

FAIR HOUSING REVIEW NEW CONSTRUCTION ACCESSIBILITY REQUIREMENTS



Fair Housing Act

The Fair Housing Act new construction accessibility requirements apply to “covered multifamily dwellings” designed and constructed “for first occupancy” after March 13, 1991. This includes housing that is for rent or for sale and applies whether the housing is privately or publicly funded. The following multifamily dwellings must comply:

- All buildings containing four or more dwelling units if the buildings have one or more elevators; and
- All ground floor units in buildings containing four or more units, without an elevator.

Condominiums and apartment buildings are covered by the design and construction requirements and so are time-shares, dormitories, transitional housing, student housing, assisted living housing, homeless shelters that are used as a residence, etc.

To comply, seven basic design and construction requirements must be met:

Requirement 1: All covered multifamily dwellings must have at least one accessible building entrance on an accessible route unless it is impractical to do so because of the terrain or unusual characteristics of the site.

Requirement 2: Covered housing must have accessible and usable public and common-use areas. They include, for example, building-wide fire alarms, parking lots, storage areas, indoor and outdoor recreational areas, lobbies, mailrooms and mailboxes, and laundry areas.

Requirement 3: All doors that allow passage into and within all premises must be wide enough to allow passage by people using wheelchairs.

Requirement 4: There must be an accessible route into and through each covered unit.

Requirement 5: Light switches, electrical outlets, thermostats and other environmental controls must be in accessible locations.

Requirement 6: Reinforcements in bathroom walls must be installed, so that grab bars can be added when needed. The law does not require installation of grab bars in bathrooms.

Requirement 7: Kitchens and bathrooms must be usable - that is, designed and constructed so an individual in a wheelchair can maneuver in the space provided.

Fair Housing Act and ADA

The Fair Housing Act shouldn't be confused with the Americans with Disabilities Act (ADA). The ADA covers public accommodations, while the Fair Housing Act covers housing. Many builders and developers believe that if they are ADA compliant then they have fulfilled their legal responsibilities. This isn't necessarily true. Generally, the ADA does not apply to residential housing. However, ADA issues arise with the accessibility of common use areas in residential developments if the facilities are open to persons other than owners, residents, and their guests (e.g. – sales/rental office, pool, clubhouse and reception room). When determining what laws apply to a building, community or complex, it's important to remember that many codes, federal, state and local, may cover your project.

Regional Violations

Between 2005 and 2014 the Housing Equality Center analyzed compliance at new construction apartment and condominium communities in Bucks, Chester, Delaware, Lancaster, Lehigh, Montgomery and Philadelphia Counties. Of the 38 communities tested, 18 (47%) didn't meet Fair Housing Act design and construction requirements. Noncompliant features included: 1) steps at the entrance to ground floor units; 2) inaccessible mailboxes, trash and storage facilities; 3) lack of handicapped parking for residents or prospective residents; 4) steps at the entrances to sales or leasing offices; 5) interior doorways smaller than the required minimum; 6) inaccessible bathroom design; and 7) thermostats and environmental controls at inaccessible locations.

Resources

Fair Housing Accessibility FIRST is an initiative sponsored by HUD to promote compliance with the Fair Housing Act design and construction requirements. The initiative offers a toll-free information line and website with technical guidance for communities and developers. For more information, contact: (888) 341-7781 or www.fairhousingfirst.org.

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The Housing Equality Center is a nonprofit organization leading the effort to eliminate housing discrimination in Pennsylvania through education, advocacy and enforcement of fair housing laws. We provide victims of discrimination with legal help, perform testing to determine the existence of discrimination, educate the public, consult with and train housing providers, and work with housing and related service providers to ensure compliance with anti-discrimination laws. We assist housing discrimination victims and conduct testing investigations in Bucks, Chester, Delaware, Lehigh, Montgomery, Northampton and Philadelphia Counties.



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