build healthy communities.

# Fair Housing Laws

Marian Honel, Manager, Fair Housing Division  
— Illinois Department of Human Rights

# What is Fair Housing?

The right for **all** people to live wherever they choose, to have access to housing (seek, purchase, sell, lease or rent) and enjoy the full use of their homes without unlawful discrimination, interference, coercion, threats, or intimidation by owners, landlords or real estate agents or any other persons.



# History of Fair Housing

**Civil Rights Act of 1866:** Guaranteed property rights to all US citizens, prohibiting discrimination based on race or color in the state, local and private sectors.

**Civil Rights Act of 1964, Title VI:** Prohibited discrimination based on race or color in federally assisted programs such as those administered by the Veterans Administration and the Federal Fair Housing Administration.

**Civil Rights Act of 1968, Title VIII:** Prohibited discrimination in the sale, rental, and financing of housing, and in other housing-related transactions, on the basis of race, color, national origin, and religion. Sex was added in 1974.

**Fair Housing Amendments Act of 1988:** Added disability and familial status and enforcement provisions were strengthened.



# Summary of Fair Housing Laws

**Illinois Human Rights Act of 1980:** Added real estate transactions, financial credit, and public accommodations to the pre-existing Fair Employment Practices Act.

Federal Fair Housing Act 42 USC § 3601	Illinois Human Rights Act 775 ILCS 5/3-101
Race Color Religion Sex ( <i>includes sexual harassment</i> ) National origin ( <i>includes ancestry</i> ) Disability Familial status ( <i>children under 18</i> )	Race Color Religion Sex ( <i>incl. sexual harassment</i> ) National origin Disability Familial status ( <i>children under 18</i> ) Ancestry Age ( <i>40+</i> ) Sexual orientation (and gender identity) Unfavorable military discharge Marital status Military status Order of protection status
<i>Local housing ordinances may include additional protected classes, e.g. source of income, housing status, student status.</i>	



# Fair Housing and Disability

Anyone engaged in a real estate transaction must make **reasonable accommodations and modifications** for persons with disabilities



# Dual Purpose of FH Laws

- Elimination of Housing Discrimination
- Promotion of Residential Integration



# Affirmatively Furthering Fair Housing

Morgan Davis, Executive Director

- Chicago Area Fair Housing Alliance

# Affirmatively Furthering Fair Housing

**Affirmatively Furthering Fair Housing (AFFH)** is taking proactive steps beyond simply combating discrimination to foster more inclusive communities and access to community assets for all persons protected by the Fair Housing Act.

We accomplish this through:

- Fair housing analysis and reporting
- Advocacy at federal and state levels, as well as locally
- Education and outreach
- Individualized technical assistance to member agencies

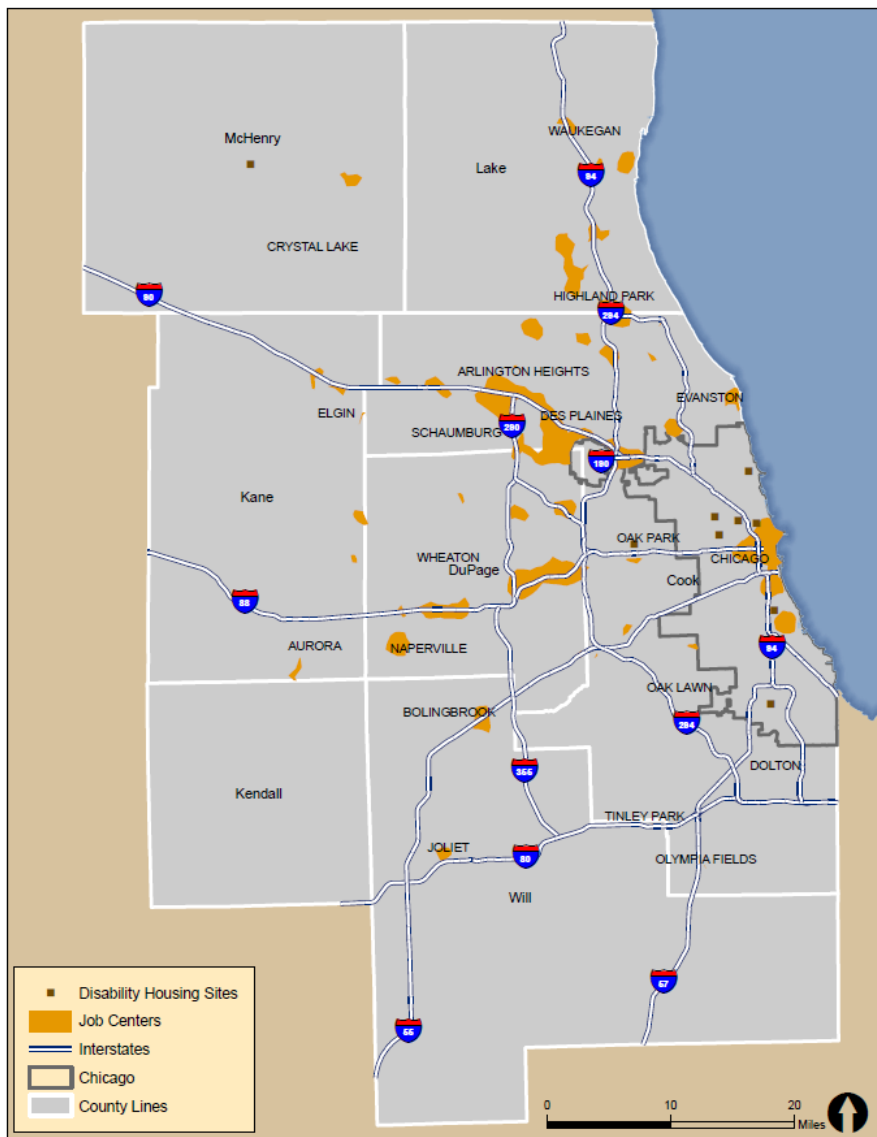


# AFFH Importance

- Serves community by expanding housing options
- Increases community appeal
- Creates a housing market which is open, inclusive, and fulfills the diverse needs of all community residents.
- Cost savings and economic benefits
- Promotes diverse business investment, strengthens property tax base, creates efficiencies in social services, and links residents to job and other opportunities
- Meet goals of HUD funding (CDBG, ESG, HOME, etc), and limit risk of legal liability
- Enhances overall livability

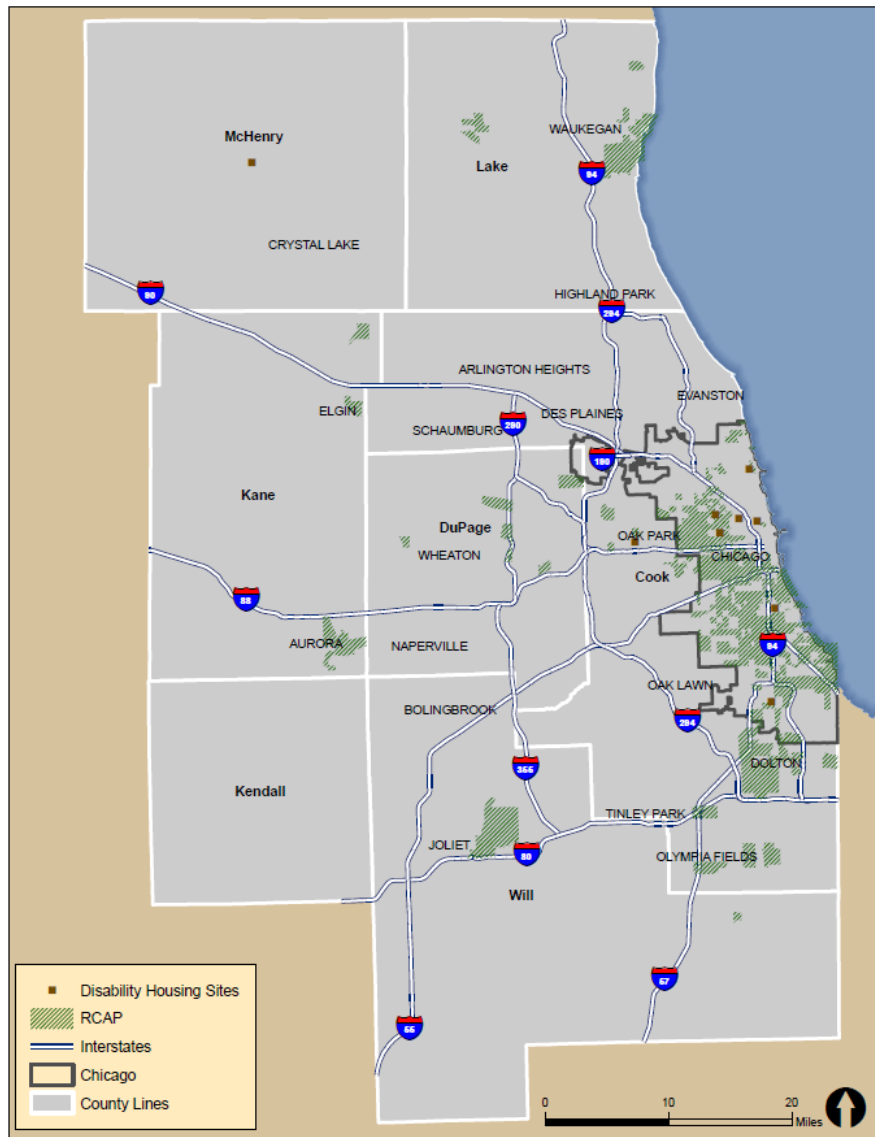


## Disability Housing Sites Near Job Centers



Source: HUD Low-Income Housing Tax Credit Database, 2010; Longitudinal Employer Household Dynamics data 2009

## Disability Housing Sites Near RCAPs



Source: HUD Low-Income Housing Tax Credit Database, 2010; U.S. Census Bureau

# AFFH Barriers for Persons with Disabilities

- Restricted housing options because most housing options are not accessible
- Access to housing sites near stores, transportation, and other amenities
- Unmet need for supportive services some individuals require in order to live independently
- Discrimination when seeking housing in the region artificially constricts housing choice
- Incorrect assumptions about the ability of some people with disabilities to manage the responsibilities of living independently
- Affordability-Income gap due to fixed incomes and lower rates of employment
- Prevalence of segregation and isolation
- Zoning and land use restrictions disproportionately impact housing options



# AFFH Recommendations

- Implement affirmative marketing strategies
- Training and licensing housing providers and professionals
- Developing community relations commissions
- Supporting community-based organizations
- Draft fair housing documents
- Increasing TOD
- Improve infrastructure and transit service
- Identifying funding sources and seeking investment
- Assessing zoning and code enforcement
- Promote accessible housing and supportive housing





# Applying Fair Housing Rules to Supportive Housing

Jane Bilger, Senior Program Manager, Consulting & Training

- CSH

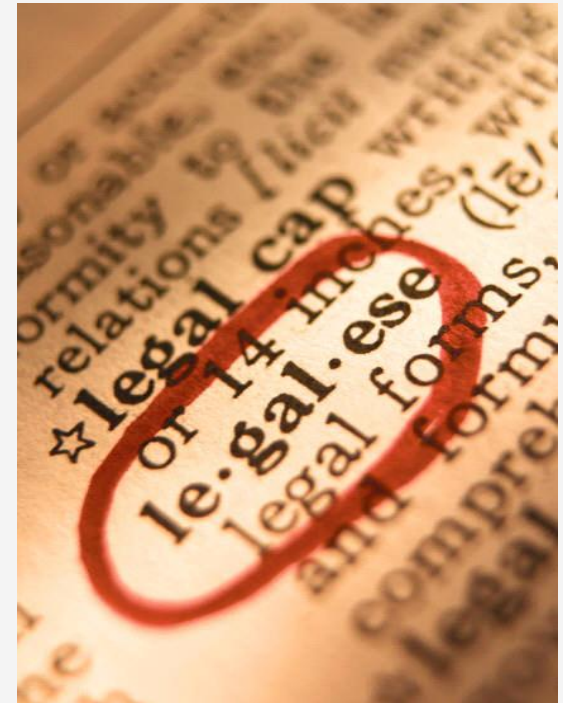
# Fair Housing Rules

- **Section 504 of the Rehabilitation Act, Fair Housing and ADA**
  - Cannot discriminate based on individual's disability
  - Obligation to implement in most integrated settings appropriate
  - Doesn't permit restrictions on occupancy by specific disability – except as dictated by federal statute or executive order
  - Reasonable accommodation in policies, practices, services or modifications if necessary for equal access



# Recent Guidance

- DOJ/HUD Olmstead Guidance  
June 2011/2013
- Disparate Impact Rules Feb 2013
- Draft AFFH Regulations July 2013
- Tenant Preference Guidance  
June/July 2013
- HOME 2013 Final Rules July 2013



# Olmstead\* Guidance

- **Obligation to provide opportunities for persons with disabilities who choose to live in integrated and least restrictive community-based settings**
  - Range of housing options in the community
  - Opportunity to live in settings with other individuals with and without disabilities
  - Broad access to voluntary services in the community and opportunities to participate in services in the community
  - Privacy and ability to control personal schedule and activities
  - Preference for persons with disabilities and transitioning from institutions is permitted with HUD approvals

\***Olmstead v. L.C. 527 U.S. 581(1999)**

# Disparate Impact Rule

- Practice has adverse discriminatory effect on a protected class (judged by impact, not by intent).
- Burden of Proof - determining when a practice with a discriminatory effect violates the Fair Housing Act.\*
  - 1<sup>st</sup> - Practice has a discriminatory effect
  - 2<sup>nd</sup> - Practice is necessary for legitimate nondiscriminatory interests
  - 3<sup>rd</sup> - Can the nondiscriminatory interests be achieved with less discriminatory practice
- ❖ Special Needs
  - Cannot restrict occupancy to a specific tenancy that may have adverse impact of discriminating against another protected class

*\* Supreme Court was to hear Mount Holly v. Mount Holly Gardens Citizens in Action Inc, but case was settled.*

# Preference Guidance – MF and PHA

- **Can establish preferences for households experiencing homelessness**
  - Document needs from ConPlan, Plan to End Homelessness, CoC or other data
- **Preferences cannot exclude households based on race, national origin, religion, sex, disability or family status.**
- **Public notice and outreach to community partners**
  - Review current waiting list qualified for preference
  - Can accept referrals from referral agencies
- **Can have limited preference or caps on set aside units**
- **Establish preferences in PHA Administrative Plan, Tenant Selection Plan, or other documents for HUD approvals.**

# HOME 2013 Rules

- **Increase affordable housing development under the program**
- **Improve performance, flexibility, and transparency in program administration**
- ❖ **Special Needs and Disabilities**
  - Preference permitted in HOME Programs including TBRA
  - Broad Affirmative Marketing
  - Mandated services not permitted

# Resources

- **CSH, “Between the Lines” 2010**

[http://www.csh.org/wp-content/uploads/2011/12/Tool\\_BTL\\_National1.pdf](http://www.csh.org/wp-content/uploads/2011/12/Tool_BTL_National1.pdf)



# Fair Housing in Practice; A PSH Example

Audra , Principal Consultant

- A. Hamernik & Associates, Inc.

# Everyday Fair Housing

## Hope Springs Apartments



# Two Important People

## Property Manager

Meet Brian

Cohen-Esrey Real Estate Services



## Service Provider

Meet Trisha

SIU School of Medicine

Community Support Network



# A lot More Important People that will help market the units





# Two Important Plans

## Tenant Selection Plan



## Affirmative Fair Housing & Marketing Plan



# This Building is a Community

- Treating everyone fairly at time of application is important
  - Use your plans
  - Make a wide audience
  - Make friends
  - Communicate Weekly

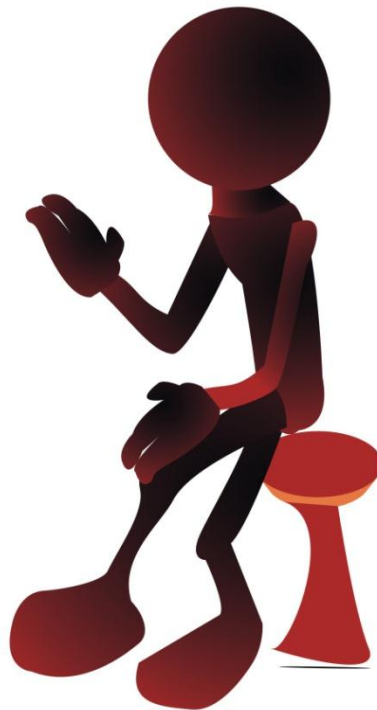


# Keep it a Community

- Keeping tenants housed is just as important
  - Use your lease
  - Use reasonable accommodations
    - Not just for physical accommodations
    - Pets
  - Communicate



# *Questions and Answers*





# Panelists' Contact Details

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Thank You For Participating!

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