

## **Equity and inclusion through housing design**

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Speaking Notes

**“People know what they do, they frequently know why they do what they do, but what they don’t know is, what they do does.” Michel Foucault.**

This is a statement of consequences. We could also say, “Builders know how to build houses, they know why they build them, but what they don’t know is, what their houses do”.

But let us not put all the blame on the house-building industry. Where are all the others who do know what they do does? And do nothing.

Today we might bring a few to light.

I’ve been asked to speak about legislative and policy imperatives related to equity and inclusion through housing design.

### **Legislation and Policy Imperatives**

Most of us like to believe that Australia is a place where everyone gets a fair go. But in reality, we cannot rely on good will to make things happen. Some of that fair go has been won through hard fought battles eventually leading to legislative solutions.

This is why we have legislation related to many aspects of human and civil rights.

A key piece of legislation for people with disabilities has been the Disability Discrimination Act of 1992. While many gains have been made under this Act, it has been insufficient to bring about wholesale change across all aspects of society such that equity and inclusion is just a matter of course.

We should note that the right to have accessibility does not automatically translate into a right to equity of treatment and social inclusion.

This is why legislation alone while a necessary condition is not always a sufficient condition to bring about desired results.

Australia's National Disability Strategy is underpinned by the UN Convention on the Rights of Persons with a Disability. This Convention attempts to bring some practical and realistic understanding to the issues while upholding the values and principles of equity and inclusion.

The general obligations of the parties to the Convention are to realise the human rights and fundamental freedoms for all persons with disabilities. This includes, among other obligations: to adapt or introduce suitable legislation to enact the Convention, take measures to eliminate discrimination, and to promote research and development of new technology, and promote training of professionals and staff. Basically to police, protect, and promote.

The Convention acknowledges that conditions cannot be improved overnight and that we should achieve the full realisation of economic, social and cultural rights progressively.

Indeed, the NDIS is a good example of the principles of the Convention in practice. It is a planned approach to progressively achieve the realisation of rights by giving people more choice and control over their lives than they currently experience.

The Consumer Directed Care program for older Australians has the same underpinnings. Both are being progressively rolled out. Both are premised on the LHD Guidelines being enacted.

Consequently, the introduction of the NDIS and the Consumer Directed Care program are clear signals to the house-building industry that the status quo cannot be sustained.

As an adjunct to the UN Convention, the World Health Organisation, with an underpinning philosophy of equity and inclusion, is promoting active ageing through the Age-Friendly Cities and Communities program.

In Australia the notion of age-friendly communities is gaining traction. State and local governments are realising that they need to plan for the changing demographics and that keeping older people active for longer is not only good for the individual but for the economy and society.

As an aside, it is worth noting that in the last financial year 150,000 new dwellings were built – not a huge percentage of all housing stock. But if all new dwellings were built to the LHA guidelines from next year on, in ten years in 2025 we would have 1.5 million dwellings. And who knows by then, renovations may well follow this lead.

So there is plenty of material for rights under legislation and policy. But neither of these has been sufficient to bring about equity and inclusion in housing design. Rights seem to stop at the front gate. This was confirmed in the Access to Premises Standard. So maybe we have to look elsewhere for answers.

### **Legislation, rights and the market**

It was once said to me that you can have your rights if you can afford them. While the premise of this line of reasoning took me aback, I realised that this idea of rights was probably held by others. I had not previously understood rights in this context.

Later I discovered something called the Mutual Advantage Theory that gave me the context. This theory was developed by Lawrence Becker. The very short version of this theory is that we have to be pragmatic about rights in a market-based economy where everything is negotiable.

Basically, each party is expected to bring to the negotiating table something of benefit for the other party. In the case of the house building industry it can bring greater equity and inclusion for all citizens through introducing universal design principles.

But what do people with disabilities and older people, bring to the table? For many it is assumed nothing.

But they are bringing the potential to reduce health costs, increase employment for themselves and their carers, reduce dependency on others, and to reduce home renovations paid for by the public purse – in short a generalised good for society that spreads to all citizens including house builders.

However, negotiating this philosophical landscape has some contradictory aspects.

We have on the one hand the noble notion of justice and fairness for all, yet on the other, an approach to theories of justice in the western world which are based on notions of mutual advantage.

Becker notes these theories of justice are largely constructed by those who are not themselves disadvantaged and therefore possibly stand to gain or lose accordingly.

This is where Livable Housing Australia fits in with its attempts to straddle the divide between social justice on the one hand and market economy on the other, all the while hoping to bring about mutual advantage.

In this Mutual Advantage Model, it is not about punishing people who do harms or wrongs, it is about trying to correct the situation by restoring productive reciprocal relationships with the offender. It is a case of corrective good for bad received.

This is also compatible with the UN Convention's view – correcting past wrongs without punishing offender. Educative and other arguments are used as part of the corrective process. However, as Becker says, education is largely a voluntary action and cannot be relied upon for wholesale social change. Where vested interests are concerned education is unlikely to result in the desired response.

LHA has developed a market discourse, marketing materials, and marketing processes for implementing universal design in housing and now it is assumed, that with sufficient information, the market will deliver and respond to the rights of access. The figures speak for themselves and show that the market has failed to deliver.

And so we go full circle and we are back at the legislation page for equity and inclusion in housing. The house building industry knows what it does, it knows why it does it, but faced with the evidence, they can no longer claim that they don't know what they do, does.

But then a lot of other people know what the house building industry does too.

As Margaret Ward said last night each one of us must take some responsibility for what we know. Margaret divided us into four groups:

- People who have power and understand the impacts of social exclusion and do nothing.

- People in the house-building industry, who in their thousands are responsible by association but do nothing to change the status quo.
- People who take individual responsibility, such as me, and build a universally designed home.
- People who take collective action to intervene and call to account those people in power who do nothing.

Which group do you fall into?

Apart from the DDA, we have plenty of legislation and policies to guide the way: the UN Convention, the National Disability Strategy, the NDIS, and WHO Age Friendly Cities – all premised on equity and inclusion, and citing universal design as one of the means of achieving this aim.

The National Dialogue for Universal Housing Design worked to the Mutual Advantage model to take account of the real world that we live in – a market economy which needs time to adjust, and where we must give something back for what we get.

So given that we live in a market economy, and given that we negotiated our rights to and for mutual advantage in the form of Livable Housing Design Guidelines, it is time to deliver. The UN Convention allows time for change – I believe sufficient time has passed for education and voluntary action.

You can't have it both ways – industry did not want legislation which would have delivered absolute rights, yet it has not been true to the Mutual Advantage rule which is to deliver voluntarily the agreements made through negotiation.

What else needs to be done? And who is going to take responsibility for it. The outcome from this afternoon's workshop will hopefully lead us to next steps.

*Reference for Mutual Advantage Theory:*

Becker, L.C., 2005. "Reciprocity, Justice and Disability", *Symposium on Disability, Ethics*, Vol 116 No.1, University of Chicago Press, p 9-39.