

## New Urbanism: Recreating Florida by Rewriting the Rules

by Doris S. Goldstein

An increasing number of Florida cities and counties are confronting the problems of sprawl—traffic jams, lifeless downtowns, environmental degradation and sheer ugliness—and are seeking solutions in new urbanism, a land use planning philosophy that supports the development of compact, mixed-use, pedestrian-friendly communities.

Florida is the birthplace of new urbanism. It has the first new urbanist community and the greatest number of new urban projects.<sup>1</sup> It is also the home of many of its leading advocates; the most well known of these, Miami architect and planner Andrés Duany, was recently named by the National Organization of Homebuilders as the fifth most influential person in homebuilding today.<sup>2</sup> Although still a small share of the market, new urban communities command a premium over comparable homes in conventional subdivisions.<sup>3</sup>

New urbanism looks for its models to the towns and cities that were designed before World War II, particularly to the designs of land use planner John Nolen who did much of his work in Florida in the 1920s.<sup>4</sup> In the past, new urbanist developers faced significant regulatory hurdles, leading some observers to comment that our most beautiful and desirable historic districts would be illegal to build today.<sup>5</sup> Now, the principles demonstrated by these private developments are influencing the public process. Although obstacles to new urbanist development remain in some parts of Florida, a growing number of counties have been revising zoning codes to permit or encourage new urbanist development. Some municipalities and counties are even rethinking the concept of what a zoning code is and how it should work, replacing fundamental aspects developed during three-quarters of a century of Euclidean zoning<sup>6</sup> in favor of form-based codes.

New urbanism offers a different approach to both planning and real estate development, and brings with it a new vocabulary. It affects both the regulatory process and the drafting of covenants and restrictions. This article describes the principles of new urbanism as they have evolved to the present, the ways in which local governments in Florida have adopted its principles, and how new urbanist communities are organized and operated.

### **Evolving Language of New Urbanism**

Although it did not yet have a name, new urbanism was born in Florida in 1982, with the beginning of construction of Seaside on the Florida panhandle, between Destin and Panama City. Unincorporated and only 80 acres in size, Seaside nevertheless included almost all the elements of a small town. Today, it has homes, shops and restaurants, a charter middle school, a chapel and even a cemetery.

Seaside demonstrates the principles of new urbanism: a mixture of uses and housing types with commercial uses clustered in the town center, well-designed, centrally-located parks and other civic spaces, small lot sizes with narrow frontage and the garage pushed to the rear of the lot, sidewalks, street trees and a variety of other design elements intended to treat the streets

as outdoor rooms and make it pedestrian-friendly. Narrower streets in a modified grid with more frequent intersections are safer and more pleasant for both pedestrians and drivers than a system of collector roads and cul-de-sacs. Perhaps counter-intuitively, such a system has the capacity to handle more traffic as well.<sup>7</sup> While the homes in Seaside and most other new urbanist communities (including Disney-built Celebration, near Orlando) have traditional architecture, the same principles have been applied to communities with contemporary architecture.<sup>8</sup>

The design principles exemplified by Seaside were defined in the 1980s as traditional neighborhood development (TND) or sometimes, neotraditional development. (A transit-oriented development, or TOD, is a TND built around a mass transit station, so that residents can walk to the station and commute to work.) Although these terms are still used to describe particular types of developments, they have been absorbed into the broader term of new urbanism, coined in 1993 with the founding of the Congress for the new urbanism (CNU), an umbrella organization bringing together a variety of disciplines.

### **Broadening the Scope; Building Alliances**

The principles exhibited by new urbanist communities—compact, mixed-use, pedestrian-friendly development—are not limited to small villages like Seaside. Instead, the principles are now being applied to all types of development, including downtown redevelopment. As one definition puts it:

New urbanism is the revival of our lost art of place-making, and is essentially a re-ordering of the built environment into the form of complete cities, towns, villages, and neighborhoods—the way communities have been built for centuries around the world. New urbanism involves fixing and infilling cities, as well as the creation of compact new towns and villages.<sup>9</sup>

The Congress for the new urbanism expands new urbanist principles further:

New urbanists support regional planning for open space, appropriate architecture and planning, and the balanced development of jobs and housing. They believe these strategies are the best way to reduce how long people spend in traffic, to increase the supply of affordable housing, and to rein in urban sprawl. Many other issues, such as historic restoration, safe streets, and green building are also covered in the Charter of the New Urbanism, the movement's seminal document.<sup>10</sup>

To advance this far-reaching agenda, CNU has forged alliances with, among others, the U.S. Department of Housing and Urban Development, which adopted new urban principles for rebuilding low-income housing under its Hope VI program,<sup>11</sup> and the Institute for Traffic Engineers, with which CNU is developing a new street design manual.<sup>12</sup> Even the Centers for Disease Control<sup>13</sup> and the American Public Health Association<sup>14</sup> see a link between sprawl and the obesity epidemic.

Both the goals and membership of the new urbanism movement overlap significantly with smart growth. The six founders of the Congress for the new urbanism were all practicing architects and planners, while the Smart Growth Network resulted from a joint effort in 1996 of the U.S. Environmental Protection Agency and several non-profit and government organizations.<sup>15</sup> As a result, smart growth tends to be more policy oriented in its solutions while new urbanism tends to be design-driven. However, the two movements are allies and today their missions are almost interchangeable.

The American Planning Association has a new urbanist division, which declares its purpose “to provide planners, public officials, and other decision makers with the information, support, and tools needed to eliminate restrictive conventional development regulations and allow new urbanism patterns to be incorporated in all communities.”<sup>16</sup> The Urban Land Institute endorses smart growth, which it defines as development that is “environmentally sensitive, economically viable, community-oriented, and sustainable.”<sup>17</sup>

### **Reinventing Zoning**

Euclidian zoning, with its emphasis on separating uses, has been strongly criticized by new urbanists for allowing and even mandating sprawl. In the last few years, various practitioners have promoted form-based coding as the best alternative.<sup>18</sup>

Before the dominance of Euclidian zoning codes, cities were developed by consensus, and sometime controls, over the appropriate form of new buildings and how they should be placed on the block. Euclidean zoning changed the regulatory focus to use, density and parking. In the 1980s and 1990s, designers and developers of private new urbanist communities again concentrated on the placement and form of buildings. Design codes that revived and amplified the historic forms guided the creation of these new communities. However, these codes were privately enforced through covenants and restrictions.

After this incubation period, form-based codes have now re-entered the public realm. Form-based codes focus on the streetscape and the shape and placement of the buildings that line it. Uses, density and parking are not completely ignored but are relegated to secondary status.

New urbanist author and commentator Peter Katz puts it this way:

To understand the concept, think of the way neighborhoods change over time. In many cities, warehouse and industrial areas have morphed into trendy arts districts with galleries and restaurants at street level and loft housing above. The form of the buildings has remained fairly constant, while internal uses and activity patterns have been transformed.

Under the current, use-based zoning system, such a change would be considered drastic. The land-use category has gone from industrial, at one end of the spectrum, to residential, at the other, although to the average onlooker, the place looks pretty much the same. In this example, a form-based code would regulate the part that had remained the same—the form of the building and the configuration of the street and sidewalk. Use would be regulated, too, but at a secondary, rather than primary level of the code.<sup>19</sup>

The key components of the form-based code are a regulating plan, building envelope standards and street standards. The regulating plan is site-specific; each piece of land is classified to correspond with specific standards in the code. Building envelope standards regulate building height, placement and orientation. Street standards govern the public realm and prescribe such elements as paving and street trees. Architectural standards, which are concerned with aesthetics, are often part of a form-based code but are not essential.<sup>20</sup>

To properly implement a form-based code in a community, regulators must have a clear vision of what they want their community to look like. This is often formulated in a charrette, an intensive design session bringing together professionals and citizens. Like form-based coding, the charrette was popularized first in the development of private new urbanist communities.

A widely publicized model for a form-based code is contained within the SmartCode, formulated by the Miami architecture and design firm of Duany Plater-Zyberk and Company

(DPZ).<sup>21</sup> Although it originally required a licensing fee for use, the SmartCode is now available free of charge, as open source material that can be revised by the local community and that can be expected to evolve as users make suggestions for improvements.

### **Applying new urban Principles along the Transect**

The SmartCode and some other form-based codes use the concept of the transect as a unifying principle, so that the applicable form depends on the property's position on the transect. Borrowed from biology and environmental studies, the transect is a cross-section of a region that reveals a logical sequence of habitats, each with its own characteristics. The new urbanist version of the transect ranges from open countryside, called T1, to the downtown area of a major city, labeled T6. In between lie a full range of urban intensities and their accompanying descriptions of appropriate land uses, building types, open space and street types. An additional category of "specialized district" or "assigned district" is reserved for such uses as airports, college campuses or large industrial uses that do not fit into the other transect categories.<sup>22</sup>

Properly applied, proponents say, the transect allows planners to designate the transect zone for any location and then use the transect to establish appropriate elements for that zone. "Through a complete understanding of the transect, planners are able to specify different urban intensities that look and feel appropriate to their locations," writes Duany. "For instance, a farmhouse would not contribute to the immersive quality of an urban core, whereas a high-rise apartment building would."<sup>23</sup>

### **Visions for Florida's Future**

Particularly in areas that are in the path of growth, municipalities and counties are looking to new urbanism as a way to prevent or mitigate the sprawl that prevails in much of Florida. There are several different ways in which new urbanist concepts can be used to modify the planning process.

Some of the first attempts at new urbanist zoning were overlay districts that permit or encourage the development of private TNDs. These overlay districts allow TND developers to achieve greater density of right if certain requirements are met, avoiding a planned unit development (PUD) process or the necessity of seeking multiple variances. However, some of these early ordinances suffered from being overly detailed and restrictive and were little used.

Cities have also used new urbanist principles to redesign and revitalize portions of their downtowns, enlivening street life and bringing back residents to the city. Perhaps the most dramatic example of an implemented plan is Clematis Street in West Palm Beach, part of the West Palm Beach Downtown Master Plan.<sup>24</sup> In a slight twist, Miami-Dade County in 1999 approved transforming suburban sprawl—the automobile-dependent, commercial area around Dadeland Mall—into a mixed-use downtown oriented around public transit. Known as the Downtown Kendall Master Plan and Code, the first residential units are now being built.<sup>25</sup> Other noteworthy plans include the Hometown Plan for the City of South Miami and the Downtown Sarasota Plan. All of these projects involve both infusion of new civic infrastructure and rewriting codes to guide private development.

More recently, counties have used new urban ideals to master plan large swaths of underdeveloped land in the path of growth. These plans seek to identify and preserve open space, including farmland, and cluster the inevitable development into higher-density TNDs. To prevent challenges under the Bert Harris Act<sup>26</sup>, communities have preferred to achieve objectives through market-place mechanisms, particularly the use of Transferable Development Rights. Examples of

such codes, either enacted or under discussion, are the Northwest Hillsborough County Sector Plan, the Sarasota 2050 Plan, the Collier County Rural Land Stewardship Plan<sup>27</sup> and the North St. Lucie County Plan for Towns, Villages and the Countryside.

### **New Towns, Private Governance**

While some new urban development has been the result of public initiative, private enterprise continues to be the largest component of new urban development. After zoning and permitting, the central challenge facing the developer's attorney is how to make something that looks like a town operate under a system of private covenants and restrictions. Conventionally, homeowner associations maintain private property and foster exclusivity. New urbanist communities, on the other hand, invite the public.

Streets, in a reversal of the trend toward gated communities, are meant to interconnect seamlessly with the surrounding area. Dedicating streets to the public is generally desirable for new urbanist communities, but local communities often will not accept streets for dedication. For larger communities that can justify the implementation cost, a community development district<sup>28</sup> (CDD) can be a particularly good alternative for common area maintenance. The primary drawback of a CDD in conventional development is that the streets, parks and other CDD amenities must be open to the public. This objection disappears in a new urbanist community, which, by definition, does not have a gated entry.

The nature of amenities also differs in a new urbanist community. Again, amenities tend to invite, rather than exclude, the public. In a new urbanist community, the town center is likely to be the true amenity, drawing residents together with the general public to restaurants, shops, amphitheaters and other open space. Rather than build an expensive private (and sometimes under-utilized) clubhouse, a new urbanist developer may welcome a YMCA, or build a meeting hall and establish a charitable organization for cultural activities. Schools and daycare centers, libraries, churches and non-denominational chapels are also frequently part of a new urbanist community.

Open space may take the form of small parks strategically placed throughout the community, offering a green neighborhood gathering space to augment the small private yards. Parks may include ball fields or other recreational uses, sometimes shared with a school. In some instances, a new urbanist community may include public parks, or be designed next to public parks. The town center square bustles with activity.

Since the homeowners' association is no longer the default maintenance entity, the developer's attorney must make sure that each piece of property is owned by an appropriate entity that can maintain and program that property over the long term. Most new urbanist communities do have a homeowners' association, both for covenant enforcement and some common area maintenance. However, such a community may include a combination of public dedication, tax-exempt institutions<sup>29</sup> and commercial ownership.

### **The Challenge of Mixed-Use**

The intricate intertwining of commercial and residential uses poses the biggest challenge for the attorney representing the new urbanist developer. This differs considerably from the large-scale mixed-use projects of Florida's more recent past, where commercial uses such as shopping centers were clearly demarcated and treated as out-parcels. Instead, residential uses are immediately adjacent to, and sometimes on top of, commercial uses. While such intertwining is

essential for the vibrant streetscape that new urbanists wish to create, it nonetheless greatly complicates the attorney's job.

The interests of homeowners are often at odds with the interests of commercial property owners, and maintenance standards differ for residential and commercial property. If residential owners can outvote commercial owners, they may impose unreasonable restrictions on the commercial uses. Financial objectives differ as well. Developers usually want to sell residential parcels quickly, while development of the commercial parcels often lags behind. The developer may retain and manage some or all of the commercial parcels for income or long-term gain, or may sell the town center in bulk to a commercial property manager. All these issues argue against putting commercial and residential property together in a single association.

The usual solution is to create two separate associations, one that is strictly residential, and another for the commercial portions. This approach is admittedly imperfect, as it does not allow a common forum for issues concerning the entire community. Furthermore, drawing membership boundaries for the associations can be awkward, as uses are not only closely interwoven but subject to change. Ideally, parcels would be sorted into one association or the other by use, not by legal description of the individual parcel. Residential units within the town center, such as condominium units in mixed-use buildings, are usually made part of the residential association, particularly if the residential association owns recreational amenities to which the residential units should have access.

One alternative places all property, residential and commercial, within a single association, but does not permit the association to operate the town center common areas or to interfere with commercial operations.

In either case, there would normally be separate ownership and management of the commercial common areas, such as plazas, parking and sidewalks. Again, there are several different possible structures. A single owner who leases all the commercial space and collects common area maintenance (CAM) charges may operate the town center in essentially the same manner as a shopping center. If some or all of the commercial property is to be sold, however, there will need to be a permanent legal entity in place to own and maintain the shared areas. This can be the developer or other management entity, or a property owners' association made up of owners of commercial property.<sup>30</sup> A separate set of recorded covenants and restrictions for commercial property would create easements and other rights and responsibilities and divide the cost of maintenance among the commercial property owners. These restrictions may also allow regulation of the business uses and provide for merchants' association functions.<sup>31</sup>

In addition to the difficulties in structuring private covenants, mixed-use development may run into regulatory impediments. Because so much regulation developed during a period of time when mixed-use was out of favor, these obstacles often occur in surprising places. For instance, in Florida, common area owned by a residential association is usually exempt from property taxes under §193.023 (5), Florida Statutes. It is unclear whether property owned by a mixed-use association enjoys the same exemption. In addition, if residential and commercial property is mixed in a single association, the association may not be able to treat assessments as exempt income under Section 528 of the Internal Revenue Code.<sup>32</sup> Qualifying for an Interstate Land Sales exemption may be more difficult, as the requirements of the Single Family Residence Exemption may be hard to meet.<sup>33</sup> Mixed-use buildings and common areas must satisfy building codes for both commercial and residential construction, including both the Fair Housing Act<sup>34</sup> and the Americans with Disabilities Act.<sup>35</sup>

## Conclusions

New urbanism has made significant inroads with both private developers and public officials, as Florida recognizes the negative impact of sprawl and looks for ways to build more attractive, livable, economically and environmentally sustainable places. Some local governments in Florida are rewriting their codes to encourage or even require new urbanist development, and developers may be granted incentives to build in accordance with new urbanist principles. Communities are likely to see an increase in the use of form-based coding, which requires planners and citizens to have a clear vision of what they want their community to be.

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<sup>1</sup> New Urban News, a special-interest newspaper, ([www.newurbannews.com](http://www.newurbannews.com)) keeps a tally of new urban projects. According to its strict definition of new urbanism, its most recent available survey in December 2003 listed 76 projects built, under construction or in planning in Florida, out of a total of 648 in the country. These numbers are not only outdated but also under-represent the impact of new urbanism, as they do not include “hybrid” projects that do not satisfy the newspaper’s standards.

<sup>2</sup> *Power Brokers*, Builder Magazine, December 2004. “His philosophy has changed the look of communities everywhere, on sites that range from 10 to more than 500,000 acres.” Ahead of Duany on Builder’s list were Alan Greenspan, Fannie Mae chairman Franklin Raines, President George Bush and National Association of Homebuilders CEO Jerry Howard.

<sup>3</sup> *New Urbanism: Comprehensive Report and Best Practices Guide*, Third Edition, 2003. New Urban Publications, Inc., page 18-2.

<sup>4</sup> Bruce Stephenson, *The Roots of new urbanism: John Nolen's Garden City Vision for Florida*, [http://www.cnuflorida.org/nu\\_florida/roots.htm](http://www.cnuflorida.org/nu_florida/roots.htm) Nolen’s firm worked on 54 projects in Florida, the most complete and fully realized being his plan for the city of Venice in 1925. The City Council of Venice dedicated a memorial to John Nolen in 1977.

<sup>5</sup> “The traditional pattern of walkable, mixed-use neighborhoods has been inadvertently prohibited by current ordinances. Thus, designers find themselves in the ironic situation of being forbidden from building in the manner of our admired historic places. One cannot propose a new Annapolis, Marblehead, or Key West, without seeking substantial variances from current codes,” writes Andres Duany in his introduction to Version 6.5 of the SmartCode.

<sup>6</sup> The term “Euclidean zoning” comes from the U.S. Supreme Court case, *Village of Euclid v. Ambler Realty Co.*, 272 US 365 (1926). In popular usage, Euclidean zoning has come to mean the type of ordinance under discussion in that case, which divides uses into separate districts. However, the primary holding of *Euclid* is that zoning is a valid exercise of a municipality’s police power. In considering the districts, the court said only that such provisions were not clearly arbitrary and unreasonable.

<sup>7</sup> *New Urbanism: Comprehensive Report and Best Practices Guide*, Third Edition, 2003. New Urban Publications, Inc., pages 8-21 through 8-25.

<sup>8</sup> New urbanist communities with contemporary architecture include Aqua in Miami Beach, [www.aqua.net](http://www.aqua.net), and Prospect, in Longmont, Colorado, [www.prospectnewtown.com](http://www.prospectnewtown.com)

<sup>9</sup> [www.newurbanism.org](http://www.newurbanism.org)

<sup>10</sup> <http://www.cnu.org/about/index.cfm>

<sup>11</sup> “It is fair to say that HOPE VI is the greatest public policy achievement of new urbanism to date. Not that new urbanists created the program — they didn’t. But they gave HOPE VI a physical shape that is at the very heart of what makes this program so special. John Norquist,

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former Milwaukee mayor and now CEO of the Congress for the new urbanism, puts it succinctly: ‘HOPE VI helped change public housing from Stalinist design to traditional neighborhood development.’” new urban News, March 2005, <http://www.newurbannews.com/CommentaryMar05.html>. Funding for Hope VI has ended but projects that have already begun will be completed.

<sup>12</sup> Correspondence between author and CNU

<sup>13</sup> [www.cdc.gov/healthyplaces/articles/Urban%20Sprawl%20and%20Public%20Health%20-%20PHR.pdf](http://www.cdc.gov/healthyplaces/articles/Urban%20Sprawl%20and%20Public%20Health%20-%20PHR.pdf)

<sup>14</sup> As reported in a November 18, 2003 article for Medscape:

“Americans living in areas of great urban sprawl are more likely to be obese than those who dwell in denser areas, according to results of a new study reported Monday at the annual meeting of the American Public Health Association.

“‘The built environment — the way U.S. metropolitan areas are structured — is affecting health,’ lead author Russ Lopez, MCRP, DSc, from the Department of Environmental Health at the Boston University School of Public Health, noted in a presentation. ‘Our research once again shows the relationship between the amount of sprawl and the risk of obesity.’”

<http://www.medscape.com/viewarticle/464688>

<sup>15</sup> <http://www.smartgrowth.org/sgn/default.asp>

<sup>16</sup> <http://www.planning.org/newurbanism/>

<sup>17</sup> [http://www.uli.org/AM/Template.cfm?Section=Smart\\_Growth2&Template=/TaggedPage/TaggedPageDisplay.cfm&TPLID=110&ContentID=13924](http://www.uli.org/AM/Template.cfm?Section=Smart_Growth2&Template=/TaggedPage/TaggedPageDisplay.cfm&TPLID=110&ContentID=13924)

<sup>18</sup> The Form-Based Codes Institute (FBCI) was formed in early October 2004. Goals of the alliance include setting standards for the practice of Form-Based Coding (FBC), education and outreach about FBC to various audiences, and creating a forum for discussion about and advancement of FBC. Of its 16 members, six are based in Florida: Victor Dover, Andrés Duany, Joe Kohl, Stephen Mouzon, Samuel E. Poole III and Bill Spikowski.

<http://www.formbasedcodes.org>

<sup>19</sup> Peter Katz, *Form First. The new urbanist alternative to conventional zoning*, Planning Magazine, November 2004.

<sup>20</sup> American Planning Association at <http://www.planning.org/pas/member/pdf/QN1text.pdf>

<sup>21</sup> The SmartCode is available at [www.placemakers.com](http://www.placemakers.com). A cottage industry has been created around customizing the SmartCode for local use.

<sup>22</sup> SmartCode

<sup>23</sup> SmartCode

<sup>24</sup> Interestingly enough, the area had originally been designed by John Nolen in 1923. The new plan “celebrates the historic Nolen.”

<http://www.coopercarry.com/portfolio/loadDetail.aspx?id=1&projectID=47&projectOrder=6&imageID=1>

<sup>25</sup> [http://www.doverkohl.com/project\\_detail\\_pages/kendall\\_new.html](http://www.doverkohl.com/project_detail_pages/kendall_new.html)

<sup>26</sup> The Bert J. Harris, Jr. Private Property Rights Protection Act (FLA. STAT. §70.001) requires compensation to landowners when a “specific action of a governmental entity has inordinately burdened an existing use of real property or a vested right to a specific use of real property.”

<sup>27</sup> David Brain, “From Traditional Neighborhoods to Sustainable Regions: Three Counties Respond to Sprawl,” a chapter which appears in *A Guidebook to new urbanism in Florida 2005*, published by the Florida Chapter of the Congress for the new urbanism.

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<sup>28</sup> FLA. STAT. Chapter 190

<sup>29</sup> Properly done, this can be economically advantageous for the developer. From the developer's tax standpoint, donation of land to a tax-exempt organization is usually better than contribution of property to a homeowners' association. Commercial property, of course, can be extremely valuable once established.

<sup>30</sup> To avoid bringing this association into FLA. STAT. Chapter 720, care must be taken to avoid including any residential property.

<sup>31</sup> For a more complete discussion, please see the author's articles, *new urbanism: Planning and Structure of the Traditional Neighborhood Development*, Probate and Property Magazine, American Bar Association, November/December 2003, and *Legal Planning for new urbanist Communities*, new urbanism: Comprehensive Report and Best Practices Guide, Third Edition, 2003. New Urban Publications, Inc., page 11-2. The Legal Planning article is also available on the author's website, at <http://www.newtownlaw.com/articles.htm>

<sup>32</sup> While homeowners' associations are not automatically exempt from income tax, most homeowners' associations elect treatment under Section 528 of the Internal Revenue Code, under which members' assessments (known as "exempt function income") are not taxed. To qualify under Section 528, substantially all (85% or more) of the units, lots, or buildings must be used by individuals for residences. A mixed-use property association or condominium association may not qualify. Although most assessment income is offset by expenses, that may not be true for money collected for reserves. This factor may contribute to the developer's decision to create separate associations for residential and commercial properties.

<sup>33</sup> Interstate Land Sales Full Disclosure Act (ILSFDA) 15 U.S.C. §§ 1700 - 1720 (2003). The ILSFDA regulations are found at 24 C.F.R. Parts 1710 - 1730 (2002).

<sup>34</sup> Congress enacted the Fair Housing Act as Title VIII of the Civil Rights Act of 1968. The Fair Housing Amendments Act of 1988 significantly expanded its scope.

<sup>35</sup> Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq. Title III is further implemented by regulations by the Department of Transportation, 49 CFR Parts 27, 37, and the Department of Justice, 28 CFR Part 36.

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