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Housing Information Update #18:
Multifamily Building Conformance
with the Fair Housing Accessibility
Guidelines

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This Information Update is the eighteenth in a series to be made available to improve awareness and understanding of alternative approaches to expand affordable and accessible housing choices for Americans with disabilities. These updates will feature new publications, policy developments at a federal, state, and local levels, and other strategies being pursued by grantees, community and faith-based organizations, and housing agencies to respond to the Olmstead “Community Inclusion” mandate. These Information Updates are being prepared by Michael Morris, Director of the National Disability Institute at the NCB Development Corporation on behalf of the Community Living Exchange at the Rutgers University Center for State Health Policy. To contact Michael Morris directly, his email address and phone number are mmorris@ncbdc.org, (202) 521-2930.

HOUSING INFORMATION UPDATE NUMBER 18

Multifamily Building Conformance with the Fair Housing accessibility Guidelines

The U.S. Department of Housing and Urban Development (HUD) published a new report entitled “Multifamily Building Conformance with the Fair housing Accessibility Guidelines.” The report, prepared by Steven Winter Associates, Inc. and Jennifer A. Stoloff, Ph.D., provides a statistical picture of multifamily conformance with HUD’s “Fair Housing Accessibility Guidelines.” The Guidelines, published in 1991, were developed to serve as a single, reliable source of information on compliance. The report reveals that conformance scores were uniformly high for certain requirements, such as having an accessible building entrance on an accessible route, but much lower for others.

The Fair Housing Act (the Act) requires that “covered multifamily dwellings” built for first occupancy after March 13, 1991, be designed and constructed to include certain features of accessible design. Covered multifamily dwellings are found in buildings consisting of four or more units, if such buildings have one or more elevators, and ground floor units in other buildings consisting of four or more units. The Act’s design and construction requirements apply to privately owned housing, federally or publicly assisted housing, and to all types of housing when the housing is located in buildings containing four or more dwelling units, including, for example, single-family homes, apartments, condominiums, dormitories, assisted living developments, time-sharing properties, and homeless shelters when used as a residence. The requirements do not apply to multi-story town homes that do not have elevators or to single-family detached houses. As part of its obligation to provide technical assistance to states, units of local government, and others, the U.S. Department of Housing and Urban Development (HUD) published the Fair Housing Accessibility Guidelines (the Guidelines) in 1991. The Guidelines are intended to provide a safe harbor for compliance with the accessibility requirements of the Fair Housing Act.

In 1997, HUD commissioned this study to obtain a quantitative assessment of the extent of conformance with the Guidelines and to suggest explanations for patterns of conformance and nonconformance. “The study was developed in part because evidence from the field, complaints filed with HUD, and private litigation suggested that some architects, contractors, and building owners were either ignorant of, or were avoiding, the law and were building multifamily projects that did not comply with the Act’s design and construction requirements,” HUD reports. “There

was also a need for HUD to have baseline information on the extent to which covered multifamily dwellings were in compliance in order to measure the effects of its technical assistance and enforcement efforts.” HUD hoped that the results of the study could provide the department with a better understanding of the level of compliance across the United States, as well as provide some guidance on how to improve compliance with the Act’s requirements.

The study is descriptive in nature: it provides a statistical picture of multifamily housing conformance with the Guidelines. The study gives a broad national view of conformance but cannot be used to extrapolate about local conditions. Building design and construction are regulated at the local and/or state level; as a result, localities are subject to different building code and/or local accessibility requirements. This can have an impact on conformance at the local level, and as a result, the report’s findings may differ with local reports of conformance in cities and states around the country.

The study found plans having higher conformance scores than those found in the field. “It appears builders sometimes do not properly execute architectural plans,” the report’s authors write. With plan and field scores being close, the study concluded that the builders “usually do execute the plans and that if elements are included in plans, builders will follow them.”

The data gathered and analyzed for the report does not answer the question of why housing either meets or does not meet the Guidelines. The study does present possible explanations for the statistical findings; however, it is important to note that the survey did not allow for “shades of gray” in determining conformance with the Guidelines. The survey gathered data on whether certain elements of multifamily housing either met or did not meet the Guidelines, not the degree of overall conformance. The survey consisted of 291 separate questions about technical items relating to accessibility. Neither the questions nor the results were weighted, and all items were treated equally. The degree of nonconformance was not considered, so that a 1-inch deviation from a requirement was treated equally to a 10-inch deviation. Thus, the survey measured and recorded levels of nonconformance that might not warrant enforcement action in the field, and the result is a report that simply describes the rates of conformance for multifamily housing in meeting the Guidelines.

In summary, levels of conformance with accessibility requirements on the 16 composite measures were relatively high.” The 16 composite measures are classified in seven requirements:

1. Accessible building entrance on an accessible route (1 composite conformance measure);
2. Accessible and usable public and common use areas (7 composite conformance measures);
3. Usable doors (1 composite conformance measure);
4. Accessible route into and through the covered unit (1 composite conformance measure);
5. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations (2 composite conformance measures);
6. Reinforced walls for grab bars (1 composite conformance measure); and

7. Usable kitchens and bathrooms (3 composite conformance measures).

The survey is available by visiting: <http://www.huduser.org/Publications/pdf/multifamily.pdf>.
Adobe Acrobat reader is required to view the survey and can be downloaded for free at
<http://www.adobe.com/products/acrobat/readstep2.html>.