Creating Age Friendly Sustainable Communities

Patricia E. Salkin
Dean and Professor of Law
Touro Law Center
NYPF 2015 Annual Conference
Quick Poll

• How many of you prefer to stay in NY when you retire?
• How many of you believe you will stay in the same town you live in now?
• How many of you have a parent or two who may need to live with you or a sibling in the future?
New York Demographics

Elderly Population by Age
2000 to 2015
Why Should We Care?

• AARP Reports Sept 2014 that NY on track for Billion-Dollar Baby Boomer Flight

• The Longevity Economy – we need people over 50 years to stay in NYS
We Prefer to Stay

• Recent Harvard Study says 9 out of 10 seniors prefer to remain in their home
• According to an AARP survey, 85% of those seniors surveyed said they wanted to “stay where they are and never move”
  – 28% have lived in their current residence for over 30 years
  – More than 50% have lived in the same area for more than 30 years
  – 55% who moved within the past 5 years relocated within the same city or county
Why Does AARP Say Boomers are Leaving NY?

- 40% worry about paying their rent or mortgage
- 55% are extremely (33%) or very (22%) worried about paying property taxes
- Large majorities are looking for improvements in:
  - Health care (77%)
  - Housing (70%)
  - Transportation (66%)
Aging in Place Challenges

• House Rich-Cash Poor
  – Affordability

• Health Considerations
  – Active Living
  – Declining Health
  – Socialization

• Mobility/Accessibility
  – Transportation
  – Walkability
  – Services

• Proximity to Family
Various Types of Senior Housing Options

- Senior Housing
- NORCs
- Congregate Housing Developments
- Shared Living Alternatives
- Co-Housing
- Enriched Housing
- Family Type Homes and Adult Homes
- Assisted Living
- Dementia Care Facilities
- CCRCs
- Multi-level Housing and Care Complexes
- Nursing Homes
- Reverse Mortgages
Housing Trends
Many Types of Living Options as we Age
What Active Seniors Want/Need

Must-have features in senior citizen homes

- Anti-skid flooring
- Indoor games
- Rest Chair
- Entrance door with peep holes
- Convenience store
- Wheel-chair friendly campus
- Medical assistance
- Library
- Emergency control systems
- Social recreation and spiritual needs
What Do Boomers Want in Housing?

- Single level floor plans/one story ranch
- At least one bedroom/bathroom on 1st floor
- Washer/dryer on same floor as bedroom
- “zero step” entrances – ramps
- Handrails on all stairs/steps
- Sidewalk curb cut outs
- Path to sidewalk or house with textured surface
- 32-in to 42in wide openings
- Built-in night lighting, motion detector lighting
- Visual smoke detectors
- Low-level storage
- Walk in showers
- Non-skid flooring
- Keyless entry systems
- Emergency response systems
- Maintenance free lifestyle
- Desire to live by loved ones
- Closer to amenities (shopping, churches, hospitals, doctors)
Traditional Tools

• Accessory Dwelling Units
• In-Law Apartments
• Granny Flats
• Elder Cottages
Granny PODS

• MEDCottage — a prefabricated 12-by-24-foot bedroom-bathroom-kitchenette unit that can be set up as a free-standing structure in the backyard.
Assisted Living

September 13–19, 2015
### Affordability Challenges

#### You Stay, You Pay

Range of fees for eight continuing-care retirement communities by contract type for single occupancy:

<table>
<thead>
<tr>
<th></th>
<th>LIFE CARE</th>
<th>MODIFIED</th>
<th>FEE FOR SERVICE</th>
<th>RENTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Entry fee</strong></td>
<td>$160,000 to</td>
<td>$80,000 to</td>
<td>$100,000 to</td>
<td>$1,800 to</td>
</tr>
<tr>
<td></td>
<td>$600,000</td>
<td>$750,000</td>
<td>$500,000</td>
<td>$30,000</td>
</tr>
<tr>
<td><strong>Independent-living monthly fee</strong></td>
<td>$2,500 to</td>
<td>$1,500 to</td>
<td>$1,300 to</td>
<td>$900 to</td>
</tr>
<tr>
<td></td>
<td>$5,400</td>
<td>$2,500</td>
<td>$4,300</td>
<td>$2,700</td>
</tr>
<tr>
<td><strong>Assisted-living monthly fee</strong></td>
<td>$2,500 to</td>
<td>$1,500 to</td>
<td>$3,700 to</td>
<td>$4,700 to</td>
</tr>
<tr>
<td></td>
<td>$5,400</td>
<td>$2,500</td>
<td>$5,800</td>
<td>$6,500</td>
</tr>
<tr>
<td><strong>Nursing-care monthly fee</strong></td>
<td>$2,500 to</td>
<td>$1,500 to</td>
<td>$8,100 to</td>
<td>$8,100 to</td>
</tr>
<tr>
<td></td>
<td>$5,400</td>
<td>$2,500</td>
<td>$10,000</td>
<td>$10,700</td>
</tr>
</tbody>
</table>

*In California, Florida, Illinois, Ohio, New York, Pennsylvania, Texas and Wisconsin.*

Note: Under the “modified” contract type, 60 days of assisted-living or skilled nursing care are provided, after which the “prevailing rate,” less a 10% discount, is charged.

Source: U.S. Government Accountability Office
Emerging Senior Housing Alternatives

- Elder Cohousing
- House Sharing
- Senior Housing Cooperatives
- NORCs
- Affinity Retirement Communities
Federal Laws

- **Federal Housing Act Amendments of 1988 (FHAA)**
  - dwellings qualify as "housing for older persons" if:
  - Provided under state or federal program that the HUD Secretary determines is designed and operated to assist elderly persons or
  - Intended for and solely occupied by persons 62 years of age or older
  - Or if: 1) at least 80% of units have at least 1 occupant 55 or older, and
  - 2) the facility or community:
    - a) publishes and adheres to policies and procedures that demonstrate intent to house persons 55 and older, and
    - b) complies with Secretary's verification of occupancy rules.
  - Age-restricted housing that fails to meet these criteria may violate the FHAA provision against discriminating based on "familial status"

- **Americans with Disabilities Act**
  - Under ADA: "failure to make reasonable modifications in policies, practices or procedures to accommodate a disabled individual" provided modification does not "fundamentally alter the nature of goods, services, facilities," etc.
Mobility impairment is a disability that people have which is given substance and meaning in relationship to the built environment.

The built environment reflects the legal inputs of real estate transactions/development law, and land use planning and zoning law.

Mobility impairment is a community based issue that reflects not simply on the design of individual buildings but on the integrated nature of sustainable communities; where sustainable communities are both inclusive and built to enable people to safely and easily age in place.
• **Sustainable communities are more than green communities.** Sustainable communities strike an appropriate balance among past, present, and future generations.

• As **Inclusive Design Communities (IDCs)**, they facilitate the ability of people to safely and easily age in place.

• The elderly have the highest rate of mobility impairment.

• Billions of dollars are spent each year on retrofitting homes to accommodate a person with mobility impairment; and in prematurely moving people to senior and assisted living because they have difficulty navigating their current homes.
This is not an individual problem it is a family and community problem.

- 9 million Americans use mobility assistance devices (canes, walkers, wheel chairs) (and this includes 14% of people over 65 not living in institutions)
- There are 72.3 million families in U.S.; 21 million with a family member having a disability;
- and of this, 12 million with a physical disability
  This means that 17% of U.S. families have a family member with a physical disability.
- Including relational networks of friends and colleagues one can easily estimate that 20% of American families are impacted by mobility impairment.
- Billions of dollars are spent each year on retrofitting homes to accommodate a person with mobility impairment; and in prematurely moving people to senior and assisted living because they have difficulty navigating their current homes
Zoning and the Definition of Family

50 MILLION AMERICANS LIVE IN MULTIGENERATIONAL HOMES

Source: Pew Research Center
Multi-Family Senior Housing

• Allows greater opportunities for socialization.
  – Carmel, NY-allows multi-family dwellings with 3 or more dwelling units occupied exclusively by persons 55 yrs of age or greater and their spouses by special exception permit in all zoning districts.
Manufactured Homes and Seniors

- According to the 2009 American Housing Survey, over 25% of manufactured homes are owned and occupied by older persons (65 years of age or older).
- Affordable; significantly less expensive than traditional site-built homes.
Defining Aging for Purposes of Zoning

- **Age 55+**
  - Carmel, Great Neck Plaza, Maybrook, Rockville Centre, Warwick, Washingtonville, Woodbury
- **Age 60+**
  - Briarcliff, Walden
- **Age 62+**
  - Altamont, Groton, Massapequa Park, Rye Brook,
- **Age 65+**
  - Somers, Westbury
- Spouses
Examples of Zoning Districts for Seniors in NY

• Golden Age Housing – Towns of Hempstead and Oyster Bay and Village of Massapequa
• Retirement Community District – Town of Smithtown
• Eldercare Community – Village of Briarcliff
• Housing for the Elderly District – Town of Bedford
• Senior Housing Developments – Village of Walden
Floating or Overlay Zones

- Floating Zone or Overlay Zone
  - Must allow in zoning ordinance/law
  - No need to specify specific area
  - Landowner/developer requests permission to build when all of the criteria in the local law are met
  - Benefits: Could be located anywhere appropriate...not relegated to one or two specific areas
  - Drawback: Could be too restrictive and not viable for use
Using Zoning to Meet Senior Housing Needs

• Does your local zoning ordinance allow for mixed use senior housing
  – Are there enough options?
  – Do you know the demographics for your city or village?
  – Have you surveyed the seniors the baby boomers?
  – Does your comprehensive plan address senior housing issues at all?
If There Ever Was a Topic Filled with Self-Interest...