LAWS PROHIBITING DISCRIMINATION BASED ON DISABILITY IN HOUSING

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During the Civil Rights Era

• Fair Housing Act signed by President Johnson on April 18, 1968.
• The Fair Housing Act DID NOT include protect people with Disabilities.
• That same year, however, the Architectural Barriers Act was signed.
• Required that buildings built, leased, or financed by the US Government be accessible.

1961 - 1984

• American National Standards Institute of 1961 (ANSI)
• Architectural Barriers Act of 1968
• The Rehabilitation Act of 1973
• Uniform Federal Accessibility Standards of 1984 (UFAS)
In the 70s, Progress

Section 504 of the Rehabilitation Act of 1973 required that:

• That 5% of all units in federal-funded properties by accessible to people with mobility impairments

• That 2% of all units by accessible to people with sensory impairments

504 Changed More than Bricks & Mortar

• Required that *reasonable accommodations* be made when necessary to allow full use of housing.

• Required that housing for persons with disabilities be as integrated as possible.

• 504 changed the way we respond to and interact with “Individuals with Disabilities.”

Sometimes Protecting Human Rights is Hard

HUD’s regulations implementing Section 504 in all federally-funded housing were finalized in 1986.
1988 & The Fair Housing Act

- In 1988 the FHAct was amended to include families with children & persons with disabilities as protected classes.
- Amended FHAct included standards to make all new multi-family housing more accessible.
- Amended Act gave HUD & DOJ authority to litigate fair housing cases.
- FHAct applies to ALL housing and housing-related transactions—whether subsidized or not.

1990 & the ADA

- Enacted July 26, 1990, the Americans with Disabilities Act provides protection to persons with disabilities in employment, public accommodation, State & local Government Services & telecommunications.
- HUD’s mandate: to ensure that programs, services relating to public housing and housing assistance are structured so as to be accessible to persons with disabilities.

Units Covered by the Fair Housing Act

- Design and construction requirements of the Fair Housing Act apply to covered multifamily dwellings consisting of four or more units designed and built for first occupancy after March 13, 1991.
What is First Occupancy?

- A certificate of occupancy must have been issued, and at least one dwelling unit actually must be occupied.

Can you Define NEW?

New construction behind old facades is covered

Interior of building, including all structural portions of floor and ceiling, must be removed and replaced with new construction.

What is a covered Unit?

Single-story dwelling units above shops or a garage are covered even though the dwellings are on the second level. All units on that floor must have an entrance on an accessible route.
In Addition . . . .

An Addition of four or more units is regarded as new construction

Which Units are Covered?

• All ground floor dwelling units in buildings containing four or more units.

• All dwelling units in buildings with 4 or more units if the building has one or more elevators (exception will be discussed later).

• To be a covered unit, all finished living space must be on the same floor, that is, a single-story unit, such as single-story townhouses, villas, or patio apartments

Dwellings not Covered

• Exception: The multifamily building has an elevator only as a means of creating an accessible route to dwellings units on the ground floor. In this case the elevator is not required to serve dwellings units on floor which are not ground

• Townhouses with two or more stories

• Buildings converted from a previous non-residential use are not covered. For example, a warehouse, office building or school is converted to a multifamily housing. The conversion is not covered.
Seven Basic Requirements

1. Accessible building entrance on an accessible route
2. Accessible & usable public and common use areas
3. Usable doors
4. Accessible route INTO & THROUGH every covered unit
5. Light switches, thermostats, outlets, & other environmental controls in accessible locations
6. Reinforced walls in bathrooms for later installation of grab bars
7. Usable Kitchens and Bathrooms

Requirement 1-Accessible Building Entrance on an Accessible Route

"...covered multifamily dwellings shall be designed and constructed to have at least one building entrance on an accessible route unless it is impractical to do so because of terrain or unusual characteristics of the site (24 CFR 100.205)"

What is an Accessible Route Anyway???

- A continuous, unobstructed path through sites and buildings that connects all accessible features, elements, and spaces
- Allows the successful use of any site or building by a person with a disability
- Safe for someone in a wheelchair and usable by others
- Onsite Accessible Routes may include parking spaces, parking accessides, curb ramps, walks, and lifts
- Accessible routes inside buildings may include corridors, doorways, floors, ramps, elevators, and lifts
- Specifications for an Accessible Route(1986 ANSI A117.1 4.3): At least 36" wide
- Running slope no more than 5% — cross slope of 2% or less
- Accessible routes may include elevators or lifts, but not stairs
- Accessible route must be on firm stable material such as concrete or asphalt
**Accessible Entrances**

All buildings containing covered dwelling units and separate buildings containing public and common use spaces, such as clubhouses, must have at least one accessible building entrance on an accessible route, unless it is impractical to do so as determined by applying the site impracticality tests (FHA Design Manual pg 41).

**An Accessible Route must be free of Protruding Objects**

**Requirement 2- Accessible and Usable Public and Common Use Areas**

...covered multifamily dwellings with a building entrance on an accessible route shall be designed in such a manner that the public and common use areas are readily accessible to and usable by handicapped persons. (24 CFR 100.205)
**Requirement #2: Accessible and Usable public and Common Use areas**

Common use areas: Areas that serve residents and guests

- Laundry rooms, swimming pools, garbage facilities, playgrounds, common area mail facilities
- Common use areas must be on an accessible route from covered units
- Includes parking

**Laundry Rooms**

- If each floor of an elevator building, has a laundry room, all must be accessible
- If each building within a development has a laundry room on the ground floor, all ground floor laundry rooms must be accessible
- Front loading machines not required if, when requested, an assistive device such as a "reacher" is provided
- Controls must be in the range of a seated user
- Controls should be operable with one hand without tight grasping, pinching, or twisting of the wrist

**Resident Accessible Parking**

- Minimum of 2% of parking spaces for covered units must be accessible
- If multiple types of parking are provided (garage, parking lot, and covered parking) at least one space must be accessible in each type, even if it is greater than 2%
- If parking is provided at public or common facilities, at least one space must be accessible.
Multiple Recreational Facilities

- When multiple recreation facilities are provided, such as multiple tennis courts, not all but a “sufficient” amount of those facilities must be accessible.
- When there is only one of each type of facility, all facilities must be accessible on an accessible route.

Requirement 3-Usable Doors

...covered multifamily dwellings with a building entrance on an accessible route shall be designed in such a manner that all the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by handicapped persons in wheelchairs. (24 CFR 100.205)

Requirement # 3: Usable Doors

- Common use area doors, including primary entrances to covered units, must have a clear opening of at least 32” (accessible doors)
  - Measured from door to door stop
- Doors inside covered units designed for passage must have a clear opening of a “nominal” 32 inches (at least 31 5/8”) (usable doors)
Common Violations

Requirement 3 - Usable Doors

- Walk in closet and storage room doors do not provide a nominal 32” opening (31 5/8”)
- Second doors into bathrooms does not provide a nominal 32” opening (31 5/8”)
  - In bathrooms with multiple doors, ALL doors must be accessible

Requirement 4 - Accessible Route Into & Through the Covered Unit

...covered multifamily dwellings with a building entrance on an accessible route shall be designed and constructed in such a manner that all premises within covered multifamily dwelling units contain an accessible route into and through the covered dwelling unit. (24 CFR 100.205)
Covered Units Must Have an Accessible Route

The Route must:
• pass through main entry door
• continue through all rooms in the unit
• Adjoin required clear floor spaces

• Unlike accessible public and common use areas, does not need to comply with ANSI A117.1
• Must be sufficiently wide and lack abrupt changes in level
• Is not required to extend into a garage or basement (must still have usable doors)

Raised or Sunken Areas

• Usually consist of a few steps and less level change than lofts
• May not contain a functional space in its entirety
  – Living room must be accessible but a secondary seating area in the living room may be raised or sunken
Requirement #5 - Environmental Controls In Accessible Locations

• All covered multifamily dwellings with a building entrance on an accessible route shall be designed and constructed in such a manner that all premises within covered multifamily dwelling units contain light switches, electrical outlets, thermostats and other environmental controls in accessible locations. (24 CFR 100.205)

Requirement #5: Accessible Environmental Controls, Switches, and Outlets

• All operable parts must be at least 15 inches above the floor and no higher than 48 inches above the floor
• Some switches and outlets located over counters must be lower than 48 inches
• Switches on appliances, circuit breakers, and outlets dedicated for certain appliances are not covered
• Controls or outlets that do not meet the requirements are permitted if comparable controls or outlets that provide the same function are provided in the same area
• Must be in accessible locations as defined by ANSI 117.1-1986
Control of One’s Environment is Empowering

Side Reach Over an Obstruction

Forward Reach No Obstruction
Requirement 6- Reinforced Walls for Grab Bars

...covered multifamily dwellings with a building entrance on an accessible route shall be designed and constructed in such manner that all premises within covered multifamily dwelling units contain reinforcements in bathroom walls to allow later installation of grab bars around toilet, tub, shower stall and shower seat, where such facilities are provided. (24 CFR 100.205)

Requirement # 6: Reinforced walls in bathrooms for grab bars

Must have reinforcements in the walls for future installation of grab bars in ALL bathrooms in specific locations around:
- Toilets
- Bathtubs
- Showers

Requirement 7- Usable Kitchens and Bathrooms

...covered multifamily dwellings with a building entrance on an accessible route shall be designed and constructed in such a manner that all premises within covered multifamily dwelling units contain usable kitchens and bathrooms...such that an individual in a wheelchair can maneuver about the space. (24 CFR 100.205)
Requirement #7: Usable Kitchens and Bathrooms

- 30” x 48” clear floor space required at each fixture or appliance
  - Must adjoin to accessible route
  - Must be centered on and parallel or perpendicular to the fixture or appliance
- U shaped kitchens require a 60” turning space or knee space under the sink or cook top at the base of the U

Clearance Between Counters and ALL opposing Elements

- Guidelines require a minimum 40” of clearance between all opposing base cabinets, countertops, appliances, and walls
  - Clearance does not include handles or appliance controls

Bathrooms

- 30” x 48” clear floor space OUTSIDE the swing of the door as it is closed
- Usable fixtures
AWESOME RESOURCE!!

Fair Housing Accessibility FIRST
Funded by HUD to promote compliance with the Fair Housing Act Design and Construction requirements.
Go to their Website: [www.fairhousingfirst.org](http://www.fairhousingfirst.org)
Or Call: 888-341-7781 (V/TTY)

How do Reasonable Accommodations Work in Real Life?

Disability is Defined By Laws
Disability means:
(A) A physical or mental impairment that substantially limits one or more of the major life activities
(B) A record of impairment
(C) Being regarded as having such an impairment.
Major Life Activities

- Include such things as: Caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

Reasonable Accommodations

A housing provider must make reasonable changes to policies & practices to ensure that these... do not discriminate on the basis of disability against a qualified individual with disabilities.

Policies that might be changed:

- Pet Policies
- Transfer Policies
- Household Composition
- Notification of painting or extermination
- Parking
Important Principles

- Persons with Disabilities cannot be required to fill out a specific form or to document obvious needs.
- An unreasonable delay is equivalent to denial of an accommodation.
- Even if an accommodation is unworkable due to administrative & financial burden—must engage in the interactive process.

The Requested Accommodation must be related to the Disability

A Real Life Example:
Margaret McNeil, a double-amputee, appealed to HUD because her housing agency failed to provide her an accessible unit.
Prisoner In Her Own Home

Margaret McNeil, 65, looks out across the spacious living room in her new Portsmouth home. Photo taken July 1, 2011. (Ross Taylor | The Virginian-Pilot)

The outcome
The Portsmouth housing agency paid McNeil a nearly $22,000 settlement and footed the bill to move her into a new, fully accessible unit.
the changes
The Portsmouth agency is required to give staff additional training in fair housing laws including the Fair Housing Act and Section 504.

Examples of Reasonable Accommodations
- Installing Grab Bars
- Conducting business in a resident’s unit
- Providing notices in an alternative format
- Exceptions to Admissions Policy.
- Changing Date upon which rent is due.

Discussion