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June 21, 1988

House of Representatives
Washington, D.C. 20515

Re: Fair Housing Amendments Act
H.R.1158

Dear Representative:

In the next few days the House of Representatives will consider H.R.1158, the Fair Housing Amendments Act of 1988. The ACLU strongly supports this legislation and urges your favorable consideration.

Housing discrimination in 1988 is a continuing and widespread phenomenon. Recent studies of residential patterns in state after state support the view that housing discrimination remains a national problem of significant dimension. The Department of Housing and Urban Development (HUD) estimates that almost 2 million cases of housing discrimination occur annually.

Title VIII of the Civil Rights Act of 1968 established a statutory bar against discrimination in the sale or rental of housing, but did not provide any effective enforcement mechanisms. Currently, HUD can only attempt to reconcile discrimination complaints through conciliation.

H.R.1158 would strengthen federal enforcement of the Fair Housing Act. It would establish a system of administrative law judges, which would include full scale investigations, opportunity for hearings and appropriate judicial review of a final order. We believe these provisions are the heart of the enforcement scheme of H.R.1158.

However, questions have been raised about the constitutionality of the administrative enforcement mechanism established in H.R.1158, as reported by the House Judiciary Committee. We believe these concerns are misplaced, particularly because several steps have already been taken to ensure the constitutionality of these amendments.

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To address these concerns, however, the ACLU strongly supports an amendment which will be offered by Rep. Hamilton Fish (R-NY) which will provide final agency review of the ALJ's determination and access to a jury trial in federal district court for any party involved in a housing discrimination case. The Fish Amendment is an integral component of this important legislation.

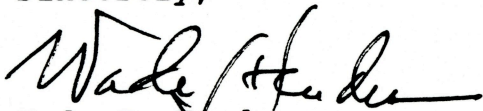
H.R.1158 would also add two new classes to those already protected from discriminatory housing practices under the present Fair Housing Act--persons with handicaps and families with children. We believe these provisions are essential to any meaningful fair housing legislation.

Disabled people, of whom there are approximately 36 million in this country, continue to be excluded from large segments of the housing market. This bill would ensure that such individuals will no longer be subject to housing discrimination based on fears and stereotypes. H.R.1158 rejects the approach of excluding any category of individuals with disabilities from the protection of the Act, with the exception of current illegal users or addicts of controlled substances. Instead, the bill includes a specific provision, paralleling that added to the Civil Rights Restoration Act, that individuals who would pose a direct threat to the health or safety of others are not protected. We believe this provision adequately addresses any concerns that have been raised and no further exclusions are appropriate.

The familial status provisions of H.R.1158 are desperately needed. Families with children are frequently denied housing simply because they have children. An extensive national survey conducted by HUD in 1980 found that 75% of rental units either excluded or restricted families with children. Housing discrimination against families also contributes to the growing number of homeless children. This bill will give families with children the necessary recourse they need against discrimination.

Housing discrimination is a persisting evil which must be eradicated from the American way of life. The American Civil Liberties Union urges you to support H.R.1158 and to reject any weakening amendments. Thank you for your consideration of these views.

Sincerely,



Wade J. Henderson
Associate Director



Chai Feldblum
Legislative Counsel