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# News from Back Home

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...Creating Opportunities for Individualized and Dispersed, Affordable and Accessible Housing... Winter 2011

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## *Third in a Series...Tipping the Scales to Living in a Home and Community of One's Choosing*

The Back Home in Indiana Alliance (Back Home) continues to work to assure that persons supported by Money Follows the Person (MFP)\* have the option to move out of nursing homes quickly into integrated, affordable and accessible housing. Back Home is not alone. As early as 2006, HUD has been encouraging public housing and other housing agencies to give preferences for housing to people supported by MFP. In 2009 HUD Secretary Shaun Donovan again urged state and local housing agencies to establish these preferences. Secretary Donovan's letter was accompanied by a document titled, *Money Follows the Person Demonstration: A Q&A for Public Housing Authorities*. This document calls for states to *develop a housing infrastructure* to support older adults and people with disabilities supported by MFP. The Back Home in Indiana Alliance is aware of two Indiana initiatives where a policy or program has been established to prioritize the use of housing resources to those exiting nursing homes with MFP support. A brief summary of each follows.

### **A Work in Progress: Indiana's Response to HUD's Urging to Establish a Preference for Housing for People Waiting to Exit Nursing Homes**

#### East Chicago Housing Authority in Lake County

The East Chicago Housing Authority (ECHA) has committed ten (10) apartments for eligible persons exiting nursing homes and served by MFP. The apartments are within the Hunter high rise, a public housing property developed for persons with disabilities and those who are elderly. This apartment building has over 50 vacant units. ECHA believes that persons can be housed quickly while working through the waiting list. At this time the ECHA has not established a preference for access to Section 8 Housing Choice Vouchers for those persons served by MFP given the availability of

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the Hunter apartments.

### IHCDA and the HOME AGAIN Program: A Review and Update

The Indiana Housing and Community Development Authority (IHCDA) in partnership with the FSSA – State of Indiana Division of Aging established a program called HOME AGAIN. This program is funded with \$1,000,000 under the MFP award that the Indiana received in 2007. It is designed to give incentives to LIHTC property owners who received IHCDA's multi-family grants to provide affordable and accessible rental housing.

How is it designed to work? The tenant pays about 30% of his or her income towards the monthly rent. HOME AGAIN then funds the balance of the rent through rental subsidies for up to 36 months. Once this temporary rental subsidy ends, property owners are required to maintain the same reduced rent level for the tenant for as long as the individual's household composition remains the same.

### HOME AGAIN Update

To date, no persons have been able to secure LIHTC funded rental housing through HOME AGAIN. Current IHCDA efforts are focused on identifying potential affordable housing options for ten (10) persons.

For information on HOME AGAIN see: [www.ihcda.in.gov](http://www.ihcda.in.gov)

### **MFP Projects Need for Integrated, Affordable and Accessible Housing for 74 Persons in 2012**

The Money Follows the Person (MFP) program will assist an additional 368 persons to exit nursing homes by the end of 2012. Current trends show a growing demand for assisted living arrangements with a reduction of individual requests to move into rental housing. It is projected that approximately 20% or seventy-four (74) of the 368 persons who will be moving with MFP home and community-based supports will choose to rent housing. Rental subsidies will be needed for most of the 74 persons to move into integrated, affordable and/or accessible housing. MFP projections also indicate that about thirty (30) of the 74 of persons will be locating in central Indiana. It is projected that the remaining forty-four (44) persons will be moving to rental housing throughout Indiana.

### **HUD Calls for the FULL Use of Affordable Housing Programs for People Assisted by MFP**

In the HUD document referenced earlier (*Money Follows the Person Demonstration: A Q&A for Public Housing Authorities*) states are called to *develop a housing infrastructure* to support older adults and people with disabilities supported by MFP. Numerous housing programs and funding sources are listed as key elements in this infrastructure, including the following:

- Section 8 Housing Choice Vouchers
- Low Income Housing Tax Credits
- Community Development Block Grants
- HOME funds including Tenant Based Rental Assistance
- Housing Finance Agency (IHCDA in Indiana)• Community Housing Development Organizations

- Housing Trust Fund
- Section 811 Properties
- Public Housing (project-based)
- Bridge Rental Subsidies While People are on Section 8 Waitlists

Indiana is not there yet. The East Chicago Housing Authority has committed 10 public housing, project-based apartments. In partnership with FSSA, IHCD continues to market the Home Again program. Back Home recommends the full use of Indiana’s affordable housing stock and resources to eliminate the unnecessary institutionalization of Indiana residents while supporting housing choice and integration.

**A Current Snapshot: Where Have People Moved and What Are Their Living Arrangements?**

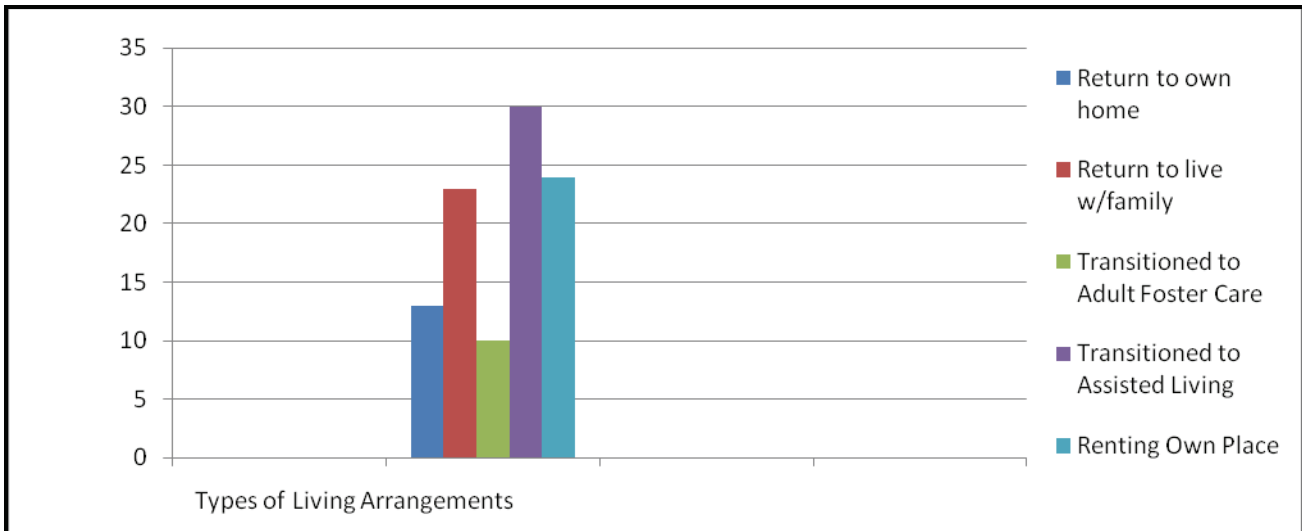
Table 1: *Counties of Residence for People Who Moved Out of Nursing Homes*, and Table 2: *Types of Living Arrangements Used by MFP Participants*, reflect the housing outcomes of people assisted by MFP to move out of nursing homes by October 2011.

**Table 1: Counties of Residence for People Who Moved Out of Nursing Homes**

County	Number of People
Allen	47
Boone	1
Clark	9
Clinton	5
Dearborn	3
Decatur	1
Delaware	38
Elkhart	7
Fayette	5
Floyd	7
Grant	1
Hamilton	3
Hancock	5
Hendricks	2
Huntington	2
Jackson	1
Jefferson	1
Jennings	1
Johnson	4
Knox	1
Kosciusko	4
Lafayette	2
Lake	15

County	Number of People
LaPorte	2
Lawrence	1
Madison	8
Marion	121
Marshall	2
Monroe	3
Morgan	1
Owen	1
Porter	2
Pulaski	1
Putnam	2
Rush	3
St. Joseph	6
Spencer	3
Tippecanoe	3
Union	1
Vanderburg	13
Vigo	4
Wabash	1
Warrick	4
Wayne	10
White	2
Whitley	1

**Table 2** Types of Living Arrangements Used by MFP Participants



**\*Money Follows the Person** is the largest congressionally mandated Medicaid demonstration in the history of serving people with disabilities and older adults and is administered by the Centers for Medicare and Medicaid Services (CMS). 21 million was awarded to the Indiana Family and Social Service Administration, Division of Aging to *shift* Indiana’s Medicaid Long-Term-Care spending away from institutions to home and community based living for 1,031 persons (reduced to less than 800 persons at state request).

### ICRC Hands Down A Housing Charge

The Indiana Civil rights Commission (ICRC) reported a significant housing discrimination charge brought against Zender Family Limited Partnership in Indianapolis. The ICRC asserts that the housing provider violated the Fair Housing Act (FHA) through policies and practices against prospective tenants with disabilities.

“State and federal courts have held that policies which have the effect of excluding disproportionate number of protected individuals may run afoul of the Fair Housing Act,” said Joshua Brewster Deputy Director of the Indiana Civil Rights Commission. “Ensuring equal access to affordable, accessible and integrated housing for people with disabilities is a priority of the ICRC.”

The charge against Zender Family Limited Partnership, which operates numerous downtown Indianapolis apartment buildings, stems from their policy requiring a co-signer on leases for persons who were unemployed. Although being unemployed is not a protected class, the ICRC argued that such a policy has a greater adverse effect on persons with disabilities, who are far more likely to be unemployed.

While Zender continues to deny liability, it agreed to change its rental policy to allow applicants with disabilities to show proof of receipt of Social Security Disability Insurance or supplemental Security Income instead of providing proof of employment.

Source: Indiana Civil rights Commission Web site. (2011). ICRC Hands Down Two Housing Charges. Retrieved November 14, 2011, from [www.in.gov/icrc](http://www.in.gov/icrc) Reprinted with permission.

## WELCOME

### The First Private Fair Housing Center in Indiana

The National Fair Housing Alliance (NFHA) is establishing a new full service non-profit Fair Housing Center in Central Indiana. The eleven counties FHCCI will serve include the urban counties surrounding Indianapolis and two adjacent rural counties. The Census bureau 2007 population estimate places the Indianapolis MSA population at 1.8 million people, all without the benefit of a private fair housing organization. In 2008, the population was 15% African-American and 5% Hispanic or Latino; recent census data estimates that the Hispanic population has grown 113.5% since 2000.

**The Fair Housing Center of Central Indiana's (FHCCI) mission is** to eliminate housing discrimination and to ensure equal opportunity for all people, regardless of race, color, religion, sex, national origin, disability, familial status or other characteristic protected under state or local law, in Central Indiana through leadership, education, outreach, advocacy and enforcement.

Collaborating with local partners, NFHA is involved in recruiting, organizing and training the FHCCI Board of Directors and will assist the Board and the executive director to hire and train all additional staff.

FHCCI will provide a full range of services including:

- Educational services teaching people to recognize and report housing discrimination ( e.g., rental, sales, lending, insurance, and racial or sexual harassment);
- Outreach services with a focus on educating Latino immigrants using bi-lingual outreach materials developed by NFHA and HUD;
- Disbursement of grants in collaboration with NFHA and other disability rights groups to assist persons with disabilities, including veterans, make modifications to increase housing accessibility, and investigative services to gain relief for victims of housing discrimination through testing, investigation and administrative and legal enforcement efforts.

FHCCI will officially open its doors in 2012

For more information see: [www.nationalfairhousing.org](http://www.nationalfairhousing.org)

## A FURTHER LOOK AT FAIR HOUSING By Kent Hull, Atty.

When Congress amended the Fair Housing Act (FHA) in 1988 to prohibit discrimination on the basis of a person having a disability (although the statute uses the term “handicap”), that law was important because it reached into the *private sector* to establish federal rights which had previously been limited to property receiving federal financial assistance. The FHA amendments (FHAA) –two years before the Americans with Disabilities Act—extended the principles of equal rights in private housing, just as the FHA originally in 1968 had prohibited housing discrimination against women and minorities. The 1988 amendments allowed people with disabilities to file administrative complaints with the Department of Housing and Urban Development (HUD) and to file direct lawsuits in federal or state courts to enforce the rights established in the FHAA.

The question of property and its uses—who can buy and rent and the rights of property owners and renters—is a central issue in our society. A federal judge recently summarized one dimension of the issue:

Ours is a society in which people live, work, relax, and shop in apartment complexes, office towers, industrial parks, stadia, and malls that stretch as far as the eye can see. It is, therefore, unsurprising that a mundane artifact of modern life -- the parking space -- has become a prized possession. *Astralis Condominium Association v Secretary*, 620 F.3d 62 (1<sup>st</sup> Cir. 2010).

Debates over housing often are disputes over space and control of that space. Space is limited in the sense of urban concentration and, even in more open areas, laws like the FHAA constrict what some people would like to do with that space.

The FHAA is built on two foundations. Beginning in the 1970’s some states had passed or amended their fair housing acts. These laws did reach private property and established precedents which could be useful under the FHAA. Yet the state laws did not go beyond those jurisdictions, and the United States lacked a national policy establishing fair housing for people with disabilities.

The second foundation was that in the first twenty years of the FHA, court cases protecting the rights of women and minorities established precedents that supported the rights of people with disabilities. By 1988, a series of civil rights principles existed, which we can summarize:

People should be evaluated individually, not on the basis of stereotypes or mistaken assumptions about neighbors and potential buyers and renters.

People may need modifications of purportedly neutral policies or practices. Those modifications might be as precise as a parking space (illustrated above) or broader changes in the ways tenants are evaluated.

Housing policies should insist on integration of people with disabilities with the rest of our society.

People can enforce their FHAA rights, directly and individually, in court if other approaches fail.

A second federal case illustrates one application of these principles. A woman with cerebral palsy, and who used a wheelchair, applied to live in a state operated assisted living facility. The landlord refused her admission, claiming that because she suffered from depression and had thoughts of suicide, she was a “threat” to other tenants in the facility. The federal judge rejected the landlord’s position, and held that the FHAA prohibits “[g]eneralized assumption [s], subjective fears, and speculation” and such other “stereotyping” assumptions. *Laflamme v. New Horizons, Inc.*, 605 F.Supp.2d 378 (D.Conn. 2009). The court also emphasized that the law encourages people with disabilities to live as independently as possible so that they are in more integrated settings.

Housing discrimination cases can be complex and require lengthy proceedings. Often, they are the only method to enforce the FHAA. And people with disabilities, as well as their friends and advocates, should remember that the law prohibits any form of retaliation against a person who complains about discrimination, who testifies in a case, or who is associated with a complainant. Indeed, even if the original discrimination charge is dismissed, any form or retaliation or coercion connected to that charge is itself a new violation.

### **Examples of the ILS Use of the Fair Housing Act and the ADA**

Indiana Legal Services (ILS) South Bend is using the protections under the FHAA to:

Prevent the eviction of a woman with disabilities who complained that the lack of heat worsened her arthritis and autoimmune disease.

Prevent the eviction of a woman with disabilities who complained about the lack of accessible features in her public housing apartment and now faces a retaliatory eviction by the landlord.

ILS is bringing a case under the ADA:

1. On behalf of a woman with severe disabilities, who lives in rural Indiana, and whose mother needs greater home care assistance to keep the woman out of a nursing home and in the integrated family setting.

*A Special Thanks to Our Sponsors*

*The Indiana Governor's Council for People with Disabilities*



*accessAbility, Inc,*

*ATTIC, Inc. (an independent living center)*

*The League for the Blind and Disabled, Inc.*



*Key Consumer Organization*

*Southern Indiana Center for Independent Living*

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