No. 20-227

IN THE

Supreme Court of the United States

October Term, 2020

CYNTHIA MADEJ AND ROBERT MADEJ,

Petitioners,

v.

JEFF MAIDEN, ATHENS COUNTY ENGINEER,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

MOTION FOR LEAVE TO FILE BRIEF AND BRIEF OF DISABILITY RIGHTS ORGANIZATIONS AS AMICI CURIAE IN SUPPORT OF PETITIONERS

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No. 20-227

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October Term, 2020

CYNTHIA MADEJ AND ROBERT MADEJ,
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v.

JEFF MAIDEN, ATHENS COUNTY ENGINEER,
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MOTION FOR LEAVE TO FILE BRIEF AS AMICI CURIAE IN SUPPORT OF PETITIONERS

The Ability Center of Greater Toledo (a Center for Independent Living), Advancing Independence, The Center for Disability Empowerment, Fair Housing Advocates Association, The National Council on Independent Living, and Western Reserve Independent Living Center ("proposed amici") respectfully move under Supreme Court Rule 37.2(b) for leave to file a brief as amici curiae in support of Petitioners Cynthia and Robert Madej.

All parties were timely notified of proposed amici's intent to file this amicus brief. Petitioner has consented to the filing of the brief. Respondent Jeff Maiden, Athens County Engineer, refused to consent to Amici Curiae filing a brief in support of Petitioner. Proposed amici thus file this motion seeking leave to file the amicus brief.

This case presents issues of constitutional and ethical importance to proposed amici who work to ensure that people with disabilities are able to live independently in their communities, free from barriers to independence in the form of discrimination by the government due to their disabilities. Discrimination that violates a disabled person's civil rights under housing and disability discrimination laws is of utmost importance to each amici in this brief, as it is their mission to ensure independence for all people at the heart of the amicus curiae brief, not just the Petitioners. Amici are concerned that, in this case, the government has abdicated its requirement under federal civil rights laws to consider "disability" broadly as required by federal law, and, if such incorrect focus on investigating *disability* instead of considering *accommodations* continues, disabled individuals will be unable to enjoy their right to live independently in their communities free from discrimination as able-bodied citizens do without worry. Amici are confident that their input as a friend of the Court will provide the Court with insight and understanding of the core right to live independently, in your community, as a person with a disability.

For the foregoing reasons, the motion should be granted.

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BRIEF OF DISABILITY RIGHTS ORGANIZATIONS AS AMICI CURIAE IN SUPPORT OF PETITIONERS

INTEREST OF AMICUS CURIAE

This brief amicus curiae is filed, pursuant to consents of the parties filed with the Clerk,[1] on behalf of the following organizations:

The Ability Center of Greater Toledo
Advancing Independence
The Center for Disability Empowerment
Fair Housing Advocates Association
Western Reserve Independent Living Center
National Council on Independent Living

[1] Pursuant to this Court's Rule 37.6, none of the parties authored this brief in whole or in part and no one other than amicus or counsel contributed money or services to the preparation and submission of this brief.

Amici submit this amici curiae brief because they are particularly concerned with and distinctively informed about issues that are at the center of this case -- the core right of people with disabilities to live free from discrimination in housing from state and local government.

Each of these organizations is dedicated to advocating for access to public facilities, federally-funded public services and employment opportunities for disabled Ohioans. Collectively, these organizations serve a clientele with a diverse range of disabilities who will be severely impacted if the Americans with Disabilities Act and Fair Housing Act's goals of increasing access for the disabled are artificially limited by a judicial definition of "disabled," and if a meaningful interactive process used to determine reasonable accommodations is ignored by covered entities and the Courts.

Ability Center of Greater Toledo

The Ability Center advocates, educates, partners, and provides services supporting people with disabilities to thrive within their community. For over 100 years, programs have adapted to remove current barriers to independent living for people with disabilities in northwest Ohio. With the advent of the Americans with Disabilities Act and a national network of Centers for Independent Living, the focus of The Ability Center moves towards providing core services of advocacy, information and referral, independent living skills training, peer support and mentoring, and transition.

Advancing Independence

Advancing Independence's mission is to empower citizens with disabilities to be in charge of their lives and participate as members of their communities. Through our collective strength, we advocate for the elimination of societal barriers and strive to achieve community accessibility and acceptance.

The organization's purpose is to assist people with significant disability to live independently, and to serve the community at large by helping to create an environment that is accessible to all through technical assistance and systemic advocacy.

The Center for Disability Empowerment

The Center for Disability Empowerment (CDE) is a community-based, non-residential center that is driven by the choice and direction of people with disabilities (consumers). CDE serves individuals of any age, with any disability. We help consumers develop highly personal Independent Living Plans, with self-set goals, priorities and timelines. CDE provides support and resources to enable consumers to meet their individual goals for living, learning, worshiping, and playing alongside people who do not have disabilities.

Fair Housing Advocates Association

The mission of the Fair Housing Advocates Association is to eliminate housing discrimination, lending and homeowner's insurance discrimination, racial and sexual harassment, and to ensure housing opportunities for all people. In furthering this goal, FHAA engages in activities designed to encourage fair housing practices through educational efforts, assist persons who believe they have been victims of housing discrimination, and take all appropriate and necessary action to ensure that fair housing laws are enforced throughout Ohio.

National Council on Independent Living

The National Council on Independent Living (NCIL) advances independent living and the rights of people with disabilities. NCIL is the longest-running national cross-disability, grassroots organization run by and for people with disabilities. Founded in 1982, NCIL represents thousands of organizations and individuals including: individuals with disabilities, Centers for Independent Living (CILs), Statewide Independent Living Councils (SILCs), and other organizations that advocate for the human and civil rights of people with disabilities throughout the United States. NCIL emphasizes that people with disabilities are the best experts on their own needs, that they have crucial and valuable perspective to contribute to society, and are deserving of equal opportunity to decide how to live, work, and take part in their communities.

Western Reserve Independent Living Center

Western Reserve Independent Living Center assists individuals with disabilities to be as independent as they wish. WRIL works to fully integrate people into mainstream of society so they may have the same choices and opportunities to contribute to society as people without a disability. WRIL assists in breaking down barriers in the community by providing disability awareness, education, and advocacy.

SUMMARY OF ARGUMENT

Beyond being inconsistent with the clear statutory mandates of the Americans with Disabilities Act of 1990 (ADA), ADA Amendments Act of 2008 (ADAAA), Fair Housing Act of 1968 (FHA), and the Fair Housing Amendments Act of 1988 (FHAA), the Court below's approach in narrowly defining disability and in overlooking the need for meaningful interactive process threatens to undermine the ability of disabled individuals and advocacy groups like Amici to work with public facilities and governmental entitles to obtain accommodations for the disabled. By statutorily shifting the focus from the extent to which an individual's impairment substantially limits a major life activity to whether the covered entity has complied with its obligations and not engaged in discrimination, and mandating that the definition of disability should be broadly construed, Congress signaled that the disability accommodation process should principally be an interactive process between citizens and covered entities under the ADA, FHA and their amendments. Litigation to obtain required accommodations should be a last resort.

ARGUMENT

THIS COURT SHOULD GRANT REVIEW AND REVERSE, REAFFIRMING THE PRINCIPLE THAT: (1) THE DEFINITION OF DISABILITY SHOULD BE BROADLY CONSTRUED, AND (2) THE DISABILITY ACCOMMODATION PROCESS SHOULD BE A MEANINGFUL INTERACTIVE PROCESS BETWEEN INDIVIDUALS AND COVERED ENTITIES UNDER THE ADA AND FHA

I. THE ADA AND THE ADAAA

In *PGA Tour, Inc. v. Martin*, 532 U.S. 661, 683, n. 38 (2001), this Court acknowledged that there is an issue of how courts should evaluate the question of "the specifics of the claimed disability" to determine whether an individual qualified as disabled and therefore whether an accommodation is required. Amici respectfully submit that that day has arrived.

Prior to the Sixth Circuit's decision in this case, most circuit courts addressing this issue had held that an individual's self-reported medical history is presumptively reliable in determining whether an individual has a qualifying disability and is therefore entitled to accommodation under the ADA and its amendments. For example, in *Argenyi v. Creighton University*, 703 F.3d 441, 446 (8th Cir. 2013), the Eighth Circuit expressly recognized that "it is especially important to consider the complainant's testimony carefully because 'the individual with the disability is most familiar with his or her disability and is in the best position to determine what type of aid or service will be effective'" (citation omitted). Similarly, in *Williams v. Tarrant County College District*, 717 Fed. Appx. 440, 448 (5th Cir. 2018), the Fifth Circuit held that it was "incorrect" for the District Court to reject a claimant's declaration under oath as to the extent of effects of the disability as "self-serving" without additional medical documentation or support. The Fifth Circuit specifically recognized that the ADA "usually will not require scientific, medical or statistical analysis" to establish a disability. *Id*. (quoting 29 C.F.R. §1630.2(j)(1)(v)).

It is the position of Amici that the position adopted in *Argenyi* and *Williams* more accurately reflects the legislative intent of the ADA and – more significantly – the statutory mandate in the ADA Amendments Act that the focus in ADA cases not be on the extent to which an impairment substantially affects a major life activity but on whether the entity has fulfilled its obligation not to discriminate.

Title II of The Americans with Disabilities Act ("ADA") was enacted with the goal "to root out disability-based discrimination, enabling each covered person (sometimes by means of reasonable accommodations) to participate equally to all others in public facilities and federally funded programs." *Fry v. Napoleon Community Schools* , 580 U.S. ___, ___ (2017). As originally enacted, Title II of the ADA states in pertinent part, "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." 42 U.S.C. § 12132.[2]

As relates specifically to this case:

> The term 'qualified individual with a disability' means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

42 U.S.C. §12131(2).

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[2] The provision and maintenance of public roads is a quintessential "program[] or activit[y] provided by a public entity." Ohio law states that one of the express duties of the statutory office of county engineer is to "prepare all plans, specifications, details, estimates of cost, and submit forms of contracts for the construction, maintenance, and repair of all bridges, culverts, roads, drains, ditches, roads on county fairgrounds, and other public improvements, except buildings, constructed under the authority of any board within and for the county." Ohio Rev. Code §315.08.

In 2008, Congress passed the ADA Amendments Act, Public Law 110-325, in response to decisions from this Court and lower courts that had significantly narrowed the application of the definition of "disability" beyond what Congress had intended when the ADA was originally enacted. The revised language of the ADA Amendments Act redefined "disability" and clarified that it is to be interpreted broadly. The ADA Amendments Act further mandated in the statutory language that the primary focus in an action brought pursuant to the ADA was to be whether covered entities were in compliance with their obligations not to discriminate on the basis of a disability and that the question of whether an individual's impairment constitutes a "disability" under the ADA should not demand extensive analysis.

In the ADA Amendments Act, Congress stated that when it originally enacted the ADA, it expected that the term "disability" and related terms such as "substantially limits" and "major life activity" be interpreted "consistently with how courts had applied the definition of a handicapped individual under the Rehabilitation Act" – expansively and in favor of broad coverage. Public Law 110-325, §2(a)(1)-(8) and (b)(1)-(6). Congress found that this expectation was not fulfilled. Public Law 110-325, §2(a)(3).

Congress found that several decisions from this Court, including *Sutton v. United Airlines*, 527 U.S. 471 (1999) and *Toyota Motor Manufacturing v. Williams*, 532 U.S. 184 (2002) had improperly narrowed the broad scope of protection Congress had originally intended under the ADA, the eliminating protection for many individuals whom Congress had intended to protect. Public Law 110-325, §2(a)(4)-(7). As a result of these cases, lower courts ruled in numerous cases that individuals with a variety of substantially limiting impairments were not considered to be "disabled" and thus not protected by the ADA. *See* 154 Cong. Rec. S8840 (daily ed. Sept. 16, 2008 (Statement of the Managers).

Congress found that these rulings imposed a higher degree of limitation and expressed a higher standard than it had originally intended, thus precluding many individuals from the coverage of protection intended under the ADA. *Id*. At S8840-41.

Congress expressed its dissatisfaction with these rulings in the statutory text of the ADA Amendments Act. Congress statutory overruled Williams and Sutton and expressly reinstated prior precedent which had broadly defined disability under the Rehabilitation Act. Public Law 110-325, §2(a)(4)-(7), (b). Congress specifically mandated that "the definition of disability in this Act shall be construed in favor of broad coverage of individuals under this Act ***." Public Law 110-325, §4(a)(4)(A). Congress further specifically mandated that the determination of whether someone's impairment is a disability "should not demand extensive analysis" and mandated that the focus shift back to "whether covered entities under the ADA have complied with their obligations" not to discriminate on the basis of disability. Public Law 110-325, §2(b)(6).

Amici respectfully suggest that the practical effect of the Sixth Circuit's decision in this case is to restore the high burden of establishing a "disability" that Congress sought to eliminate in passing the ADA Amendments Act and make it far more difficult for individuals like the Madejs to be able to approach local governmental entities when some type of accommodation is necessary under Title II of the ADA. The extent of corroborative expert medical evidence required by the Sixth Circuit in this case and its apparent wholesale rejection of an impacted individual's self-reported medical history is wholly inconsistent with Congress' mandate that the determination of whether someone's impairment is a disability "should not demand extensive analysis." Public Law 110-325, §2(b)(6).

Beyond being inconsistent with the clear statutory mandates of the ADA and the ADA Amendments Act, the Sixth Circuit's approach undermines the ability of disabled individuals and advocacy groups like Amici to work with public facilities and governmental entitles to obtain accommodations for the disabled. By statutorily shifting the focus from the extent to which an individual's impairment substantially limits a major life activity to whether the covered entity has complied with its obligations and not engaged in discrimination, Congress signaled that the disability accommodation process should principally be an interactive process between citizens and their governmental leaders who are responsible for compliance with the ADA. Litigation to obtain required accommodations should be a last resort. The Sixth Circuit appeared to recognize as much at the end of its opinion when it "second[ed] the district court's hope that the county engineer will give the Madejs 'notice far in advance of road work' *** [and that] the policy questions about how best to reconcile the needs of residents who travel Dutch Creek Road with the needs of Cynthia Madej are for the county engineer and the local community to whom he answers." *Madej v. Maiden*, 951 F.3d 364, 377 (6th Cir. 2020).

This goal is undermined by enacting a standard of proof to establish a disability that is so significantly high that it actually can dis-incentivize public officials from focusing on eliminating barriers to the disabled by unnecessarily shifting focusing on the extent of an affected individual's claimed disability to whether (in the official's mind) sufficient medical evidence exists to support a claimed disability. The approach adopted by the Sixth Circuit in this case with respect to the quantum of proof necessary to establish a qualified disability is an open invitation to local officials – like the Athens County engineer – to reject requests for accommodation based upon that official's subjective belief that an individual or group seeking an accommodation are not disabled enough to warrant an accommodation. It is an open invitation for officials

responsible for ensuring accommodations for the disabled to substitute their own judgement or opinions for those of who have disabilities, entities like Amici who advocate on behalf of the disabled, and those medical professionals most familiar with those individuals who seek accommodation. It potentially creates a time-consuming and costly "battle of the experts" at the local level when Congress has mandated that the real focus is to be on "whether entities covered under the ADA have complied with their obligations" not to discriminate. Public Law 110-325, §2(b)(5).

Amici respectfully submit that the approach undertaken in decisions such as Argenyi and Williams is consistent with the mandates of the ADA Amendments Act. The Sixth Circuit is in conflict with these other circuits and has adopted an approach that is fundamentally inconsistent with Congressional intent and the clear language of the ADA Amendments Act. Amici therefore respectfully request that this Court grant the pending petition for writ of certiorari to resolve these conflicts in a manner that is consistent with Congressional intent and the statutory language of the ADA Amendments Act.

II. AMICI'S ARGUMENT UNDER THE FAIR HOUSING ACT OF 1968; THE FAIR HOUSING AMENDMENTS ACT OF 1988

Discrimination in housing is one of the greatest barriers faced by individuals with disabilities. Amici submit this argument to the Court to address the Sixth Circuit's (1) elimination of self-reported symptoms in determining disability and (2) refusal to address Respondent's decision against engaging in any interactive reasonable accommodation process implicitly required under the Fair Housing Act (FHA) and Fair Housing Amendments Act (FHAA). These behaviors undermine these Act's intention for individuals with disabilities to have the equal opportunity to use and enjoy housing free from discrimination.

The Fair Housing Act, originally enacted in 1968, and substantially expanded by the Fair Housing Amendments Act of 1988, Pub. L. No. 100-430, declares that: "It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States." 42 U.S.C. § 3601. The 1988 amendments, among other things, added "handicap" as a prohibited basis for discrimination. In describing the need for protection for this class of persons, the House Judiciary Committee report on the legislation stated that:

> The Committee understands that housing discrimination against handicapped persons is not limited to blatant, intentional acts of discrimination. Acts that have the effect of causing discrimination can be just as devastating as intentional discrimination. . . . In *Alexander v. Choate*, 469 U.S. 287 (1985), the Supreme Court observed that discrimination on the basis of handicap is "most often the product, not of invidious animus, but rather of thoughtlessness and indifference – of benign neglect."

H.R. Rep. No. 100-711, at 25 (1988), reprinted in 1988 U.S.C.C.A.N. 2173, 2186.

Despite the FHAA's prohibition on disability discrimination in housing, disability discrimination complaints were the most common type of fair housing complaint received by U.S. Department of Housing & Urban Development (HUD) in 2010. U.S. DEPT. OF HOUSING AND URBAN DEVELOPMENT, 2009 WORST CASE HOUSING NEEDS OF PEOPLE WITH DISABILITIES (2010), available at http://www.huduser.org/portal/Publications/pdf/WorstCaseDisabilities03_2011.pdf. One type of disability discrimination prohibited by the FHAA is the refusal to make reasonable accommodations in

rules, policies, practices, or services when such accommodations may be necessary to afford a person with a disability the equal opportunity to use and enjoy a dwelling. 42 U.S.C. § 3604(f)(3)(B). Courts have also applied the Act to state and local governments, most often in the context of exclusionary zoning or other land-use decisions. *See e.g.*, *City of Edmonds v. Oxford House, Inc.*, 514 U.S. 725, 729 (1995); *Project Life v. Glendening*, 139 F. Supp. 703, 710 (D. Md. 2001), *aff'd* 2002 WL 2012545 (4th Cir. 2002).

First, the FHA defines a person with a disability to include (1) individuals with a physical or mental impairment that substantially limits one or more major life activities; (2) individuals who are regarded as having such an impairment; and (3) individuals with a record of such an impairment. 42 U.S.C. § 3602(h). The Supreme Court has recognized that "the language of the Act is broad and inclusive," *Trafficante v. Metro. Life Ins. Co.*, 409 U.S. 205, 209 (1972), and has repeatedly stated that the Act should be given a "generous construction." *City of Edmonds v. Oxford House, Inc.*, 514 U.S. 725, 731 (1995) (quoting *Trafficante*, 409 U.S. at 212). The Court below itself held in *Campbell v. Robb*, 162 Fed. Appx. 460, 466 (6th Cir. 2006) that in determining whether a defendant has violated § 3604(c), "we bear in mind the broad construction courts have given to § 3604(c) in order to further the remedial purpose of the FHA."

Despite Petitioner meeting the elements of the FHA's definition of a person with a disability, the Court below held that Petitioners Cynthia and Robert Madej, failed to meet the definition of "disability" because Mrs. Madej's symptoms were self-reported. HUD authored a joint policy statement with the U.S. Department of Justice (DOJ) on "Reasonable Accommodations Under the Fair Housing Act," that provides technical assistance to persons with disabilities and housing providers.

U.S. DEPT. OF HOUSING AND URBAN DEVELOPMENT & DEPARTMENT OF JUSTICE, JOINT STATEMENT (2004), available at http://www.justice.gov/crt/about /hce/ jointstatement_ra.php (hereinafter "JOINT STATEMENT"). While policy statements lack the force of law, they do have the 'power to persuade.' *Christensen v. Harris Co.*, 529 U.S. 576, 587 (2000). Additionally, because HUD was, "the federal agency primarily charged with the implementation and administration of the [FHA]," courts, "ordinarily defer to [its] reasonable interpretation of [the] statute." *Meyer v. Holley*, 537 U.S. 280, 287-88 (2003).

According to HUD, "depending on the individual's circumstances, information verifying that the person meets the Act's definition of disability can usually be provided by the individual himself or herself." Joint Statement at ¶18 (emphasis added). While the Madejs proffered extensive medical documentation of Mrs. Madej's disabilities, HUD permits verification of disability from sources less stringent than medical documentation, including ". . .a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may also provide verification of a disability." Id. To emphasize the broad nature of "disability" definition under the FHA, HUD also stated that, "In most cases, an individual's medical records or detailed information about the nature of a person's disability is not necessary for this inquiry." Id. Furthermore, the Social Security Administration determined in 1997 that Mrs. Madej was totally disabled. Again according to HUD, "Persons who meet the definition of disability for purposes of receiving Supplemental "Security Income ("SSI") or Social Security Disability Insurance ("SSDI") benefits in most cases meet the definition of disability under the Fair Housing Act." Id.

Second, Section 804(f)(3)(B) of the Fair Housing Act provides that unlawful discrimination includes the "refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford [a handicapped] person equal opportunity to use and enjoy a dwelling." 42 U.S.C. § 3604(f)(3)(B). In applying the reasonable accommodation standard, there are three elements to consider. First, courts look at whether persons with disabilities have "equal opportunity to use and enjoy a dwelling." 42 U.S.C. § 3604(f)(3)(B); *see Smith & Lee Assoc., Inc. v. City of Taylor*, 102 F.3d 781, 794 (6th Cir. 1996). Second, courts determine whether the requested accommodation "may be necessary" to afford a person with a disability equal opportunity to use and enjoy a dwelling. 42 U.S.C. § 3604(f)(3)(B); *see Smith & Lee*, 102 F.3d at 794-95. Third, courts consider whether the accommodation is "reasonable." 42 U.S.C. § 3604(f)(3)(B); *see Smith & Lee*, 102 F.3d at 794-95.

However, part of the "reasonableness" inquiry prior to reaching the Courts is for the person with a disability and the covered entity to engage in an interactive process in order to make a determination of whether the request is reasonable or if it will pose an undue financial or administrative burden before the covered entity accepts or rejects the request. Joint Statement at ¶ 7. Although the "interactive process" is not stated in the Act or its implementing regulations, Courts have found it to be implicit in the FHA. *See Jankowski Lee & Assocs. v. Cisneros*, 91 F.3d 891, 895 (7th Cir. 1996) (en banc); *see also Douglas v. Kriegsfeld Corp.*, 884 A.2d 1109, 1122 n.22 (D.C. App. 2005) (discussing the interactive process and the FHA, and citing cases); *Wilkerson v. Shinseki*, 606 F.3d 1256, 1266 (10th Cir. 2010) (the Rehabilitation Act requires an interactive process, which is "inherent in the statutory obligation" to provide a reasonable accommodation).

HUD stated, "When a housing provider refuses a requested accommodation because it is not reasonable, the provider should discuss with the requester whether there is an alternative accommodation that would effectively address the requester's disability-related needs without a fundamental alteration to the provider's operations and without imposing an undue financial and administrative burden. If an alternative accommodation would effectively meet the requester's disability-related needs and is reasonable, the provider must grant it. An interactive process in which the housing provider and the requester discuss the requester's disability-related need for the requested accommodation and possible alternative accommodations is helpful to all concerned because it often results in an effective accommodation for the requester that does not pose an undue financial and administrative burden for the provider." Joint Statement at ¶ 7.

Here, Petitioners made repeated requests to Respondent for a reasonable accommodation and to discuss options, but Respondent refused any discussion and made no attempts to gather any information from Petitioner about what she was requesting, or what she needed. HUD further states, "A failure to reach an agreement on an accommodation request is in effect a decision by the provider not to grant the requested accommodation." Joint Statement at ¶ 10 (emphasis added). Respondent's refusal to engage in any interactive process with Petitioner, and the Court below permitting Respondent to abdicate its responsibility in the interactive process, threatens the right of millions of individuals with disabilities to enjoy housing free from discrimination.

CONCLUSION

The ADA, ADAAA, FHA, FHAA make it clear that Congress intended for these remedial statutes to broadly define disability, and invoke an interactive process when an individual with a disability makes a request for a reasonable accommodation. Proposed amici respectfully request this Court to reverse the opinion of the Court below to ensure that a precedence is not set that will frustrate the intent of these statutes in protecting the rights of individuals with disabilities to be free from discrimination.

For the foregoing reasons, proposed amici respectfully urge the Court to reverse and remand the decision of the United States Court of Appeals for the Sixth Circuit.

Respectfully submitted,

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