

Accessibility & Fair Housing

CDBG/HOME Guidebook



Appendix 3

This appendix describes key compliance elements for housing assisted with HOME or CDBG funds. Section 504 of the Rehabilitation Act of 1973 and the Fair Housing Act prohibit discrimination based on disability and establish requirements for program accessibility and physical accessibility in connection with housing programs.

In many cases new construction of rental projects funded with HOME or CDBG funds must meet both the Fair Housing Act and the Section 504 new construction requirements. Where two or more accessibility standards apply, the housing provider is required to follow and apply both standards so that maximum accessibility is obtained.

Section 504 of the Rehabilitation Act of 1973

Program Accessibility

Individuals with handicaps must be able to find out about, apply for and participate in Federally-assisted programs or activities.

- Special communication systems may be needed for outreach and ongoing communication;
- Policies and procedures must be non-discriminatory
- Employment must be accessible. Employers must not discriminate, they must remove physical and administrative barriers to employment and make reasonable accommodations for individuals with known handicaps.
- If grant recipients have 15 or more employees they must:
 - Designate a Section 504 Coordinator;
 - Notify program participants and employees of non-discrimination policies; and
 - conduct self-evaluations of compliance with Section 504.

New Construction

HUD regulations implementing Section 504 require that new construction of multifamily projects be designed and constructed to be readily accessible to and usable by persons with disabilities. Multifamily housing projects are defined as projects containing 5 or more dwelling units. Both the individual units and the common areas in the building must be accessible.

- For new construction of multifamily rental projects, a minimum of 5% of the dwelling units in the project (but not less than one unit) must be accessible to individuals with mobility impairments.
- An additional 2% of the dwelling units (but not less than one unit) must be accessible to individuals with sensory impairments (i.e., hearing or vision impairments).

Rehabilitation

Section 504 requires that if alterations are undertaken to a housing project that has 15 or more units, and the rehabilitation costs will be 75% or more of the replacement cost of the completed facility, then such

developments are considered to have undergone “substantial alterations”. For substantial alterations of multifamily rental housing, the accessibility requirements must be followed:

- a minimum of 5% of the dwelling units in the project (but not less than one unit) must be accessible to individuals with mobility impairments.
- An additional 2% of the dwelling units (but not less than one unit) must be accessible to individuals with sensory impairments (i.e., hearing or vision impairments).

Other Alterations

When other alterations that do not meet the regulatory definition of substantial alterations are undertaken in multifamily rental housing projects of any size, these alterations must, to the maximum extent feasible, make the dwelling units accessible to and usable by individuals with disabilities, until a minimum of 5% of the dwelling units (but not less than one unit) are accessible to people with mobility impairments.

- If alterations of single elements or spaces of a dwelling unit, when considered together, amount to an alteration of a dwelling unit, then the entire dwelling unit shall be made accessible.
- For this category of rehabilitation, the additional 2% of the dwelling unit’s requirement for individuals with sensory impairments does not apply.
- Alterations to common spaces must, to the maximum extent feasible, make those areas accessible.
- A recipient is not required to make a dwelling unit, common area, facility or element accessible, if doing so would impose undue financial and administrative burdens on the operation of the multifamily housing project. Recipients are only required to provide access up to the point of being an undue financial and administrative burden.

Accessibility Standards

Dwelling units designed and constructed in accordance with the *Uniform Federal Accessibility Standards (UFAS)* will be deemed to comply with the Section 504 regulation.

The Fair Housing Act

What Housing Is Covered?

The Fair Housing Act covers most housing sold or rented in the United States. In some circumstances it exempts owner-occupied buildings with no more than four units, single-family housing sold or rented without the use of a broker, and housing operated by organizations and private clubs that limit occupancy to members.

The Act prohibits discrimination in housing practices on the basis of race, color, religion, sex, and national origin. The Fair Housing Act also establishes requirements for the design and construction of new rental or for sale multifamily housing to ensure a minimum level of accessibility for persons with disabilities.

Covered Multifamily Dwelling Units

The design and construction requirements in the Fair Housing Act apply only to a building designed and constructed for initial occupancy after March 13, 1991. The requirements will not apply to rehabilitation projects. Covered multifamily dwelling units are:

- Dwelling units in buildings consisting of 4 or more units served by one or more elevators, **or** ground floor dwelling units in other buildings with 4 or more units.
- The Fair Housing Act requires that covered multifamily dwelling units be designed and constructed in a manner that:
- The public and common use portions of such dwellings are readily accessible to and usable by disabled persons;
- The doors are designed to allow passage into and within the premises of such dwelling units and are sufficiently wide to allow passage by disabled persons in wheelchairs; and
- All premises within such dwelling units contain the following features of adaptive design:
 - Accessible building entrance on an accessible route;
 - An accessible route into and through the dwelling unit;
 - Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
 - Reinforcements in bathroom walls to allow later installation of grab bars; and
 - Usable kitchens and usable bathrooms such that an individual in a wheelchair can maneuver about the space.

Fair Housing Act Design Guidelines

The Fair Housing Act Design Manual published by HUD provides comprehensive information about accessibility requirements which must be incorporated into the design and construction of multifamily housing covered by the Act. Block Grant staff can provide an electronic copy of the document or it may be found on HUD's web site www.huduser.gov