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# FAIR HOUSING AND ACCESSIBILITY TRAINING

DESK REFERENCE

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Nevada Housing Division

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Presented by

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*"Better Results Through A Team Approach"*



## Mark E. English

***One of the nation's leading training specialist regarding accessibility issues that involve ADA, Section 504, and The Fair Housing Amendments Act.***

Mark English has vast experience with multifamily housing programs, with particular experience concerning LIHTC and federal housing programs. E&A Team, Inc. performs accessibility site inspections and blueprint plan reviews on multifamily housing complexes to assess compliance with the Americans with Disabilities Act, Federal Section 504 Requirements, and Fair Housing Accessibility issues. Since 1992, E&A Team, Inc. has performed over 500,000 multifamily units inspections in all 50 states, the U.S. Virgin Islands, Guam, and Puerto.

Mark has taught more than 500 Accessibility Educational Seminars regarding Section 504, Fair Housing, and ADA. He has participated with organizations such as the National Council of State Housing Agencies, the National Association of Home Builders, the National Council for Affordable & Rural Housing, the Southeastern Affordable Housing Management Association, USDA Rural Development (RD), and HUD. In 2014, National Apartment Association Education Institute (NAAEI) endorsed Fair Housing Solutions' four Fair Housing Courses that were Produced and Developed by Mark English.

Mark continues to work towards expanding the public awareness and compliance in the areas of Accessibility and Fair Housing through training and a growing line of services and products. Mark is also the author of SourceAbility™ Flash Drive, the Uniform Accessibility Standards (UFAS) Pocket Edition Manual, and he is a co-author of the newly released ***Fair Housing Act Design Manual Multimedia eBook***.



*"Better Results Through A Team Approach"*



## Scott P. Moore

Scott P. Moore has over 14 years of experience in providing consultation and representation of the housing industry and is widely recognized for his experience in housing law and litigation. Scott has worked closely with the U.S. Department of Justice, U.S. Department of Housing and Urban Development, and USDA/RD over the past 14 years. He served as a senior trial attorney in the Housing and Civil Enforcement Section of the Civil Rights Division of the U.S. Department of Justice in Washington, D.C. During his years at the Justice Department, Scott prosecuted some of the largest pattern or practice fair housing cases brought by the United States.

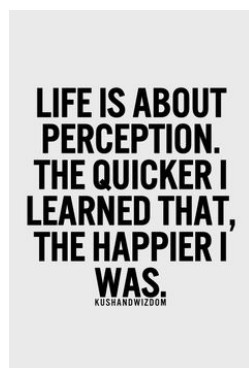
Scott now represents developers, property management companies, nonprofit associations, real estate agents, architects, and engineers. His focus on fair housing laws and HUD/RD compliance has given him a deep-rooted understanding of the laws that impact housing providers. Scott also has extensive trial experience litigating fair housing issues as counsel for defendants and plaintiffs at both the federal trial and appellate levels.

Scott currently serves as the legal specialist for HUD's Fair Housing First Program. He is also a member of the legal committee of the American Association of Homes and Services for the Aging providing advice on fair housing issues affecting senior housing. Scott has provided HUD and fair housing training across the United States for the housing industry and national organizations such as the U.S. Department of Justice, the U.S. Department of Housing and Urban Development, the National Council of State Housing Agencies, the National Affordable Housing Management Association, Harvard University, and the University Of Illinois School Of Law. As a person with a disability, Scott is able to weave his personal experiences with his intricate understanding of housing law to provide training that is informative, engaging, and entertaining.

Scott is married and the father of twin daughters. He serves on the Board of Directors of the AllPlay Foundation, Community Alliance, Family Housing Advisory Services and the Good Neighbor Foundation. Scott was a recipient of the Midlands Business Journal's 40 Under 40 Award and was recently recognized in the Lawyer's Spotlight by the American Bar Association's Commission on Mental and Physical Disability Law.

**BAIRD**HOLM<sup>LLP</sup>  
ATTORNEYS AT LAW

## Fair Housing: Perception v. Reality



## Fair Housing: Perception is Reality

- While intentional housing discrimination certainly still exists, every day fair housing claims are filed against people with good intentions.

## Fair Housing: Perception is Reality

- You don't have to be an "evil" person to violate fair housing laws:
  - Mistakes
  - Ignorance
  - Laziness
  - Reliance on self-proclaimed "experts"
  - Aggressive testing and investigation
  - Misperception

## Which Law Applies?



## Fair Housing Act



- Protected Classes:
  - Race
  - Color
  - National Origin
  - Sex
  - Religion
  - Familial Status
  - Disability

## Fair Housing Act



- Prohibits discrimination:
  - In sale or rental
  - Terms and conditions
  - Advertising
  - Design and construction
  - Failure to allow reasonable modification
  - Failure to make reasonable accommodation



## of Rehabilitation Act

- Section 504 of the Rehabilitation Act of 1973 prohibits recipients of federal financial assistance from discriminating against a qualified person with a disability in the sale or rental of housing.
- Federal agencies primarily responsible for providing federal financial assistance in housing:



## Discrimination



Section 504 Prohibits:

- Discrimination in the sale or rental of housing on the basis of disability,
- Discrimination in the terms and conditions of housing on the basis of disability,
- Failure to provide reasonable accommodations, and
- Failure to include accessibility features in certain types of multifamily housing.

# ADA

## Title II

- Prohibits disability discrimination by “public entities”:
  - Public housing authorities
  - State colleges and universities

## Title III

- Prohibits disability discrimination by "places of public accommodation":
  - Rental and sales offices
  - Other areas of property open to general public

# State Fair Housing Laws

## Federal Classes:

- Race
- Color
- National Origin
- Sex
- Religion
- Familial Status
- Disability



## What is “advertising”?

- Notice, statement, or advertisement made, printed, or published; or caused to be made, printed, or published



## Advertising

- Print Advertisement
- Audio/Video Advertisement
- Sign
- Poster
- Letter
- Note
- Statement
- Gesture



## Advertising: Example 1

Bob, a white male, visits the community and asks about the racial composition of the property. He adds, "I want my kids to live in a diverse neighborhood." The manager gives Bob a general description of the racial make-up of the community.



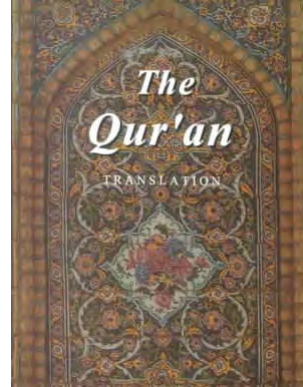
## Advertising: Example 2



Betty calls the rental office and indicates she is interested in living at the property. Betty says that she is Muslim and wants to know if there are any mosques nearby. The manager informs Betty that she is not allowed to give out that information because it would violate fair housing laws.

## Advertising: Example 3

Tammy is a district manager who routinely conducts property visits. When Tammy arrives at one of the properties, she notices that the manager has The Qur'an prominently displayed on her desk where she frequently meets with applicants and tenants. Tammy tells the manager to put The Qur'an in a place where it is not visible to applicants and tenants to avoid violating fair housing laws.



## Advertising: Example 4



An African American couple are driving by the property and they see Sam, a Caucasian maintenance technician, mowing the grass. The couple rolls down the car window and signals for Sam. Sam shuts off the mower and the couple asks him if there are any available units. Sam, who is a pretty gruff guy, informs them that there are no vacant units and a long waiting list so they should go look at other properties.

## RD Fair Housing Sign Requirements



A permanent sign identifying the housing project is required for all housing projects approved on or after September 13, 1977.

## RD Fair Housing Sign Requirements

- Must show either:
  - the equal housing opportunity logotype (the house and equal sign, with the words equal housing opportunity underneath the house);
  - the equal housing opportunity slogan “equal housing opportunity”; or
  - the equal housing opportunity statement, “We are pledged to the letter and spirit of U.S. policy for the achievement of equal housing opportunity throughout the nation. We encourage and support an affirmative advertising and marketing program in which there are no barriers to obtaining housing because of race, color, religion, sex, handicap, familial status, or national origin.”

## RD Fair Housing Sign Requirements



**EQUAL HOUSING  
OPPORTUNITY**

If the logotype is used, the size of the logo must be no less than 5 percent of the total size of the project sign.

## Additional RD Requirements

Accessible parking spaces must be reserved for individuals with disabilities by a sign showing the international symbol of accessibility. The sign must be mounted on a post at a height that is readily visible from an occupied vehicle. In snow areas, the sign must be visible above piled snow. If there is an office, the designated parking space must be van accessible.



## **Additional RD Requirements**

When the continuous unobstructed ingress or egress disabled accessibility route to a primary building entrance is other than the usual or obvious route, the alternate route for disabled accessibility must be clearly marked with international accessibility symbols and directional signs to aid a disabled person's ingress or egress to the building, through an accessible entrance, and to the accessible common use, public, and living areas.

## **Reasonable Accommodation and Modification**



## **What is a “reasonable accommodation”?**

- It depends on the law.
  - Conventional v. Federally Funded

### **Conventional: “Reasonable Accommodation” Under the Fair Housing Act**

- Providing an exception to an equally applicable rule, policy, practice, or service that everyone must follow.
- Examples of “equally applicable” policies, etc.:
  - Unassigned parking
  - Pet policies
    - No pets
    - Limit on number of pets
    - Limit on where tenants may take pets
  - Mail delivery
  - Rental payment
    - All tenants must drop off rent at rental office.

**Conventional:  
“Reasonable Modification”  
Under the Fair Housing Act**

- Allowing a tenant to make a change to an existing building at his/her own expense that is necessary because of the tenant’s disability.
- Examples of modifications:
  - Grab bars
  - Shower seat
  - Roll-in shower
  - Installing a ramp
  - Widening a bathroom door
  - Adding a lower peephole

**HUD Funded:  
Reasonable Accommodation  
Under Section 504**

- A recipient shall modify its housing policies and practices to ensure that these policies and practices do not discriminate, on the basis of handicap, against a qualified individual with handicaps.

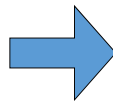


**RD Funded:  
Reasonable Accommodation  
Under Section 504**

- The borrower is required to provide reasonable accommodations at the project's expense unless doing so would result in undue financial or administrative burden on the project.
- Examples:
  - Installing grab bars
  - Installing ramps
  - Installing roll-in shower
  - Permit a disabled tenant to have a two-bedroom unit to accommodate a resident assistant
  - Permit a disabled tenant to have a companion animal

**Reasonable Accommodation  
Elements**

Necessity



Reasonableness

## Reasonable Accommodation Process

- Identify the request
- Engage in the interactive process to determine if the accommodation is necessary
- Evaluate if the requested accommodation is unreasonable
- Discuss alternatives
- Make the decision

## Identify the Request

- Person with a disability must request a reasonable accommodation
- HUD/DOJ Joint Statement:
  - “The person with a disability must make ‘clear to the housing provider that she is requesting an exception, change, or adjustment to the rule, policy, practice, or service because of her disability’”; and
  - “If the need for the accommodation is not readily apparent or not known to the provider, explain the relationship between the requested accommodation and her disability.”
  - Request can be written, verbal, or other means.
  - Request can come from applicant, tenant, or their representative.

## Request Example

- Property has a 10:00 p.m. curfew. On April 1<sup>st</sup>, tenant comes to the rental office, hands the property manager a letter, and asks her to put the letter in his tenant file. The letter is from his physician and states:
  - “Tenant suffers from insomnia and he finds it very helpful to sit outside when he has trouble sleeping. Any consideration you could give him would be much appreciated.”
- Manager puts letter in the tenant file, but takes no further action.
- Was this a request for reasonable accommodation?

## How Long Does A Manager Have to Respond to Request?

- An undue delay in responding to a request for reasonable accommodation may be deemed as a failure to provide a reasonable accommodation.
- What is an “undue delay”?
  - Incompetence v. intentionally obstructing the process



## Undue Delay Example

- On April 15<sup>th</sup>, the security staff reports to the manager that the tenant stated he wanted an accommodation from the curfew rule.
- Manager asks the property manager to complete the reasonable accommodation request form, which he does. The next day (April 16<sup>th</sup>) the manager sends a verification form to the physician who does not return it until May 10<sup>th</sup>.
- On May 24<sup>th</sup>, the manager notifies the tenant that the property has granted his reasonable accommodation from the curfew rule.

## Request Forms

- Consider creating request forms
  - Identify specific reasonable accommodation being requested
  - Identify disability.
  - Identify why you believe the accommodation is necessary because of your disability.
  - Identify a reliable third party that can provide a verification.
  - Include statement that if assistance is needed in completing the form to contact the manager.
  - Include signature line to acknowledge the information is accurate.
- Every request is eventually documented in some manner on the form.

# The Interactive Process



## Interactive Process

- The FHA and Section 504 do not require a “formal interactive process,” but management should engage in an interactive process with an applicant or tenant who requests a reasonable accommodation.
- Take time to understand what the applicant or tenant needs and why they need it.

## **Who is entitled to a reasonable accommodation?**

- Buyer or Renter
- A person residing in, or intending to reside in the housing after it is sold, rented, or made available (e.g. applicant)
- A person “associated” with the buyer or renter

## **Who is entitled to a reasonable accommodation?**

- “Associated”
  - FHA prohibits “not only discrimination against the primary purchaser or named lessee, but also prohibit denials of housing opportunities to applicants because they have children, parents, friends, spouses, roommates, patients, subtenants, or other associates who have disabilities.”

## Who is entitled to a reasonable accommodation?

- “Associated”
  - Spouse
    - *Stevens v. Hollywood Towers* (N.D. Ill. 2011) (Husband had standing to sue after defendant refused to allow wife with disability to have assistance animal).



## Who is entitled to a reasonable accommodation?

- “Associated”
  - Mother with disability
    - *Falin v. Condo. Assoc. of La Mer Estates, Inc.* (S.D. Fla. 2011) (Son had standing to sue after condo refused to approve lease for son and his mother with disability.)
    - *Sturm v. Davlyn Investments, Inc.* (C.D. Cal. 2013) (Daughter who moved to housing to care for her mother with a disability did not have standing to sue for defendants’ failure to accommodate mother.)

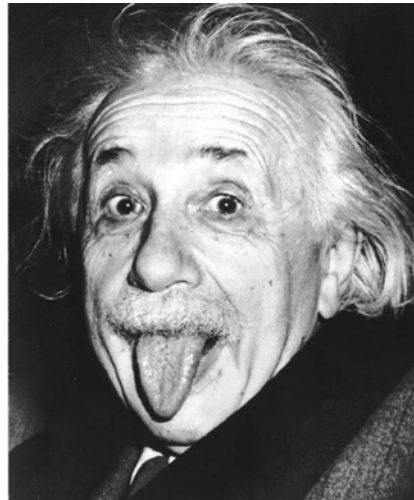


## Who is entitled to a reasonable accommodation?

- “Associated”
  - Live-In Aide
    - *Painter-Payne v. Vesta West Bay, LLC* (S.D. Ohio 2014) (Live-in aide who lived with person with a disability had standing to sue after being forced to move because defendant refused to grant person with a disability who he was caring for an accommodation.)



*Common sense is the  
collection of prejudices we  
obtain by the age of  
eighteen.*



**-Albert Einstein**



## “Obvious” Disability



If the disability and need for the accommodation are obvious, a housing provider cannot request a verification.

## Obvious



- If the disability and need for accommodation are obvious, only evaluate the reasonableness.



- If reasonable, grant the accommodation.



- If not, explore alternatives.

## Not “Obvious”

If a housing provider has a reasonable question as to whether the applicant/tenant has a disability or need for the accommodation, he or she may request certification.



## Verification



- What do we need to know?
- Does the person requesting the accommodation have a “disability”?
- Does the person requesting the accommodation need the accommodation because of the disability?

## Verifying Disability

- What information can we request to verify if an applicant or tenant has a disability?
  - Check the box v. obtain the information
- HUD/DOJ Joint Statement:
  - “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 (*e.g.*, proof that an individual under 65 years of age receives Supplemental Security Income or Social Security Disability Insurance benefits or a credible statement by the individual).”

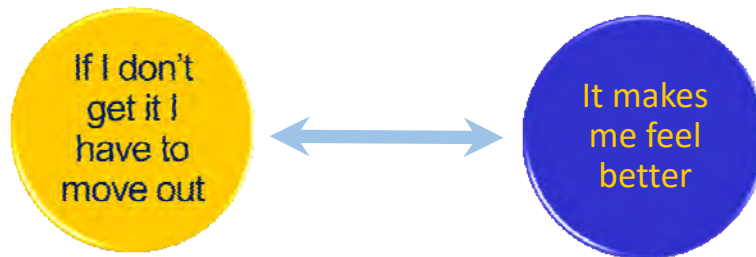
## Verifying Disability

- Joint Statement:
  - “A doctor or other medical professional, 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. 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.”
- “Illegal Inquiry”:
  - *Wilson v. Seattle Hsg. Auth.*, Case No. 2:09-0226-MJP (W.D. Wash.) (Filing No. 77)
  - *Bhogaita v. Altamonte Heights Condominium Assoc., Inc.*, No. 6:11-cv-1637-Orl-31DAB, 2012 WL 10511, at \* 4 (M.D.Fla. Jan.3, 2012) (the FHA does not provide a separate cause of action based on a defendant's requests for additional information to verify a request for reasonable accommodation).
- “Nature and/or severity of the disability”

## Verifying Necessity

- Person requesting the accommodation must establish that the accommodation is necessary because of their disability in order to provide him or her an equal opportunity to use and enjoy the housing.

## What is “necessary”?



## Reasonable Accom. Example

Tenant requests reasonable accommodation to move from her current unit where the trees block the sunlight to a unit on the other side of the building where there are no trees blocking the sunlight. Tenant identifies her physician as the person who can verify her accommodation. The physician sends a letter to property manager stating tenant suffers from depression and anxiety and allowing the tenant to move to the “sunny side of the building” will ameliorate the symptoms of the tenant’s depression and anxiety.

## Verification Form

- Consider creating verification form
  - Include definition of disability.
  - Include request to identify the impairment and how it substantially limits the person in a major life activity.
  - Include request to explain how the accommodation is necessary for the individual to use and enjoy housing as compared to a person without a disability.
  - Consider requesting whether there is another accommodation available that is equally effective.

## What can we ask?



- Follow-up
  - If applicant/tenant is not providing sufficient information, or if the verification is reasonably suspicious, call the verifier to clear up any questions.

## Reasonable



Even if the person has a disability and the requested accommodation is necessary because of his or her disability, the accommodation must be reasonable.

## “Reasonable”



Three factors to consider:

- Undue financial and administrative burden
- Fundamental Alteration
- Direct Threat

## RD Section 504 Regulation

- The borrower is required to provide reasonable accommodations at the project's expense unless doing so would result in undue financial or administrative burden on the project.
- The decision whether the requested accommodation is reasonable or unreasonable or whether to provide the accommodation would cause an undue financial or administrative burden lies with the borrower and would be for the borrower to defend should a complaint subsequently be filed.

## **RD Section 504 Regulation**

- Borrowers may wish to consult with their legal counsel prior to denying a request.
- If the borrower takes the position that providing an accommodation would cause an undue financial or administrative burden, the borrower must permit the tenant to make reasonable modifications at the tenant's expense.
- Requests for reasonable accommodations must be handled in accordance with the management plan.

## **HUD Section 504 Regulation**

- Housing policies that the recipient can demonstrate are essential to the housing program or activity will not be regarded as discriminatory within the meaning of this section if modifications to them would result in a fundamental alteration in the nature of the program or activity, or undue financial and administrative burdens.



## “Reasonable”: Example 1



Property built in 1981 that has never been substantially altered is a split level design. Tenants must either walk up a flight of ten stairs or down a flight of ten stairs when they enter the building to reach the units. Heidi, an applicant with a disability who uses a wheelchair, says that if you install a lift she can reach the higher level vacant unit.

## “Reasonable”: Example 2

Giovanni, an 85-year-old tenant, falls and breaks his hip. Unable to fully recover, Giovanni begins using a wheelchair for mobility. He requests that you replace his bathtub with a roll-in shower that will cost the property \$13,000.



## “Reasonable”: Example 3



Property has a no smoking policy. Sean completes a reasonable accommodation request to smoke marijuana as an accommodation. Sean’s physician verifies that tenant has cancer and smoking marijuana alleviates the pain and side effects of chemotherapy.

## “Reasonable”: Example 4



Steve, who is deaf, enters the management office. Steve is able to write and he writes a note that he is interested in learning if you have any available units. He also writes that he needs a qualified sign language interpreter to communicate and that the manager must have one here in one hour. The manager responds that she is unable to get an interpreter in that short of time and she can communicate with him through notes. Steve writes a note to the manager saying “You will hear from my lawyer!” and walks out the door.

## “Reasonable”: Example 5

Conan is a current tenant. You receive a copy of a police report that indicates Conan was arrested the previous evening for chasing Grace, another tenant, across the parking lot with a medieval sword wearing nothing but a loin cloth. You start the eviction proceedings, but receive a letter from legal aid informing you that Conan has a mental disability and he “acted out” because he failed to take his prescription medicine so you cannot evict Conan.



## Assistance Animals

## Assistance Animals



- Service Animal
- Therapy Animal
- Emotional Support Animal
- Seeing-eye dog
- Therapeutic, emotional support, service monkey

## Two Questions:



- Is the animal necessary for the person with the disability to use and enjoy the housing?
- Is the use and presence of the animal at the housing development reasonable?
  - E.g. Does it result in a fundamental alteration and/or direct threat?

## **Assistance Animals: The Cannots**

- Cannot charge a “pet deposit” or other fee
- Cannot require the animal to have special training or certification
- Cannot require that the animal perform work or tasks
- Cannot limit assistance animals based solely on type, breed, or size

## **Assistance Animals: The Cannots**

- Cannot require tenant to use a leash if the disability prevents the tenant from using a leash and the tenant can otherwise control the animal
- Cannot limit assistance animal solely because local ordinance bans the specific animal\*
- Cannot require insurance or indemnification

## **Assistance Animals: The Cans**

- Can require tenant to ensure animal does not disrupt peace and quite enjoyment of others
- Can require tenant to prove the animal is current on vaccinations, etc.
- Can require tenant to prove the animal is licensed, if required by law

## **Assistance Animals: The Cans**

- Can require tenant to maintain custody and control over animal
  - Clean up waste
  - Animal is not a direct threat to the health and safety of others
  - Animal is not a direct threat to cause substantial property damage

## Assistance Animals: Example 1



An applicant asks that you waive your no-pets policy to allow her son to live with his rat. Mother states that the rat is necessary because her son is depressed and caring for the rat ameliorates his depression.

## Assistance Animals: Example 2



You catch a resident living with two kittens in violation of your no-pets policy. After receiving notice to evict, the resident brings in a verification from her physician that both kittens are necessary for the resident because they alleviate her severe anxiety and depression.

### Assistance Animals: Example 3



You have granted Ben a reasonable accommodation to live with his dog due to his emotional disability. You have designated a relief area about 200 yards from Ben's unit where he can take his dog for relief. Ben submits another reasonable accommodation request to allow him to take his dog for relief immediately outside of his patio door in a grassy area. Ben says he cannot take his dog to the current relief area because of his physical disability.

### Assistance Animals: Example 4



A resident with seizure disorder asks to keep his six foot boa constrictor in his apartment because it warns him of upcoming seizures.

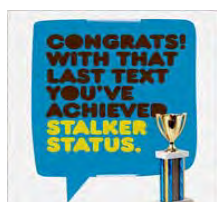


## Assistance Animals: Example 5



Henry asks for an exception to the 20-pound pet weight limit to live with his 50-pound pit bull. Henry is a quadriplegic and the pit bull picks out Henry's clothes in the morning, does Henry's taxes, and drives Henry to the store.

## Housing Harassment



## HUD Proposed Regulations

### **Liability:**

- (1) The person engaged in harassment;
- (2) For owner/manager by failing to take prompt action to correct and end harassment by an employee, agent, or “third party” where the owner/manager knew or should have known of the discriminatory conduct.

## Harassment: “Third Party”

- Potential “third party”
  - Contractor
  - Tenant
  - Guest of tenant
  - Anyone who is “invited” to the property

# Harassment

- HUD has proposed regulations to define prohibited harassment
  - Quid Pro Quo
  - Hostile Environment

## HUD Proposed Regulation

The affirmative defense to an employer's vicarious liability for hostile environment harassment by a supervisor under Title VII of the Civil Rights Act of 1964 does not apply to cases brought pursuant to the Fair Housing Act.

## Harassment Complaint Process

- Keep your eyes and ears open.
- Investigate all complaints of harassment.
- Take reasonable steps to stop suspected harassment.
- Put measures in place to prevent future harassment.

## Harassment: Example 1

Sally complains that her upstairs neighbor, Frank, is constantly pounding on his floor/her ceiling in the middle of the night.

When the manager confronts Frank, he says she is lying and he never pounds on the floor.



## Harassment: Example 2



Your maintenance tech, Sam, complains that Betty opened her door in nothing but her underwear when he was attempting to perform a maintenance inspection of her unit.

## Harassment: Example 3



Gloria, who has an approved cat as an assistance animal for her disability, complains that other residents are saying Gloria is faking her disability, no one likes her cat, and she should just move out.

## Limited English Proficiency (LEP)



### Meaningful Access =

The ability to participate in and benefit from any federally assisted housing provider's program and services in a manner no different than that of others whose national origin is not at issue (i.e. English speakers), who could participate and benefit from the program and services.

## Limited English Proficiency (LEP)



- Three key points
  - Nature of LEP assistance will vary based on demographics and needs of community
  - Whether you have a plan or not, must still provide "meaningful access"
  - Must provide LEP persons with "meaningful access" to all programs and services

## Limited English Proficiency (LEP)



Persons of a particular national origin who cannot read or speak English who do not get assistance in translating or interpreting information into a language they understand are effectively denied “meaningful access” to housing services to which they are entitled under the law.



## Domestic Violence & VAWA

## Domestic Violence

- Estimated **1.3 million** women are victims of assault by an intimate partner each year
- **1 in 4** women will experience this violence in their lifetimes
- U.S. Bureau of Justice found that **85%** of victims of domestic violence are women
- Women are **five times** as likely as men to experience domestic violence





## Domestic Violence

- African American and Native American women experience **higher rates** of domestic violence than white women
- African American women suffer from domestic violence at a rate **35% higher** than white women and about 2½ times that of other racial groups
- Women of certain national origins and immigrant women also experience domestic violence at much **higher rates** than other groups

## Domestic Violence

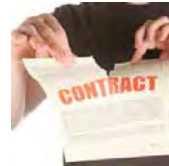


- Congress
  - “Women and families across the country are being discriminated against, denied access to, and even evicted from public and subsidized housing because of their status as victims of domestic violence.”
- Discriminatory Policies
  - Zero-tolerance crime policies
  - Repeated police calls policies
  - Property damage policies

## **Violence Against Women Act (VAWA)**

Victims of domestic violence, dating violence, or stalking cannot be a basis for denial of assistance to public housing or Section 8 tenant-based or project based assisted housing.

## **VAWA**



Incidents or threats of abuse will not be construed as serious or repeated violations of a lease or as other “good cause” for termination of assistance, tenancy, or occupancy rights of a victim of abuse.

## VAWA



Prohibits the termination of assistance, tenancy, or occupancy rights based on criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking.

## VAWA

### Exception:

- PHA, owner, or management agent may terminate assistance if they can demonstrate actual or imminent threat to other tenants, employees, or vendors
- May take this action only when there are no other actions that could reduce or eliminate the threat including, for example, transferring the victim to different unit, barring the perpetrator from the property, or contacting law enforcement to increase police presence.

## VAWA

- Owners and managers may request certification from a tenant that she is a victim of domestic violence, dating violence, or stalking and that the incident is a bona fide threat or abuse to determine if VAWA is applicable.
- HUD Forms
  - Certification Forms (HUD-91066/HUD-50066)
  - Lease Addendum (HUD-91067)

## VAWA



- Limitations
  - No damages
  - No private cause of action
  - Does not apply to private housing

## Domestic Violence: Fair Housing Act



Prohibits discrimination on the basis of:

- Sex,
- Race,
- Color,
- National Origin,
- Religion,
- Disability, &
- Familial Status

## Fair Housing Act



- Sex
  - Disproportionately impacts women
- Race, Color, National Origin
  - Disproportionately impacts African American, Native American, immigrant women
- Familial Status
  - Disproportionate number of women in affordable housing

## Domestic Violence: Disability



- 62% of a national sample of women with physical disabilities reported having experienced physical, sexual, or emotional abuse
- Adults with developmental disabilities have *4-10 times greater* risk of physical/sexual assault

## Domestic Violence: Disability



- Persons who are deaf or who have a speech disability may not be able to report abuse or seek services due to communication barriers.
- Persons with physical disabilities may depend on others to meet their basic needs such as bathing or toileting, making them vulnerable to abuse. They may also be less able to defend themselves or escape violent situations.
- Persons with disabilities may stay longer in an abusive situation and have fewer options for safety due to barriers at a domestic violence agency or in the community.

## Fair Housing Act



- Facially discriminatory policies
  - Housing provider asserts it does not have to accept women with history of domestic abuse
- Unequal Treatment
  - Policy of evicting households for criminal activity may be applied selectively against women who have been abused and not against the male perpetrators of the violence.

## Fair Housing Act



### Disparate Impact

- Facially neutral policy that has a discriminatory impact
- “Zero-tolerance” policies under which the entire household is evicted for criminal activity of one household member
- If the policy has a discriminatory impact, housing provider must demonstrate that it has a “legally sufficient justification” for the policy.

## **Alvera v. CBM Group (D. Ore. 2001)**

- Resident assaulted by her husband and obtained a restraining order
- She provided a copy of the order to the property manager who served her a 24-hour eviction notice
- She applied for a one-bedroom and the application was initially denied, but approved after a second application
- Settlement:
  - (1) adopted policy;
  - (2) agreed to education; and
  - (3) paid victim monetary damages

## **Warren v. Ypsilanti Housing Auth. (E.D. Mich 2003)**

- Resident's ex-boyfriend broke into her house and physically assaulted resident
- When PHA learned of incident it attempted to evict her
- Settlement-
  - (1) agreed to stop evicting victims pursuant to "one-strike" policy; and
  - (2) paid monetary damages to victim



## **Blackwell v. H.A. Housing LP (D. Colo. 2005)**

- Resident's ex-boyfriend broke into apartment and raped, beat, and stabbed her
- Resident requested transfer to another complex and management refused
- Filed a disparate impact case based on sex
- Settlement: adopted policies for domestic abuse victims including allowing transfer



## **False Claims Act**

## False Claims Act



- Lincoln Law
- RD/HUD Certifications
- *Westchester* case
- Trickle Down

## Westchester Case and Current Initiatives

- Westchester case was private litigation under the False Claims Act
  - HUD eventually challenged Westchester County's certification and terminated funding briefly
  - Remedy included large numbers of affordable housing units in segregated white neighborhoods
- HUD published proposed regulations
- HUD has a new office focusing on sustainable communities led by Deputy Secretary Ron Simms, based on his Seattle experience
  - Tie integrated housing to jobs, transportation, schools, health care opportunities

## Not So Veiled Threat



“Significantly, not only did [the Fair Housing Group] find systemic violations of the FHA, but they further found that Defendants' affirmations and assurances to the federal government and the State regarding compliance with the FHA and the Americans with Disabilities Act (ADA) in order to receive public financial assistance were false and invalid.”

## Not So Veiled Threat



“For many years, Defendants have received substantial governmental financial assistance for the development of their properties, including Low Income Housing Tax Credits. As a condition of participation in these federal and state supported financing programs Defendants signed many Land Use Restriction Agreements certifying that their properties will conform to the requirements of the FHA and ADA. Based on the investigation and testing by [the Fair Housing Group], it appears that many of Defendants' certifications to the government were false or erroneous.”

## Impact on Transactions



- **EVERYONE** has to ensure compliance
  - New Construction
    - What law applies?
    - What standard applies?
    - Do my people know what they are doing?
  - Post-Construction Transaction
    - Does the property comply with the FHA, Section 504, and ADA accessibility requirements?
      - Both buyer and seller need an inspection to determine compliance
    - Impossible to fully mitigate risk without full retrofit
    - Difficult to value property because of inability fully mitigate risk



**Scott P. Moore**  
(402) 636-8268  
[spmoore@bairdholm.com](mailto:spmoore@bairdholm.com)

The image is a professional business card for Scott P. Moore. It features a dark blue background with a yellow and white curved graphic on the left side. In the top left corner is the logo for 'E&A TEAM, INC.' which includes a stylized house icon above the text. In the center is a headshot of Scott P. Moore, a man with short brown hair, wearing a dark suit, white shirt, and a red and blue patterned tie. Below the photo, his name 'Scott P. Moore' is printed in a large, white, serif font. Underneath his name is his phone number '(402) 636-8268' and his email address 'spmoore@bairdholm.com' in a smaller, white, sans-serif font.



Notes on the Silver Tsunami:	

# Who's Watching You?



Testers  
from DOJ



Advocacy  
Groups



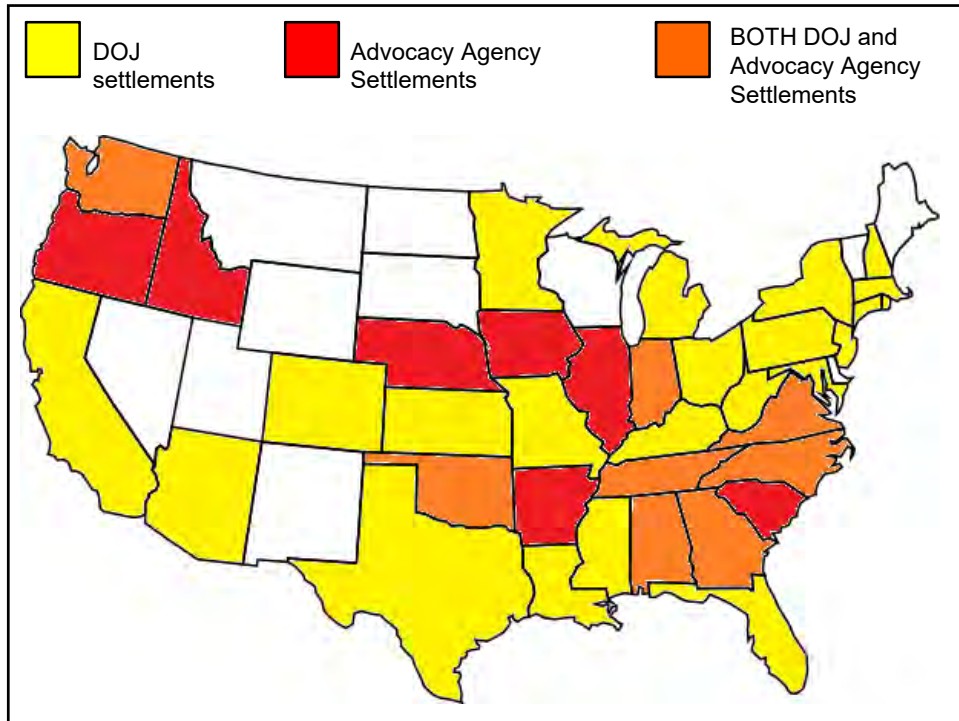
HUD Grants  
for Testers



Individuals with  
Disabilities

## Recent Uptick in Enforcement

- Fair housing advocacy groups and governmental agencies have made accessibility in affordable housing an enforcement priority.
  - U.S. Department of Justice
  - National Fair Housing Alliance
  - State and local fair housing groups
- Claims include:
  - Fair Housing Act
  - Section 504
  - ADA



# Recent Settlements Concerning Design & Construction

## Dept. of Justice Settlements in Disability Discrimination Cases



- DOJ announced June 25, 2012 a settlement involving one company with 210 properties in 26 states. The company was ordered to pay **\$10.5 million** in settlement.
- DOJ announced May 16, 2013 another settlement involving multifamily units in MS, LA, and TN.
  - One owner of 9 properties alleged to have violated the FHA and ADA.
  - Approved Settlement: **\$865,000** to make the complexes accessible and **\$60,000** to compensate the aggrieved persons for a total of **\$925,000**

## Very Recent LIHTC Cases

- *United States v. Rappuhn*
  - Alleged that 71 properties designed and constructed from 1994 to present did not include features compliant with the FHA
  - Also alleged violations of Section 504/UFAS
  - Violations
    - Sloping
    - Clear floor space off by 2-4 inches
    - Abrupt level changes ¼” too high
    - Thermostats mounted 2” too high



## Recent Cases

- *National Fair Housing Alliance v. Ryan Companies*
  - Alleged that 12 properties designed and constructed from approximately 2005 to present did not include features compliant with the FHA
  - Violations
    - Sloping
    - Clear floor space off by 2-4 inches
    - Abrupt level changes ¼” too high
- Settled for over \$3.5 million in retrofits, damages, and attorneys' fees

### Breaking News: September 1, 2016

## LOS ANGELES

- The L.A. City Council agreed to settle litigation brought by three nonprofit disability and fair housing advocacy groups that claimed the city's housing programs were inaccessible to people with disabilities.
- This is the largest agreement of its kind in the country.
- Over the next 10 years, the city will ensure that **at least 4,000** of its affordable housing units meet the highly accessible standards required by federal law, and will enforce policies to ensure that those units are inhabited by people who need the specific accessibility features provided.
- The city will spend **at least \$200 million** during the life of the agreement.

Breaking News: September 1, 2016

# LOS ANGELES

- The city must spend an average of **\$20 million annually** on the program
- At least 2,655 of the 4,000 units are designed for wheelchair users
- new affordable housing supported by the city to include a larger percentage of units for people with disabilities than is currently required.
- In addition to the \$200 million, L.A. will also pay \$4.5 million to the nonprofits that sued the city, plus up to \$1 million in court costs and up to \$20 million in attorneys' fees. **Total of \$225.5 million dollars!**

Breaking News: September 1, 2016

# LOS ANGELES

- The City of L.A. agreed to, multi-year legal payout centering on facilities for the disabled.
- Last year, city lawmakers agreed to spend **\$1.3 billion over 30 years** on sidewalk repairs — ending a lawsuit that argued broken walkways were a nightmare for wheelchair users.

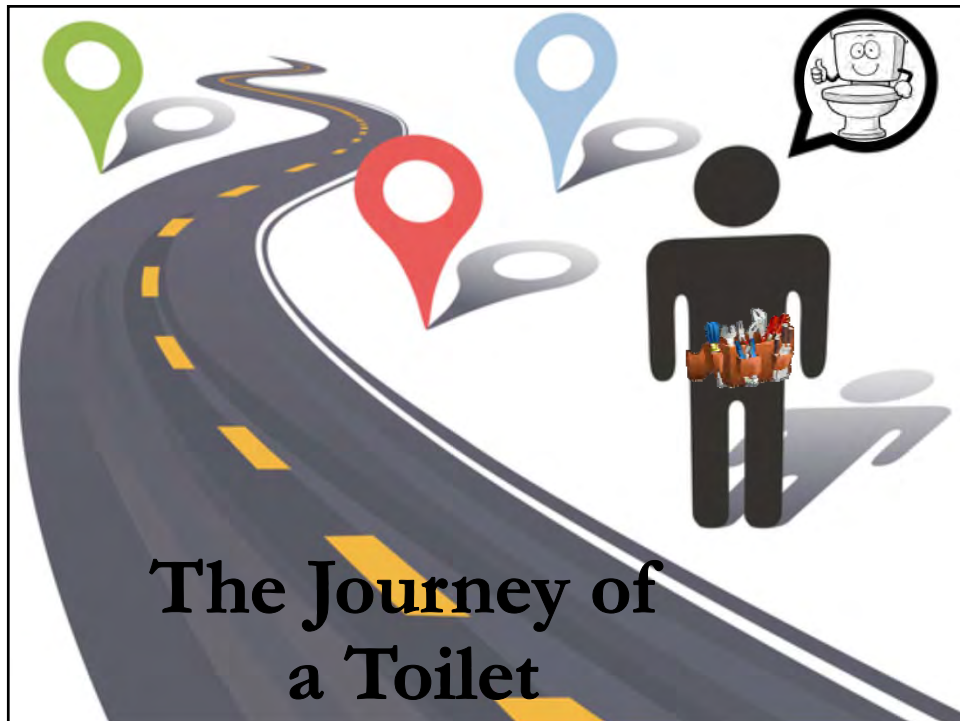
**Breaking News: September 1, 2016**

# LOS ANGELES

“This is the **largest accessibility settlement ever reached involving affordable housing**, and it will send a strong, positive message to cities all over the country that their housing programs must be accessible.”

The case, brought in the United States District Court, is Independent Living Center of Southern California (ILCSC), et al v. City of Los Angeles, et al., U.S. District Court, Central District of California, Case No. 2:12-cv-000551-FMO-PJW.

**All based on Design and Construction Issues**



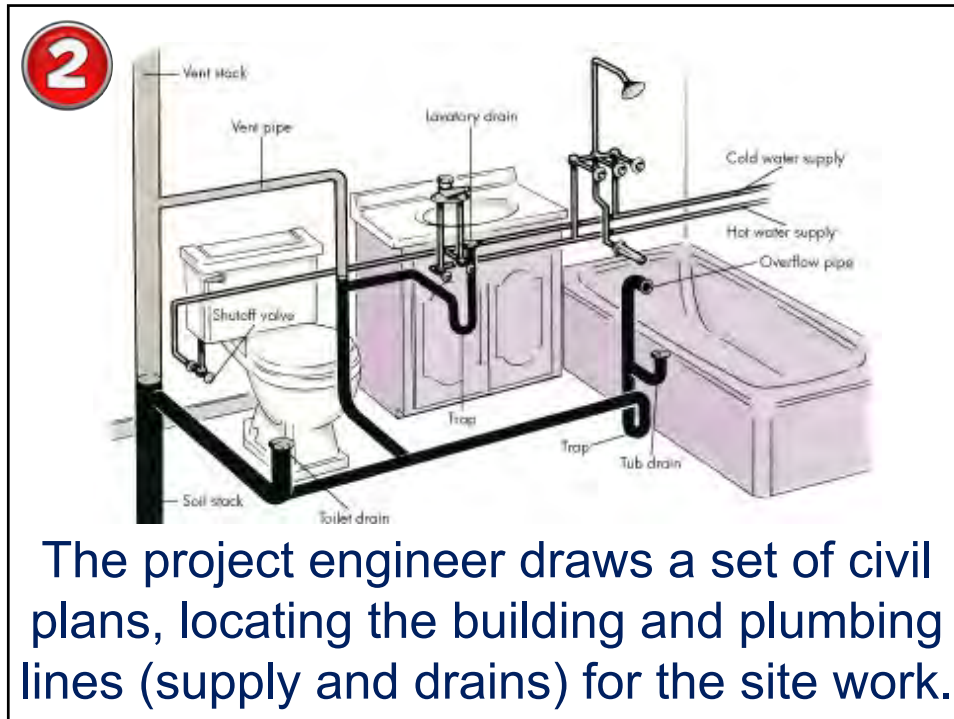
## How hard is perfect placement to achieve?

Consider who “touches” that toilet final resting place, **before** it ever appears on site in your property



Let's look at the architect's plan for this example bathroom. It is an 8'x8' room framed out as a bathroom.

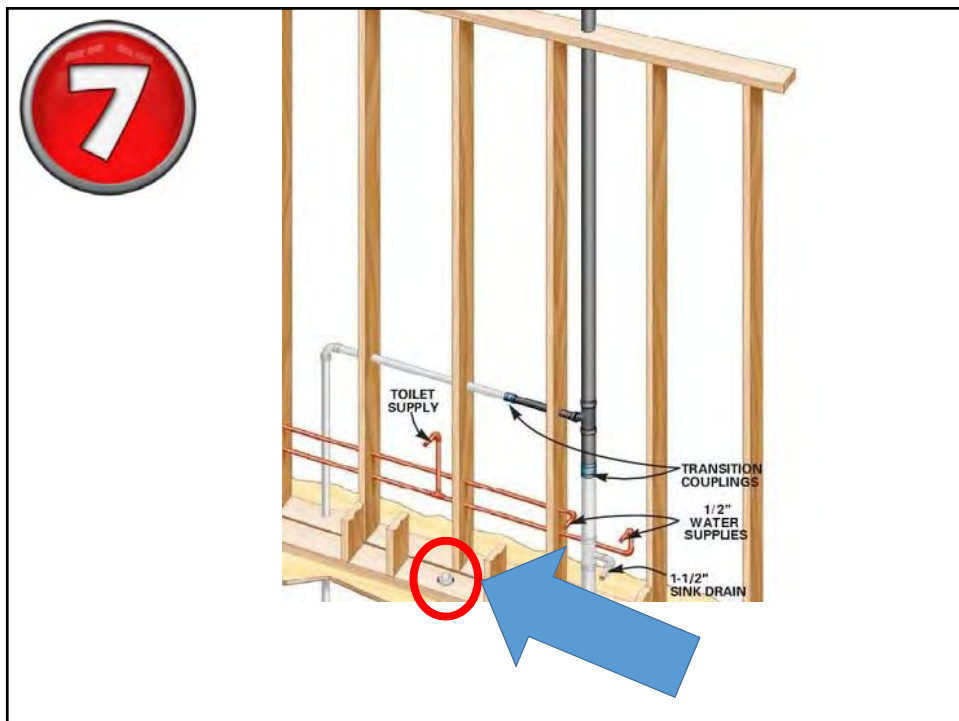








The plumber comes in, and starts rough plumbing, to locate where drain lines will be placed under the slab for all the plumbing. Before pouring the floor slab, openings are framed out in the concrete for the toilet drains.





When the vanity is installed by the finish carpenters, the cabinet guys measure from the door wall out, to locate it. (Which is not the same as measuring from the toilet wall.) So, it's "almost" right when they leave.





Final Inspection day arrives.



TEN different teams of people have all had a part in locating this toilet. If any ONE of them is over a ¼" off in their work, the toilet is "out of compliance."

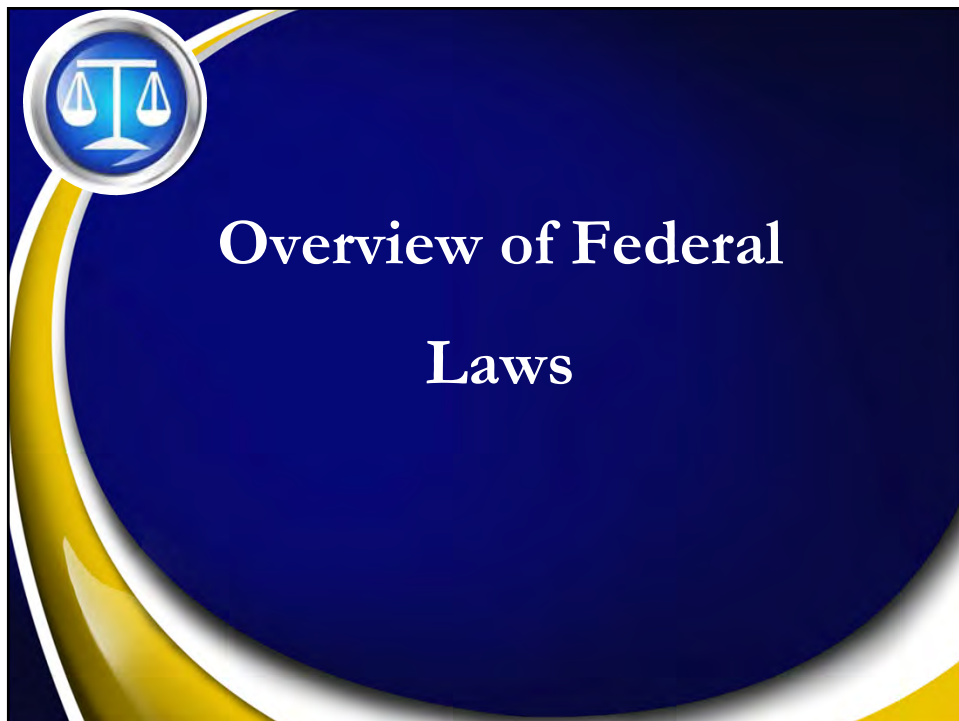


**YES,**  
there's a  
functioning  
new toilet in  
place –  
the  
**WRONG**  
place

What  
are you  
aiming  
at?

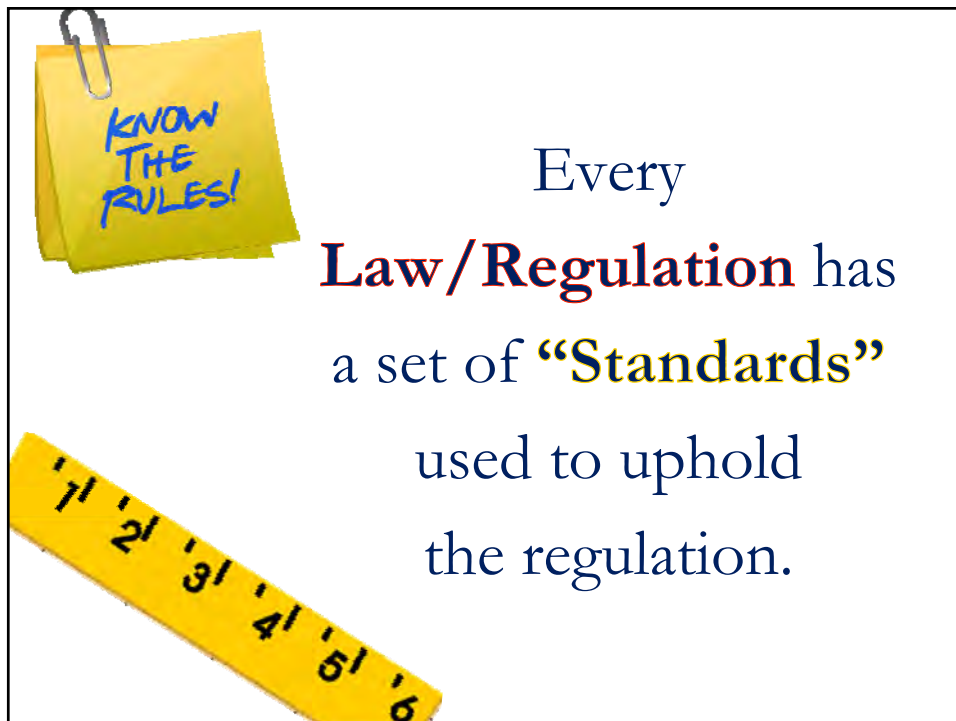
Functioning  
or Correct





## Three Federal Laws Regarding Accessibility

- **Section 504** of the 1973 Rehabilitation Act
- **ADA** (Americans with Disabilities Act)
- The **Fair Housing** Amendments Act

A yellow sticky note with a silver paperclip is attached to the top left corner. The note has the words "KNOW THE RULES!" written in blue marker. Below the note, a yellow measuring tape is shown at an angle, with markings for 1, 2, 3, 4, 5, and 6 feet.

Every  
**Law/Regulation** has  
a set of “**Standards**”  
used to uphold  
the regulation.

## 504 / FHA / ADA Comparison

	504	FHA	ADA
Applies to	Federally funded	MFH buildings of 4 or more units	All "places of public accommodation"
Implementation Date	June 10, 1982 for RD July 11, 1988 for HUD	March 13, 1991	Law: July 26, 1992 ADAAG 2010: March 15, 2012
Standard	UFAS (Uniform Federal Accessibility Standard)	Fair Housing Design Guidelines	ADAAG (Americans with Disabilities Act Accessibility Guidelines)
Major Points	Accessibility requirements for public, common use, and fully accessible units.	Accessibility requirements for public, common use areas and adaptable "covered units".	Accessibility requirements for public areas.
Financing	Federal financial assistance	Any (private or public funding)	Any (private or public financing)

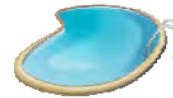
## ADA 2010

### Prohibits Discrimination in All Areas of Public Accommodation



## The Reg: ADA The Standard: ADAAG 2010

- Most common “public accommodation” in MFH is an on-site rental office.
  - If community room or other common areas are rented out or available & open to “John Q. Public,” they are subject to ADA as well.
- If ADA applies, ADAAG is the standard to use.

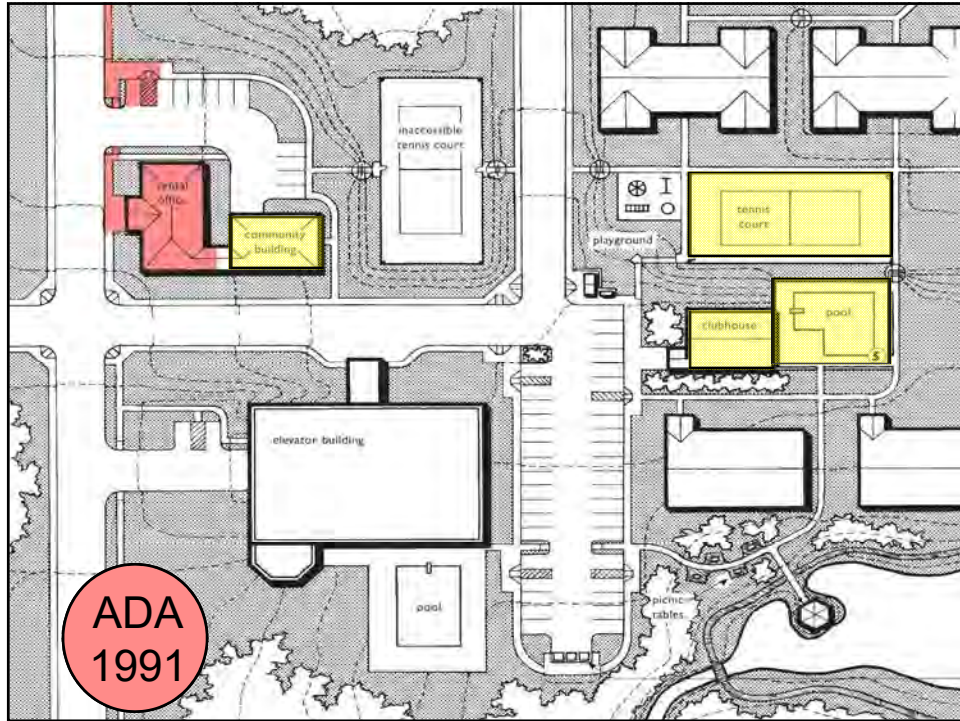


## What is “Accessibility”?



- Title III of the Americans with Disabilities Act
  - Public
    - Portions of residential development *open to the general public*





## The Standard:



## HUD's Fair Housing Act Design Manual

### The Reg: Fair Housing Act The Standard: Fair Housing Act Design Manual

- Applies to all housing providers with very limited exception
- Applies to conventional or subsidized housing
- Protects applicants and tenants on the basis of race, color, national origin, sex, religion, familial status, and disability



## When does the FHA apply?



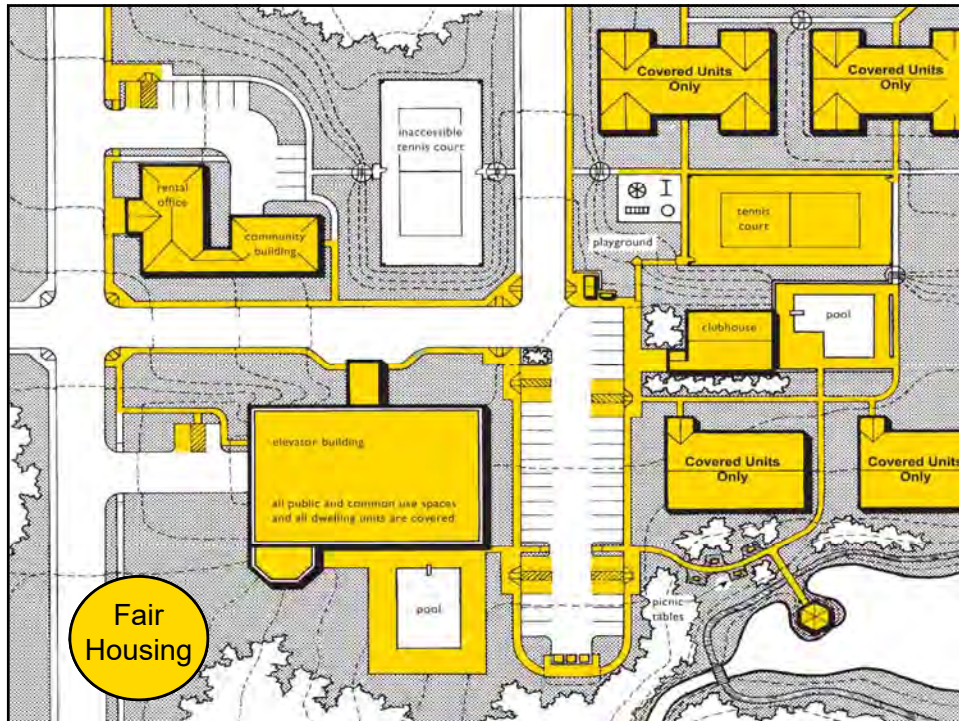
The Fair Housing Act, as amended 42 U.S.C. § 3604(f)(3)(C)

Multifamily residential construction with buildings containing four or more units designed and constructed **for first time occupancy** after March 13, 1991

## What is “Adaptable”?



- A common misinterpretation of accessibility requirements holds that the term “adaptable” contemplates a delay or deferral of the time when “features of adaptable design” required by the statute or regulations may be completed. This is inaccurate.
- Virtually **all** accessibility elements are **“as built”** requirements.

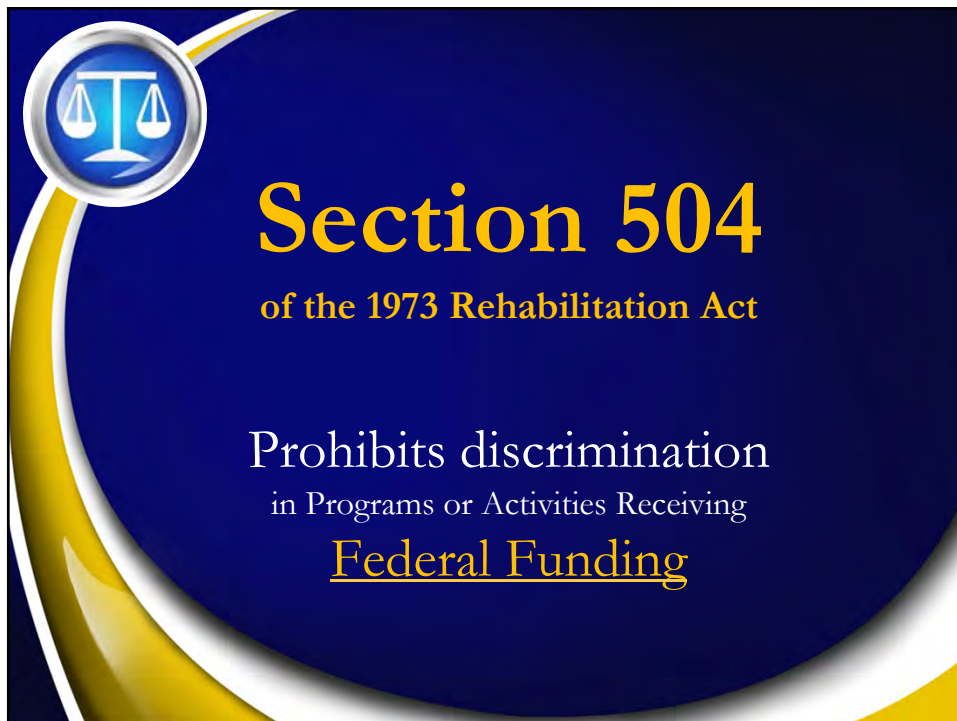


## Seven Design and Construction Requirements

1. Accessible building entrance on an accessible route
2. Accessible and usable public and common use areas
3. Usable doors
4. Accessible routes into and through covered unit
5. Light switches, electrical outlets, thermostats, and other Environmental controls in accessible locations
6. Reinforced walls in bathrooms for later installation of grab bars
7. Usable kitchens and bathrooms

## Safe Harbors for Compliance

1. HUD Fair Housing Accessibility Guidelines and the Supplemental Notice
2. ANSI A117.1 (1986), used with the Fair Housing Act, HUD's regulations, and the Guidelines
3. CABO/ANSI A117.1 (1992) used with the Fair Housing Act, HUD's regulations, and the Guidelines
4. ICC/ANSI A117.1 (1998) used with the Fair Housing Act, HUD's regulations, and the Guidelines
5. The Fair Housing Act Design Manual (1998)
6. Code Requirements for Housing Accessibility 2000 (ICC/CRHA)
7. International Building Code 2000 with 2001 Supplement
8. International Building Code 2003, with one condition\*
9. ICC/ANSI A117.1 (2003) used with the Fair Housing Act, HUD's regulations, and the Guidelines
10. 2006 International Building Code (loose leaf)



## The Standard:



UFAS:  
Uniform  
Federal  
Accessibility  
Standards

## The Reg: Section 504 of the Rehabilitation Act The Standard: UFAS

- Section 504 of the Rehabilitation Act of 1973 prohibits recipients of federal financial assistance from discriminating against a qualified person with a disability in the sale or rental of housing
- Federal agencies primarily responsible for providing federal financial assistance in housing



## What is “Accessibility” Under Section 504?



- Examples of programs defined as Federal Financial Assistance:
  - HUD funded (e.g. Section 202, Project-based Section 8)
  - RD funded (e.g. Section 515)
  - HOME
  - CDBG
- Examples of programs defined as **not** Federal Financial Assistance:
  - Low Income Housing Tax Credit\*
  - Receipt of Section 8 Housing Choice Vouchers

My properties don't have to worry about all these accessibility requirements because we are “*grandfathered in*”

-For common areas:

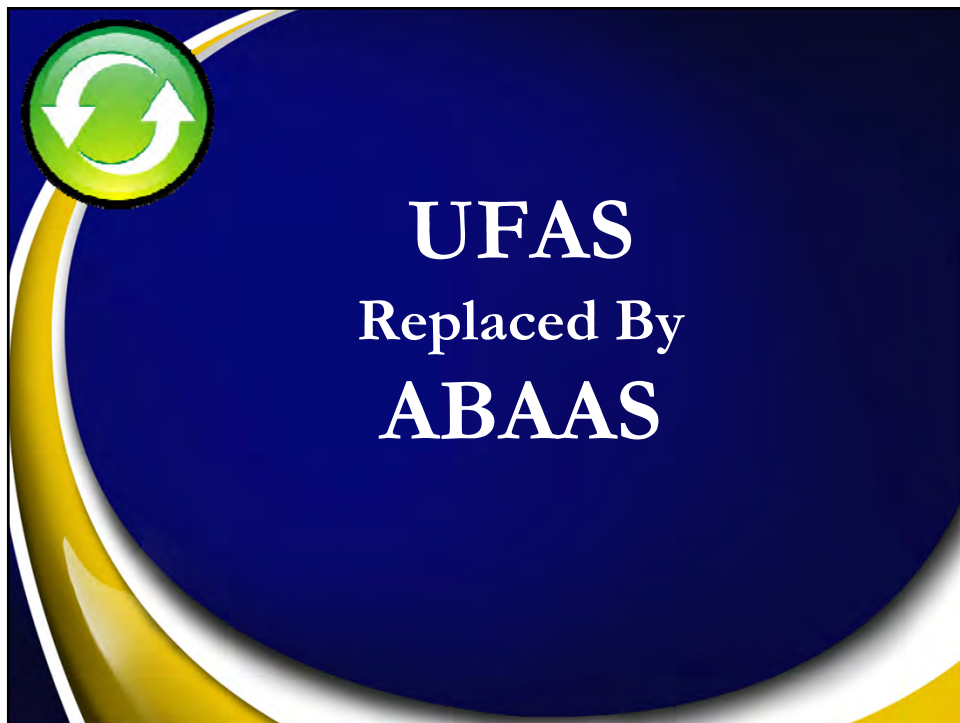
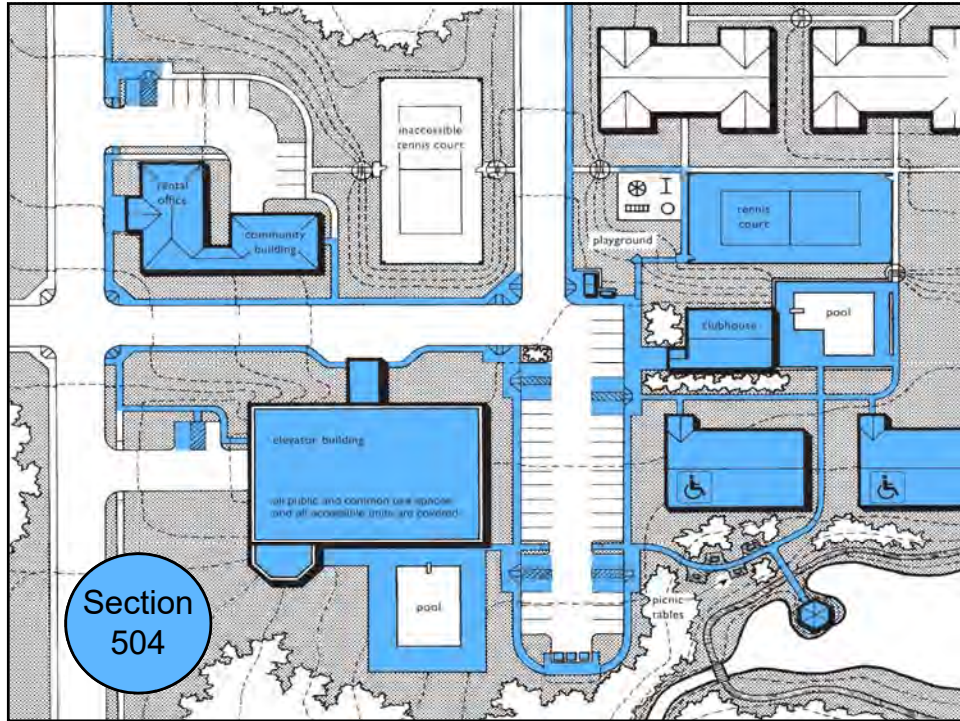
**NO Grandfathering**

-For units:

**HUD** properties built prior to July 11, 1988

**RD** properties built prior to June 10, 1982





## HUD's Approach to Replacing UFAS

- Likely that at some future point in time, HUD will adopt ABAAS.
  - For now, HUD offering the option to use **UFAS**, or use **ADAAG 2010** (*with some exceptions*).
  - You must declare when making alterations which standard you are using—either all UFAS or all ADAAG 2010
  - Remember, ADAAG 2010 and ABAAS are the same document except for two chapters.
  - “Substantial Alteration” is biggest difference for MFH properties.

## HUD's Approach to Replacing UFAS

- Exceptions required to use ADAAG 2010 in place of UFAS:
  - "**Structural Impracticality**" must use UFAS definition.
  - "**Substantial Alteration**" must use UFAS.
  - Alterations and additions may meet either UFAS or ADAAG 2010.
  - Any time a HUD 504 reg or UFAS is more strict, you must use the HUD 504 reg or UFAS over ADAAG 2010.
    - ADAAG 2010 doesn't define number of accessible units, so use 5% and 2% (from HUD Sect. 504 regs.)
    - For washing machines, must use front-loading machines as per UFAS.



## HUD/DOJ Position on Statute of Limitations (SOL)



- SOL begins to run when “aggrieved person” is denied housing as a result of the failure to design and construct property per the FHA.
- “A failure to design and construct a multifamily property in accordance with the FHA may cause an injury to a person at any time until the violation is corrected. A person may be injured before, during, or after a sale, rental, or occupancy, of a dwelling.”



## HUD/DOJ Position on Statute of Limitations



- Take away:
  - Any property receiving its CO after 3/13/91 (implementation date of the FHAA), that is NOT in *complete compliance with the design and construction* requirements, is at fault until the violation has been corrected.
  - Can face a complaint today for a development constructed in the 1990s



It  
**NEVER**  
goes  
away

## News Coming Soon from National Civil Rights Office of RD



- More emphasis will be placed on enforcement of the 3560 Regulations
- **New** inspections and 504 Transition Plans are required, **NOT** re-dating of old plans



### New or Re-dated 504 Transition Plans (SE/TP)



- If you didn't complete all items, you will need an Updated Plan.
  - (Note: **Updated** NOT just **Re-dated**)
    1. Changes in the property over the last 3 years
    2. Was the work you had done completed correctly?
    3. Was the previous TP correct / complete?

### New or Re-dated 504 Transition Plans (SE/TP)



1. Changes in the property over the last 3 years:
  - Tree limbs and roots
  - Shrubbery
  - Frost heave
  - Maintenance repairs
  - Changing dumpster services

**New or Re-dated  
504 Transition Plans (SE/TP)**



2. Was the work you had done completed correctly?


- For example, you added a ramp at a unit entry
  - Slope/cross slope correct?
  - Hand rails correct?
  - Edge protection
  - Level landing - top and bottom

**New or Re-dated  
504 Transition Plans (SE/TP)**

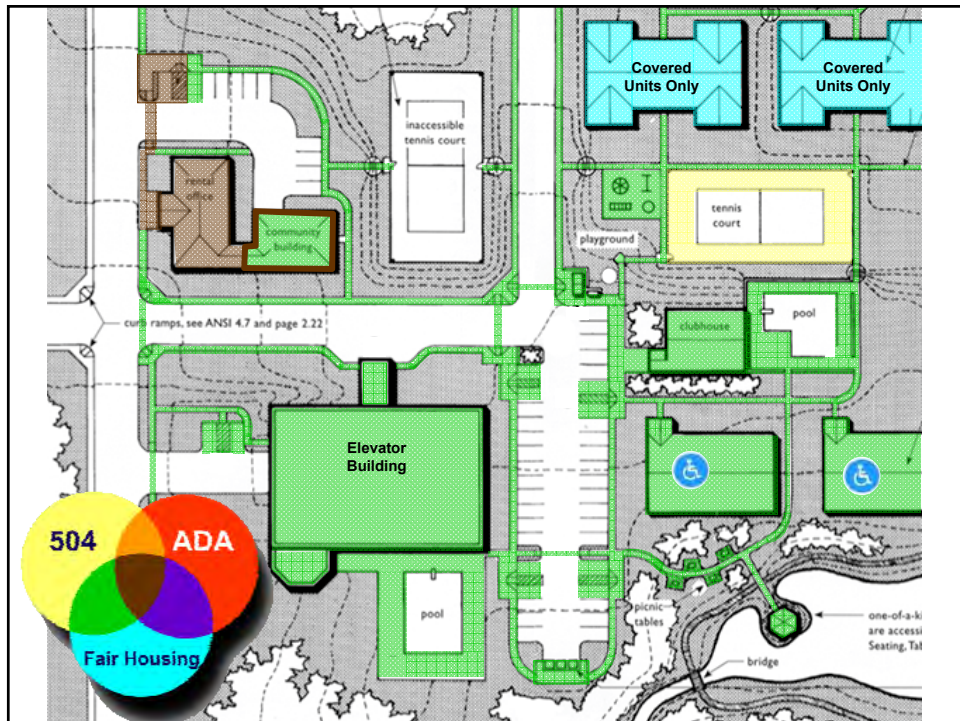


3. Was the previous TP correct / complete?

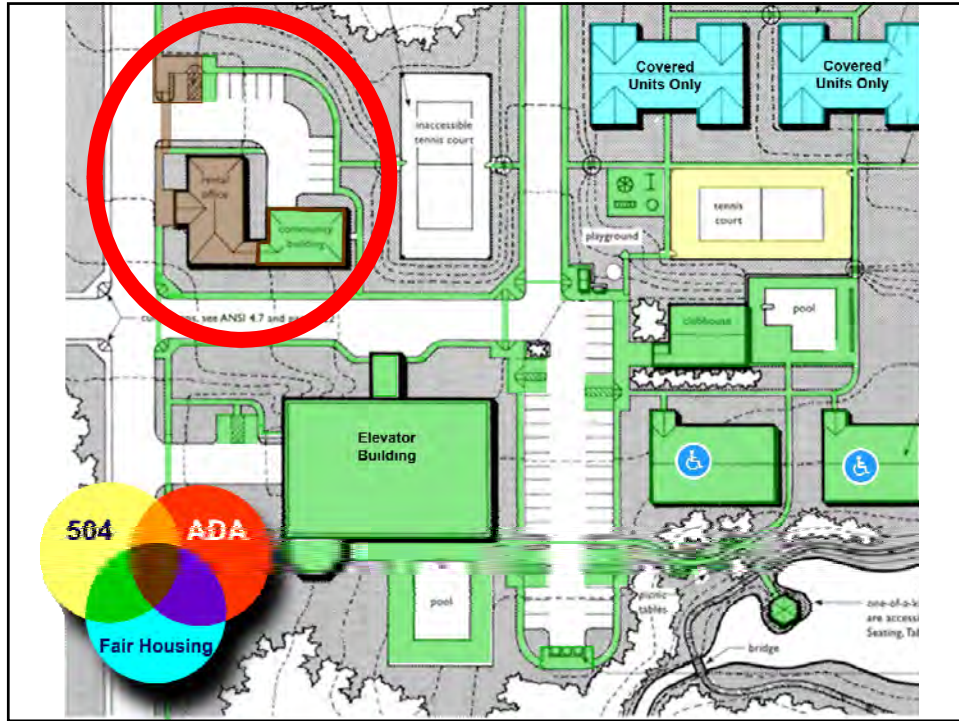
- Were items missed in the previous report?
- Even if you go back with the same company, you most likely would have a different inspector than you originally had (a different set of eyes).

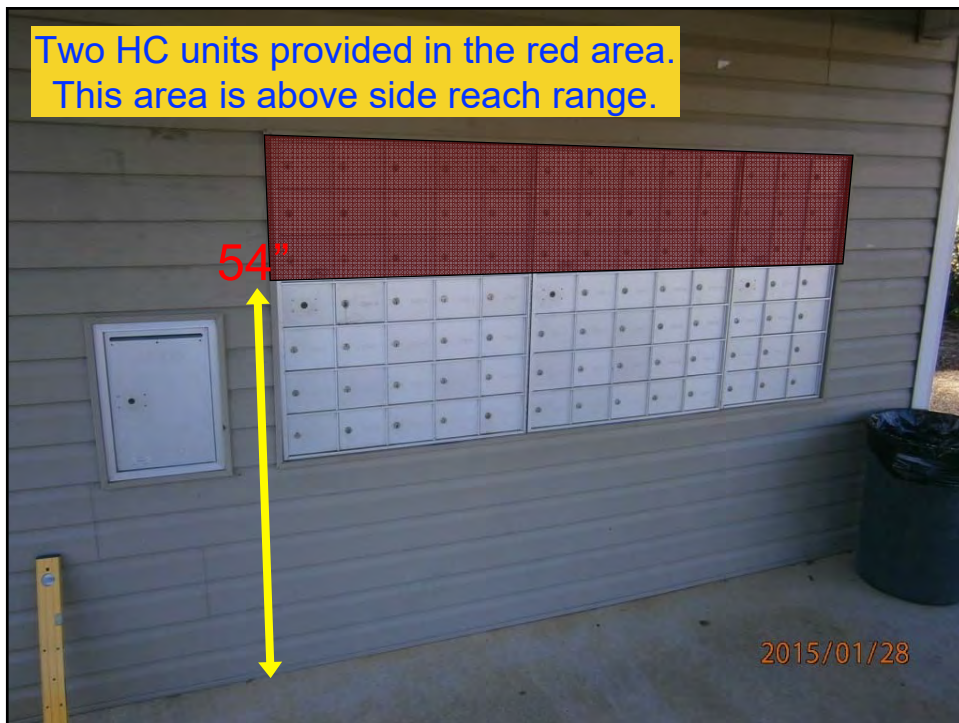


# Walkabout: Virtual Property Tour



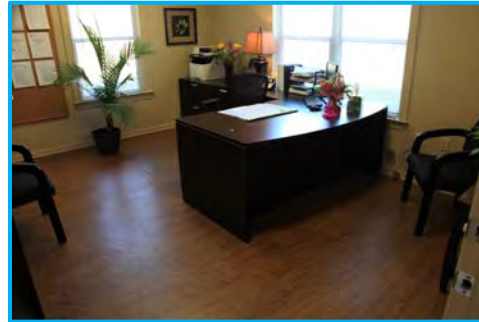
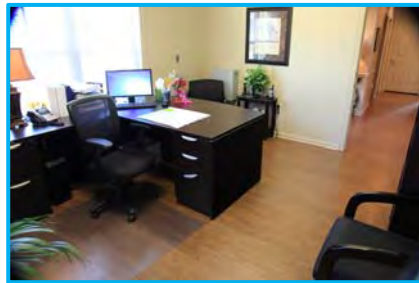
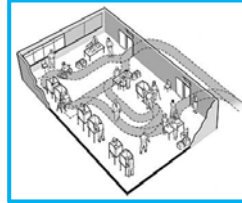






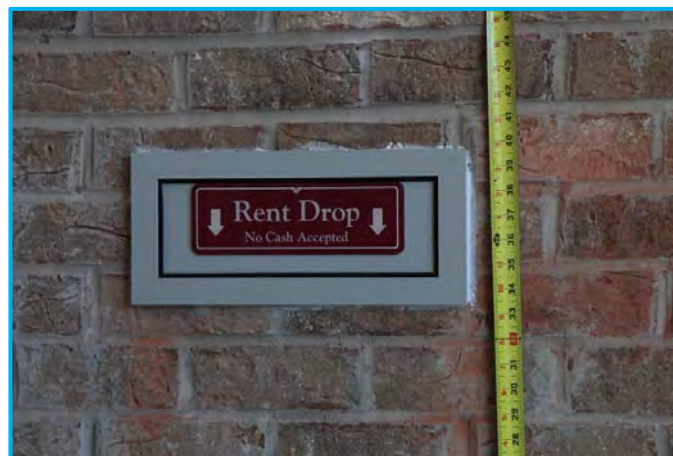
## Office Issues

- Accessible route to / into / through



## Office Issues

- Rent application box / rent drop box / etc.  
mounted within reach range (54" maximum)





## Office Issues

- Bathroom accessible
  - accessibility required for employees as well as visitors



## UFAS 4.16.6: Dispensers

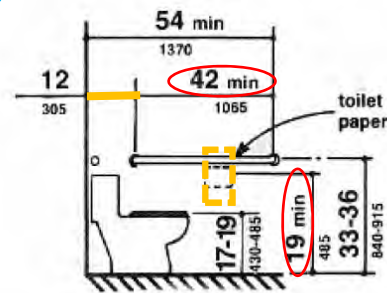
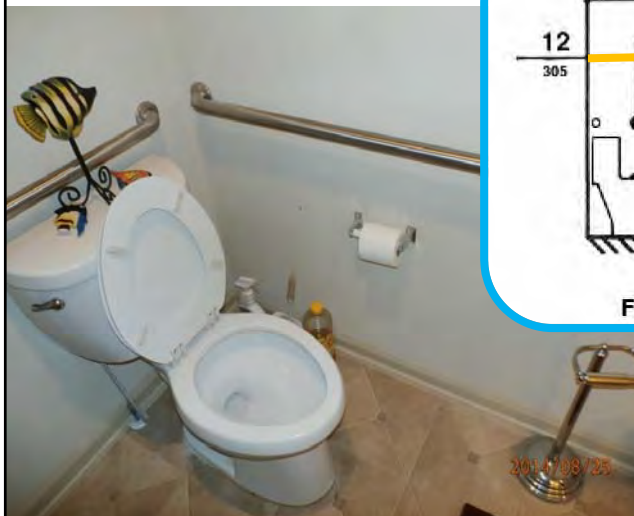
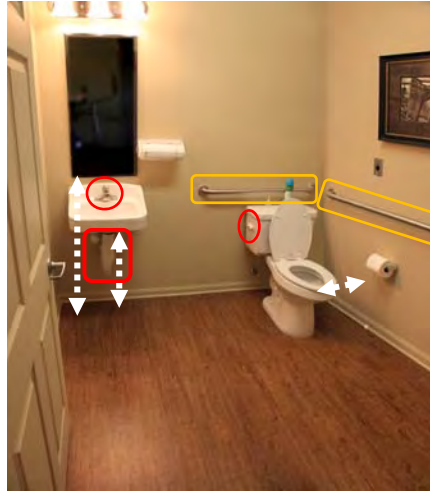


Figure 29(b)

## Office Issues

- Bathroom accessible
  - accessibility required for employees as well as visitors



## UFAS/ADA Restrooms

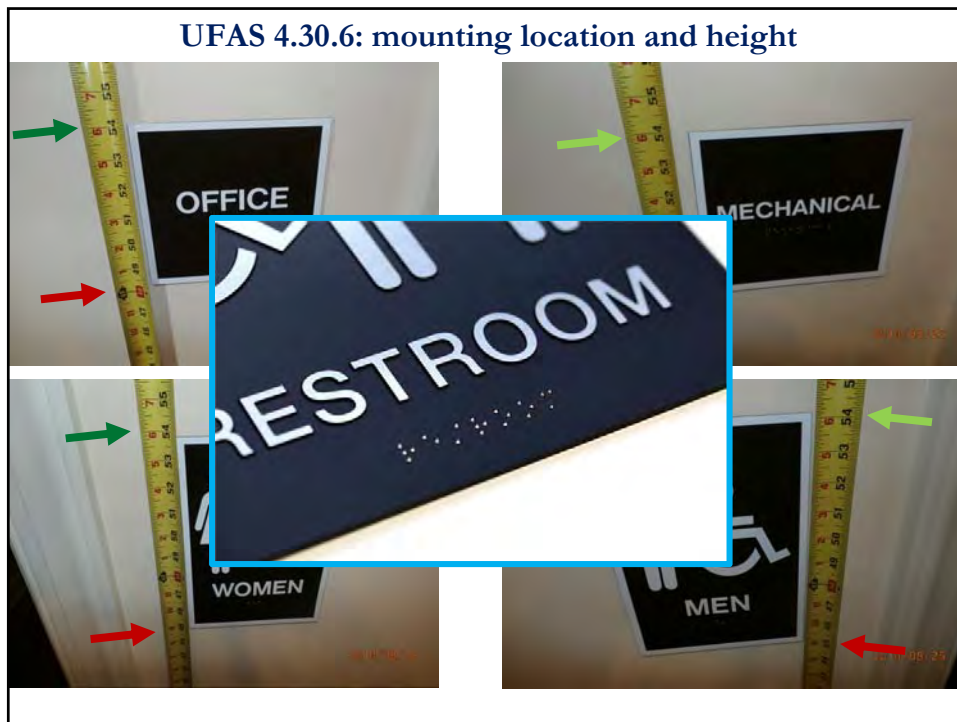
### UFAS 4.16.5: Flush Controls



## Office Issues

- Signage- correct type and height





## Community Room Issues

- Accessible route to / into / through
- Environmental controls (heater, exhaust fan)
  - Within 54” reach range, shape of control
- Accessible sink in kitchen / kitchenette
  - 34” maximum height, knee space underneath, supply and drain piping wrapped with insulation / protected
  - Other accessibility requirements of an accessible unit kitchen DO NOT apply to a common kitchen

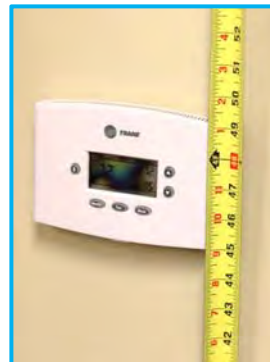
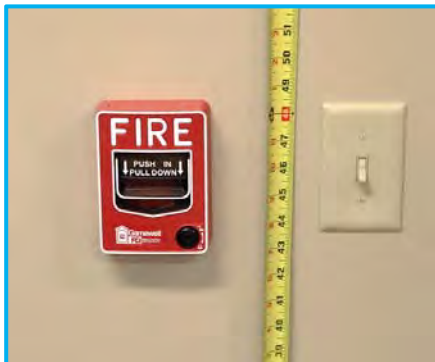
## Laundry Issues

- Accessible route to / into / through
- Accessible laundry equipment
  - Front loaders
  - Controls (heights, shape)



## Laundry Issues

- Environmental controls (heater, exhaust fan)
  - Within 54” reach range, shape of control



## Laundry Issues

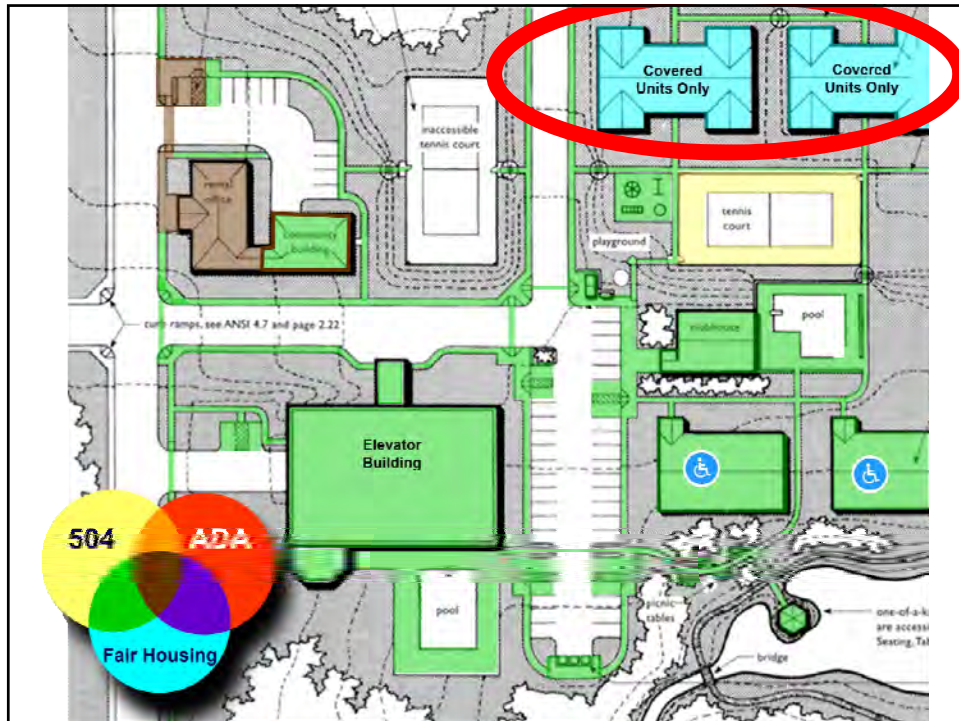
- Folding table
  - Maximum 34” height, knee space underneath
- Laundry sink
  - Knee space required
  - Correct hardware



Not providing the required  
knee space & lever faucet handles

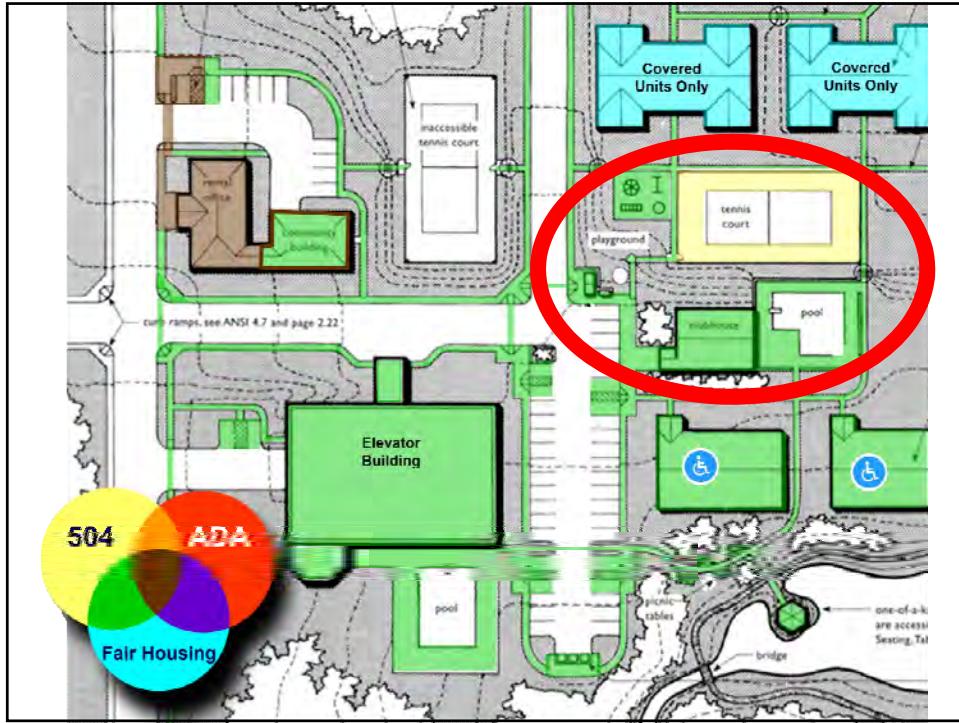






## Fair Housing Requirements

- A building receiving its C/O on, or after, March 13, 1991
- Built for First Time Occupancy
- Must have 4 or more units per building
- All ground floor units are covered and, if there is an elevator in the building, ALL units are required to have the “as built requirements” listed in Fair Housing



## Playgrounds: Accessible Pathways





## Transportation Stops



## Site Issues - Stairs



What's wrong with this picture?

**Best solution?**

- Install proper railings
- correct bottom step

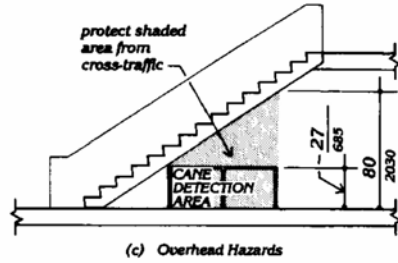


What's right in this one?

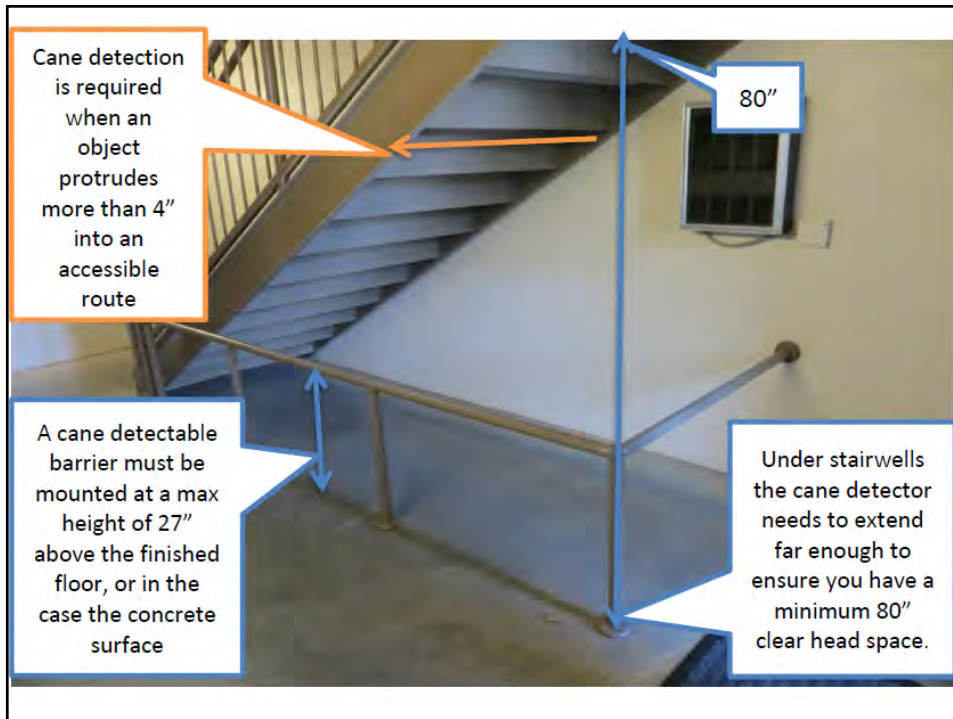
- Handrails both sides.
- Correct handrail height (34")
- Handrail shape / width (1.5")
- Handrail extensions top & bottom.
- Right bottom handrail should extend and return

## Site Issues - Stairs

- Stair protection



Area below stairs is walled off as protection.





## Building / Unit Issues

- Faucets (kitchen sinks, bathroom lavatories, tub / showers)
  - A round doorknob requires “grasping” and “twisting”, a lever handle does not
  - When replacing a broken faucet, why not use one with a lever handle? (Costs are similar)



VS



## Building / Unit Issues

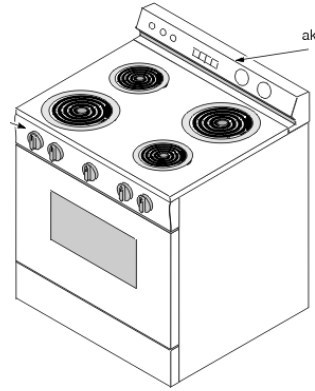
- If you replace it, consider accessibility
  - whether it’s an accessible unit or not
  - it’s easier for all
- Doorknobs
  - A round doorknob requires “grasping” and “twisting”, a lever handle does not
  - Can you open a round doorknob with your hands full? (You can with a lever handle...)





## Building / Unit Issues

- Appliances:
  - Range / oven / cooktop:
    - Front controls (so you do not have to reach over burners)
    - Self cleaning, or knee space next to for cleaning oven



## Building / Unit Issues

- Appliances:
  - Refrigerator:
    - $\frac{1}{2}$  the volume of the freezer in the reach range (54" maximum)
    - Controls within the reach range (54" maximum)
    - Control shape (easy to twist/adjust with two fingers)
    - Find a model number that meets requirements, and share it!



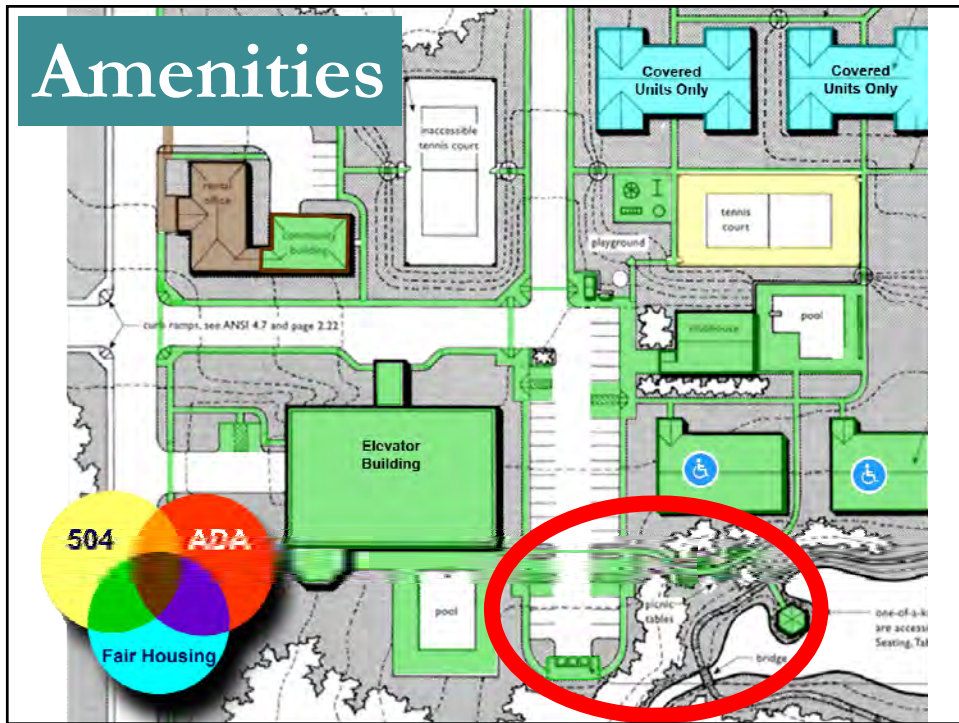
Refrigerator controls  
cannot be higher than 54"

Controls cannot require  
tight pinching or twisting to  
use the control



Sink  
over 34"  
high



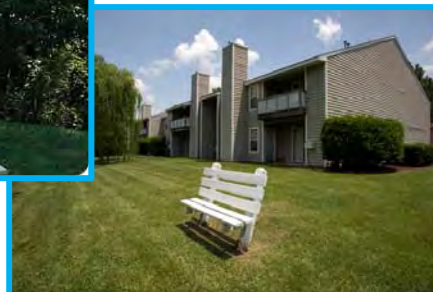




# Basketball Courts



# Gazebos and Benches





## Picnic Tables and BBQ Pits/Grills



## Dumpsters



- **Hard surfaced**
- **On accessible route**
- **Proper slope**
- **Opening within reach (sliding door on side of dumpster)**
- **Handle on door must be within reach**

## Dumpster

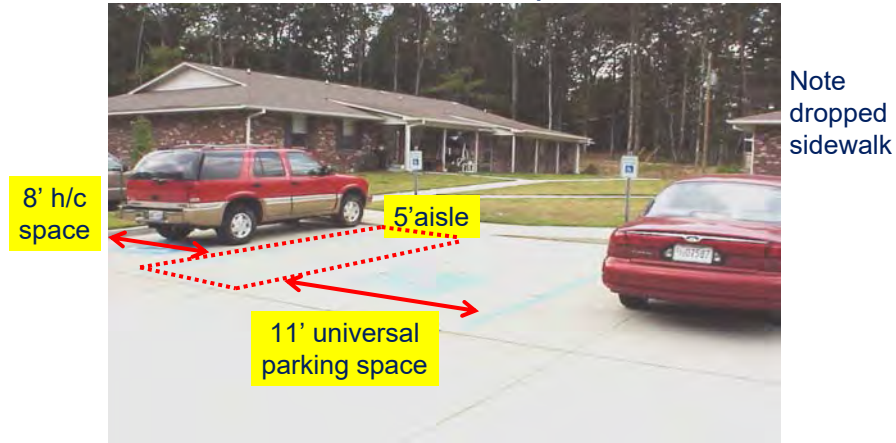


Got everything right but the width....



## Site Issues – Accessible Parking

- “Universal” Accessible Space



Van Space (per new ADAAG)

## Site Issues - Sidewalks



What's wrong with this picture?

## Site Issues - Sidewalks



What's wrong with this picture?

**Best solution?**  
Grind down the high side

**Best solution?**  
Remove/re-pour concrete

## Site Issues - Sidewalks



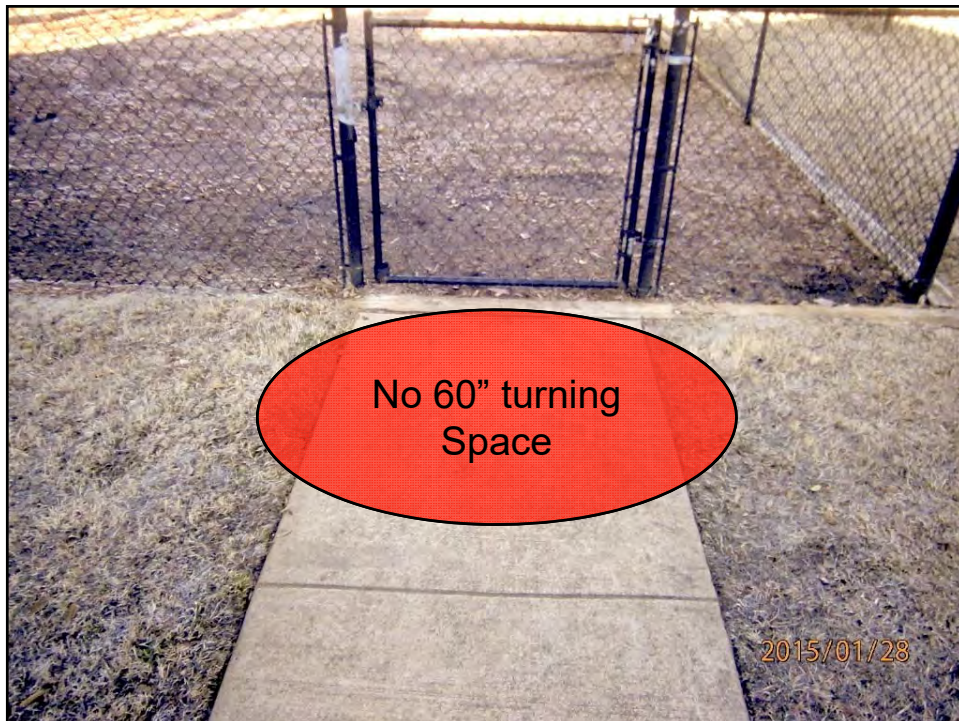
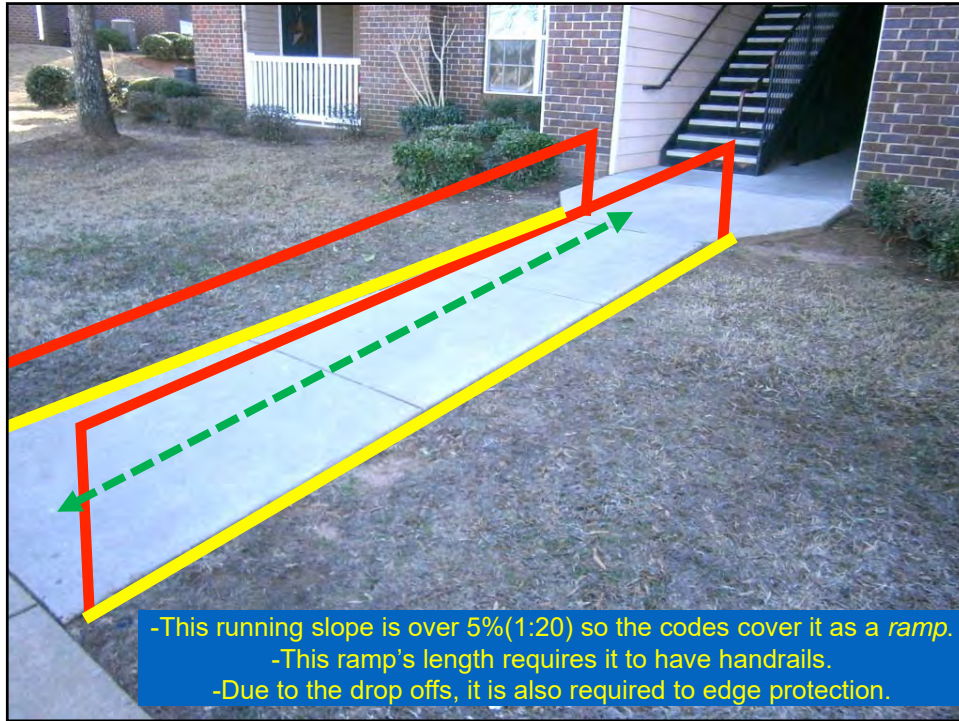
What's wrong with this picture?  
(nothing yet, but given time....)

**Best solution?**  
Trim shrubbery off  
walkways regularly

Trees limbs may cause  
a similar problem.  
You must maintain 80"  
of headroom (6'-8",  
door height), or the tree  
limbs become a  
"protruding object".

**Best solution?**  
Trim low hanging tree  
limbs regularly







**This symbol does not  
automatically imply  
accessibility for all codes**



**Mark English**  
(888) 504-7483, ext. 113  
[mark@EandATeam.com](mailto:mark@EandATeam.com)





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# COMPLIANCE CORNER



Join Us at E&A Team's New Compliance Corner for  
Amanda Lee Gross's

## "MINUTE HOUSING TIP"

video series.



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**NEW**

# Live Training-Conquering Training Series



E&A's new training series "Conquering" will take an in-depth look at compliance in multifamily housing based on your project's funding source. Each 2-day comprehensive course would include engaging and interactive sessions utilizing case studies, verification examples, knowledge check exercises, and even games to ensure attendees walk away with a thorough understanding of not only how to maintain project compliance, but why it is so important to do so.

***This will be E&A's largest training expansion ever and we could not be more excited.***

**Funding Sources Currently Slated for Individual Courses Include:**

## LIHTC Compliance



**Low-Income  
Housing  
Tax Credit  
Compliance**

### Part 1: , "Determining Household Eligibility"

Examples of topics covered:

- Determining Household Composition
- Verification and Documentation Requirements
- Calculating Income from Assets
- Calculating Earned Income
- Calculating Unearned Income

### Part 2: , "Maintaining Project Compliance"

Examples of topics covered:

- Annual Credit Calculation
- Minimum Set Aside
- Income and Rent Limits
- Important Deadlines
- Monitoring Requirements
- Acquisition/Rehab
- IRS forms review

## HOME Funds Housing Compliance



**Home Funding  
Compliance**

Examples of topics covered:

- Introduction & Program background
- Project Eligibility Requirements (eligible costs & property types)
- Development & Leasing Deadlines
- Physical Property Standards
- Income & Rent Limits
- Designation of HOME units (Fixed versus Floating units)
- Student Eligibility Requirements
- Verification Requirements
- Income Eligibility Requirements



## RD Rental Housing Compliance



Examples of topics covered:

- Introduction & Program background
- Project Management Requirements
- Project Physical Conditions
- Tenant Eligibility Requirements (including eligibility of students)
- Marketing
- Waiting Lists & applications
- Tenant Selection & Unit Assignment
- Verification Procedures
- Calculating Annual Income
- Calculating Adjusted Income

## HUD Multifamily Housing Compliance



Examples of topics covered:

- Introduction & Program background
- Civil Rights and Nondiscrimination Requirements
- Project Eligibility ( Section 8, Section 202, Section 202/8, Section 202 PAC, Section 202 PRAC, and Section 811 PRAC Projects)
- Program Eligibility ( including student eligibility)
- Waiting List & Tenant Selection
- Determining Household Income
- Determining Household Rent
- Lease Requirements
- Security Deposit Requirements
- Recertifications & Interim Certifications
- Unit Transfers
- Gross Rent Changes
- Termination of assistance and Termination of Tenancy

**To Request Additional Information or Proposals for Training:**

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**New**

# Online Training

## Fair Housing - Are You Up to the "Test?"

Fair Housing: Are You Up to The "Test"? covers the fundamentals of federal fair housing laws. In the course, the learner will take on the role of a fair housing tester and learn how testers evaluate whether or not housing providers are complying with federal fair housing laws. The course provides the learner with an overview of the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act, including their respective regulations, enforcement mechanism, and remedies. Federal fair housing laws are about equal treatment and opportunity, including accessibility. The course teaches the learner about the federally protected classes, policies and procedures of housing providers and keys to avoiding discrimination, federal accessibility design and construction requirements, reasonable accommodations and modifications, and harassment.

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### TWO TYPES OF HARASSMENT

Click each item.



**Hostile Environment**

When a housing provider, its employees or contractors, or tenants engage in behavior of such severity and pervasiveness that it alters the terms or conditions of tenancy and results in an environment that is offensive, intimidating, hostile, or otherwise significantly less desirable. The conduct is viewed from the perspective of a reasonable person in the victim's position. Examples of behavior that create a hostile environment:

- Physical touching, grabbing, caressing
- Staring, leering, taunting

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### KNOWLEDGE CHECK

Select True or False for each statement.

1. Testers work for government agencies or other Fair Housing groups and gather information based on race, national origin, disability, familial status, or other protected classes.
2. Phone Testing and Matched Fair Testing are two ways to determine if everyone is receiving the same treatment.
3. Equal Treatment and Opportunity, including Accessibility, are the overlapping components of Fair Housing.
4. Property tours are subject to fair housing laws.

True	False
True	False
True	False
True	False

RESET

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### INTRO TO REASONABLE ACCOMMODATION AND REASONABLE MODIFICATION

Under the Fair Housing Act and Section 504, disability discrimination also includes the failure to grant reasonable accommodations or modifications to persons with disabilities.

Properties are required to grant exceptions to policies or make physical changes to properties because of a person's disability.





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Number \_\_\_\_\_ Exp Date \_\_\_\_\_ CSV \_\_\_\_\_

Name on Card \_\_\_\_\_

Card's Billing Address: \_\_\_\_\_

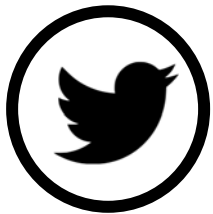
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_



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