



SENATOR MAGGIE HASSAN | GOVERNOR CHRIS SUNUNU

STATE OF NEW HAMPSHIRE

October 22, 2019

President Donald J. Trump
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear President Trump:

As elected officials, we frequently hear from constituents about how the government is impacting their lives. An issue that we both hear consistently is the manner in which the government provides necessary services to people who experience developmental disabilities and their families. Recently, we both attended the funeral of a mutual friend, Taylor Ardinger, a powerful young woman who was taken from this world too soon, and who also happened to experience a developmental disability. Taylor was a strong advocate for reforms to expand and improve services that treat individuals who experience developmental disabilities. At her funeral, we were reminded of one of her life's works, expanding access to supportive independent housing opportunities for individuals who experience disabilities. Taylor believed that everyone should be able to be an active member of their community and she fought passionately for inclusive housing and support services for people who experience disabilities.

We ask for your assistance, as we have not been successful in obtaining a previously-requested clarification from the Department of Housing and Urban Development (HUD) regarding the development of tenant selection plans for projects created using federal funds (i.e., HOME or Housing Trust Fund) that are intended to serve individuals who experience disabilities.

Specifically, we seek clarification regarding the circumstances under which a tenant selection plan will be certain to satisfy the requirements of HUD rules (24 C.F.R. § 92.253(d)(3)(ii)). It is important that developers can lawfully provide affordable, accessible, and integrated housing for people who experience disabilities to enable them to live among their peers with and without disabilities. It is also important that individuals in recovery from substance use disorder have access to housing with wraparound services to help them throughout their recovery process.

To ensure that individuals who experience disabilities have access to affordable, accessible, and integrated housing that enables them to be fully included in their communities, we must have clarity of HUD's regulations regarding tenant selection plans. We respectfully request that HUD answer the following

questions, in order to provide more certainty to individuals who experience disabilities and to developers planning to use federal housing funds to build more inclusive housing projects:

1. What are some examples in which a manager of a federally-funded property has appropriately denied tenancy to a person with a disability other than the disability for which a facility was designed? It seems that there must be some assessment made that a person denied tenancy would not benefit from the services provided.
2. Are there examples of standards by which to make such a determination?
3. Are there examples of tenant selection plans with limitations to persons with specific disabilities that HUD has concluded meet the legal requirements prohibiting discrimination? If so, it is vitally important to New Hampshire - and the nation - that HUD provide practical examples that we, and our projects, may rely on, with certainty.
4. The regulation states that the tenant selection plan "must be open to all otherwise eligible persons with disabilities who may benefit from the services provided in the project." This requirement could be construed so broadly that a project must be open to any person who may benefit from any one of multiple services provided at the project. So, if a project offers a collection of general case management services, behavioral health services, and specific substance use disorder (SUD) services, is it possible that the project would violate this requirement if it limited tenants solely to persons with SUD?
5. And, if that is the case, what is the standard by which HUD resources can be used to fund the creation of supportive housing projects that are intended to serve individuals with a specific disability, such as housing for persons recovering from substance use disorder?

In the past when we have raised these questions, HUD's response has always been: "We will work with you on a project-by-project basis." However, this does not make it easy for developers because they require certainty that funding will be available before they begin the process of designing a project, without which could hurt the individuals who would have benefited from the potential project. At a time when our state is experiencing a severe affordable housing crisis, this certainty is even more critical. While Taylor is no longer with us to advocate on this matter, we have many constituents who continue to urge us to find a solution. Please instruct Secretary Carson to swiftly provide the clarifications to HUD's regulations that will provide the certainty required for developers to move forward with expanding access to affordable, accessible, and integrated housing opportunities for individuals who experience disabilities in New Hampshire.

Sincerely,



Christopher T. Sununu
Governor of New Hampshire



Margaret Wood Hassan
United States Senator for New Hampshire

CC Secretary Benjamin Carson, Department of Housing and Urban Development