

## **Testimony on HB-1302**

**Brian Rossbert, Executive Director Housing Colorado**

**April 25, 2023**

Greetings Madam Chairwoman and members of the Committee.

My name is Brian Rossbert and I am the executive director of Housing Colorado, a nonprofit membership association of affordable housing industry organizations and professionals. On behalf of our 300+ member organizations, I write to testify in opposition to HB23-1302. We did not come to the decision to oppose this legislation lightly. We have been speaking about this bill internally for some time and while we are thankful the bill has been simplified from early drafts, the underlying bill is untenable for those who develop and build affordable housing.

We see three primary issues with the bill that I'd like to share with you.

The first has to do with the timelines the bill proposes. Every construction project that our members work on has a multi-year runway from concept to ribbon cutting. Throughout that process, affordable housing developers must work tirelessly to secure the resources to make a project come to fruition. The requirement that any project permitted after July 1, 2023 meet the new standards is infeasible for affordable and I suspect market rate projects to meet. The design and financing phases just can't meet the new standards.

Our second objection has to do with the civil liability provision in the bill. We worry that creating new avenues for lawsuits will increase insurance and other costs associated with the construction of affordable housing.

Finally, we are concerned about the new standards themselves. We simply don't know what the delta between the units this bill proposes and what the market demands for Type A and Type B units are. We would hate to see units go unutilized because there aren't prospective tenants to fill them. This has been the experience of several housing authority members I've talked to. They build Type A units and those units aren't filled which has implications for the maintenance of a property.

We do support HB23-1296 which creates a Task Force to study issues related to Coloradans with disabilities. This bill proposes a subcommittee on housing where we think the issues we raised with this bill today could be addressed. We believe that HB23-1296 is the next logical step to let data and study demonstrate the direction we need to go as a state as it relates to housing for Coloradans with disabilities.

We respectfully ask for your no vote today, but hope to work with members of the Legislature to address this issue.

Thank you for your time today.

**Via Electronic Mail**

House Transportation, Housing  
& Local Government Committee  
committees.lcs.ga@coleg.gov

April 24, 2023

House Transportation, Housing  
& Local Government Committee

Re: HB23-1302

Dear Committee Members:

First and foremost, I have no idea what it is like to live in a wheelchair or require any form of assistance daily to bathe, cloth, go to the restroom or any day-to-day. Therefore, my comments below shall not be construed as not being respectful to the needs of anyone with a physical disability.

For background purposes I am a developer of 3-story walk-up garden, mid-rise as well as townhome, duplex and single-family rental communities. I rarely purchase existing communities therefore my comments regarding this bill are more or less focused on much needed to-be-built residential rental communities.

The issues with this bill are:

- I. The bill addresses accessibility requirements for both Type A & B units. However, for multifamily rental communities this bill is unnecessary because both federal and local standards already exist for accessibility in residential multifamily construction. The ADA, IBC, A117.1 and the Fair Housing Act (FHA) require accessibility features for multifamily buildings such that all buildings with four or more units are required that all ground floor units be Type B and if the building has an elevator all units must meet Type B requirements. For example, if you build a 144 unit 3-story garden style apartment community you are required to provide that all ground floor units comply with Type B requirements and 2% of the total number of units on the site must be Type A units. Knowing the above standards already exist the need for the language in this bill regarding rental communities is not necessary.

II. The language in the bill that I have concern and would hope are addressed are:

a. General Comment(s):

i. Many terms are mentioned in this bill however many do not have definitions. Such as:

1. Project: I may have missed the definition however I cannot find the definition in the text of this bill. Without a definition how can one apply the standards by which the bill is intended.
2. Undue Hardship: What is an undue hardship. The fact that this term is not defined will create a scenario in which many buildings will not be updated. Over time buildings that are not upgraded due to this bill will erode the property tax base in all municipalities. Please add language such as:

*MEANS ANY CHANGE IN A FACILITY OR ITS PERMANENT FIXTURES OR EQUIPMENT IMPACTING 15 OR MORE UNITS AND THE COST OF THE ALTERATION IS 75 PERCENT OR MORE OF THE REPLACEMENT COST OF THE COMPLETED FACILITY. IT INCLUDES BUT IS NOT LIMITED TO, REMODELING, RENOVATIONS, REHABILITATION, RECONSTRUCTION, CHANGES OR REARRANGEMENTS IN STRUCTUREAL PARTS AND EXTRAORDINARY REPAIRS. IT DOES NOT INCLUDE NORMAL MAINTENATE OR REPAIRS, REROOFING, INTERIOR DECORATION, OR CHANGES TO MECHANICAL SYSTEMS.*

b. Summary on Page 2:

i. *“Emergency exits that are accessible to individuals with a disability.”*

Townhomes are permitted under the IRC which requires one egress door (R311.2). This is typically the front door. Therefore, townhomes already must provide an emergency exit, so this is a redundant requirement. Emergency escape is also required per IRC Section R310. The minimum size of an emergency escape is 5.47 sf, 24” min. height and 20” min. width. The windowsill of the escape opening cannot be more than 44” above finished floor. These openings are meant for emergency escape and rescue. Requiring them to be accessible will mean that another accessible door will have to be

provided out of the unit. This would likely be the back door to the units, which means the back patio also will have to be on an accessible route.

- ii. *“That all signage in dwelling units, including directories and elevator buttons, is accessible to individual with disabilities.”*

This requirement is vague and redundant. Building signage in multi-family apartment buildings is already required to be accessible by the ADA, IBC and A117.1. Elevator buttons have very specific accessibility requirements including button location, size, etc. and must include raised characters and braille. Directional signs have requirements for character height and width, visual contrast, height, and location.

Building directories are not covered by either ADA or the building code. Making building directories accessible would be difficult due to the large amount of text and would exceed the already strict requirements for signage of ADA and building codes.

- iii. *“at least one building entrance on an accessible route, unless doing so would be an undue hardship”*

Providing a building entrance on an accessible route will be problematic for townhomes. Each individual unit will require an accessible entrance, i.e., no steps to the front door. This is difficult to achieve along the Front-Range of Colorado due to our topography and almost impossible in the mountains. Also, due to the highly expansive clay soils that are common both the Front-Range and Colorado in general the grade around buildings must be sloped to provide proper drainage to minimize structural foundation failures. This is why most new single-family homes and townhomes are constructed with stairs to the building entrances, to allow for proper drainage to protect the foundations. If these buildings are lowered to provide an accessible entrance, foundation and structural damage is highly likely to occur.

- c. Section 8(c), page 13, line #4-7:

- i. *“All doors designed to allow passage into and within all premises within the dwellings must be NO LESS THAN THIRTY-TWO INCHES WIDE.”*

This requirement for 32” wide openings at doors exceeds building code and FHA requirements for door width in Type B units (31-3/4”) and will require the installation of 3’-0” doors. The building code and FHA

currently permit the installation of 2'-10" doors in Type B units. Requiring 3'-0" doors will increase the cost of housing without improving accessibility.

Since entering the multifamily rental business in 1990 I have built roughly six thousand of units in which we met the Federal Fair Housing Act requirements for both Type A and B units as well as ADA accessibility to our communities' common areas and amenities. To date we have been able to build a mix of housing such as three-story garden, mid-rise, high-rise, townhomes as well as single family build-for-rent communities while providing accessibility. This bill as written will remove building townhome product for both for-sale and for-rent creating an additional affordable housing burden for all residents of the State of Colorado.

Colorado, per the Disability Statistics & Demographics Rehabilitation Research & Training Center / Institute on Disability/UCED<sup>1</sup> 2023 disability compendium the total population in Colorado is 5,715,351 with 94,972<sup>2</sup> persons 5-years old and older who have a difficulty dressing or bathing on their own. The bill as written appears to place an unrealistic burden on 97% of the population in Colorado by limiting their choices of housing. I also understand the need for affordable housing that can accommodate families and individuals with a disability but creating a bill with such a broad reach that it affects all new housing seems unrealistic from my perspective. **As stated above I have no way to understand how a person with a physical disability feels going about their day-to-day living. But in the end this bill will limit the number of housing units needed in the State of Colorado and especially affordable housing.**

I would have testified in-person against the bill for the reason noted above in II. a., II b., and II c. However, learning of the committee hearing less than 24 hours prior makes it impossible for those who own and operate a business to drop everything at once to testify at the capital. As a resident of the State of Colorado the way the committee process has been handled over the last 15 +/- years by both the democrats and republicans, I find deplorable. Elected officials represent the people in their district not your party, hence the reason we have a republic not a democracy as history shows democracies fail. In the end even with this letter that clearly shows the bill needs a lot of work to not be in conflict with current statutes and laws I am sure the bill will pass committee on a party line vote

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<sup>1</sup> <https://disabilitycompendium.org/compendium/2023-annual-disability-statistics-compendium?page=6>

<sup>2</sup> 1.7% of Colorado's total population

Going forward I would ask that we allow the entire community to participate as stakeholders to address the housing needs of our entire state while considering current state, local and federal laws, as well as take into account standard limitations due to topography and geological formations that require methods necessary to build sound structures.

Your consideration to kill the bill in committee as written is greatly appreciated.

Sincerely,



Lauren A Brockman

## HB23-1302 testimony

My name is Julie Jennings and i am a Denver resident. I am a disabled woman confined to a wheelchair. I currently live independently with the help of paid caregivers. I was discharged from assisted living and had thirty days to find an accessible residence.

The only accessible units that were available had bathrooms with tubs or layouts that did not accommodate my chair. I ended up renting a regular unit then waited almost 6 months for reasonable accommodations to be approved. (I could not take a shower or get close to the bathroom sink.) I then spent over a \$1000 to modify the unit for my use. If I were to move out, I would be required to spend at least that much money to restore the unit to its original state.

There is a shortage of housing and an even larger lack of accessible housing. Please pass HB23-1302 and help ease the deficit of accessible housing.