

United States Senate
WASHINGTON, DC 20510

December 18, 2020

Mr. Christopher Williams
President
Balfour Beatty Communities, LLC
1 Country View Road
Malvern, PA 19355

Dear Mr. Williams:

We are writing to request information on the availability and suitability of on-base military housing for military families with disabilities across Balfour Beatty Communities' portfolio that encompasses approximately 43,000 military residential units.¹ In July 2020, the Military Housing Advocacy Network (MHAN) released the findings of a survey of military families that painted a clear and troubling picture of housing problems for thousands of servicemembers and their families, revealing that many military families are being denied access to Americans with Disabilities Act (ADA) compliant housing.²

Under the Military Housing Privatization Initiative (MHPI),³ the Department of Defense (DoD) has contracted with private companies like yours to develop and maintain nearly all military housing installations in the country.⁴ This initiative was intended to help the Armed Services improve the quality of life for servicemembers and ensure that military families are able to live in clean, safe, and secure housing. Amid media reports of decrepit housing conditions on military bases,⁵ a staff investigation that Senator Warren's office released last year found that private housing providers were obtaining substantial profits and fees from their contracts but failing to provide military families with the living conditions that they deserve.⁶ The MHAN survey reveals a new set of problems for military families living in on-base installations across the country, suggesting that private housing companies that have partnered with the DoD do not appear to be following federal laws that protect persons with disabilities.

¹ Balfour Beatty Communities, "Find Your Home" page, <https://www.balfourbeattycommunities.com/find-your-home/military>.

² Military Housing Advocacy Network, "Accessibility of ADA Homes and Reasonable Accommodations for Disabled Individuals in Privatized Military Housing," July 2020, <http://militaryhousingadvocacynetwork.org/wp-content/uploads/2020/07/MHAN-Report-ADA-and-Accommodations.pdf>.

³ U.S. Department of Defense, Office of the Assistant Secretary of Defense for Sustainment, "Military Housing Privatization," https://www.acq.osd.mil/eie/FIM/Housing/Housing_index.html.

⁴ U.S. Government Accountability Office, Report to Congressional Addressees, "MILITARY HOUSING: DOD Needs to Strengthen Oversight and Clarify Its Role in the Management of Privatized Housing," March 2020, <https://www.gao.gov/assets/710/705552.pdf>.

⁵ Reuters, "Ambushed at Home: The hazardous, squalid housing of American military families," <https://www.reuters.com/investigates/section/usa-military/>.

⁶ Letter from Senator Elizabeth Warren to the Senate Committee on Armed Services Chairman James Inhofe and Ranking Member Jack Reed, April 30, 2019, <https://www.warren.senate.gov/imo/media/doc/2019.04.30%20Military%20Housing%20Letter%20to%20SASC%20Chair%20and%20Ranking%20Member.pdf>.

Many Military Families Have Disability-Related Needs, Including Requiring an ADA-Compliant Home or Reasonable Accommodations

The DoD's Exceptional Family Member Program (EFMP)⁷ is an initiative that is vital for providing military families with disabilities with necessary services and support throughout the United States and at DoD installations worldwide. Specifically, this program supports its members who have a family member with "a physical, emotional, developmental, or intellectual disorder requiring specialized services so their needs can be considered in the military personnel assignment process," given that families can face additional challenges and disruptions caused by frequent service assignment moves.⁸ As of 2018, around 8% of military dependent family members (a total of 137,000 enrollees) were receiving this support.⁹ A study from the Government Accountability Office found that, for some residents of private military housing, "accessibility to services for an Exceptional Family Member Program family member played a role in their decision to live in privatized housing versus a rental home in the community."¹⁰

The availability of services and support for EFMP families varies for each Service¹¹ and may even vary by assignment location within the same Service.¹² This is because "each service (Army, Navy, Marine Corps, and Air Force) is responsible for administering its own EFMP,"¹³ and, despite frequent reassignments and disruptive moves, "EFMP enrollment is not portable and servicemembers must register for the program when transferring to a new duty station."¹⁴ The availability of resources needed by the servicemember at their designated station is supposed to be verified by EFMP offices; if the required resources are not available, then military orders may be modified or even canceled.¹⁵ This includes the provision of ADA-compliant houses and reasonable accommodations¹⁶ for servicemembers with family members with disabilities.

Military Families with Disabilities Across All Service Branches Report Being Denied an ADA-Compliant Home or Reasonable Accommodations by Private Military Housing Companies

⁷ § 32 C.F.R. Part 75.

⁸ MyArmyBenefits, "Exceptional Family Member Program (EFMP)," [https://myarmybenefits.us.army.mil/Benefit-Library/Federal-Benefits/Exceptional-Family-Member-Program-\(EFMP\)-?serv=122](https://myarmybenefits.us.army.mil/Benefit-Library/Federal-Benefits/Exceptional-Family-Member-Program-(EFMP)-?serv=122).

⁹ Congressional Research Service, "Defense Primer: Exceptional Family Member Program (EFMP)," Bryce H. P. Mendez, January 29, 2020, <https://fas.org/sgp/crs/natsec/IF11049.pdf>.

¹⁰ U.S. Government Accountability Office, Report to Congressional Addressees, "MILITARY HOUSING: DOD Needs to Strengthen Oversight and Clarify Its Role in the Management of Privatized Housing," March 2020, <https://www.gao.gov/assets/710/705552.pdf>.

¹¹ U.S. Government Accountability Office, Report to Congressional Committees, "MILITARY PERSONNEL: DOD Should Improve Its Oversight of the Exceptional Family Member Program," May 2018, <https://www.gao.gov/assets/700/691647.pdf>.

¹² Congressional Research Service, "Defense Primer: Exceptional Family Member Program (EFMP)," Bryce H. P. Mendez, January 29, 2020, <https://fas.org/sgp/crs/natsec/IF11049.pdf>.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ A reasonable accommodation is "a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with disabilities to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces, or to fulfill their program obligations." U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, "Reasonable Accommodations and Modifications," https://www.hud.gov/program_offices/fair_housing_equal_opp/reasonable_accommodations_and_modifications.

The MHAN is a nonprofit organization that advocates for military families to make sure that they have access to safe and appropriate conditions in on-base, privatized housing.¹⁷ In July 2020, MHAN released a report on ADA housing issues based on survey responses from military families with disabilities regarding the availability of ADA-compliant homes and obstacles experienced by these families in acquiring those homes or reasonable accommodations.¹⁸ Their responses paint a bleak picture of substandard housing conditions on military installations for military families with disabilities.

Of the 100 families surveyed, 89% needed a reasonable accommodation and 85% needed an ADA accessible home.¹⁹ Yet many of these families never received these homes or accommodations and/or waited exceptionally long periods of time before their needs were met.²⁰ Families reported they were not provided with ADA-compliant homes because they were deprioritized due to their servicemember’s low rank or because they already had a home (albeit non-compliant); meanwhile, available ADA-compliant houses were instead provided to incoming families without disabilities or were already occupied by families without disabilities.²¹ Moreover, families were incorrectly “told their disability is not severe enough to justify an ADA home.”²² For example, “[o]ne family was told that their child was not blind or in a wheelchair, so they did not qualify.”²³ In many cases, families were asked by the housing company that runs their military installation to provide extensive documentation proving that they have a disability – “a violation of a disabled individuals’ rights and extremely invasive for families.”²⁴

Moreover, 50% of families that did acquire ADA-compliant houses reported that they were missing accessibility features – “including but not limited to, proper flooring, ramps, grab bars, and properly sized doorways/hallways” – which were not adequately addressed by the housing company after a maintenance request was submitted, according to 68% of respondents.²⁵ Twenty percent of families reported that they were charged for their accommodations by their housing provider, and 46% reported they were outright denied accommodations.²⁶

Following the release of this initial report, MHAN has continued to collect responses to this survey from military families with disabilities, which they have shared with us. From these responses, we have found:

- **Problems obtaining ADA-compliant housing.** Of the 78 military families that required an ADA home due to a disability and listed at least one duty station, 13 of them were located on

¹⁷ Military Housing Advocacy Network, <https://militaryhousingadvocacynetwork.org/>.

¹⁸ Military Housing Advocacy Network, “Accessibility of ADA Homes and Reasonable Accommodations for Disabled Individuals in Privatized Military Housing,” July 2020, <http://militaryhousingadvocacynetwork.org/wp-content/uploads/2020/07/MHAN-Report-ADA-and-Accommodations.pdf>.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

installations with housing facilities managed by Balfour Beatty Communities. Although these respondents may not be a representative sample, the information they provided to MHAN indicates that Balfour Beatty facilities may not be meeting the law or the needs of military families with special needs. Of the 13 respondents in need of an ADA home, 12 said their ADA home was not readily available when they arrived to their duty station and that they had challenges getting into an ADA home; nine reported that there was no housing available, five reported that they were not provided with ADA compliant housing, two reported that on-base ADA housing was instead being occupied by families without disability, one reported they were put on a waitlist for an ADA compliant home, and another family said that they were denied accommodation due to their low rank. The average reported wait time for an ADA home placement on these installations was 167 days.

- **Inappropriate or illegal challenges facing families in need of ADA-compliant housing.** Of the 13 respondents living on installations with facilities operated by your company, eight reported they were required by housing management to provide a doctor’s letter in order to be given ADA-compliant housing or to be provided with reasonable accommodations. Another family reported they had their health issues challenged by the housing management company.
- **Barriers to the provision of reasonable accommodations for families in need.** Of the 75 military families that required reasonable accommodations due to a disability and listed at least one duty station, 15 of them were located on installations with housing facilities managed by Balfour Beatty Communities. Six of these families said their ADA home was missing accessibility features required for their family, eleven reported that housing did not accommodate the request, and eight said housing did not respond in a timely manner to requests for compliance. Even when they did receive accommodations, four families reported that they were charged for them, and many faced long wait times; the average wait time for approval was 57 days, and the average wait time for completion of accommodation requests was 39 days.

The MHAN survey suggest that private military housing providers at multiple installations across all four Services – including Balfour Beatty - may not be complying with federal laws that protect Americans with disabilities.

Denying or Delaying ADA-Complaint Homes or Reasonable Accommodations for People with Disabilities Violates Federal Law

There are several federal laws that provide broad protections for individuals with disabilities. The Americans with Disabilities Act (ADA) is meant “to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities” and to ensure “that the Federal Government plays a central role in enforcing...standards...on behalf of individuals with disabilities.”²⁷ Section 504 of the Rehabilitation Act²⁸ directs that “No otherwise qualified individual with a disability in the United States ... shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to

²⁷ 42 U.S.C. 12101.

²⁸ 29 U.S.C. 794.

discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service,”²⁹ including HUD and DoD. Housing nondiscrimination laws include the Fair Housing Act (FHA),³⁰ which “prohibits discrimination in housing and housing-related transactions because of disability,”³¹ “requires owners of housing facilities to make reasonable exceptions in their policies and operations to afford people with disabilities equal housing opportunities,”³² and “makes it unlawful to refuse to make reasonable accommodations to rules, policies, practices, or services when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling and public and common use areas.”³³

The FHA, Section 504, and Titles II and III of the ADA “require housing providers to make reasonable accommodations and reasonable modifications for individuals with disabilities,”³⁴ which, according to the FHA, includes “a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises.”³⁵ These laws also “prohibit housing providers from refusing residency to persons with disabilities, or placing conditions on their residency, because they require reasonable accommodations or modification.”³⁶

According to HUD, “the requirement to provide reasonable accommodations and modifications applies to, but is not limited to individuals, corporations, associations and others involved in the provision of housing or residential lending” including property owners and housing managers.³⁷ It also states that “a provider has an obligation to provide prompt responses to reasonable accommodation requests” and that “[a]n undue delay in responding to a reasonable accommodation request may be deemed to be a failure to provide a reasonable accommodation.”³⁸ Moreover, “[u]nder Section 504, a housing provider is required to provide and pay for the structural modification as a reasonable accommodation unless it amounts to an undue financial and administrative burden or a fundamental alteration of the program.”³⁹

In order to better understand why EFMP military families are not receiving ADA-compliant homes or reasonable accommodations, we request answers to the following questions no later than January 15, 2021:

²⁹ *Id.*

³⁰ 42 U.S.C. 3601.

³¹ U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, Disability page, https://www.hud.gov/program_offices/fair_housing_equal_opp/disability_main.

³² U.S. Department of Justice, Civil Rights Division, Disability Rights Section, “A Guide to Disability Rights Laws,” February 2020, <https://www.ada.gov/cguide.htm#anchor63409>.

³³ U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, “Reasonable Accommodations and Modifications,” https://www.hud.gov/program_offices/fair_housing_equal_opp/reasonable_accommodations_and_modifications.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

1. Please provide the following information for each privatized military housing project managed by Balfour Beatty Communities:
 - a. How many EFMP-enrolled families live at this installation? How many have requested ADA-housing and/or reasonable accommodations?
 - b. What information and documentation is required for EFMP families to establish their housing needs at Balfour Beatty facilities at this installation? Does the office coordinate with the EFMP office to assist families in meeting these requirements?
 - c. How many ADA-compliant housing units exist at this installation? What percent of the housing units are ADA-compliant on this installation?
 - d. How do you inform military families about the availability of ADA-compliant housing?
 - e. How many ADA-compliant housing units on this installation are set aside for military families with disabilities?
 - f. How many ADA homes are currently occupied by families with disabilities?
 - g. What is the protocol for an EFMP family that is moving to this base and in need of an ADA home or reasonable accommodation?
 - h. What is the protocol once an ADA home becomes available? Do families with disabilities get prioritized? Do families moving on base without disabilities ever get moved into these units? How do you prioritize families with special needs who are waiting to move over into ADA homes compared to incoming residents?
 - i. How many families with disabilities are on the waitlist for an ADA housing unit, and what is the average amount of time they spend on the waitlist?
 - j. Who manages the waitlist for ADA-housing, how does it work, and what communication, if any, exists to let military families know where they stand on it and the military housing office know that such homes are available?
 - k. Does servicemember rank factor in any way into the availability of ADA-compliant housing or the waiting time needed to obtain housing?
 - l. How many families at this installation have requested modifications to housing so it is ADA compliant?
 - i. How many of those families received the requested accommodations?
 - ii. What was the average waiting time for approval of accommodations?
 - iii. What was the average waiting time for completion of accommodations?
 - iv. Were any of these families required to pay for their own accommodations or required to pay to return the home back to its original condition upon move-out?
 - m. In the most recent fiscal year, how many complaints were received regarding housing needs for families with disabilities? Please provide a summary of the number and type of complaint.
 - n. How many of these complaints were resolved, and what was the average time required to resolve a case?

- o. What, if any, housing conditions for special needs families are stipulated in your contract with the DoD? Is your company complying with the obligations outlined in your contract? How frequently are these assessments made? Please provide copies of all assessments.
 - p. Have you or are you currently receiving federal funding from the DoD for this installation?
 - q. Has your company ever been fined or sanctioned by the DoD for problems related to housing for military families with disabilities at this installation? If so, please provide a detailed list of these fines or other sanctions.
 - r. Do you outsource property management to another company at this installation? If so, which company? How long are the agreement terms with this company? How do you ensure the subcontractor(s) is in compliance with your contract with the DoD?
2. According to your website, Balfour Beatty Communities “strive to create thriving communities that fully support the unique and evolving needs of our U.S. Service Members and their families.” What specific steps, if any, are being taken to ensure that your company is following federal laws pertaining to the rights of people with disabilities, including the Fair Housing Act, ADA, and Section 504?

Thank you for your attention to this important matter, and we look forward to your response.

Sincerely,



Elizabeth Warren
United States Senator



Thom Tillis
United States Senator

cc:

The Honorable W. Jordan Gillis, Assistant Secretary of Defense for Sustainment,
The Honorable Paul D. Cramer, Principal Deputy Assistant Secretary of Defense for Sustainment (Installations),
The Honorable Alex A. Beehler, Assistant Secretary of the Army for Installations, Energy, and Environment,
The Honorable Charles A. Williams, Assistant Secretary of the Navy for Energy, Installations, and Environment,
The Honorable John W. Henderson, Assistant Secretary of the Air Force for Installations, Environment, and Energy,
Biden-Harris Transition Team

United States Senate

WASHINGTON, DC 20510

December 18, 2020

Glenn Ferguson
President
CBG Building Company
4401 Wilson Boulevard, Suite 600
Arlington, VA 22203

Dear Mr. Ferguson:

We are writing to request information on the availability and suitability of on-base military housing for military families with disabilities across the CBG Building Company's portfolio that encompasses thousands of military residential units across fifteen posts.¹ In July 2020, the Military Housing Advocacy Network (MHAN) released the findings of a survey of military families that painted a clear and troubling picture of housing problems for thousands of servicemembers and their families, revealing that many military families are being denied access to Americans with Disabilities Act (ADA) compliant housing.²

Under the Military Housing Privatization Initiative (MHPI),³ the Department of Defense (DoD) has contracted with private companies like yours to develop and maintain nearly all military housing installations in the country.⁴ This initiative was intended to help the Armed Services improve the quality of life for servicemembers and ensure that military families are able to live in clean, safe, and secure housing. Amid media reports of decrepit housing conditions on military bases,⁵ a staff investigation that Senator Warren's office released last year found that private housing providers were obtaining substantial profits and fees from their contracts but failing to provide military families with the living conditions that they deserve.⁶ The MHAN survey reveals a new set of problems for military families living in on-base installations across the country, suggesting that private housing companies that have partnered with the DoD do not appear to be following federal laws that protect persons with disabilities.

¹ CBG Building Company, "Military Housing Portfolio" page, <https://www.cbgbuildingcompany.com/Portfolio/Category/Military-Housing>.

² Military Housing Advocacy Network, "Accessibility of ADA Homes and Reasonable Accommodations for Disabled Individuals in Privatized Military Housing," July 2020, <http://militaryhousingadvocacynetwork.org/wp-content/uploads/2020/07/MHAN-Report-ADA-and-Accomodations.pdf>.

³ U.S. Department of Defense, Office of the Assistant Secretary of Defense for Sustainment, "Military Housing Privatization," https://www.acq.osd.mil/eie/FIM/Housing/Housing_index.html.

⁴ U.S. Government Accountability Office, Report to Congressional Addressees, "MILITARY HOUSING: DOD Needs to Strengthen Oversight and Clarify Its Role in the Management of Privatized Housing," March 2020, <https://www.gao.gov/assets/710/705552.pdf>.

⁵ Reuters, "Ambushed at Home: The hazardous, squalid housing of American military families," <https://www.reuters.com/investigates/section/usa-military/>.

⁶ Letter from Senator Elizabeth Warren to the Senate Committee on Armed Services Chairman James Inhofe and Ranking Member Jack Reed, April 30, 2019, <https://www.warren.senate.gov/imo/media/doc/2019.04.30%20Military%20Housing%20Letter%20to%20SASC%20Chair%20and%20Ranking%20Member.pdf>.

Many Military Families Have Disability-Related Needs, Including Requiring an ADA-Compliant Home or Reasonable Accommodations

The DoD's Exceptional Family Member Program (EFMP)⁷ is an initiative that is vital for providing military families with disabilities with necessary services and support throughout the United States and at DoD installations worldwide. Specifically, this program supports its members who have a family member with "a physical, emotional, developmental, or intellectual disorder requiring specialized services so their needs can be considered in the military personnel assignment process," given that families can face additional challenges and disruptions caused by frequent service assignment moves.⁸ As of 2018, around 8% of military dependent family members (a total of 137,000 enrollees) were receiving this support.⁹ A study from the Government Accountability Office found that, for some residents of private military housing, "accessibility to services for an Exceptional Family Member Program family member played a role in their decision to live in privatized housing versus a rental home in the community."¹⁰

The availability of services and support for EFMP families varies for each Service¹¹ and may even vary by assignment location within the same Service.¹² This is because "each service (Army, Navy, Marine Corps, and Air Force) is responsible for administering its own EFMP,"¹³ and, despite frequent reassignments and disruptive moves, "EFMP enrollment is not portable and servicemembers must register for the program when transferring to a new duty station."¹⁴ The availability of resources needed by the servicemember at their designated station is supposed to be verified by EFMP offices; if the required resources are not available, then military orders may be modified or even canceled.¹⁵ This includes the provision of ADA-compliant houses and reasonable accommodations¹⁶ for servicemembers with family members with disabilities.

Military Families with Disabilities Across All Service Branches Report Being Denied an ADA-Compliant Home or Reasonable Accommodations by Private Military Housing Companies

⁷ 32 C.F.R. Part 75.

⁸ MyArmyBenefits, "Exceptional Family Member Program (EFMP)," [https://myarmybenefits.us.army.mil/Benefit-Library/Federal-Benefits/Exceptional-Family-Member-Program-\(EFMP\)-?serv=122](https://myarmybenefits.us.army.mil/Benefit-Library/Federal-Benefits/Exceptional-Family-Member-Program-(EFMP)-?serv=122).

⁹ Congressional Research Service, "Defense Primer: Exceptional Family Member Program (EFMP)," Bryce H. P. Mendez, January 29, 2020, <https://fas.org/sgp/crs/natsec/IF11049.pdf>.

¹⁰ U.S. Government Accountability Office, Report to Congressional Addressees, "MILITARY HOUSING: DOD Needs to Strengthen Oversight and Clarify Its Role in the Management of Privatized Housing," March 2020, <https://www.gao.gov/assets/710/705552.pdf>.

¹¹ U.S. Government Accountability Office, Report to Congressional Committees, "MILITARY PERSONNEL: DOD Should Improve Its Oversight of the Exceptional Family Member Program," May 2018, <https://www.gao.gov/assets/700/691647.pdf>.

¹² Congressional Research Service, "Defense Primer: Exceptional Family Member Program (EFMP)," Bryce H. P. Mendez, January 29, 2020, <https://fas.org/sgp/crs/natsec/IF11049.pdf>.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ A reasonable accommodation is "a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with disabilities to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces, or to fulfill their program obligations." U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, "Reasonable Accommodations and Modifications," https://www.hud.gov/program_offices/fair_housing_equal_opp/reasonable_accommodations_and_modifications.

The MHAN is a nonprofit organization that advocates for military families to make sure that they have access to safe and appropriate conditions in on-base, privatized housing.¹⁷ In July 2020, MHAN released a report on ADA housing issues based on survey responses from military families with disabilities regarding the availability of ADA-compliant homes and obstacles experienced by these families in acquiring those homes or reasonable accommodations.¹⁸ Their responses paint a bleak picture of substandard housing conditions on military installations for military families with disabilities.

Of the 100 families surveyed, 89% needed a reasonable accommodation and 85% needed an ADA accessible home.¹⁹ Yet many of these families never received these homes or accommodations and/or waited exceptionally long periods of time before their needs were met.²⁰ Families reported they were not provided with ADA-compliant homes because they were deprioritized due to their servicemember's low rank or because they already had a home (albeit non-compliant); meanwhile, available ADA-compliant houses were instead provided to incoming families without disabilities or were already occupied by families without disabilities.²¹ Moreover, families were incorrectly "told their disability is not severe enough to justify an ADA home."²² For example, "[o]ne family was told that their child was not blind or in a wheelchair, so they did not qualify."²³ In many cases, families were asked by the housing company that runs their military installation to provide extensive documentation proving that they have a disability – "a violation of a disabled individuals' rights and extremely invasive for families."²⁴

Moreover, 50% of families that did acquire ADA-compliant houses reported that they were missing accessibility features – "including but not limited to, proper flooring, ramps, grab bars, and properly sized doorways/hallways" – which were not adequately addressed by the housing company after a maintenance request was submitted, according to 68% of respondents.²⁵ Twenty percent of families reported that they were charged for their accommodations by their housing provider, and 46% reported they were outright denied accommodations.²⁶

Following the release of this initial report, MHAN has continued to collect responses to this survey from military families with disabilities, which they have shared with us. From these responses, we have found:

- **Problems obtaining ADA-compliant housing.** Of the 78 military families that required an ADA home due to a disability and listed at least one duty station, nine of them were located

¹⁷ Military Housing Advocacy Network, <https://militaryhousingadvocacynetwork.org/>.

¹⁸ Military Housing Advocacy Network, "Accessibility of ADA Homes and Reasonable Accommodations for Disabled Individuals in Privatized Military Housing," July 2020, <http://militaryhousingadvocacynetwork.org/wp-content/uploads/2020/07/MHAN-Report-ADA-and-Accommodations.pdf>.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

on installations with housing facilities managed by CBG Building Company. Although these respondents may not be a representative sample, the information they provided to MHAN indicates that CBG facilities may not be following the law or meeting the needs of military families with disabilities. Of the nine respondents, three said their ADA home was not readily available when they arrived to their duty station, and seven said they had challenges getting into an ADA home; four reported that there was no housing available, two of respondents reported they were put on a waitlist for an ADA compliant home, one said that they were denied accommodation due to their low rank, and two respondents reported their home was not ADA compliant. The average reported wait time for an ADA home placement on these installations was 603 days.

- **Inappropriate or illegal challenges facing families in need of ADA-compliant housing.** Of the nine respondents living on installations with facilities operated by your company, all nine of these families reported they were required by housing management to provide a doctor’s letter in order to be given ADA-compliant housing or to be provided with reasonable accommodations. Another family said they had their health issues challenged by the housing company.
- **Barriers to the provision of reasonable accommodations for families in need.** Of the 75 military families that required reasonable accommodations due to a disability and listed at least one duty station, nine of them were located on installations with housing facilities managed by CBG Building Company. Four of these families said their ADA home was missing accessibility features required for their family, one reported that housing did not accommodate the request, and three said housing did not respond in a timely manner to requests for compliance. Even when they did receive accommodations, one family said that they were charged for them, and many faced long wait times; the average wait time for approval was 65 days, and the average wait time for completion of accommodation requests was 278 days.

The MHAN survey suggests that private military housing providers at multiple installations across all four Services – including CBG Building Company – may not be complying with federal laws that protect Americans with disabilities.

Denying or Delaying ADA-Complaint Homes or Reasonable Accommodations for People with Disabilities Violates Federal Law

There are several federal laws that provide broad protections for individuals with disabilities. The Americans with Disabilities Act (ADA) is meant “to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities” and to ensure “that the Federal Government plays a central role in enforcing...standards...on behalf of individuals with disabilities.”²⁷ Section 504 of the Rehabilitation Act²⁸ directs that “No otherwise qualified individual with a disability in the United States ... shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to

²⁷ 42 U.S.C. 12101.

²⁸ 29 U.S.C. 794.

discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service,”²⁹ including HUD and DoD. Housing nondiscrimination laws include the Fair Housing Act (FHA),³⁰ which “prohibits discrimination in housing and housing-related transactions because of disability,”³¹ “requires owners of housing facilities to make reasonable exceptions in their policies and operations to afford people with disabilities equal housing opportunities,”³² and “makes it unlawful to refuse to make reasonable accommodations to rules, policies, practices, or services when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling and public and common use areas.”³³

The FHA, Section 504, and Titles II and III of the ADA “require housing providers to make reasonable accommodations and reasonable modifications for individuals with disabilities,”³⁴ which, according to the FHA, includes “a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises.”³⁵ These laws also “prohibit housing providers from refusing residency to persons with disabilities, or placing conditions on their residency, because they require reasonable accommodations or modification.”³⁶

According to HUD, “the requirement to provide reasonable accommodations and modifications applies to, but is not limited to individuals, corporations, associations and others involved in the provision of housing or residential lending” including property owners and housing managers.³⁷ It also states that “a provider has an obligation to provide prompt responses to reasonable accommodation requests” and that “[a]n undue delay in responding to a reasonable accommodation request may be deemed to be a failure to provide a reasonable accommodation.”³⁸ Moreover, “[u]nder Section 504, a housing provider is required to provide and pay for the structural modification as a reasonable accommodation unless it amounts to an undue financial and administrative burden or a fundamental alteration of the program.”³⁹

In order to better understand why EFMP military families are not receiving ADA-compliant homes or reasonable accommodations, we request answers to the following questions no later than January 15, 2021:

²⁹ *Id.*

³⁰ 42 U.S.C. 3601.

³¹ U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, Disability page, https://www.hud.gov/program_offices/fair_housing_equal_opp/disability_main.

³² U.S. Department of Justice, Civil Rights Division, Disability Rights Section, “A Guide to Disability Rights Laws,” February 2020, <https://www.ada.gov/cguide.htm#anchor63409>.

³³ U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, “Reasonable Accommodations and Modifications,” https://www.hud.gov/program_offices/fair_housing_equal_opp/reasonable_accommodations_and_modifications.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

1. Please provide the following information for each privatized military housing project managed by CBG Building Company:
 - a. How many EFMP-enrolled families live at this installation? How many have requested ADA-housing and/or reasonable accommodations?
 - b. What information and documentation is required for EFMP families to establish their housing needs at CBG facilities at this installation? Does the office coordinate with the EFMP office to assist families in meeting these requirements?
 - c. How many ADA-compliant housing units exist at this installation? What percent of the housing units are ADA-compliant on this installation?
 - d. How do you inform military families about the availability of ADA-compliant housing?
 - e. How many ADA-compliant housing units on this installation are set aside for military families with disabilities?
 - f. How many ADA homes are currently occupied by families with disabilities?
 - g. What is the protocol for an EFMP family that is moving to this base and in need of an ADA home or reasonable accommodation?
 - h. What is the protocol once an ADA home becomes available? Do families with disabilities get prioritized? Do families moving on base without disabilities ever get moved into these units? How do you prioritize families with special needs who are waiting to move over into ADA homes compared to incoming residents?
 - i. How many families with disabilities are on the waitlist for an ADA housing unit, and what is the average amount of time they spend on the waitlist?
 - j. Who manages the waitlist for ADA-housing, how does it work, and what communication, if any, exists to let military families know where they stand on it and the military housing office know that such homes are available?
 - k. Does servicemember rank factor in any way into the availability of ADA-compliant housing or the waiting time needed to obtain housing?
 - l. How many families at this installation have requested modifications to housing so it is ADA compliant?
 - i. How many of those families received the requested accommodations?
 - ii. What was the average waiting time for approval of accommodations?
 - iii. What was the average waiting time for completion of accommodations?
 - iv. Were any of these families required to pay for their own accommodations or required to pay to return the home back to its original condition upon move-out?
 - m. In the most recent fiscal year, how many complaints were received regarding housing needs for families with disabilities? Please provide a summary of the number and type of complaint.
 - n. How many of these complaints were resolved, and what was the average time required to resolve a case?

- o. What, if any, housing conditions for special needs families are stipulated in your contract with the DoD? Is your company complying with the obligations outlined in your contract? How frequently are these assessments made? Please provide copies of all assessments.
 - p. Have you or are you currently receiving federal funding from the DoD for this installation?
 - q. Has your company ever been fined or sanctioned by the DoD for problems related to housing for military families with disabilities at this installation? If so, please provide a detailed list of these fines or other sanctions.
 - r. Do you outsource property management to another company at this installation? If so, which company? How long are the agreement terms with this company? How do you ensure the subcontractor(s) is in compliance with your contract with the DoD?
2. According to your website, the CBG Building Company “is honored to be the nation’s preeminent builder of quality housing for members of the Army, Navy, Air Force, Marines and their families” where “thoughtful amenities come together with inspired design to give military personnel and their families a high-morale environment and a sense of community.” What specific steps, if any, are being taken to ensure that your company is following federal laws pertaining to the rights of people with disabilities, including the Fair Housing Act, ADA, and Section 504?

Thank you for your attention to this important matter, and we look forward to your response.

Sincerely,



Elizabeth Warren
United States Senator



Thom Tillis
United States Senator

cc:

The Honorable W. Jordan Gillis, Assistant Secretary of Defense for Sustainment,
The Honorable Paul D. Cramer, Principal Deputy Assistant Secretary of Defense for Sustainment (Installations),
The Honorable Alex A. Beehler, Assistant Secretary of the Army for Installations, Energy, and Environment,
The Honorable Charles A. Williams, Assistant Secretary of the Navy for Energy, Installations, and Environment,
The Honorable John W. Henderson, Assistant Secretary of the Air Force for Installations, Environment, and Energy,
Biden-Harris Transition Team

United States Senate
WASHINGTON, DC 20510

December 18, 2020

Mr. John G. Picerne
Founder & Chief Executive Officer
Corvias Property Management
1405 S County Trail #530
East Greenwich, RI 02818

Dear Mr. Picerne:

We are writing to request information on the availability and suitability of on-base military housing for military families with disabilities across Corvias's portfolio that encompasses approximately 24,000 military residential units.¹ In July 2020, the Military Housing Advocacy Network (MHAN) released the findings of a survey of military families that painted a clear and troubling picture of housing problems for thousands of servicemembers and their families, revealing that many military families are being denied access to Americans with Disabilities Act (ADA) compliant housing.²

Under the Military Housing Privatization Initiative (MHPI),³ the Department of Defense (DoD) has contracted with private companies like yours to develop and maintain nearly all military housing installations in the country.⁴ This initiative was intended to help the Armed Services improve the quality of life for servicemembers and ensure that military families are able to live in clean, safe, and secure housing. Amid media reports of decrepit housing conditions on military bases,⁵ a staff investigation that Senator Warren's office released last year found that private housing providers were obtaining substantial profits and fees from their contracts but failing to provide military families with the living conditions that they deserve.⁶ The MHAN survey reveals a new set of problems for military families living in on-base installations across the country, suggesting that private housing companies that have partnered with the DoD do not appear to be following federal laws that protect persons with disabilities.

¹ Corvias Property Management, "About Us" page, <http://corviasmilitaryliving.com/our-company>.

² Military Housing Advocacy Network, "Accessibility of ADA Homes and Reasonable Accommodations for Disabled Individuals in Privatized Military Housing," July 2020, <http://militaryhousingadvocacynetwork.org/wp-content/uploads/2020/07/MHAN-Report-ADA-and-Accomodations.pdf>.

³ U.S. Department of Defense, Office of the Assistant Secretary of Defense for Sustainment, "Military Housing Privatization," https://www.acq.osd.mil/eie/FIM/Housing/Housing_index.html.

⁴ U.S. Government Accountability Office, Report to Congressional Addressees, "MILITARY HOUSING: DOD Needs to Strengthen Oversight and Clarify Its Role in the Management of Privatized Housing," March 2020, <https://www.gao.gov/assets/710/705552.pdf>.

⁵ Reuters, "Ambushed at Home: The hazardous, squalid housing of American military families," <https://www.reuters.com/investigates/section/usa-military/>.

⁶ Letter from Senator Elizabeth Warren to the Senate Committee on Armed Services Chairman James Inhofe and Ranking Member Jack Reed, April 30, 2019, <https://www.warren.senate.gov/imo/media/doc/2019.04.30%20Military%20Housing%20Letter%20to%20SASC%20Chair%20and%20Ranking%20Member.pdf>.

Many Military Families Have Disability-Related Needs, Including Requiring an ADA-Compliant Home or Reasonable Accommodations

The DoD's Exceptional Family Member Program (EFMP)⁷ is an initiative that is vital for providing military families with disabilities with necessary services and support throughout the United States and at DoD installations worldwide. Specifically, this program supports its members who have a family member with "a physical, emotional, developmental, or intellectual disorder requiring specialized services so their needs can be considered in the military personnel assignment process," given that families can face additional challenges and disruptions caused by frequent service assignment moves.⁸ As of 2018, around 8% of military dependent family members (a total of 137,000 enrollees) were receiving this support.⁹ A study from the Government Accountability Office found that, for some residents of private military housing, "accessibility to services for an Exceptional Family Member Program family member played a role in their decision to live in privatized housing versus a rental home in the community."¹⁰

The availability of services and support for EFMP families varies for each Service¹¹ and may even vary by assignment location within the same Service.¹² This is because "each service (Army, Navy, Marine Corps, and Air Force) is responsible for administering its own EFMP,"¹³ and, despite frequent reassignments and disruptive moves, "EFMP enrollment is not portable and servicemembers must register for the program when transferring to a new duty station."¹⁴ The availability of resources needed by the servicemember at their designated station is supposed to be verified by EFMP offices; if the required resources are not available, then military orders may be modified or even canceled.¹⁵ This includes the provision of ADA-compliant houses and reasonable accommodations¹⁶ for servicemembers with family members with disabilities.

Military Families with Disabilities Across All Service Branches Report Being Denied an ADA-Compliant Home or Reasonable Accommodations

⁷ 32 C.F.R. Part 75.

⁸ MyArmyBenefits, "Exceptional Family Member Program (EFMP)," [https://myarmybenefits.us.army.mil/Benefit-Library/Federal-Benefits/Exceptional-Family-Member-Program-\(EFMP\)-?serv=122](https://myarmybenefits.us.army.mil/Benefit-Library/Federal-Benefits/Exceptional-Family-Member-Program-(EFMP)-?serv=122).

⁹ Congressional Research Service, "Defense Primer: Exceptional Family Member Program (EFMP)," Bryce H. P. Mendez, January 29, 2020, <https://fas.org/sgp/crs/natsec/IF11049.pdf>.

¹⁰ U.S. Government Accountability Office, Report to Congressional Addressees, "MILITARY HOUSING: DOD Needs to Strengthen Oversight and Clarify Its Role in the Management of Privatized Housing," March 2020, <https://www.gao.gov/assets/710/705552.pdf>.

¹¹ U.S. Government Accountability Office, Report to Congressional Committees, "MILITARY PERSONNEL: DOD Should Improve Its Oversight of the Exceptional Family Member Program," May 2018, <https://www.gao.gov/assets/700/691647.pdf>.

¹² Congressional Research Service, "Defense Primer: Exceptional Family Member Program (EFMP)," Bryce H. P. Mendez, January 29, 2020, <https://fas.org/sgp/crs/natsec/IF11049.pdf>.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ A reasonable accommodation is "a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with disabilities to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces, or to fulfill their program obligations." U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, "Reasonable Accommodations and Modifications," https://www.hud.gov/program_offices/fair_housing_equal_opp/reasonable_accommodations_and_modifications.

by Private Military Housing Companies

The MHAN is a nonprofit organization that advocates for military families to make sure that they have access to safe and appropriate conditions in on-base, privatized housing.¹⁷ In July 2020, MHAN released a report on ADA housing issues based on survey responses from military families with disabilities regarding the availability of ADA-compliant homes and obstacles experienced by these families in acquiring those homes or reasonable accommodations.¹⁸ Their responses paint a bleak picture of substandard housing conditions on military installations for military families with disabilities.

Of the 100 families surveyed, 89% needed a reasonable accommodation and 85% needed an ADA accessible home.¹⁹ Yet many of these families never received these homes or accommodations and/or waited exceptionally long periods of time before their needs were met.²⁰ Families reported they were not provided with ADA-compliant homes because they were deprioritized due to their servicemember's low rank or because they already had a home (albeit non-compliant); meanwhile, available ADA-compliant houses were instead provided to incoming families without disabilities or were already occupied by families without disabilities.²¹ Moreover, families were incorrectly "told their disability is not severe enough to justify an ADA home."²² For example, "[o]ne family was told that their child was not blind or in a wheelchair, so they did not qualify."²³ In many cases, families were asked by the housing company that runs their military installation to provide extensive documentation proving that they have a disability – "a violation of a disabled individuals' rights and extremely invasive for families."²⁴

Moreover, 50% of families that did acquire ADA-compliant houses reported that they were missing accessibility features – "including but not limited to, proper flooring, ramps, grab bars, and properly sized doorways/hallways" – which were not adequately addressed by the housing company after a maintenance request was submitted, according to 68% of respondents.²⁵ Twenty percent of families reported that they were charged for their accommodations by their housing provider, and 46% reported they were outright denied accommodations.²⁶

Following the release of this initial report, MHAN has continued to collect responses to this survey from military families with disabilities, which they have shared with us. From these responses, we have found:

¹⁷ Military Housing Advocacy Network, <https://militaryhousingadvocacynetwork.org/>.

¹⁸ Military Housing Advocacy Network, "Accessibility of ADA Homes and Reasonable Accommodations for Disabled Individuals in Privatized Military Housing," July 2020, <http://militaryhousingadvocacynetwork.org/wp-content/uploads/2020/07/MHAN-Report-ADA-and-Accommodations.pdf>.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

- **Problems obtaining ADA-compliant housing.** Of the 78 military families that required an ADA home due to a disability and listed at least one duty station, seven of them were located on installations with housing facilities managed by Corvias. Although these respondents may not be a representative sample, the information they provided to MHAN indicates that Corvias facilities may not be following the law or meeting the needs of military families with disabilities. Of the seven respondents, three said their ADA home was not readily available when they arrived to their duty station, and five said they had challenges getting into an ADA home; two reported that there was no housing available, and one reported that (1) on-base ADA housing was instead being occupied by families without disability, (2) they were put on a waitlist for an ADA compliant home, (3) they were denied accommodation due to their low rank, or (4) their home was not ADA compliant. The average reported wait time for an ADA home placement on these installations was 555 days.

- **Inappropriate or illegal challenges facing families in need of ADA-compliant housing.** Of the respondents living on installations with facilities operated by your company, four reported they were required by housing management to provide a doctor’s letter in order to be given ADA-compliant housing or to be provided with reasonable accommodations. Another family reported they had their health issues challenged by the housing provider.

- **Barriers to the provision of reasonable accommodations for families in need.** Of the 75 military families that required reasonable accommodations due to a disability and listed at least one duty station, eight of them were located on installations with housing facilities managed by Corvias. Six of these families shared in their responses that housing did not accommodate the request, six said their ADA home was missing accessibility features required for their family, and five said housing did not respond in a timely manner to requests for compliance. Even when they did receive accommodations, one family reported that they were charged for them, and many faced long wait times; the average wait time for approval was 639 days, and the average wait time for completion of accommodation requests was 175 days.

The MHAN survey suggests that private military housing providers at multiple installations across all four Services – including Corvias – may not be complying with federal laws that protect Americans with disabilities.

Denying or Delaying ADA-Complaint Homes or Reasonable Accommodations for People with Disabilities Violates Federal Law

There are several federal laws that provide broad protections for individuals with disabilities. The Americans with Disabilities Act (ADA) is meant “to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities” and to ensure “that the Federal Government plays a central role in enforcing...standards...on behalf of individuals with disabilities.”²⁷ Section 504 of the Rehabilitation Act²⁸ directs that “No otherwise qualified individual with a disability in the United States ... shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to

²⁷ 42 U.S.C. 12101.

²⁸ 29 U.S.C. 794.

discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service,”²⁹ including HUD and DoD. Housing nondiscrimination laws include the Fair Housing Act (FHA),³⁰ which “prohibits discrimination in housing and housing-related transactions because of disability,”³¹ “requires owners of housing facilities to make reasonable exceptions in their policies and operations to afford people with disabilities equal housing opportunities,”³² and “makes it unlawful to refuse to make reasonable accommodations to rules, policies, practices, or services when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling and public and common use areas.”³³

The FHA, Section 504, and Titles II and III of the ADA “require housing providers to make reasonable accommodations and reasonable modifications for individuals with disabilities,”³⁴ which, according to the FHA, includes “a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises.”³⁵ These laws also “prohibit housing providers from refusing residency to persons with disabilities, or placing conditions on their residency, because they require reasonable accommodations or modification.”³⁶

According to HUD, “the requirement to provide reasonable accommodations and modifications applies to, but is not limited to individuals, corporations, associations and others involved in the provision of housing or residential lending” including property owners and housing managers.³⁷ It also states that “a provider has an obligation to provide prompt responses to reasonable accommodation requests” and that “[a]n undue delay in responding to a reasonable accommodation request may be deemed to be a failure to provide a reasonable accommodation.”³⁸ Moreover, “[u]nder Section 504, a housing provider is required to provide and pay for the structural modification as a reasonable accommodation unless it amounts to an undue financial and administrative burden or a fundamental alteration of the program.”³⁹

In order to better understand why EFMP military families are not receiving ADA-compliant homes or reasonable accommodations, we request answers to the following questions no later than January 15, 2021:

²⁹ *Id.*

³⁰ 42 U.S.C. 3601.

³¹ U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, Disability page, https://www.hud.gov/program_offices/fair_housing_equal_opp/disability_main.

³² U.S. Department of Justice, Civil Rights Division, Disability Rights Section, “A Guide to Disability Rights Laws,” February 2020, <https://www.ada.gov/cguide.htm#anchor63409>.

³³ U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, “Reasonable Accommodations and Modifications,”

https://www.hud.gov/program_offices/fair_housing_equal_opp/reasonable_accommodations_and_modifications.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

1. Please provide the following information for each privatized military housing project managed by Corvias:
 - a. How many EFMP-enrolled families live at this installation? How many have requested ADA-housing and/or reasonable accommodations?
 - b. What information and documentation is required for EFMP families to establish their housing needs at Corvias facilities at this installation? Does the office coordinate with the EFMP office to assist families in meeting these requirements?
 - c. How many ADA-compliant housing units exist at this installation? What percent of the housing units are ADA-compliant on this installation?
 - d. How do you inform military families about the availability of ADA-compliant housing?
 - e. How many ADA-compliant housing units on this installation are set aside for military families with disabilities?
 - f. How many ADA homes are currently occupied by families with disabilities?
 - g. What is the protocol for an EFMP family that is moving to this base and in need of an ADA home or reasonable accommodation?
 - h. What is the protocol once an ADA home becomes available? Do families with disabilities get prioritized? Do families moving on base without disabilities ever get moved into these units? How do you prioritize families with special needs who are waiting to move over into ADA homes compared to incoming residents?
 - i. How many families with disabilities are on the waitlist for an ADA housing unit, and what is the average amount of time they spend on the waitlist?
 - j. Who manages the waitlist for ADA-housing, how does it work, and what communication, if any, exists to let military families know where they stand on it and the military housing office know that such homes are available?
 - k. Does servicemember rank factor in any way into the availability of ADA-compliant housing or the waiting time needed to obtain housing?
 - l. How many families at this installation have requested modifications to housing so it is ADA compliant?
 - i. How many of those families received the requested accommodations?
 - ii. What was the average waiting time for approval of accommodations?
 - iii. What was the average waiting time for completion of accommodations?
 - iv. Were any of these families required to pay for their own accommodations or required to pay to return the home back to its original condition upon move-out?
 - m. In the most recent fiscal year, how many complaints were received regarding housing needs for families with disabilities? Please provide a summary of the number and type of complaint.
 - n. How many of these complaints were resolved, and what was the average time required to resolve a case?

- o. What, if any, housing conditions for special needs families are stipulated in your contract with the DoD? Is your company complying with the obligations outlined in your contract? How frequently are these assessments made? Please provide copies of all assessments.
 - p. Have you or are you currently receiving federal funding from the DoD for this installation?
 - q. Has your company ever been fined or sanctioned by the DoD for problems related to housing for military families with disabilities at this installation? If so, please provide a detailed list of these fines or other sanctions.
 - r. Do you outsource property management to another company at this installation? If so, which company? How long are the agreement terms with this company? How do you ensure the subcontractor(s) is in compliance with your contract with the DoD?
2. According to your website, Corvias realizes that “the number of homes is not important, but exceeding the expectation of service and quality of life for service members and their families is what really matters” and is based on the principle to “be the best provider of service.” What specific steps, if any, are being taken to ensure that your company is following federal laws pertaining to the rights of people with disabilities, including the Fair Housing Act, ADA, and Section 504?

Thank you for your attention to this important matter, and we look forward to your response.

Sincerely,



Elizabeth Warren
United States Senator



Thom Tillis
United States Senator

cc:

The Honorable W. Jordan Gillis, Assistant Secretary of Defense for Sustainment,
The Honorable Paul D. Cramer, Principal Deputy Assistant Secretary of Defense for Sustainment (Installations),
The Honorable Alex A. Beehler, Assistant Secretary of the Army for Installations, Energy, and Environment,
The Honorable Charles A. Williams, Assistant Secretary of the Navy for Energy, Installations, and Environment,
The Honorable John W. Henderson, Assistant Secretary of the Air Force for Installations, Environment, and Energy
Biden-Harris Transition Team

United States Senate

WASHINGTON, DC 20510

December 18, 2020

Mr. John Ehle
President
Hunt Military Communities
4401 North Mesa
El Paso, TX 79902-1107

Dear Mr. Ehle:

We are writing to request information on the availability and suitability of on-base military housing for military families with disabilities across Hunt military Communities' portfolio that – as the largest owner of military housing – encompasses approximately 52,000 military residential units.¹ In July 2020, the Military Housing Advocacy Network (MHAN) released the findings of a survey of military families that painted a clear and troubling picture of housing problems for thousands of servicemembers and their families, revealing that many military families are being denied access to Americans with Disabilities Act (ADA) compliant housing.²

Under the Military Housing Privatization Initiative (MHPI),³ the Department of Defense (DoD) has contracted with private companies like yours to develop and maintain nearly all military housing installations in the country.⁴ This initiative was intended to help the Armed Services improve the quality of life for servicemembers and ensure that military families are able to live in clean, safe, and secure housing. Amid media reports of decrepit housing conditions on military bases,⁵ a staff investigation that Senator Warren's office released last year found that private housing providers were obtaining substantial profits and fees from their contracts but failing to provide military families with the living conditions that they deserve.⁶ The MHAN survey reveals a new set of problems for military families living in on-base installations across the country, suggesting that private housing companies that have partnered with the DoD do not appear to be following federal laws that protect persons with disabilities.

¹ Hunt Military Communities, "About Us" page, <https://www.huntmilitarycommunities.com/about-us>.

² Military Housing Advocacy Network, "Accessibility of ADA Homes and Reasonable Accommodations for Disabled Individuals in Privatized Military Housing," July 2020, <http://militaryhousingadvocacynetwork.org/wp-content/uploads/2020/07/MHAN-Report-ADA-and-Accommodations.pdf>.

³ U.S. Department of Defense, Office of the Assistant Secretary of Defense for Sustainment, "Military Housing Privatization," https://www.acq.osd.mil/eie/FIM/Housing/Housing_index.html.

⁴ U.S. Government Accountability Office, Report to Congressional Addressees, "MILITARY HOUSING: DOD Needs to Strengthen Oversight and Clarify Its Role in the Management of Privatized Housing," March 2020, <https://www.gao.gov/assets/710/705552.pdf>.

⁵ Reuters, "Ambushed at Home: The hazardous, squalid housing of American military families," <https://www.reuters.com/investigates/section/usa-military/>.

⁶ Letter from Senator Elizabeth Warren to the Senate Committee on Armed Services Chairman James Inhofe and Ranking Member Jack Reed, April 30, 2019, <https://www.warren.senate.gov/imo/media/doc/2019.04.30%20Military%20Housing%20Letter%20to%20SASC%20Chair%20and%20Ranking%20Member.pdf>.

Many Military Families Have Disability-Related Needs, Including Requiring an ADA-Compliant Home or Reasonable Accommodations

The DoD's Exceptional Family Member Program (EFMP)⁷ is an initiative that is vital for providing military families with disabilities with necessary services and support throughout the United States and at DoD installations worldwide. Specifically, this program supports its members who have a family member with "a physical, emotional, developmental, or intellectual disorder requiring specialized services so their needs can be considered in the military personnel assignment process," given that families can face additional challenges and disruptions caused by frequent service assignment moves.⁸ As of 2018, around 8% of military dependent family members (a total of 137,000 enrollees) were receiving this support.⁹ A study from the Government Accountability Office found that, for some residents of private military housing, "accessibility to services for an Exceptional Family Member Program family member played a role in their decision to live in privatized housing versus a rental home in the community."¹⁰

The availability of services and support for EFMP families varies for each Service¹¹ and may even vary by assignment location within the same Service.¹² This is because "each service (Army, Navy, Marine Corps, and Air Force) is responsible for administering its own EFMP,"¹³ and, despite frequent reassignments and disruptive moves, "EFMP enrollment is not portable and servicemembers must register for the program when transferring to a new duty station."¹⁴ The availability of resources needed by the servicemember at their designated station is supposed to be verified by EFMP offices; if the required resources are not available, then military orders may be modified or even canceled.¹⁵ This includes the provision of ADA-compliant houses and reasonable accommodations¹⁶ for servicemembers with family members with disabilities.

Military Families with Disabilities Across All Service Branches Report Being Denied an ADA-Compliant Home or Reasonable Accommodations by Private Military Housing Companies

⁷ 32 C.F.R. Part 75.

⁸ MyArmyBenefits, "Exceptional Family Member Program (EFMP)," [https://myarmybenefits.us.army.mil/Benefit-Library/Federal-Benefits/Exceptional-Family-Member-Program-\(EFMP\)-?serv=122](https://myarmybenefits.us.army.mil/Benefit-Library/Federal-Benefits/Exceptional-Family-Member-Program-(EFMP)-?serv=122).

⁹ Congressional Research Service, "Defense Primer: Exceptional Family Member Program (EFMP)," Bryce H. P. Mendez, January 29, 2020, <https://fas.org/sgp/crs/natsec/IF11049.pdf>.

¹⁰ U.S. Government Accountability Office, Report to Congressional Addressees, "MILITARY HOUSING: DOD Needs to Strengthen Oversight and Clarify Its Role in the Management of Privatized Housing," March 2020, <https://www.gao.gov/assets/710/705552.pdf>.

¹¹ U.S. Government Accountability Office, Report to Congressional Committees, "MILITARY PERSONNEL: DOD Should Improve Its Oversight of the Exceptional Family Member Program," May 2018, <https://www.gao.gov/assets/700/691647.pdf>.

¹² Congressional Research Service, "Defense Primer: Exceptional Family Member Program (EFMP)," Bryce H. P. Mendez, January 29, 2020, <https://fas.org/sgp/crs/natsec/IF11049.pdf>.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ A reasonable accommodation is "a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with disabilities to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces, or to fulfill their program obligations." U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, "Reasonable Accommodations and Modifications," https://www.hud.gov/program_offices/fair_housing_equal_opp/reasonable_accommodations_and_modifications.

The MHAN is a nonprofit organization that advocates for military families to make sure that they have access to safe and appropriate conditions in on-base, privatized housing.¹⁷ In July 2020, MHAN released a report on ADA housing issues based on survey responses from military families with disabilities regarding the availability of ADA-compliant homes and obstacles experienced by these families in acquiring those homes or reasonable accommodations.¹⁸ Their responses paint a bleak picture of substandard housing conditions on military installations for military families with disabilities.

Of the 100 families surveyed, 89% needed a reasonable accommodation and 85% needed an ADA accessible home.¹⁹ Yet many of these families never received these homes or accommodations and/or waited exceptionally long periods of time before their needs were met.²⁰ Families reported they were not provided with ADA-compliant homes because they were deprioritized due to their servicemember’s low rank or because they already had a home (albeit non-compliant); meanwhile, available ADA-compliant houses were instead provided to incoming families without disabilities or were already occupied by families without disabilities.²¹ Moreover, families were incorrectly “told their disability is not severe enough to justify an ADA home.”²² For example, “[o]ne family was told that their child was not blind or in a wheelchair, so they did not qualify.”²³ In many cases, families were asked by the housing company that runs their military installation to provide extensive documentation proving that they have a disability – “a violation of a disabled individuals’ rights and extremely invasive for families.”²⁴

Moreover, 50% of families that did acquire ADA-compliant houses reported that they were missing accessibility features – “including but not limited to, proper flooring, ramps, grab bars, and properly sized doorways/hallways” – which were not adequately addressed by the housing company after a maintenance request was submitted, according to 68% of respondents.²⁵ Twenty percent of families reported that they were charged for their accommodations by their housing provider, and 46% reported they were outright denied accommodations.²⁶

Following the release of this initial report, MHAN has continued to collect responses to this survey from military families with disabilities, which they have shared with us. From these responses, we have found:

- **Problems obtaining ADA-compliant housing.** Of the 78 military families that required an ADA home due to a disability and listed at least one duty station, 18 of them were located on

¹⁷ Military Housing Advocacy Network, <https://militaryhousingadvocacynetwork.org/>.

¹⁸ Military Housing Advocacy Network, “Accessibility of ADA Homes and Reasonable Accommodations for Disabled Individuals in Privatized Military Housing,” July 2020, <http://militaryhousingadvocacynetwork.org/wp-content/uploads/2020/07/MHAN-Report-ADA-and-Accommodations.pdf>.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

installations with housing facilities managed by Hunt Military Communities. Although these respondents may not be a representative sample, the information they provided to MHAN indicates that Hunt facilities may not be following the law or meeting the needs of military families with disabilities. Of the 18 respondents, 12 said their ADA home was not readily available when they arrived to their duty station, and 15 said they had challenges getting into an ADA home; 13 reported that there was no housing available, three reported that on-base ADA housing was instead being occupied by families without disability, five reported they were put on a waitlist for an ADA compliant home, three reported they did not receive a home that was ADA compliant, and one reported that they were denied accommodation due to their low rank. The average reported wait time for an ADA home placement on these installations was 423 days.

- **Inappropriate or illegal challenges facing families in need of ADA-compliant housing.** Of the 18 respondents living on installations with facilities operated by your company, 12 reported they were required by housing management to provide a doctor’s letter in order to be given ADA-compliant housing or to be provided with reasonable accommodations. Another family said they had their health issues challenged, with one respondent reporting they were told they “didn’t need it, they were fine,” and another being told they should move somewhere else.
- **Barriers to the provision of reasonable accommodations for families in need.** Of the 75 military families that required reasonable accommodations due to a disability and listed at least one duty station, 14 of them were located on installations with housing facilities managed by Hunt. Seven of these families said their ADA home was missing accessibility features required for their family, four reported that housing did not accommodate the request, and 10 said housing did not respond in a timely manner to requests for compliance. Even when they did receive accommodations, three families said that they were charged for them, and many faced long wait times with an average wait time for approval of accommodation requests being 162 days.

The MHAN survey suggests that private military housing providers at multiple installations across all four Services – including Hunt – may not be complying with federal laws that protect Americans with disabilities.

Denying or Delaying ADA-Complaint Homes or Reasonable Accommodations for People with Disabilities Violates Federal Law

There are several federal laws that provide broad protections for individuals with disabilities. The Americans with Disabilities Act (ADA) is meant “to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities” and to ensure “that the Federal Government plays a central role in enforcing...standards...on behalf of individuals with disabilities.”²⁷ Section 504 of the Rehabilitation Act²⁸ directs that “No otherwise qualified individual with a disability in the United States ... shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to

²⁷ 42 U.S.C. 12101.

²⁸ 29 U.S.C. 794.

discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service,”²⁹ including HUD and DoD. Housing nondiscrimination laws include the Fair Housing Act (FHA),³⁰ which “prohibits discrimination in housing and housing-related transactions because of disability,”³¹ “requires owners of housing facilities to make reasonable exceptions in their policies and operations to afford people with disabilities equal housing opportunities,”³² and “makes it unlawful to refuse to make reasonable accommodations to rules, policies, practices, or services when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling and public and common use areas.”³³

The FHA, Section 504, and Titles II and III of the ADA “require housing providers to make reasonable accommodations and reasonable modifications for individuals with disabilities,”³⁴ which, according to the FHA, includes “a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises.”³⁵ These laws also “prohibit housing providers from refusing residency to persons with disabilities, or placing conditions on their residency, because they require reasonable accommodations or modification.”³⁶

According to HUD, “the requirement to provide reasonable accommodations and modifications applies to, but is not limited to individuals, corporations, associations and others involved in the provision of housing or residential lending” including property owners and housing managers.³⁷ It also states that “a provider has an obligation to provide prompt responses to reasonable accommodation requests” and that “[a]n undue delay in responding to a reasonable accommodation request may be deemed to be a failure to provide a reasonable accommodation.”³⁸ Moreover, “[u]nder Section 504, a housing provider is required to provide and pay for the structural modification as a reasonable accommodation unless it amounts to an undue financial and administrative burden or a fundamental alteration of the program.”³⁹

In order to better understand why EFMP military families are not receiving ADA-compliant homes or reasonable accommodations, we request answers to the following questions no later than January 15, 2021:

²⁹ *Id.*

³⁰ 42 U.S.C. 3601.

³¹ U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, Disability page, https://www.hud.gov/program_offices/fair_housing_equal_opp/disability_main.

³² U.S. Department of Justice, Civil Rights Division, Disability Rights Section, “A Guide to Disability Rights Laws,” February 2020, <https://www.ada.gov/cguide.htm#anchor63409>.

³³ U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, “Reasonable Accommodations and Modifications,” https://www.hud.gov/program_offices/fair_housing_equal_opp/reasonable_accommodations_and_modifications.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

1. Please provide the following information for each privatized military housing project managed by Hunt Military Communities:
 - a. How many EFMP-enrolled families live at this installation? How many have requested ADA-housing and/or reasonable accommodations?
 - b. What information and documentation is required for EFMP families to establish their housing needs at Hunt facilities at this installation? Does the office coordinate with the EFMP office to assist families in meeting these requirements?
 - c. How many ADA-compliant housing units exist at this installation? What percent of the housing units are ADA-compliant on this installation?
 - d. How do you inform military families about the availability of ADA-compliant housing?
 - e. How many ADA-compliant housing units on this installation are set aside for military families with disabilities?
 - f. How many ADA homes are currently occupied by families with disabilities?
 - g. What is the protocol for an EFMP family that is moving to this base and in need of an ADA home or reasonable accommodation?
 - h. What is the protocol once an ADA home becomes available? Do families with disabilities get prioritized? Do families moving on base without disabilities ever get moved into these units? How do you prioritize families with special needs who are waiting to move over into ADA homes compared to incoming residents?
 - i. How many families with disabilities are on the waitlist for an ADA housing unit, and what is the average amount of time they spend on the waitlist?
 - j. Who manages the waitlist for ADA-housing, how does it work, and what communication, if any, exists to let military families know where they stand on it and the military housing office know that such homes are available?
 - k. Does servicemember rank factor in any way into the availability of ADA-compliant housing or the waiting time needed to obtain housing?
 - l. How many families at this installation have requested modifications to housing so it is ADA compliant?
 - i. How many of those families received the requested accommodations?
 - ii. What was the average waiting time for approval of accommodations?
 - iii. What was the average waiting time for completion of accommodations?
 - iv. Were any of these families required to pay for their own accommodations or required to pay to return the home back to its original condition upon move-out?
 - m. In the most recent fiscal year, how many complaints were received regarding housing needs for families with disabilities? Please provide a summary of the number and type of complaint.
 - n. How many of these complaints were resolved, and what was the average time required to resolve a case?

- o. What, if any, housing conditions for special needs families are stipulated in your contract with the DoD? Is your company complying with the obligations outlined in your contract? How frequently are these assessments made? Please provide copies of all assessments.
 - p. Have you or are you currently receiving federal funding from the DoD for this installation?
 - q. Has your company ever been fined or sanctioned by the DoD for problems related to housing for military families with disabilities at this installation? If so, please provide a detailed list of these fines or other sanctions.
 - r. Do you outsource property management to another company at this installation? If so, which company? How long are the agreement terms with this company? How do you ensure the subcontractor(s) is in compliance with your contract with the DoD?
2. According to your website, Hunt Military Communities lists safety and selflessness in its list of values and aims “to provide more than just housing. We are entrusted to create quality communities that meet the needs of our residents and we take that responsibility very seriously. We are deeply committed to honoring and serving these heroes and their families.” What specific steps, if any, are being taken to ensure that your company is following federal laws pertaining to the rights of people with disabilities, including the Fair Housing Act, ADA, and Section 504?

Thank you for your attention to this important matter, and we look forward to your response.

Sincerely,



Elizabeth Warren
United States Senator



Thom Tillis
United States Senator

cc:

The Honorable W. Jordan Gillis, Assistant Secretary of Defense for Sustainment,
The Honorable Paul D. Cramer, Principal Deputy Assistant Secretary of Defense for Sustainment (Installations),
The Honorable Alex A. Beehler, Assistant Secretary of the Army for Installations, Energy, and Environment,
The Honorable Charles A. Williams, Assistant Secretary of the Navy for Energy, Installations, and Environment,
The Honorable John W. Henderson, Assistant Secretary of the Air Force for Installations, Environment, and Energy,
Biden-Harris Transition Team

United States Senate
WASHINGTON, DC 20510

December 18, 2020

Mr. Denis Hickey
Chief Executive Officer
Americas Lendlease Corporation
200 Park Avenue
9th Floor
New York, NY 10166

Mr. Phillip Carpenter
Chief Operating Officer, Communities
Americas Lendlease Corporation
200 Park Avenue
9th Floor
New York, NY 10166

Dear Mr. Hickey and Mr. Carpenter:

We are writing to request information on the availability and suitability of on-base military housing for military families with disabilities across Lendlease Communities' portfolio that encompasses approximately 40,000 military residential units.¹ In July 2020, the Military Housing Advocacy Network (MHAN) released the findings of a survey of military families that painted a clear and troubling picture of housing problems for thousands of servicemembers and their families, revealing that many military families are being denied access to Americans with Disabilities Act (ADA) compliant housing.²

Under the Military Housing Privatization Initiative (MHPI),³ the Department of Defense (DoD) has contracted with private companies like yours to develop and maintain nearly all military housing installations in the country.⁴ This initiative was intended to help the Armed Services improve the quality of life for servicemembers and ensure that military families are able to live in clean, safe, and secure housing. Amid media reports of decrepit housing conditions on military bases,⁵ a staff investigation that Senator Warren's office released last year found that private housing providers were obtaining substantial profits and fees from their contracts but

¹ Lendlease, "About Communities" page, <https://www.lendlease.com/us/expertise/what-we-do/communities/>.

² Military Housing Advocacy Network, "Accessibility of ADA Homes and Reasonable Accommodations for Disabled Individuals in Privatized Military Housing," July 2020, <http://militaryhousingadvocacynetwork.org/wp-content/uploads/2020/07/MHAN-Report-ADA-and-Accommodations.pdf>.

³ U.S. Department of Defense, Office of the Assistant Secretary of Defense for Sustainment, "Military Housing Privatization," https://www.acq.osd.mil/eie/FIM/Housing/Housing_index.html.

⁴ U.S. Government Accountability Office, Report to Congressional Addressees, "MILITARY HOUSING: DOD Needs to Strengthen Oversight and Clarify Its Role in the Management of Privatized Housing," March 2020, <https://www.gao.gov/assets/710/705552.pdf>.

⁵ Reuters, "Ambushed at Home: The hazardous, squalid housing of American military families," <https://www.reuters.com/investigates/section/usa-military/>.

failing to provide military families with the living conditions that they deserve.⁶ The MHAN survey reveals a new set of problems for military families living in on-base installations across the country, suggesting that private housing companies that have partnered with the DoD do not appear to be following federal laws that protect persons with disabilities.

Many Military Families Have Disability-Related Needs, Including Requiring an ADA-Compliant Home or Reasonable Accommodations

The DoD's Exceptional Family Member Program (EFMP)⁷ is an initiative that is vital for providing military families with disabilities with necessary services and support throughout the United States and at DoD installations worldwide. Specifically, this program supports its members who have a family member with "a physical, emotional, developmental, or intellectual disorder requiring specialized services so their needs can be considered in the military personnel assignment process," given that families can face additional challenges and disruptions caused by frequent service assignment moves.⁸ As of 2018, around 8% of military dependent family members (a total of 137,000 enrollees) were receiving this support.⁹ A study from the Government Accountability Office found that, for some residents of private military housing, "accessibility to services for an Exceptional Family Member Program family member played a role in their decision to live in privatized housing versus a rental home in the community."¹⁰

The availability of services and support for EFMP families varies for each Service¹¹ and may even vary by assignment location within the same Service.¹² This is because "each service (Army, Navy, Marine Corps, and Air Force) is responsible for administering its own EFMP,"¹³ and, despite frequent reassignments and disruptive moves, "EFMP enrollment is not portable and servicemembers must register for the program when transferring to a new duty station."¹⁴ The availability of resources needed by the servicemember at their designated station is supposed to be verified by EFMP offices; if the required resources are not available, then military orders may

⁶ Letter from Senator Elizabeth Warren to the Senate Committee on Armed Services Chairman James Inhofe and Ranking Member Jack Reed, April 30, 2019, <https://www.warren.senate.gov/imo/media/doc/2019.04.30%20Military%20Housing%20Letter%20to%20SASC%20Chair%20and%20Ranking%20Member.pdf>.

⁷ 32 C.F.R. Part 75.

⁸ MyArmyBenefits, "Exceptional Family Member Program (EFMP)," [https://myarmybenefits.us.army.mil/Benefit-Library/Federal-Benefits/Exceptional-Family-Member-Program-\(EFMP\)-?serv=122](https://myarmybenefits.us.army.mil/Benefit-Library/Federal-Benefits/Exceptional-Family-Member-Program-(EFMP)-?serv=122).

⁹ Congressional Research Service, "Defense Primer: Exceptional Family Member Program (EFMP)," Bryce H. P. Mendez, January 29, 2020, <https://fas.org/sgp/crs/natsec/IF11049.pdf>.

¹⁰ U.S. Government Accountability Office, Report to Congressional Addressees, "MILITARY HOUSING: DOD Needs to Strengthen Oversight and Clarify Its Role in the Management of Privatized Housing," March 2020, <https://www.gao.gov/assets/710/705552.pdf>.

¹¹ U.S. Government Accountability Office, Report to Congressional Committees, "MILITARY PERSONNEL: DOD Should Improve Its Oversight of the Exceptional Family Member Program," May 2018, <https://www.gao.gov/assets/700/691647.pdf>.

¹² Congressional Research Service, "Defense Primer: Exceptional Family Member Program (EFMP)," Bryce H. P. Mendez, January 29, 2020, <https://fas.org/sgp/crs/natsec/IF11049.pdf>.

¹³ *Id.*

¹⁴ *Id.*

be modified or even canceled.¹⁵ This includes the provision of ADA-compliant houses and reasonable accommodations¹⁶ for servicemembers with family members with disabilities.

Military Families with Disabilities Across All Service Branches Report Being Denied an ADA-Compliant Home or Reasonable Accommodations by Private Military Housing Companies

The MHAN is a nonprofit organization that advocates for military families to make sure that they have access to safe and appropriate conditions in on-base, privatized housing.¹⁷ In July 2020, MHAN released a report on ADA housing issues based on survey responses from military families with disabilities regarding the availability of ADA-compliant homes and obstacles experienced by these families in acquiring those homes or reasonable accommodations.¹⁸ Their responses paint a bleak picture of substandard housing conditions on military installations for military families with disabilities.

Of the 100 families surveyed, 89% needed a reasonable accommodation and 85% needed an ADA accessible home.¹⁹ Yet many of these families never received these homes or accommodations and/or waited exceptionally long periods of time before their needs were met.²⁰ Families reported they were not provided with ADA-compliant homes because they were deprioritized due to their servicemember's low rank or because they already had a home (albeit non-compliant); meanwhile, available ADA-compliant houses were instead provided to incoming families without disabilities or were already occupied by families without disabilities.²¹ Moreover, families were incorrectly "told their disability is not severe enough to justify an ADA home."²² For example, "[o]ne family was told that their child was not blind or in a wheelchair, so they did not qualify."²³ In many cases, families were asked by the housing company that runs their military installation to provide extensive documentation proving that they have a disability – "a violation of a disabled individuals' rights and extremely invasive for families."²⁴

Moreover, 50% of families that did acquire ADA-compliant houses reported that they were missing accessibility features – "including but not limited to, proper flooring, ramps, grab bars, and properly sized doorways/hallways" – which were not adequately addressed by the housing

¹⁵ *Id.*

¹⁶ A reasonable accommodation is "a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with disabilities to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces, or to fulfill their program obligations." U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, "Reasonable Accommodations and Modifications," https://www.hud.gov/program_offices/fair_housing_equal_opp/reasonable_accommodations_and_modifications.

¹⁷ Military Housing Advocacy Network, <https://militaryhousingadvocacynetwork.org/>.

¹⁸ Military Housing Advocacy Network, "Accessibility of ADA Homes and Reasonable Accommodations for Disabled Individuals in Privatized Military Housing," July 2020, <http://militaryhousingadvocacynetwork.org/wp-content/uploads/2020/07/MHAN-Report-ADA-and-Accomodations.pdf>.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

company after a maintenance request was submitted, according to 68% of respondents.²⁵ Twenty percent of families reported that they were charged for their accommodations by their housing provider, and 46% reported they were outright denied accommodations.²⁶

Following the release of this initial report, MHAN has continued to collect responses to this survey from military families with disabilities, which they have shared with us. From these responses, we have found:

- **Problems obtaining ADA-compliant housing.** Of the 78 military families that required an ADA home due to a disability and listed at least one duty station, seven of them were located on installations with housing facilities managed by Lendlease Communities. Although these respondents may not be a representative sample, the information they provided to MHAN indicates that Lendlease facilities may not be following the law or meeting the needs of military families with disabilities. Of the seven respondents, three said their ADA home was not readily available when they arrived to their duty station, and four said they had challenges getting into an ADA home. Moreover, two families reported that there was no housing available and that on-base ADA housing was instead being occupied by families without disability; one family reported they were put on a waitlist for an ADA compliant home, and another family reported their home was not ADA compliant. The average reported wait time for an ADA home placement on these installations was 60 days.
- **Inappropriate or illegal challenges facing families in need of ADA-compliant housing.** Of the seven respondents living on installations with facilities operated by your company, four reported they were required by housing management to provide a doctor's letter in order to be given ADA-compliant housing or to be provided with reasonable accommodations. One respondent reported the extensive paperwork as "an uncomfortable amount of information," while another stated that the "process was outrageous."
- **Barriers to the provision of reasonable accommodations for families in need.** Of the 75 military families that required reasonable accommodations due to a disability and listed at least one duty station, five of them were located on installations with housing facilities managed by Lendlease. Three of these families said their ADA home was missing accessibility features required for their family, one reported that housing did not accommodate the request, and three said housing did not respond in a timely manner to requests for compliance. Even when they did receive accommodations, two families said that they were charged for them, and many faced long wait times; the average wait time for approval was 128 days, and the average wait time for completion of accommodation requests was 186 days.

The MHAN survey suggests that private military housing providers at multiple installations across all four Services – including Lendlease – may not be complying with federal laws that protect Americans with disabilities.

²⁵ *Id.*

²⁶ *Id.*

Denying or Delaying ADA-Complaint Homes or Reasonable Accommodations for People with Disabilities Violates Federal Law

There are several federal laws that provide broad protections for individuals with disabilities. The Americans with Disabilities Act (ADA) is meant “to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities” and to ensure “that the Federal Government plays a central role in enforcing...standards...on behalf of individuals with disabilities.”²⁷ Section 504 of the Rehabilitation Act²⁸ directs that “No otherwise qualified individual with a disability in the United States ... shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service,”²⁹ including HUD and DoD. Housing nondiscrimination laws include the Fair Housing Act (FHA),³⁰ which “prohibits discrimination in housing and housing-related transactions because of disability,”³¹ “requires owners of housing facilities to make reasonable exceptions in their policies and operations to afford people with disabilities equal housing opportunities,”³² and “makes it unlawful to refuse to make reasonable accommodations to rules, policies, practices, or services when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling and public and common use areas.”³³

The FHA, Section 504, and Titles II and III of the ADA “require housing providers to make reasonable accommodations and reasonable modifications for individuals with disabilities,”³⁴ which, according to the FHA, includes “a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises.”³⁵ These laws also “prohibit housing providers from refusing residency to persons with disabilities, or placing conditions on their residency, because they require reasonable accommodations or modification.”³⁶

According to HUD, “the requirement to provide reasonable accommodations and modifications applies to, but is not limited to individuals, corporations, associations and others involved in the provision of housing or residential lending” including property owners and housing managers.³⁷ It also states that “a provider has an obligation to provide prompt responses to reasonable accommodation requests” and that “[a]n undue delay in responding to a reasonable

²⁷ 42 U.S.C. 12101.

²⁸ 29 U.S.C. 794.

²⁹ *Id.*

³⁰ 42 U.S.C. 3601.

³¹ U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, Disability page, https://www.hud.gov/program_offices/fair_housing_equal_opp/disability_main.

³² U.S. Department of Justice, Civil Rights Division, Disability Rights Section, “A Guide to Disability Rights Laws,” February 2020, <https://www.ada.gov/cguide.htm#anchor63409>.

³³ U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, “Reasonable Accommodations and Modifications,” https://www.hud.gov/program_offices/fair_housing_equal_opp/reasonable_accommodations_and_modifications.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

accommodation request may be deemed to be a failure to provide a reasonable accommodation.”³⁸ Moreover, “[u]nder Section 504, a housing provider is required to provide and pay for the structural modification as a reasonable accommodation unless it amounts to an undue financial and administrative burden or a fundamental alteration of the program.”³⁹

In order to better understand why EFMP military families are not receiving ADA-compliant homes or reasonable accommodations, we request answers to the following questions no later than January 15, 2021:

1. Please provide the following information for each privatized military housing project managed by Lendlease Communities:
 - a. How many EFMP-enrolled families live at this installation? How many have requested ADA-housing and/or reasonable accommodations?
 - b. What information and documentation is required for EFMP families to establish their housing needs at Lendlease facilities at this installation? Does the office coordinate with the EFMP office to assist families in meeting these requirements?
 - c. How many ADA-compliant housing units exist at this installation? What percent of the housing units are ADA-compliant on this installation?
 - d. How do you inform military families about the availability of ADA-compliant housing?
 - e. How many ADA-compliant housing units on this installation are set aside for military families with disabilities?
 - f. How many ADA homes are currently occupied by families with disabilities?
 - g. What is the protocol for an EFMP family that is moving to this base and in need of an ADA home or reasonable accommodation?
 - h. What is the protocol once an ADA home becomes available? Do families with disabilities get prioritized? Do families moving on base without disabilities ever get moved into these units? How do you prioritize families with special needs who are waiting to move over into ADA homes compared to incoming residents?
 - i. How many families with disabilities are on the waitlist for an ADA housing unit, and what is the average amount of time they spend on the waitlist?
 - j. Who manages the waitlist for ADA-housing, how does it work, and what communication, if any, exists to let military families know where they stand on it and the military housing office know that such homes are available?
 - k. Does servicemember rank factor in any way into the availability of ADA-compliant housing or the waiting time needed to obtain housing?
 - l. How many families at this installation have requested modifications to housing so it is ADA compliant?
 - i. How many of those families received the requested accommodations?
 - ii. What was the average waiting time for approval of accommodations?

³⁸ *Id.*

³⁹ *Id.*

- iii. What was the average waiting time for completion of accommodations?
 - iv. Were any of these families required to pay for their own accommodations or required to pay to return the home back to its original condition upon move-out?
 - m. In the most recent fiscal year, how many complaints were received regarding housing needs for families with disabilities? Please provide a summary of the number and type of complaint.
 - n. How many of these complaints were resolved, and what was the average time required to resolve a case?
 - o. What, if any, housing conditions for special needs families are stipulated in your contract with the DoD? Is your company complying with the obligations outlined in your contract? How frequently are these assessments made? Please provide copies of all assessments.
 - p. Have you or are you currently receiving federal funding from the DoD for this installation?
 - q. Has your company ever been fined or sanctioned by the DoD for problems related to housing for military families with disabilities at this installation? If so, please provide a detailed list of these fines or other sanctions.
 - r. Do you outsource property management to another company at this installation? If so, which company? How long are the agreement terms with this company? How do you ensure the subcontractor(s) is in compliance with your contract with the DoD?
2. According to your website, Lendlease Communities is “creating communities that enrich lives” and “committed to providing better accommodations for soldiers” and their families. What specific steps, if any, are being taken to ensure that your company is following federal laws pertaining to the rights of people with disabilities, including the Fair Housing Act, ADA, and Section 504?

Thank you for your attention to this important matter, and we look forward to your response.

Sincerely,



Elizabeth Warren
United States Senator



Thom Tillis
United States Senator

cc:

The Honorable W. Jordan Gillis, Assistant Secretary of Defense for Sustainment,

The Honorable Paul D. Cramer, Principal Deputy Assistant Secretary of Defense for Sustainment (Installations),

The Honorable Alex A. Beehler, Assistant Secretary of the Army for Installations, Energy, and Environment,

The Honorable Charles A. Williams, Assistant Secretary of the Navy for Energy, Installations, and Environment,

The Honorable John W. Henderson, Assistant Secretary of the Air Force for Installations, Environment, and Energy,

Biden-Harris Transition Team

United States Senate

WASHINGTON, DC 20510

December 18, 2020

Mr. Tim Byrne
Chairman
Lincoln Property Company
2000 McKinney Ave. Suite 1000
Dallas, Texas 75201

Dear Mr. Byrne:

We are writing to request information on the availability and suitability of on-base military housing for military families with disabilities across Lincoln Property Company's portfolio that encompasses more than 36,000 military residential units.¹ In July 2020, the Military Housing Advocacy Network (MHAN) released the findings of a survey of military families that painted a clear and troubling picture of housing problems for thousands of servicemembers and their families, revealing that many military families are being denied access to Americans with Disabilities Act (ADA) compliant housing.²

Under the Military Housing Privatization Initiative (MHPI),³ the Department of Defense (DoD) has contracted with private companies like yours to develop and maintain nearly all military housing installations in the country.⁴ This initiative was intended to help the Armed Services improve the quality of life for servicemembers and ensure that military families are able to live in clean, safe, and secure housing. Amid media reports of decrepit housing conditions on military bases,⁵ a staff investigation that Senator Warren's office released last year found that private housing providers were obtaining substantial profits and fees from their contracts but failing to provide military families with the living conditions that they deserve.⁶ The MHAN survey reveals a new set of problems for military families living in on-base installations across the country, suggesting that private housing companies that have partnered with the DoD do not appear to be following federal laws that protect persons with disabilities.

¹ Lincoln Military Housing, "Who We Are" page, <https://lincolnmilitary.com/who-we-are/>.

² Military Housing Advocacy Network, "Accessibility of ADA Homes and Reasonable Accommodations for Disabled Individuals in Privatized Military Housing," July 2020, <http://militaryhousingadvocacynetwork.org/wp-content/uploads/2020/07/MHAN-Report-ADA-and-Accommodations.pdf>.

³ U.S. Department of Defense, Office of the Assistant Secretary of Defense for Sustainment, "Military Housing Privatization," https://www.acq.osd.mil/eie/FIM/Housing/Housing_index.html.

⁴ U.S. Government Accountability Office, Report to Congressional Addressees, "MILITARY HOUSING: DOD Needs to Strengthen Oversight and Clarify Its Role in the Management of Privatized Housing," March 2020, <https://www.gao.gov/assets/710/705552.pdf>.

⁵ Reuters, "Ambushed at Home: The hazardous, squalid housing of American military families," <https://www.reuters.com/investigates/section/usa-military/>.

⁶ Letter from Senator Elizabeth Warren to the Senate Committee on Armed Services Chairman James Inhofe and Ranking Member Jack Reed, April 30, 2019, <https://www.warren.senate.gov/imo/media/doc/2019.04.30%20Military%20Housing%20Letter%20to%20SASC%20Chair%20and%20Ranking%20Member.pdf>.

Many Military Families Have Disability-Related Needs, Including Requiring an ADA-Compliant Home or Reasonable Accommodations

The DoD's Exceptional Family Member Program (EFMP)⁷ is an initiative that is vital for providing military families with disabilities with necessary services and support throughout the United States and at DoD installations worldwide. Specifically, this program supports its members who have a family member with "a physical, emotional, developmental, or intellectual disorder requiring specialized services so their needs can be considered in the military personnel assignment process," given that families can face additional challenges and disruptions caused by frequent service assignment moves.⁸ As of 2018, around 8% of military dependent family members (a total of 137,000 enrollees) were receiving this support.⁹ A study from the Government Accountability Office found that, for some residents of private military housing, "accessibility to services for an Exceptional Family Member Program family member played a role in their decision to live in privatized housing versus a rental home in the community."¹⁰

The availability of services and support for EFMP families varies for each Service¹¹ and may even vary by assignment location within the same Service.¹² This is because "each service (Army, Navy, Marine Corps, and Air Force) is responsible for administering its own EFMP,"¹³ and, despite frequent reassignments and disruptive moves, "EFMP enrollment is not portable and servicemembers must register for the program when transferring to a new duty station."¹⁴ The availability of resources needed by the servicemember at their designated station is supposed to be verified by EFMP offices; if the required resources are not available, then military orders may be modified or even canceled.¹⁵ This includes the provision of ADA-compliant houses and reasonable accommodations¹⁶ for servicemembers with family members with disabilities.

Military Families with Disabilities Across All Service Branches Report Being Denied an ADA-Compliant Home or Reasonable Accommodations by Private Military Housing Companies

⁷ 32 C.F.R. Part 75.

⁸ MyArmyBenefits, "Exceptional Family Member Program (EFMP)," [https://myarmybenefits.us.army.mil/Benefit-Library/Federal-Benefits/Exceptional-Family-Member-Program-\(EFMP\)-?serv=122](https://myarmybenefits.us.army.mil/Benefit-Library/Federal-Benefits/Exceptional-Family-Member-Program-(EFMP)-?serv=122).

⁹ Congressional Research Service, "Defense Primer: Exceptional Family Member Program (EFMP)," Bryce H. P. Mendez, January 29, 2020, <https://fas.org/sgp/crs/natsec/IF11049.pdf>.

¹⁰ U.S. Government Accountability Office, Report to Congressional Addressees, "MILITARY HOUSING: DOD Needs to Strengthen Oversight and Clarify Its Role in the Management of Privatized Housing," March 2020, <https://www.gao.gov/assets/710/705552.pdf>.

¹¹ U.S. Government Accountability Office, Report to Congressional Committees, "MILITARY PERSONNEL: DOD Should Improve Its Oversight of the Exceptional Family Member Program," May 2018, <https://www.gao.gov/assets/700/691647.pdf>.

¹² Congressional Research Service, "Defense Primer: Exceptional Family Member Program (EFMP)," Bryce H. P. Mendez, January 29, 2020, <https://fas.org/sgp/crs/natsec/IF11049.pdf>.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ A reasonable accommodation is "a change, exception, or adjustment to a rule, policy, practice, or service that may be necessary for a person with disabilities to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces, or to fulfill their program obligations." U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, "Reasonable Accommodations and Modifications," https://www.hud.gov/program_offices/fair_housing_equal_opp/reasonable_accommodations_and_modifications.

The MHAN is a nonprofit organization that advocates for military families to make sure that they have access to safe and appropriate conditions in on-base, privatized housing.¹⁷ In July 2020, MHAN released a report on ADA housing issues based on survey responses from military families with disabilities regarding the availability of ADA-compliant homes and obstacles experienced by these families in acquiring those homes or reasonable accommodations.¹⁸ Their responses paint a bleak picture of substandard housing conditions on military installations for military families with disabilities.

Of the 100 families surveyed, 89% needed a reasonable accommodation and 85% needed an ADA accessible home.¹⁹ Yet many of these families never received these homes or accommodations and/or waited exceptionally long periods of time before their needs were met.²⁰ Families reported they were not provided with ADA-compliant homes because they were deprioritized due to their servicemember's low rank or because they already had a home (albeit non-compliant); meanwhile, available ADA-compliant houses were instead provided to incoming families without disabilities or were already occupied by families without disabilities.²¹ Moreover, families were incorrectly "told their disability is not severe enough to justify an ADA home."²² For example, "[o]ne family was told that their child was not blind or in a wheelchair, so they did not qualify."²³ In many cases, families were asked by the housing company that runs their military installation to provide extensive documentation proving that they have a disability – "a violation of a disabled individuals' rights and extremely invasive for families."²⁴

Moreover, 50% of families that did acquire ADA-compliant houses reported that they were missing accessibility features – "including but not limited to, proper flooring, ramps, grab bars, and properly sized doorways/hallways" – which were not adequately addressed by the housing company after a maintenance request was submitted, according to 68% of respondents.²⁵ Twenty percent of families reported that they were charged for their accommodations by their housing provider, and 46% reported they were outright denied accommodations.²⁶

Following the release of this initial report, MHAN has continued to collect responses to this survey from military families with disabilities, which they have shared with us. From these responses, we have found:

- **Problems obtaining ADA-compliant housing.** Of the 78 military families that required an ADA home due to a disability and listed at least one duty station, 19 of them were located on

¹⁷ Military Housing Advocacy Network, <https://militaryhousingadvocacynetwork.org/>.

¹⁸ Military Housing Advocacy Network, "Accessibility of ADA Homes and Reasonable Accommodations for Disabled Individuals in Privatized Military Housing," July 2020, <http://militaryhousingadvocacynetwork.org/wp-content/uploads/2020/07/MHAN-Report-ADA-and-Accommodations.pdf>.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

installations with housing facilities managed by Lincoln Property Company. Although these respondents may not be a representative sample, the information they provided to MHAN indicates that Lincoln facilities may not be following the law or meeting the needs of military families with disabilities. Of these 19 respondents, 10 said their ADA home was not readily available when they arrived to their duty station, and 13 reported that they had challenges getting into an ADA home; 11 reported that there was no housing available, four reported that on-base ADA housing was instead being occupied by families without disability, four reported they were put on a waitlist for an ADA compliant home, two reported that they were denied accommodation due to their low rank, and seven reported their home was not ADA compliant. The average reported wait time for an ADA home placement on these installations was 281 days.

- **Inappropriate or illegal challenges facing families in need of ADA-compliant housing.** Of the 19 respondents living on installations with facilities operated by your company, 12 reported they were required by housing management to provide a doctor’s letter in order to be given ADA-compliant housing or to be provided with reasonable accommodations. One respondent reported they had their health issues challenged, and another respondent reported they were told by the housing company to find an ADA home themselves.
- **Barriers to the provision of reasonable accommodations for families in need.** Of the 75 military families that required reasonable accommodations due to a disability and listed at least one duty station, 20 of them were located on installations with housing facilities managed by Lincoln. Nine of these families said their ADA home was missing accessibility features required for their family, 11 reported that housing did not accommodate the request, and nine said housing did not respond in a timely manner to requests for compliance. Even when they did receive accommodations, two families said that they were charged for them, and many faced long wait times; the average wait time for approval was 128 days, and the average wait time for completion of accommodation requests was 242 days.

The MHAN survey suggests that private military housing providers at multiple installations across all four Services – including Lincoln – may not be complying with federal laws that protect Americans with disabilities.

Denying or Delaying ADA-Complaint Homes or Reasonable Accommodations for People with Disabilities Violates Federal Law

There are several federal laws that provide broad protections for individuals with disabilities. The Americans with Disabilities Act (ADA) is meant “to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities” and to ensure “that the Federal Government plays a central role in enforcing...standards...on behalf of individuals with disabilities.”²⁷ Section 504 of the Rehabilitation Act²⁸ directs that “No otherwise qualified individual with a disability in the United States ... shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to

²⁷ 42 U.S.C. 12101.

²⁸ 29 U.S.C. 794.

discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service,”²⁹ including HUD and DoD. Housing nondiscrimination laws include the Fair Housing Act (FHA),³⁰ which “prohibits discrimination in housing and housing-related transactions because of disability,”³¹ “requires owners of housing facilities to make reasonable exceptions in their policies and operations to afford people with disabilities equal housing opportunities,”³² and “makes it unlawful to refuse to make reasonable accommodations to rules, policies, practices, or services when such accommodations may be necessary to afford persons with disabilities an equal opportunity to use and enjoy a dwelling and public and common use areas.”³³

The FHA, Section 504, and Titles II and III of the ADA “require housing providers to make reasonable accommodations and reasonable modifications for individuals with disabilities,”³⁴ which, according to the FHA, includes “a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises.”³⁵ These laws also “prohibit housing providers from refusing residency to persons with disabilities, or placing conditions on their residency, because they require reasonable accommodations or modification.”³⁶

According to HUD, “the requirement to provide reasonable accommodations and modifications applies to, but is not limited to individuals, corporations, associations and others involved in the provision of housing or residential lending” including property owners and housing managers.³⁷ It also states that “a provider has an obligation to provide prompt responses to reasonable accommodation requests” and that “[a]n undue delay in responding to a reasonable accommodation request may be deemed to be a failure to provide a reasonable accommodation.”³⁸ Moreover, “[u]nder Section 504, a housing provider is required to provide and pay for the structural modification as a reasonable accommodation unless it amounts to an undue financial and administrative burden or a fundamental alteration of the program.”³⁹

In order to better understand why EFMP military families are not receiving ADA-compliant homes or reasonable accommodations, we request answers to the following questions no later than January 15, 2021:

²⁹ *Id.*

³⁰ 42 U.S.C. 3601.

³¹ U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, Disability page, https://www.hud.gov/program_offices/fair_housing_equal_opp/disability_main.

³² U.S. Department of Justice, Civil Rights Division, Disability Rights Section, “A Guide to Disability Rights Laws,” February 2020, <https://www.ada.gov/cguide.htm#anchor63409>.

³³ U.S. Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, “Reasonable Accommodations and Modifications,” https://www.hud.gov/program_offices/fair_housing_equal_opp/reasonable_accommodations_and_modifications.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

1. Please provide the following information for each privatized military housing project managed by Lincoln Property Company:
 - a. How many EFMP-enrolled families live at this installation? How many have requested ADA-housing and/or reasonable accommodations?
 - b. What information and documentation is required for EFMP families to establish their housing needs at Lincoln facilities at this installation? Does the office coordinate with the EFMP office to assist families in meeting these requirements?
 - c. How many ADA-compliant housing units exist at this installation? What percent of the housing units are ADA-compliant on this installation?
 - d. How do you inform military families about the availability of ADA-compliant housing?
 - e. How many ADA-compliant housing units on this installation are set aside for military families with disabilities?
 - f. How many ADA homes are currently occupied by families with disabilities?
 - g. What is the protocol for an EFMP family that is moving to this base and in need of an ADA home or reasonable accommodation?
 - h. What is the protocol once an ADA home becomes available? Do families with disabilities get prioritized? Do families moving on base without disabilities ever get moved into these units? How do you prioritize families with special needs who are waiting to move over into ADA homes compared to incoming residents?
 - i. How many families with disabilities are on the waitlist for an ADA housing unit, and what is the average amount of time they spend on the waitlist?
 - j. Who manages the waitlist for ADA-housing, how does it work, and what communication, if any, exists to let military families know where they stand on it and the military housing office know that such homes are available?
 - k. Does servicemember rank factor in any way into the availability of ADA-compliant housing or the waiting time needed to obtain housing?
 - l. How many families at this installation have requested modifications to housing so it is ADA compliant?
 - i. How many of those families received the requested accommodations?
 - ii. What was the average waiting time for approval of accommodations?
 - iii. What was the average waiting time for completion of accommodations?
 - iv. Were any of these families required to pay for their own accommodations or required to pay to return the home back to its original condition upon move-out?
 - m. In the most recent fiscal year, how many complaints were received regarding housing needs for families with disabilities? Please provide a summary of the number and type of complaint.
 - n. How many of these complaints were resolved, and what was the average time required to resolve a case?

- o. What, if any, housing conditions for special needs families are stipulated in your contract with the DoD? Is your company complying with the obligations outlined in your contract? How frequently are these assessments made? Please provide copies of all assessments.
 - p. Have you or are you currently receiving federal funding from the DoD for this installation?
 - q. Has your company ever been fined or sanctioned by the DoD for problems related to housing for military families with disabilities at this installation? If so, please provide a detailed list of these fines or other sanctions.
 - r. Do you outsource property management to another company at this installation? If so, which company? How long are the agreement terms with this company? How do you ensure the subcontractor(s) is in compliance with your contract with the DoD?
2. According to your website, Lincoln’s mission is “to provide military families with exemplary service in a quality home environment.” What specific steps, if any, are being taken to ensure that your company is following federal laws pertaining to the rights of people with disabilities, including the Fair Housing Act, ADA, and Section 504?

Thank you for your attention to this important matter, and we look forward to your response.

Sincerely,



Elizabeth Warren
United States Senator



Thom Tillis
United States Senator

cc:

The Honorable W. Jordan Gillis, Assistant Secretary of Defense for Sustainment,
The Honorable Paul D. Cramer, Principal Deputy Assistant Secretary of Defense for Sustainment (Installations),
The Honorable Alex A. Beehler, Assistant Secretary of the Army for Installations, Energy, and Environment,
The Honorable Charles A. Williams, Assistant Secretary of the Navy for Energy, Installations, and Environment,
The Honorable John W. Henderson, Assistant Secretary of the Air Force for Installations, Environment, and Energy,
Biden-Harris Transition Team