



Pandemic raises stakes for thousands awaiting transition from nursing homes to community living

Bureaucratic bottlenecks at State, Chicago failures in accessible housing to blame

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Each day, thousands of Cook County residents are languishing in nursing homes as they await transition to living in the community. More than a third of Covid-19 deaths in Illinois are nursing home residents. Delays in the Court ordered transitions out of nursing homes are now killing people.

In 2007, a class of people with disabilities sued the State of Illinois in federal court (Colbert vs. Blagojevich) alleging that the State was in violation of Title II of the American with Disabilities Act and Section 504 of the Rehabilitation Act and contending that adults with psychiatric and physical disabilities were being needlessly segregated in institutional settings and denied the opportunity to receive services in more integrated community-based settings. The State entered a consent decree in 2011.

At any given time there are about 20,000 people in the Colbert class. About half of those complete a form asking to be transitioned to a community setting. As of 2019, only about 2400 people have been transitioned since the start of the consent decree nine years ago, according to Court Monitor FY2019 Compliance Assessment Annual Report to the Court.

The court monitor found the State out-of-compliance with 37 percent of consent decree requirements. The Monitor found: "A paucity of committed and accountable high-level leadership, plummeting performance in numeric transition requirements, lack of a data-driven community-based services and housing capacity development strategy, and unaddressed and serious process issues, including pipeline impediments that delay or prevent transitions among Class Members."

“While failures in leadership and ‘serious process issues’ at the State are part of the problem, they can be solved. The most troubling finding points to the lack of a data-driven housing capacity strategy. This is really the fundamental constraint in fulfilling the promise of Colbert,” said Bob Kettlewell, spokesperson for the Campaign for Dignity.

The Campaign for Dignity was established this year to advance the legacy of the late civil and disability rights leader Marca Bristo.

Housing that is affordable to the members of the Colbert class is concentrated overwhelmingly in Chicago. While the City has provided funding to create more than 50,000 units of affordable housing, a 2018 federal lawsuit filed by Access Living claims that the City has failed systemically to ensure that those units are actually accessible to people with disabilities, as required by federal law. “The lack of accessible housing in Chicago is a significant barrier to meeting the terms of the Colbert consent decree,” said Daisy Feidt of Access Living, “and what’s happening in nursing homes right now is completely unacceptable. ”

Shortly after filing its lawsuit, Access Living wrote to the City to outline a process for fixing the accessibility problems and ensuring compliance going forward. Rather than responding, the City hired outside counsel and moved unsuccessfully to dismiss the lawsuit. “Every day the City chooses to litigate rather than remediate is another day that people cannot move from institutions to their own homes in the community,” said Feidt. “We hope the Mayor and the City Council will see the wisdom of coming to the negotiating table to solve this longstanding problem.”

“ For far too long the City has just not taken these civil rights protections seriously. Mayor Lightfoot has the chance to show she is committed to accessible housing and we call on her to direct her staff to work with Access Living to resolve this lawsuit,” said Kettlewell.

Members of the Colbert class are 54 percent African-American, 35 percent White, seven percent Hispanic, and three percent other. Notably, eighty percent of Colbert class members are non-elderly. Sixty-five percent are 45 – 64 years of age and fourteen percent are 25 -44.

“ [Most of the Colbert class members are working-age people seeking to become](#) productive members of their community. Instead they face dying in nursing homes they cannot escape,” said Mike Ervin of the disability-rights group A.D.A.P.T.

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The Campaign for Dignity is a nonprofit corporation organized under section 501c4 of the Internal Revenue Code.

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