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FOR IMMEDIATE RELEASE:

Lawsuit Filed Against New York State and Adult Homes to Stop Discrimination Against People Using Wheelchairs

Suit Challenges Blanket Bans on Wheelchair Users

New York, NY, April 12, 2018—Mobilization for Justice (formerly MFY Legal Services) and AARP Foundation filed a lawsuit today in the Southern District of New York against New York State and four adult homes, alleging discrimination against people who use wheelchairs. The suit was brought on behalf of the Fair Housing Justice Center (FHJC) along with one resident and her representative who allege she was barred from returning to her home of five years after she began using a wheelchair at a rehabilitation facility.

The lawsuit challenges discrimination by four adult homes that are licensed by the State to provide housing and services to people with disabilities, but in practice deny people applying to live in the homes and evict residents already living in the homes who use wheelchairs. The suit also alleges that New York State promotes disability discrimination through its regulations and policies, including its policy permitting adult homes to ban wheelchair users from admission.

“Banning residents who use wheelchairs to get around their home and their community is blatant discrimination on the basis of disability and a violation of federal law,” said Susan Ann Silverstein, Senior Attorney at AARP Foundation Litigation.

After receiving complaints of wheelchair discrimination from residents, FHJC conducted testing at the four adult homes operated by defendants Village Housing Development Fund, Elm York LLC, Madison York Assisted Living Community LLC, and Madison York Rego Park LLC. FHJC’s investigation revealed that the defendant adult homes had blanket policies barring wheelchair users, regardless of their individual needs or abilities, and steered applicants who use wheelchairs to nursing homes.

“People with disabilities who use wheelchairs must have equal access to housing opportunities and assisted living services that are available to others. The State needs to enact and enforce regulations that promote non-discrimination in adult care facilities and assisted living programs so that they fully comply with federal civil rights mandates.” said Fred Freiberg, Executive Director at FHJC.

All of the defendant adult homes have elevators and all have assisted living programs, which are funded to provide a variety of supports to people with disabilities, including personal care and home health services. They receive between approximately \$33,000 and \$55,000 annually per person to provide assisted living services for each resident enrolled in the program. Collectively, the defendant adult homes are licensed to house over seven hundred people.

“As soon as a resident begins to use a wheelchair, the adult home claims they are inappropriate for assisted living and sends them to a nursing home,” said Jota Borgmann, Senior Staff Attorney at Mobilization for Justice. “And, worse yet, New York State shamefully maintains that it is perfectly fine for adult homes to discriminate against people who use wheelchairs.”

New York State Department of Health regulations state that adult homes and assisted living programs should not admit or retain people who are “chronically chairfast.” The regulations were enacted in 1978. This was prior to passage of the federal Fair Housing Act, the Americans with Disabilities Act, the Affordable Care Act, and prior to the Supreme Court’s decision in [*Olmstead v. L.C.*](#), which made it clear that unnecessarily relegating people with disabilities to institutional settings is illegal discrimination. Yet the State has never updated the regulations to comply with federal protections against disability discrimination, despite being informed by advocates on multiple occasions over the years that the regulations are unlawful.

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About AARP Foundation

AARP Foundation works to end senior poverty by helping vulnerable older adults build economic opportunity and social connectedness. As AARP’s charitable affiliate, we serve AARP members and nonmembers alike. Bolstered by vigorous legal advocacy, we spark bold, innovative solutions that foster resilience, strengthen communities and restore hope.

About the Fair Justice Housing Center

The mission of the FHJC, a nonprofit civil rights organization, is to eliminate housing discrimination; promote policies and programs that foster open, accessible, and inclusive communities; and strengthen fair housing enforcement in the New York City region.

About Mobilization for Justice

Mobilization for Justice’s (MFJ) (formerly MFY Legal Services) mission is to achieve social justice, prioritizing the needs of people who are low-income, disenfranchised or have disabilities. MFJ does this by providing the highest quality direct civil legal assistance, conducting community education and building partnerships, engaging in policy advocacy, and bringing impact litigation.