

## AGING IN PLACE, HOUSING, AND THE LAW

*Jon Pynoos  
Christy Nishita  
Caroline Cicero  
Rachel Caraviello*

*“Aging in place” refers to the desire of older people to stay in their own homes and communities in spite of encroaching infirmities, and it is an increasingly important aspect of public policy. This movement has gained impetus from the Supreme Court’s decision in Olmstead v. L.C., which requires states to make community-integrated support programs more widely available for persons with disabilities. The aging in place movement, however, is hindered by the general unavailability of accessible and supportive housing. Legislation, such as the Fair Housing Amendments Act, which*

---

Dr. Jon Pynoos is the UPS Foundation Professor of Gerontology, Planning and Development at the Andrus Gerontology Center of the University of Southern California. He is also Director of the National Resource Center on Supportive Housing and Home Modifications and Co-Director of the Fall Prevention Center of Excellence, supported by the Archstone Foundation. He is currently a member of the California Commission on Aging, and serves on the Board of the American Society on Aging. He holds undergraduate, Master’s and Ph.D. degrees from Harvard University.

Christy M. Nishita is an Assistant Professor at the University of Hawaii Center on Disability Studies. She received her Ph.D. in Gerontology from the University of Southern California.

Caroline Cicero is a doctoral student in Gerontology at the University of Southern California and a research assistant in the Fall Prevention Center of Excellence. She has Masters Degrees in social work and urban planning.

Rachel Caraviello is a candidate for Masters Degree in Gerontology from the University of Southern California. She works as a research assistant in the Fall Prevention Center of Excellence.

---

*applies only to multi-unit housing, has been the subject of weak implementation and homebuilders have generally resisted its extension to single family housing. In order to age in place, older people often have to modify their environment to accommodate their changing abilities. The challenges of finding age-friendly housing in their communities or of retrofitting existing homes, can present frail older people with an all-or-nothing decision. This acts to funnel them towards institutional settings, such as nursing homes, in spite of their contrary desires. To make aging in place a reality for older people, Professor Pynoos in his Ann F. Baum Memorial Lecture on Elder Law, argues that new policies are needed to provide help modifying existing housing, mandate the creation of housing based on principles of universal design, and provide a range of housing types in communities.*

## I. Introduction

“Aging in place” is a phenomenon, a preference, and an increasingly important aspect of public policy.<sup>1</sup> The term refers to the desire of older people to live in their own housing and communities as long as possible.<sup>2</sup> Policies that promote aging in place are based on the premise that there are social and financial benefits to programs that support the desire of older people, especially those who are frail, to live in their own homes and apartments located in familiar neighborhoods and communities.<sup>3</sup> These policies face a number of barriers, including inaccessible and unsupportive housing, which hinder aging in place, pushing frail older people towards less desirable and more restrictive settings, such as nursing homes. The challenges for the future are to create policies that better link housing with services, modify existing housing to accommodate aging in place, create new types of housing based on principles of universal design, and provide a range of housing options in age-friendly or “livable” communities.

## II. Why Aging in Place Is Important

Aging in place has gained momentum in conjunction with the aging of the American population. The 2000 Census indicated that 12.4% of the American population is over sixty-five years-old,<sup>4</sup> and

---

1. Jon Pynoos & Christy M. Nishita, *Aging in Place*, in 1 LESSONS ON AGING FROM THREE NATIONS 185, 185 (Sara Carmel et al. eds., 2007).

2. *Id.*

3. *Id.*

4. U.S. Census Bureau, United States—Fact Sheet (2000), [http://factfinder.census.gov/servlet/ACSSAFFacts?\\_submenuId=factsheet\\_1&sse=on](http://factfinder.census.gov/servlet/ACSSAFFacts?_submenuId=factsheet_1&sse=on) (click on tab for “2000”) (last visited Apr. 4, 2008).

predictions are that nearly one in five Americans will be over sixty-five in 2030.<sup>5</sup> The changing needs of seventy-five million baby boomers born between 1946 and 1964 will impact the communities in which they live.<sup>6</sup> This impact will be amplified because of the relationship between aging and geography. Because they are living longer than previous generations and in more spread-out, suburban regions, baby boomers will be living with chronic conditions requiring changes in their physical environments.<sup>7</sup> With appropriate planning and adaptations, these conditions can be accommodated in the places where they currently reside.

The home plays a crucial role in the lives of older adults. A source of identity is cultivated from living in one place for an extended period of time, and the home becomes a place to which older adults have deep-seated ties with family members and close friends. Its location is often near familiar shops, restaurants, and health services. Attachment to place is a reflection of the emotional, cultural, and spiritual connection between a person and their environment.<sup>8</sup> The home is more than a physical structure. Among older adults, housing satisfaction is related to the identity of the home as a harbor of family traditions.<sup>9</sup> For some older widows, leaving the home in which they lived with their husbands may be associated with leaving that relationship behind.<sup>10</sup>

Aging in place remains a very strong desire of older people. For example, in an AARP survey from 2000, more than 80% of respondents aged forty-five and over agreed with the statement: "What I'd really like to do is stay in my current residence for as long as possible."<sup>11</sup> Such a strong attachment to place is understandable when

---

5. WAN HE ET AL., U.S. CENSUS BUREAU, 65+ IN THE UNITED STATES: 2005, at 12–13 (2005), available at <http://www.census.gov/prod/2006pubs/p23-209.pdf>.

6. The Boomer Initiative, About the Boomer Initiative, <http://www.babyboomers.com/about.htm> (last visited Apr. 4, 2008).

7. Patricia A. Moore, *Experiencing Universal Design*, in UNIVERSAL DESIGN HANDBOOK 2.1, 2.3 (Wolfgang F.E. Preiser ed., 2001).

8. Dena Shenk et al., *Older Women's Attachments to Their Home and Possessions*, 18 J. AGING STUD. 157, 159–60 (2004).

9. *Id.*

10. *Id.* at 163–64.

11. AARP, FIXING TO STAY: A NATIONAL SURVEY OF HOUSING AND HOME MODIFICATION ISSUES 24 (2000) [hereinafter AARP, FIXING TO STAY].

length of tenure is taken into account; in 1996, 65% of elderly homeowners had lived in the same home for more than thirty years.<sup>12</sup>

Concern about the ability of older adults to age in place is driven by the prevalence of disability in the group and the associated need for housing linked with supportive services. For example, approximately 3.2% of persons aged sixty-five to seventy-four and 9.4% of persons aged seventy-five and over need help with at least one activity of daily living (for example, ambulation, bathing, feeding, eating, and toileting), while 6.6% of those aged sixty-five to seventy-four and 18.6% of those seventy-five and over need assistance with instrumental activities of daily living (such as, shopping, cooking, cleaning).<sup>13</sup> Just as telling in terms of the physical environment, 31.2% of older people have trouble climbing a flight of stairs and 31.8% have difficulty walking a quarter of a mile.<sup>14</sup> The ability of older people to carry out these and other life activities is affected by features in the environment, such as hazards that may put them at risk of injury. The presence of both sufficient space and physical supports make it easier for care givers to provide assistance. Ideally, all housing would be accessible, adaptable, and supportive.

### III. Barriers to Aging in Place

Although older adults express a strong desire for continuity in their living arrangements, they often live in physically unsupportive environments disconnected from needed services. Instead of facilitating older people's ability to grow old safely, independently, and with dignity, many settings have themselves become a source of the problem. The overwhelming majority of housing in which older people live has been developed for independent residents.<sup>15</sup> These dwelling units have been referred to as "Peter Pan" housing, designed for per-

---

12. AARP, SENIOR HOUSING STUDY: SURVEY OF AMERICANS AGE 50 AND OLDER 20 (1996).

13. PATRICIA F. ADAMS ET AL., U.S. DEP'T HEALTH & HUMAN SERVS., SUMMARY HEALTH STATISTICS FOR THE U.S. POPULATION: NATIONAL HEALTH INTERVIEW SURVEY, 2005, at 18 tbl.5 (2005), [http://198.246.98.21/nchs/data/series/sr\\_10/sr10\\_233.pdf](http://198.246.98.21/nchs/data/series/sr_10/sr10_233.pdf).

14. ERICA STEINMETZ, AMERICANS WITH DISABILITIES: 2002: HOUSEHOLD ECONOMIC STUDIES 6, 17 tbl.2 (2006), <http://www.census.gov/prod/2006pubs/p70-107.pdf>.

15. See, e.g., AARP, FIXING TO STAY, *supra* note 11, at 14 (showing nearly four-fifths of people aged fifty-five and older live in a single-family detached home).

sons who will never grow up and never grow old.<sup>16</sup> Such housing frequently includes barriers such as outside steps, inside stairs, and unsafe bathrooms.<sup>17</sup>

#### A. Lack of Home Modifications

Approximately one million older people with health and mobility problems have unmet needs for supportive features in their dwelling units.<sup>18</sup> Older adults with mobility and functionality limitations report the three greatest unmet needs in their homes are hand-rails/grab bars, ramps, and easy-access bathrooms.<sup>19</sup> The absence of such features may lead older adults to unnecessarily restrict activities, decrease their personal safety, increase their dependence on others, and put themselves at future risk of needing higher levels of care and institutionalization.

For older people, falls can be a serious outcome of home hazards and a lack of supportive features.<sup>20</sup> Among older adults living in a community dwelling, approximately one-third of persons aged sixty-five and over experience a fall each year.<sup>21</sup> Over three-quarters of these falls occur in and around the home, with the majority happening inside.<sup>22</sup> Estimates are that 30–50% of falls are related to environmental problems,<sup>23</sup> and such falls are a serious public health problem.

---

16. See, e.g., RACHEL G. BRATT ET AL., *A RIGHT TO HOUSING* 283 (2006).

17. AARP, *FIXING TO STAY*, *supra* note 11, at 29. Elderly survey participants named difficulty bathing, and problems ascending and descending stairs amongst the top ways in which getting around their homes is troublesome. *Id.*

18. Pynoos & Nishita, *supra* note 1, at 187.

19. U.S. DEP'T OF HOUS. & URBAN DEV., U.S. DEP'T OF COMMERCE, *SUPPLEMENT TO THE AMERICAN HOUSING SURVEY FOR THE UNITED STATES 90 tbl.2-15* (2001), available at <http://www.census.gov/prod/2001pubs/h151-95-1.pdf>.

20. See CTRS. FOR DISEASE CONTROL & PREVENTION, U.S. DEP'T OF HEALTH & HUMAN SERVS., *WHAT YOU CAN DO TO PREVENT FALLS 2* (2008), [http://www.cdc.gov/ncipc/pub-res/toolkit/Falls\\_Toolkit/DesktopPDF/English/brochure\\_Eng\\_desktop.pdf](http://www.cdc.gov/ncipc/pub-res/toolkit/Falls_Toolkit/DesktopPDF/English/brochure_Eng_desktop.pdf).

21. Centers for Disease Control and Prevention, *Falls Among Older Adults: An Overview*, <http://www.cdc.gov/ncipc/factsheets/adultfalls.htm> (last visited Apr. 4, 2008) [hereinafter *CDC Falls Overview*].

22. See CARVER COUNTY CMTY. HEALTH SERVS., *UNINTENTIONAL INJURY: 2004–2008 ASSESSMENT 119* (2008), available at [http://www.co.carver.mn.us/departments/PH/docs/Unintentional\\_Injury.pdf](http://www.co.carver.mn.us/departments/PH/docs/Unintentional_Injury.pdf).

23. See NEW SOUTH WALES HEALTH DEP'T, *PREVENTING INJURIES FROM FALLS IN OLDER PEOPLE 4* (2001), available at [http://www.health.nsw.gov.au/pubs/p/pdf/prevent\\_falls\\_old.pdf](http://www.health.nsw.gov.au/pubs/p/pdf/prevent_falls_old.pdf).