



US Housing
CONSULTANTS

Conquering Fair Housing for Maintenance Professionals



FAIR HOUSING:

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Note: There may be areas of the manual that will not be covered during the allotted time and the information is supplied as supplemental information.

History of Civil Rights & The Fair Housing Act

- **January 1, 1863** – The Emancipation Proclamation was issued, which freed slaves held in the states that were still fighting the Civil War.
- **December 18, 1865** – The Thirteenth Amendment was adopted which abolished slavery and involuntary servitude except as punishment for a crime.
- **April 9, 1866** – The Civil Rights Act of 1866
The Civil Rights Act of 1866 was the first federal law enacted regarding civil rights.

*“...and such citizens, of every race and color, without regard to any previous condition of slavery or involuntary servitude, except as a punishment for crime where of the party shall have been duly convicted, shall have the same right, in every State and Territory in the United States, to make and enforce contracts, to sue, to be parties, and give evidence, to inherit, purchase, **lease**, sell, hold, and convey real and personal property, and to full and equal benefit of all laws and proceedings for the security of person and property, as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom, to the contrary notwithstanding.”*

- **July 9, 1868** – The Fourteenth Amendment of the US Constitution was adopted which addressed citizenship rights and equal legal protection.
- **May 18, 1896** – Plessy v. Ferguson (163 U.S. 537) – The US Supreme Court ruled that racially *separate but equal* facilities did not violate the Fourth Amendment of the US Constitution. This ruling made segregation legal.
- **May 3, 1948** – Shelley v. Kraemer (334 U.S. 1) – The US Supreme Court decided that racially restrictive housing covenants are prohibited by the Equal Protections Clause in the Fourteenth Amendment of the US Constitution, and that such covenants cannot be enforced in a court of law.
- **May 17, 1954** –
 - Brown v. Board of Education of Topeka (347 U.S. 483) – The US Supreme Court ruled that racially segregated schools violate the Fourteenth Amendment of the US Constitution. This ruling effectively overturned Plessy v. Ferguson ruling from 58 years prior, but only as it related to public educational facilities.
 - Bolling v. Sharpe (347 U.S. 497) – The US Supreme Court ruled that racially segregated schools violate the Fifth Amendment of the US Constitution.
- **November 13, 1956** – Browder v. Gayle (352 U.S. 903) – The Supreme Court of the United States upheld the Alabama district court decision, ruling that the enforced segregation on busses operating in the city of Montgomery violated the Fourteenth Amendment of the US Constitution.
- **July 2, 1964** – The Civil Rights Act of 1964 (P.L. 88-352) was signed into law by President Lyndon B. Johnson. Title VI of the Act prohibits discrimination on the grounds of race, color, or national origin by any program receiving federal assistance.
- **April 11, 1968** – The Civil Rights Act of 1968 (P.L. 90-284) was signed into law by President Lyndon B. Johnson. Title VIII of the Act, The Fair Housing Act, prohibits discrimination in the sale or rental of housing based on a person's protected class. At the time of its enactment, the Act prohibited discrimination against **race, religion, color, or national origin**.
- **August 22, 1974** – With the passing of the Housing and Community Development Act of 1974 (P.L. 93-383), **sex** was added as a protected class under the Fair Housing Act.
- **September 13, 1988** – President Ronald Reagan signed the Fair Housing Amendments Act of 1988 (P.L. 100-430) into law. The Act added **disability** and **familial status** as protected classes under Title VIII of the Fair Housing Act.

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References & Notes

Introduction

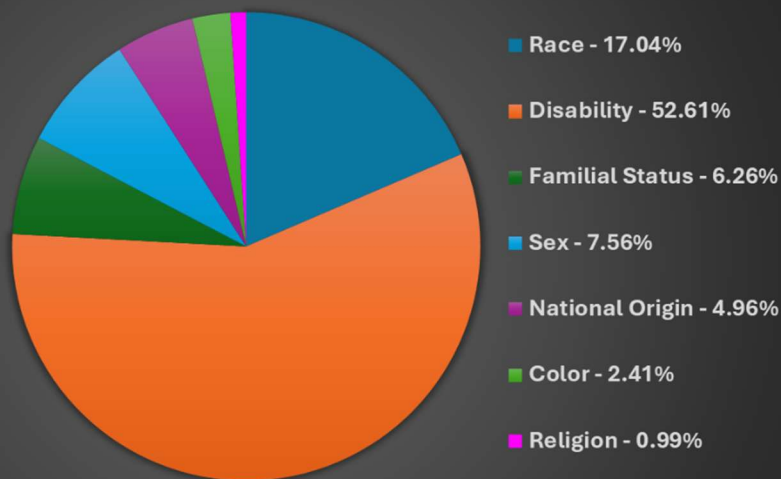
Overview of the Federally Protected Classes

The Fair Housing Act prohibits discrimination in covered housing based on any of the seven federally protected classes:

1. **Race** (added as a protected class in 1968)
2. **Religion** (added as a protected class in 1968)
3. **National Origin** (added as a protected class in 1968)
4. **Color** (added as a protected class in 1968)
5. **Sex** (added as a protected class in 1974)
6. **Disability** (added as a protected class in 1988)
7. **Familial Status** (added as a protected class in 1988)



Housing Discrimination Complaints by Basis of Discrimination



https://nationalfairhousing.org/wp-content/uploads/2023/04/2024-Fair-Housing-Trends-Report-FINAL_07.2024.pdf
/page 9

Applicability

The Fair Housing Act does not apply to the following real estate transactions:

- ✗ A single-family house that is sold or rented by an owner, but only if the house is sold or rented without using a real estate agent or rental service.
- ✗ Owner-occupied dwellings with four units or less.

Even if a housing owner meets one of the above exceptions, when advertising the rental of the house or unit within the house, the advertising must still meet the non-discriminatory advertising requirements that are mandated in the Fair Housing Act.

Additional Protected Classes

State and Local Protected Classes

While there are seven federally protected classes, it is important to be aware that there may be additional protected classes based on the state or county where the housing is located.

FAIR HOUSING:

Prohibited Acts



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References & Notes

Prohibited Acts

There are many specific discriminatory actions that are prohibited by the Fair Housing Act that relate to the sale and rental of housing.

The prohibited acts include:

- A. Steering
- B. Refusal to Rent or Negotiate Housing
- C. Falsely Denying the Availability of Housing
- D. Enforcing Discriminatory Policies, Terms, and Conditions
- E. Discriminatory Evictions
- F. Refusal to Make Reasonable Modifications or Accommodations for Those with Disabilities
- G. Discriminatory Advertising



We will discuss the prohibited acts in detail.

A. Steering



Steering is a practice where a housing provider steers a prospect to, or away from a property, building or floor, based on the prospect's protected class.



Management Practical Tips

Prohibited Acts: Steering

- Inform prospects about all available units, not just the units you think they might want (i.e., if a prospect has a sight impairment, do not assume that they will want a first-floor unit).
- For property tours:
 - Always use the same route for all.
 - Offer to show all same vacant or model units.
 - Always show the same amenities.



Practical Tips

Protected Acts: Steering

Be careful how you respond to questions such as:

- What kind of people live here?
- Do a lot of kids live here?
- Is this a diverse neighborhood?

Prohibited Acts, cont.

B. Refusal to Rent or Negotiate Housing

Refusing to rent to or deal with a prospect based on their protected class is strictly prohibited.



Management Practical Tips

Prohibited Acts: Refusal to Rent or Negotiate Housing

- Always give the same information regarding availability and rental terms to every applicant and prospective applicant. Give the same information on the phone and in person.
- For prospective tenants:
 - Use a guest card for every prospective tenant and document date and time of visit.
 - Document the same information for every prospective tenant.
 - Follow up with all or none verbally and in writing (if you follow up with one, you must follow up with all).

C. Falsely Denying the Availability of Housing



This occurs when a housing provider provides false information about the availability of units, based on the prospect's protected class.



Practical Tips

Protected Acts: Falsely Denying Availability

- Make sure only staff who have access to current availability of units are providing this information to prospects (i.e., unless maintenance staff is involved in leasing units, any availability inquiries made to maintenance staff should be directed to the leasing office).
- Make sure the term "available for rent" is clearly defined for all team members involved in lease (i.e., Is a unit available to be rented once a notice to vacate is received? When the unit is vacant? When the unit is rent ready?).
- On-Site Staff - When not working, if approached on the property regarding unit availability during office hours, refer them to the leasing office.
- Time/Date stamp an application when accepted for a unit, especially when units are rented on a first-come, first-serve basis.
- Maintain a phone/drive-by/walk-in log of availability inquiries noting the date and time the inquiry was made.

Prohibited Acts, cont.

D. Enforcing Discriminatory Policies, Terms, and Conditions

This occurs when a housing provider enforces policies, terms or conditions that discriminate against a protected class, such as:

- Selectively enforced or discriminatory screening criteria
- Offering different lease terms based on protected classes
- Charging fees (or increased amount of a fee) based on protected classes
- Increase unit inspection frequency based on protected classes



Management Practical Tips

Prohibited Acts: Enforcing Discriminating Policies, Terms, and Conditions

- Put your screening and program eligibility requirements in writing and distribute to every applicant with every application.
- Include in the written screening plan the amounts, terms, and conditions of:
 - Application Fees
 - Security Deposits
 - Exceptions to Criteria (i.e., exception for a low credit rating that is due to medical bills, etc.), these exceptions should be included in the screening criteria and should be applied consistently
- Apply screening requirements consistently for all applicants.
- When requested, consider reasonable accommodations to the screening criteria.
- Make sure that the property's policies and procedures are in writing and are applied consistently (i.e., late fees, cost of key/fob replacement, processing work orders, response to lock outs, after hour emergencies, etc.)

Maintenance Personnel

Maintenance teams provide a crucial service to our residents by ensuring that the community and the apartments are well maintained. It is essential to have written policies regarding the following services or procedures:

- Annual Unit Inspections
- Move-In and Move-Out Inspections – Unit Condition Reports
- Work Orders
- After Hour Emergencies



Prohibited Acts, cont.

D. Enforcing Discriminatory Policies, Terms, and Conditions, cont.

Maintenance Personnel, cont.



Maintenance Practical Tips

Prohibited Acts: Enforcing Discriminatory Policies, Terms, and Conditions

Entering Occupied Units When Conducting Work Orders or Inspections

- Always knock and announce yourself and anyone with you.
- If no response, when entering, announce yourself again.
- Hang a door tag on the exterior of the door prior to entering units when tenants do not answer. The door tag will inform the tenant that you are in the unit in case they return home while maintenance is still in the unit.
- If someone is in the shower, leave the unit and leave a door tag that maintenance will return later.
- If a minor answers the door and there is no adult present, do not enter the unit and leave a door tag noting that maintenance will return later when an adult is present.
- If a tenant is in a state of partial undress, leave the unit and ask the tenant to cover themselves.

If No One is Home

- Only enter rooms with closed doors that need to be entered (i.e., if you are only in the unit to fix the seal on the refrigerator, do not enter the bedroom if the door is closed).
- Once a work order is completed, leave a door tag, or copy of the work order noting the status (completed, part ordered, etc.).
- Make sure to lock the door behind you.

If Resident is Home

- Be friendly but begin working.
- Only address issues noted in the work order. If the resident brings up other issues, politely inform them that you are there to address the issue on the work order and that another work order will need to be submitted for any additional issues.
- Be careful of what questions you ask and how you answer questions.
- Do not comment on living conditions, guests, pets, etc. but do report any housekeeping issues, unauthorized pets, or guests to your supervisor or property manager.

Prohibited Acts, cont.

D. Enforcing Discriminatory Policies, Terms, and Conditions, cont.

Maintenance Personnel, cont.

Work Order Policies

In order to ensure that work orders are completed in a fair and equitable manner, it is a good idea to have written policies and procedures in place regarding the submission and completion of work orders.

All staff, management, and maintenance staff should be informed of such policies and procedures.



Maintenance Practical Tips

Prohibited Acts: Enforcing Discriminatory Policies, Terms, and Conditions

Below are some areas we recommend addressing in your work order policy:

- How are work orders submitted by tenants?
- How are work orders prioritized?
Example: Completed in the order of requests received unless a subsequent request is for a higher priority situation.
- How are tenants notified of the anticipated date of repair and completion of repair?
- Are there situations when a work order may not be completed?
 - Minors in the unit without adult supervision (except in cases of emergencies)
 - Someone in the shower
 - Someone is in a state of partial or total undress

Prohibited Acts, cont.

D. Enforcing Discriminatory Policies, Terms, and Conditions, cont.

Maintenance Personnel, cont.

After Hour Emergencies – On-Call

At some properties, maintenance staff may be required to be “on-call” to address any emergencies that occur outside of office hours. It is critical that the housing provider has a policy in place that addresses the handling of after-hour emergencies and lockouts.



Maintenance Practical Tips

Prohibited Acts: Enforcing Discriminatory Policies, Terms, and Conditions

Here are some topics we suggest address in the After Hour Emergencies Policy:

- Define “emergency” gas leaks, exposed electrical wires, busted water lines, clogged sewer lines, broken entrance doors and ground floor windows, fire, no heat, electricity, or water, etc.
- Address communication with persons with LEP.
- Address the handling of noise complaints and security issues.
- Address the handling of lockouts (i.e., fees, identification needed, etc.).

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References & Notes

Prohibited Acts, cont.

E. Discriminatory Evictions

Discriminatory evictions occur when a housing provider evicts an individual based on their protected class or enforces a policy of evicting in circumstances that could be determined to have a disparate impact on a protected class.

Discriminatory evictions may include:

- Eviction in retaliation for requesting a reasonable accommodation or modification
- Eviction due to the addition of a minor child, when the addition of the child does not exceed the occupancy standards
- Eviction of victims of domestic violence



In HUD's 2011 FHEO memo regarding the VAWA, HUD explored three legal theories under the Fair Housing Act relating to violence against women.

1. **Direct Evidence** – Policies that explicitly treat women different than men.
2. **Unequal Treatment** – Engages in unequal treatment of victims of domestic violence in comparison to victims of other crimes or unequal application of a seemingly gender-neutral policy.
3. **Disparate Impact** – When there is no direct evidence of unequal treatment, but a policy, procedure, or practice disproportionately affects the domestic violence victim.

In this memo HUD also cited 10 fair housing cases involving domestic cases. Two of the cases have been provided for your review.

https://www.hud.gov/sites/documents/FHEO_DOMESTICVIOLGUIDENG.PDF

Alvera v. CBM Group, Case No. 01-857 (D. Or. 2001)

The victim was assaulted by her husband in their apartment. She obtained a restraining order against her husband, and he was subsequently arrested and jailed for the assault. She provided a copy of the restraining order to the property manager. The property manager then served her with a 24-hour eviction notice based on the incident of domestic violence. The notice specified: "You, someone in your control, or your pet, has seriously threatened to immediately inflict personal injury, or has inflicted personal injury upon the landlord or other tenants." The victim then submitted an application for a one-bedroom apartment in the same building. Management denied the application and refused to accept her rent. After a second application, management finally approved her for a one-bedroom apartment, but warned her that "any type of recurrence" of domestic violence would lead to her eviction.

The victim filed a complaint with HUD, which investigated her case and issued a charge of discrimination against the apartment management group. She elected to pursue the case in federal court. The parties later agreed to settle the lawsuit. The consent decree, approved by the Oregon district court in 2001, requires that the management group agree not to "evict, or otherwise discriminate against tenants because they have been victims of violence, including domestic violence" and change its policies accordingly. Employees of the management group must participate in education about discrimination and fair housing law. The management group also agreed to pay compensatory damages to the victim.

Prohibited Acts, cont.

E. Discriminatory Evictions, cont.

T.J. v. St. Louis Housing Authority (2005)

The victim endured ongoing threats and harassment after ending her relationship with her abusive boyfriend. He repeatedly broke the windows of her apartment when she refused to let him enter. She obtained a restraining order and notified her landlord, who issued her a notice of lease violation for the property damage caused by the ex-boyfriend and required her to pay for the damage, saying she was responsible for her domestic situation. Her boyfriend finally broke into her apartment and, after she escaped, vandalized it. The housing authority attempted to evict her based on this incident.

The victim filed a complaint with HUD, which conciliated the case. The conciliation agreement requires the housing authority to relocate her to another apartment, refund the money she paid for the broken windows, ban her ex-boyfriend from the property where she lived, and send its employees to domestic violence awareness training.

Prohibited Acts, cont.

F. Refusal to Make Reasonable Modifications or Accommodations for Those with Disabilities

Under the Fair Housing Act, it is unlawful for a covered housing provider to refuse to provide a reasonable modification or accommodations for persons with disabilities, when the accommodation or modification is necessary to afford the person with a disability the equal opportunity to use and enjoy their unit.

Reasonable Accommodations

A “reasonable accommodation” is a change, exception, or adjustment to a rule, policy, practice, or service that may be **necessary** for a person with a disability to have an equal opportunity to use and enjoy a dwelling, including public and common use spaces.”

“Necessary”

To demonstrate that a requested accommodation is necessary, there must be an **identifiable nexus**, or relationship, between the individual’s disability and the requested accommodation.

Example #1 – Reasonable Accommodation Nexus

A housing provider has a policy of providing unassigned parking spaces to residents. A resident with a mobility impairment, who is substantially limited in her ability to walk, requests an assigned accessible parking space close to the entrance to her unit as a reasonable accommodation. There are available parking spaces near the entrance to her unit that are accessible, but those spaces are available to all residents on a first come, first served basis. The provider must make an exception to its policy of not providing assigned parking spaces to accommodate this resident.

Example #2 – Reasonable Accommodation Nexus

A housing provider has a “no pets” policy. A tenant who is deaf requests that the provider allow him to keep a dog in his unit as a reasonable accommodation. The tenant explains that the dog is an assistance animal that will alert him to several sounds, including knocks at the door, sounding of the smoke detector, the telephone ringing, and cars coming into the driveway. The housing provider must make an exception to its “no pets” policy to accommodate this tenant.

Interactive Process

The approval or denial of a reasonable accommodation should be determined by engaging in an interactive process with the individual making the request.

It is important to take time to discuss the requestor’s disability-related need for the requested accommodation and possible alternative accommodations.

The goal of the interactive process is to determine an effective accommodation that meets the requestor’s needs, without causing an undue financial or administrative burden for the housing provider.

42 U.S.C. 3604(f)(3)(B)

HUD & DOJ Joint
Statement on Reasonable
Accommodations, page 6

HUD & DOJ Joint
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References & Notes

Prohibited Acts, cont.

F. Refusal to Make Reasonable Modifications or Accommodations for Those with Disabilities, cont.

Reasonable Modification

"A reasonable modification is a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises." The modification must be "necessary."

Reasonable modifications can include structural changes to:

- Interiors of dwellings
- Exteriors of dwellings
- Common areas
- Public use areas



HUD & DOJ Joint Statement on Reasonable Modifications, page 3

Examples of reasonable modifications:

- Ramps
- Lowering cabinets
- Installing grab bars
- Roll-in showers

"Necessary"

As with reasonable accommodations, in order for a modification to be considered "necessary" there must be an identifiable relationship, or nexus, between the individual's disability and the modification being requested.

Example – Reasonable Modification Nexus (HUD & DOJ Joint Statement on Reasonable Modifications, page 4)

A tenant, whose arthritis impairs the use of her hands and causes her substantial difficulty in using the doorknobs in her apartment, wishes to replace the doorknobs with levers. Since there is a relationship between the tenant's disability and the requested modification and the modification is reasonable, the housing provider must allow her to make the modification at the tenant's expense.

Cost of Modifications

In general, under the Fair Housing Act, any costs associated with modifications are the tenant's responsibility. However, the Act also requires that properties built for first occupancy after **March 13, 1991**, meet minimum accessibility and adaptability design requirements. Therefore, if any of the structural changes being requested by the tenant or applicant are ones that should have already been included in the design of the building when constructed, the housing provider may be responsible for providing and paying for the requested structural changes.

42 U.S.C. 3604(f)(3)(A)

HUD & DOJ Joint Statement on Reasonable Modifications, page 8

HUD & DOJ Joint Statement on Reasonable Modifications, page 16



Housing that receives federal financial assistance (HUD, CDBG, HOME Funds, RD) is covered by both the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973.

Under Section 504, structural changes needed by an applicant or a resident with a disability are considered reasonable accommodations. The expense **must be paid for by the housing provider** unless doing so would be an undue financial and administrative burden or would result in a fundamental alteration of the program unless the housing provider can accommodate the individual's needs through other means.

Prohibited Acts, cont.

F. Refusal to Make Reasonable Modifications or Accommodations for Those with Disabilities, cont.

Requests for Accommodations

While the Fair Housing Act does not require housing providers to adopt a formal procedure for processing requests for reasonable accommodations, it is strongly suggested that a housing provider establish a written procedure for processing these types of requests.

Timing & Method of Request

An individual with a disability can request a reasonable accommodation at any time during the application process or during their residency.

Whenever a tenant or applicant makes clear to the housing provider that they are requesting an **exception, change or adjustment to a policy, practice, or service**, because of their disability, this is considered a **request for a reasonable accommodation**.

HUD & DOJ Joint
Statement on Reasonable
Accommodations, page 10

HUD & DOJ Joint
Statement on Reasonable
Modifications, page 9

Requests for Accommodations:

- Can be requested orally
- Can be requested in writing. **A housing provider must not require that the request be in writing or be made using the housing provider's forms.**
- Can be made by another individual acting on behalf of the individual
- Do not need to mention the Act or uses the words reasonable accommodation or reasonable modification. The request does need to be made in such a manner that a reasonable person would understand to be a request for modification or accommodation.

Prohibited Acts, cont.

F. Refusal to Make Reasonable Modifications or Accommodations for Those with Disabilities, cont.

Denying a Reasonable Accommodation Request

A housing provider can deny a request for a reasonable accommodation, if:

- ☐ The request was not made by or on behalf of a person with a disability;
- ☐ There is no disability-related need for the accommodation (no identifiable nexus); or
- ☐ The request is not “**reasonable**.” A request may be deemed unreasonable if it would:
 - A.** Impose an **undue financial and administrative burden** on the housing provider, or
 - B.** It would **fundamentally alter** the nature of the provider's operations.

Undue financial and administrative burden is to be determined on a case-by-case basis. This involves the analyzation of various factors, such as:

- The cost of the requested accommodation
- The financial resources of the provider
- The benefits that the accommodation would provide to the requester, and the availability of alternative accommodations that would effectively meet the requester's disability-related needs.

“**Fundamental alteration**” is a modification that alters the essential nature of a provider's operations.

HUD & DOJ Joint
Statement on Reasonable
Accommodations, page 7

EXAMPLE – FUNDAMENTAL ALTERATION

HUD & DOJ Joint Statement on Reasonable Accommodations, page 8

A tenant has a severe mobility impairment that substantially limits his ability to walk. He asks his housing provider to transport him to the grocery store and assist him with his grocery shopping as a reasonable accommodation to his disability. The provider does not provide any transportation or shopping services for its tenants, so granting this request would require a fundamental alteration in the nature of the provider's operations. The request can be denied, but the provider should discuss with the requester whether there is any alternative accommodation that would effectively meet the requester's disability-related needs without fundamentally altering the nature of its operations, such as reducing the tenant's need to walk long distances by altering its parking policy to allow a volunteer from a local community service organization to park her car close to the tenant's unit so she can transport the tenant to the grocery store and assist him with his shopping.

If a requested accommodation is being denied because it is not reasonable, discuss with the applicant or tenant as to whether there is an alternative accommodation that would effectively address the individual's needs. If there is an alternative accommodation that would effectively meet the individual's needs and is reasonable, the accommodation must be approved.

Prohibited Acts, cont.

F. Refusal to Make Reasonable Modifications or Accommodations for Those with Disabilities, cont.

Verification of Disability & Need for Accommodation

Housing providers are only permitted to request information regarding an individual's disability or disability-related need for a modification or accommodation if the information is not readily apparent or known to the provider.

→ Disability is Obvious and Disability Related Need is Obvious

If the individual's disability is obvious, and their disability-related need for the requested accommodation or modification is readily apparent or known, the housing provider must not require the applicant or tenant to provide any additional information about their disability or their disability-related need for the accommodation or modification.

EXAMPLE #1 – DISABILITY AND NEED ARE OBVIOUS

An applicant with an obvious mobility impairment who regularly uses a walker to move around asks her housing provider to assign her a parking space near the entrance to the building instead of a space located in another part of the parking lot. Since the physical disability (i.e., difficulty walking) and the disability-related need for the requested accommodation are both readily apparent, the provider may not require the applicant to provide any additional information about her disability or the need for the requested accommodation.

HUD & DOJ Joint Statement on Reasonable Accommodations, page 13

EXAMPLE #2 – DISABILITY AND NEED ARE OBVIOUS

An applicant with an obvious mobility impairment who uses a motorized scooter to move around asks the housing provider to permit her to install a ramp at the entrance of the apartment building. Since the physical disability (i.e., difficulty walking) and the disability-related need for the requested modification are both readily apparent, the provider may not require the applicant to provide any additional information about her disability or the need for the requested modification.

HUD & DOJ Joint Statement on Reasonable Modifications, page 5

→ Disability is Obvious but Disability Related Need is Not Obvious

If the disability is obvious but the disability-related need for the requested modification or accommodation is not readily apparent or known, the housing provider is only permitted to request information that is necessary to evaluate the disability-related need for the individual's request.

EXAMPLE #1 – DISABILITY OBVIOUS BUT NEED NOT OBVIOUS

A deaf tenant asks his housing provider to allow him to install extra electrical lines and a cable line so the tenant can use computer equipment that helps him communicate with others. If the tenant's disability is known, the housing provider may not require him to document his disability; however, since the need for the electrical and cable lines may not be apparent, the housing provider may request information that is necessary to support the disability-related need for the requested modification.

HUD & DOJ Joint Statement on Reasonable Modifications, page 6

EXAMPLE #2 – DISABILITY OBVIOUS BUT NEED NOT OBVIOUS

A rental applicant who uses a wheelchair advises a housing provider that he wishes to keep an assistance dog in his unit even though the provider has a "no pets" policy. The applicant's disability is readily apparent but the need for an assistance animal is not obvious to the provider. The housing provider may ask the applicant to provide information about the disability-related need for the dog.

HUD & DOJ Joint Statement on Reasonable Modifications, page 6

Prohibited Acts, cont.

F. Refusal to Make Reasonable Modifications or Accommodations for Those with Disabilities, cont.

Verification of Disability & Need for Accommodation, cont.

→ Disability is Not Obvious

If the disability is not obvious, housing providers may request verification to demonstrate that the individual meets the Fair Housing Act's definition of disability.

Disability can be verified by:

- A doctor or other medical professional
- A non-medical service agency
- A peer support group
- A reliable third party who is in a position to know about the individual's disability

Documentation from the Internet

Some websites sell certificates, registrations, and licensing documents for assistance animals to anyone who answers certain questions or participates in a short interview and pays a fee. Under the Fair Housing Act, a housing provider may request reliable documentation when an individual requesting a reasonable accommodation has a disability and disability-related need for an accommodation that are not obvious or otherwise known.³⁵ In HUD's experience, such documentation from the internet is not, by itself, sufficient to reliably establish that an individual has a non-observable disability or disability-related need for an assistance animal.

By contrast, many legitimate, licensed health care professionals deliver services remotely, including over the internet. One reliable form of documentation is a note from a person's health care professional that confirms a person's disability and/or need for an animal when the provider has personal knowledge of the individual.

FHEO Notice 2020-01



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References & Notes

Prohibited Acts, cont.

G. Discriminatory Advertising

Discriminatory advertising is any written or verbal advertisement or statement that shows a limitation or preference on the basis of a protected class.

Discriminatory advertising includes:

- Indicating a preference through verbiage, photographs, or human models
- Marketing only to certain segments of the surrounding area
- Pertains to all written and verbal statements

Examples



FAIR HOUSING:

Fair Housing Accessibility



FAIR HOUSING: Conquering Fair Housing for Maintenance Professionals

References & Notes

Fair Housing Accessibility

There are three civil rights laws that are related to housing:

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

Section 504

Section 504 of the Rehabilitation Act prohibits discrimination against individuals with disabilities in federally funded programs, which includes federally funded housing programs.

Examples of federally funded programs:

- HUD housing programs- Multi-Family Housing Programs (MFH), Public and Indian Housing Programs (PIH), HOME Investment Partnerships programs (HOME), Community Development Block Grant (CDBG)
- RD housing programs

Both HUD and RD have published regulations regarding the requirements that must be met in order to meet and maintain compliance with section 504, for their respective programs. HUD's 504 regulations can be found at 24 CFR Part 8. RD's 504 regulations can be found at 7 CFR Part 15b.

Requirements specific to Section 504 will be highlighted in boxes like this, throughout the course.



ADA

"The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation."

For multi-family housing, ADA requirements apply to a property's public areas and offices.

Requirements specific to ADA will be highlighted in boxes like this, throughout the course.



Fair Housing Act

Under the fair housing act, properties that were ready for occupancy on or after March 13, 1991 are required to design and constructed based on the regulations set out in the Fair Housing Design Guide.

Requirements specific to the Fair Housing design requirements will be highlighted in boxes like this, throughout the course.



Fair Housing Accessibility, cont.

Overview of Federal Laws on Accessibility

504 / FHA / ADA Comparison

	504	FHA	ADA
Applies to:	Federally Funded	MFH Buildings of 4 or more units	All "places of public accommodation"
Date the Certificate of Occupancy was issued	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 funding)

Fair Housing Accessibility, cont.

The 1988 amendment of the Fair Housing Act imposed some accessibility requirements on properties built for first occupancy **on or after March 13, 1991**.

The Fair Housing Act's accessibility design requirements require that covered units be adaptable, meaning that units are designed and constructed in a manner that will allow a person who is disabled to make reasonable modifications to a unit in order to accommodate their needs.

There are seven design requirements under the Act.

1. **Accessible entrances & property routes**
2. **Accessible and usable public and common use areas**
3. **Usable doors**
4. **Accessible unit routes**
5. **Accessible controls**
6. **Grab-bar reinforcements**
7. **Usable kitchens and bathrooms**

1. Accessible Entrances & Property Routes

"....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."

See impracticality tests pages 1.40 through 1.55 of the Fair housing design guide.

Accessible Entrance

→ See following page – illustration from Fair Housing Design Manual, 3.4

A door is "any exterior access point to a building or portion of a building used by residents for the purpose of entering. For purposes of these guidelines, an "entrance" does not include a door to a loading dock or a door used primarily as a service entrance, even if non handicapped residents occasionally use that door to enter."

Accessible Route

"....a continuous, unobstructed path through sites and buildings that connects all accessible features, elements, and spaces that allows the successful use of any site or building by a person with a disability. Such a route is safe for someone using a wheelchair or scooter and also is usable by others."

Accessible routes on a site can include parking spaces, parking access aisles, curb ramps, walks, ramps, and lifts.

Specifications for accessible routes are found in ANSI 4.3:

These specifications address:

- the width of the route
- the ground and floor surfaces
- headroom
- protruding objects
- the slope of the route
- the cross slope
- curb ramps
- lift/elevator design

Fair Housing Act

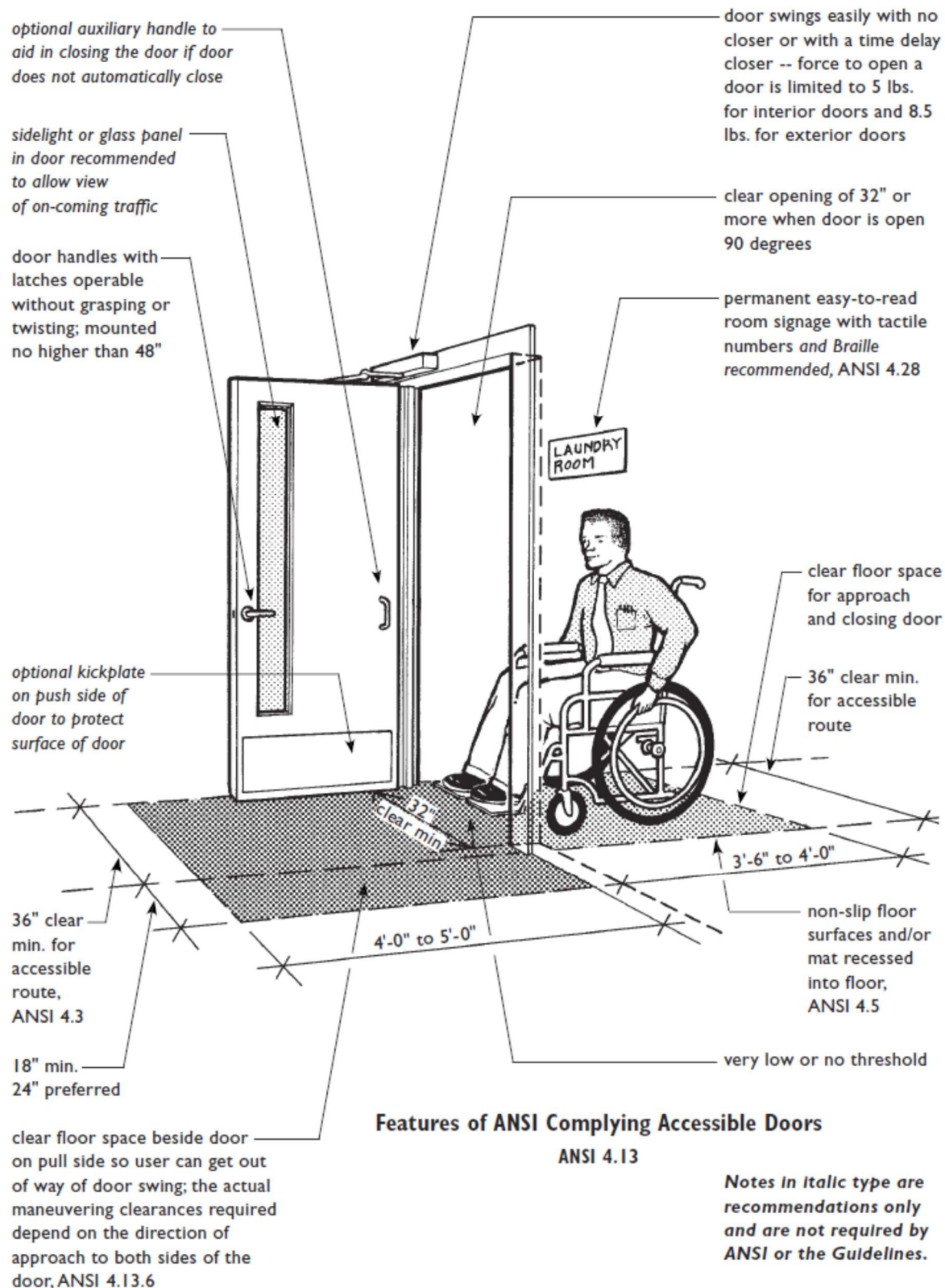


24 CFR § 100.205

Fair Housing Design
Manual Chapter 1

Fair Housing Accessibility, cont.

1. Accessible Entrances & Property Routes, cont.



24 CFR § 100.205

Fair Housing Design
Manual Chapter 2

Fair Housing Accessibility, cont.

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"

Common areas include rooms, spaces, or elements inside or outside of a building that are made available for the use of residents of a building or the guests thereof. These areas include:

- Hallways
- Lounges
- Lobbies
- Laundry rooms
- Trash rooms
- Mail rooms,
- Recreational areas
- Passageways among and between buildings.

Public use areas include interior or exterior rooms or spaces of a building that are made available to the general public.

See the following pages 22 and 23 – Illustrations from Fair Housing Design guide 2.10 & 2.11.

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 a wheelchair."

The accessibility requirements regarding the design of entry doors to common, public, or main entry doors of covered units are more stringent than the requirements applicable to doors within a covered unit. This section focuses on the primary entrance doors.

Accessible doors must meet ANSI 4.13 requirements.

ANSI 4.3: Doors should have a minimum clear opening of 32 inches (815 mm) with the door open 90 degrees.

ANSI 4.12: Thresholds – Accessible doors to ground floor units, or all units with an elevator, thresholds cannot exceed for exterior doors and ½" for all other doors.

Note: When testing for interior threshold where there is a carpeted surface, be sure to measure with a fully compressed carpet and pad if present. Uncompressed carpets and pads can hide a threshold that is too great.

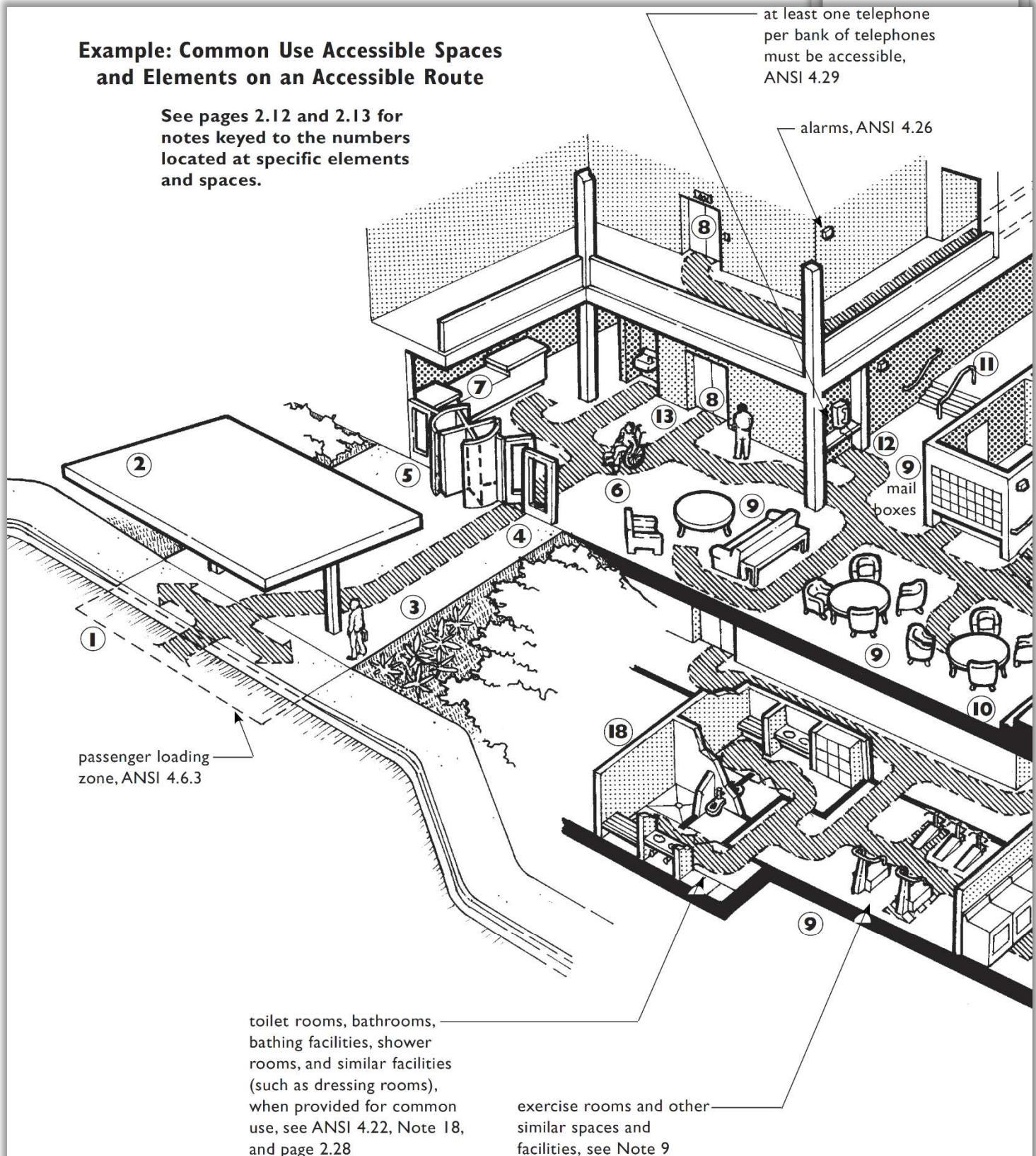
Fair Housing Act



Fair Housing Accessibility, cont.

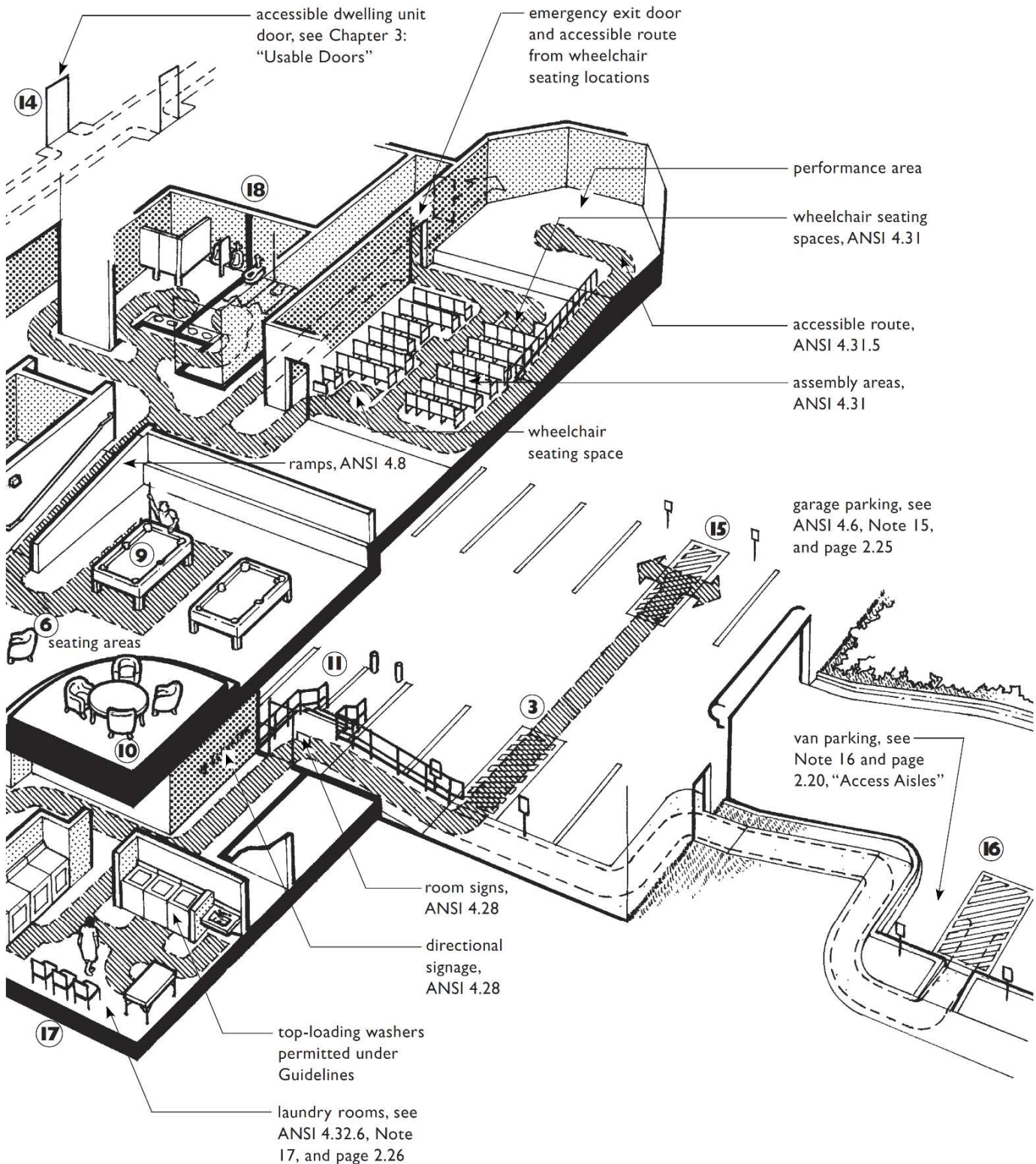
Example: Common Use Accessible Spaces and Elements on an Accessible Route

See pages 2.12 and 2.13 for notes keyed to the numbers located at specific elements and spaces.



Fair Housing Accessibility, cont.

ACCESSIBLE AND USABLE PUBLIC AND COMMON USE SPACES



Fair Housing Accessibility, cont.

4. Accessible Route into and 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."

The ANSI requirements regarding accessible routes in public and common use areas do not apply to accessible routes into and through the unit; instead, the Fair Housing Act Design defines the specific elements of an accessible route that must be provided. The accessible route must be: 1. sufficiently wide and 2. lacking in abrupt changes in level.

Width - Hallways should be a minimum of 36" wide and allow a person to make a 90 degree turn into or out of the door opening. As the accessible route passes through passage doors, the width may be reduced to 32".

Changes in Level - Within single-story dwelling units (and on the primary entry-level of multistory dwelling units in buildings with elevators), the **maximum vertical floor level change is 1/4 inch**, except when a tapered threshold is used, the maximum height is 1/2 inch.

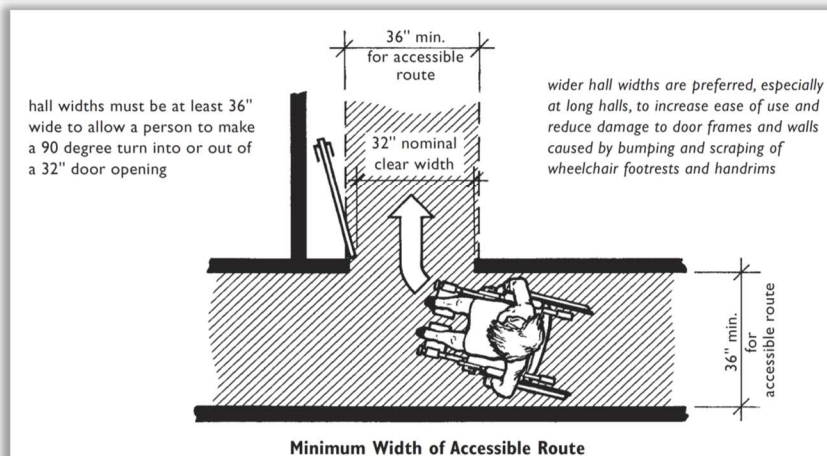
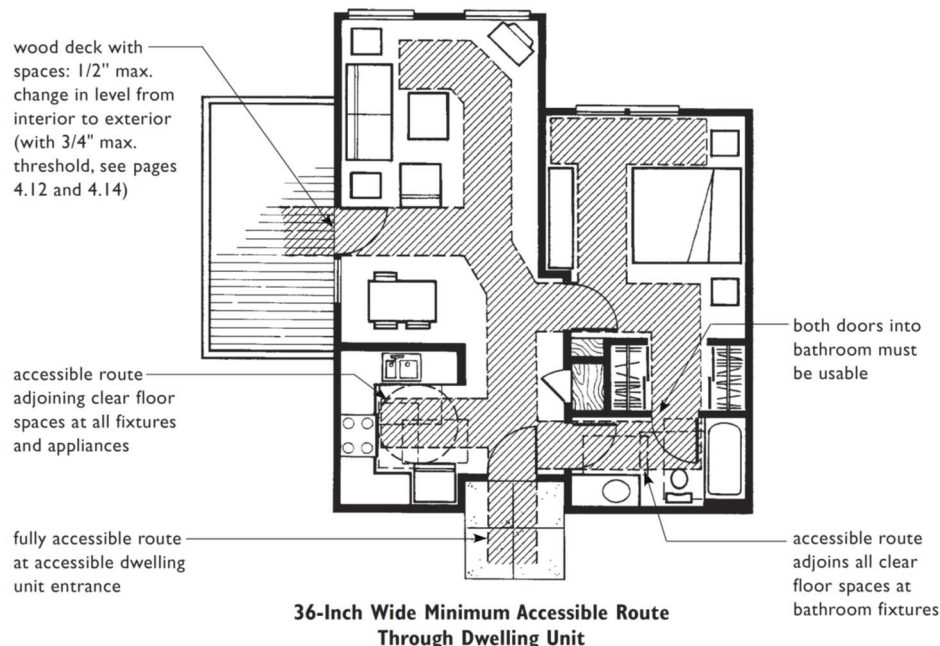


24 CFR § 100.205

Fair Housing Design
Manual Chapter 4

Fair Housing Design
Manual Page 4.3

Fair Housing Design
Manual Page 4.4



Fair Housing Accessibility, cont.

5. Accessible Controls

"...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."

To be accessible, covered controls must be at or below 48" and must have a 30" x 48" clear floor space.

Covered Controls:

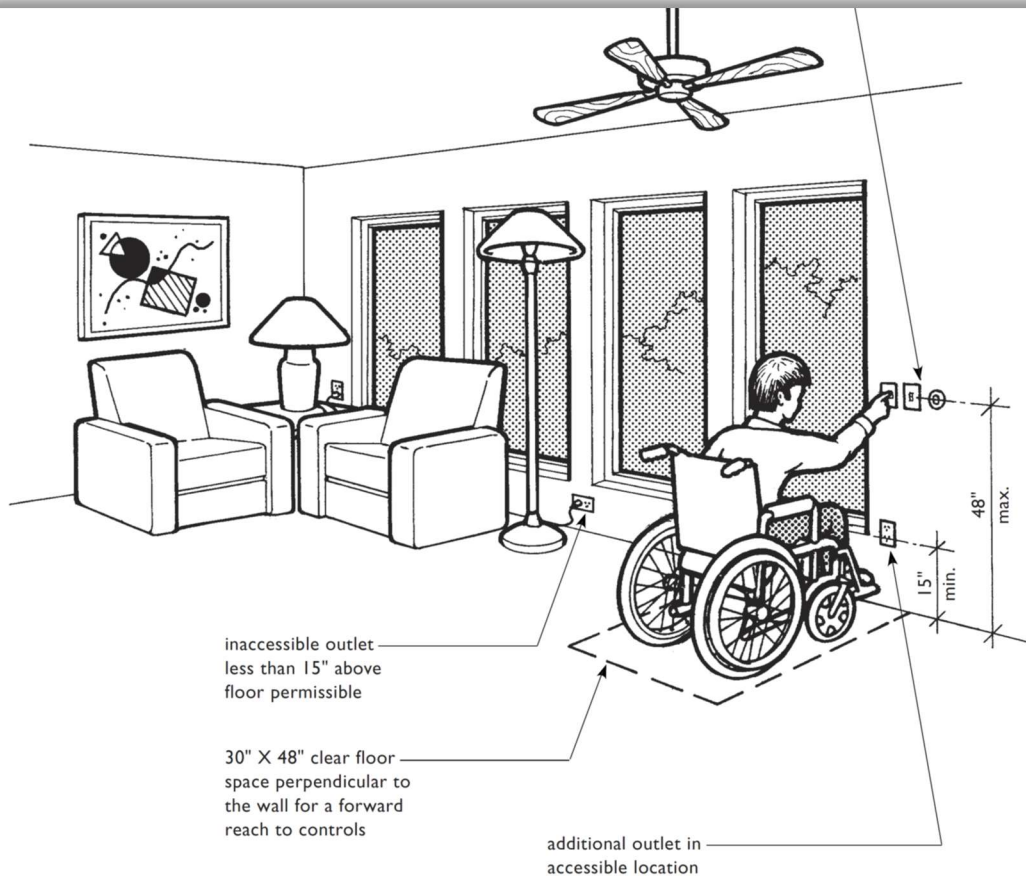
- Light switches
- Electrical Outlets
- Ceiling fans switches
- Thermostats and controls for other heating, air-conditioning, and ventilation systems

Not covered:

- Circuit breakers
- Appliance controls
- Outlets dedicated to specific appliances



Fair Housing Design
Page 5.2



Fair Housing Accessibility, cont.

6. Grab Bar Reinforcements

"...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."

While Fair Housing accessibility requirements do not require the installation of grab bars in all covered units, bathroom walls must be reinforced to allow a tenant to install grab bars, if needed. This requirement applies to all bathrooms and powder rooms if the powder room is the only toilet on the entry-level of a multistory unit in a building with an elevator.

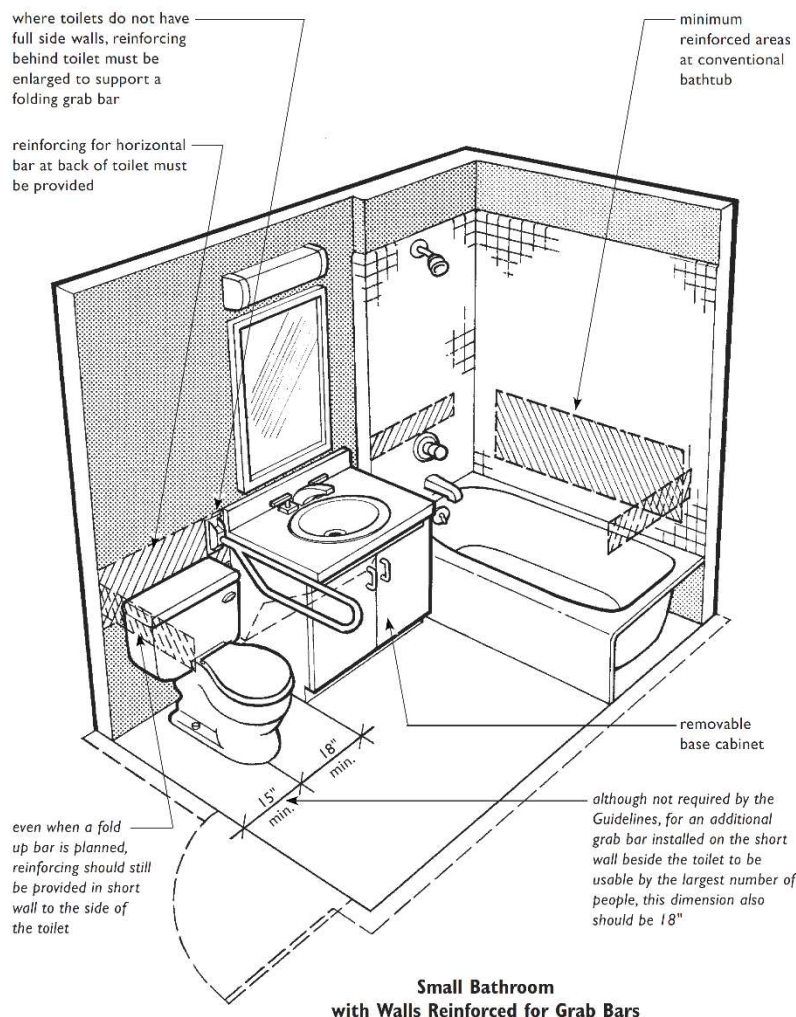
24 CFR § 100.205

Fair Housing Design
Manual Chapter 6

It is **recommended** to permanently mount in every covered unit notice for reinforcement and directions for installation of grab bars.

The notice should include:

- Type of construction
- Specific location of the reinforcement
- Suggestions for the most effective method for installing grab bars.
- These notices could be laminated to the inside of a linen closet door or to the inside of a utility or water heater/furnace door.



Fair Housing Design
Manual Page 6.2

Fair Housing Accessibility, cont.

7. Usable Kitchens & 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...such that an individual in a wheelchair can maneuver about the space.

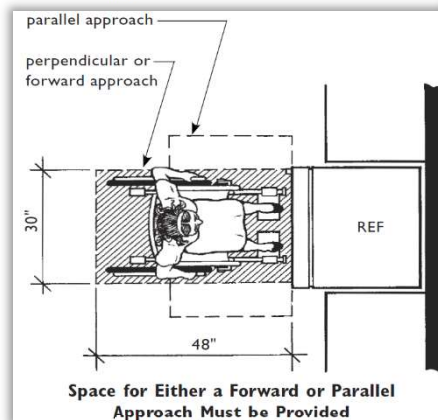
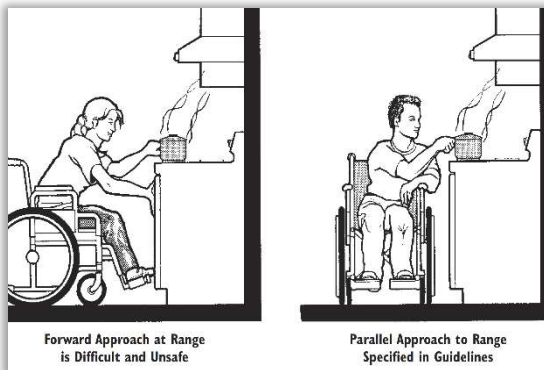
The previously reviewed accessibility requirements regarding **usable doors, accessible unit routes, accessible controls, and grab-bar reinforcements** are also applicable when ensuring that kitchens and bathrooms are usable. Of all the design requirements, this one is the most complex as bathrooms and kitchens can be configured very differently.

Examples of usable kitchen requirements:

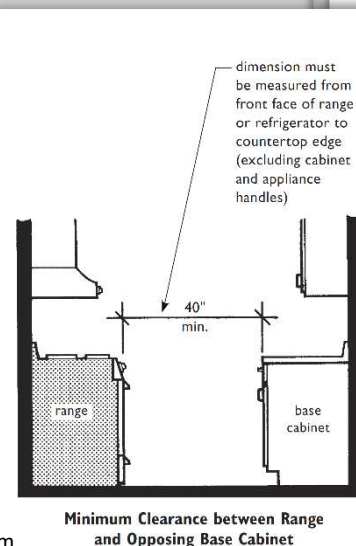
- ❑ **Counters** may be the standard height of 36 inches. The 34" requirement listed in ANSI does not apply to Fair Housing design requirements.
- ❑ **Ranges and Cooktops** may have front, rear, or side-mounted controls. For safety purposes and for ease of use, front or side-mounted controls are preferred.
- ❑ **Clear floor space:** Adequate space within the kitchen to provide a 30 × 48 clear floor space at each fixture and appliance (not required at sinks if base cabinets are removable.)

→ Ranges, Cooktop and sinks:
Clear floor space for a parallel approach must be centered on the fixture.

→ Ovens, dishwashers, refrigerator, freezers, and trash compactors: Clear floor space for a parallel OR perpendicular approach must be centered on the appliance.



- ❑ **Clearance** of at least 40 inches between all opposing base cabinets, countertops, appliances, and walls is required. This is measured from any countertop or the face of any appliance (excluding handles and controls) that projects into the kitchen to the opposing cabinet, countertop, appliance, or wall. Appliance depths (excluding door handles) must be included when calculating the 40-inch.



24 CFR § 100.205

Fair Housing Design Manual Chapter 7

Fair Housing Design Manual Page 7.5, 7.6

FAIR HOUSING:

Fair Housing Enforcement Mechanisms & Statute of Limitations



Fair Housing Enforcement Mechanisms & Statute of Limitations

Filing a Complaint

- ❑ A private citizen can file a complaint under the Fair Housing Act:
 - With a state or local agency;
 - In state or federal court;
 - With HUD; and/or
 - With the Department of Justice.
- ❑ The Department of Justice (DOJ) can file an administrative or federal lawsuit.
- ❑ Advocacy Groups and HUD can initiate proceedings.

Statute of Limitations

From the date of the alleged discrimination an individual has:

- ✓ 180 days to file a complaint with a local or state agency;
- ✓ One (1) year to file a complaint with HUD;
- ✓ Two (2) years to file a private lawsuit in state or federal court;

Note: The DOJ can file a Pattern or Practice suit at any time and regardless of when the alleged pattern or practice began.

Parties Who Can Be Sued

If the complaint involves discrimination, the following parties may be sued:

- Site Staff (leasing, maintenance, and management staff)
- Owner
- State and Local Government when housing is owned by a government agency.

If the complaint involves accessibility issues:

- Owner
- Builder
- Developer
- Architect
- Engineer

Remedies and Damages

❑ Monetary Damages

- Compensatory damages –
 - A victim may be entitled to monetary damages to compensate them for actual physical and/or emotional damages, or an actual loss such as moving costs if they were forced out of their unit.
- Punitive damages -
The amount the court orders the violator to pay is intended to punish the violator and deter the violator and others from doing the same action in the future.

❑ Injunctive Relief

This occurs with the court orders the violator to stop a certain conduct or remedy a situation.

❑ Civil Penalty

The government can pursue a civil penalty of up to \$55,000 per violation and \$110,000 per every subsequent violation.

❑ Loss of federal financial assistance

❑ Loss of Low-Income Housing Tax credits

❑ Attorney Fees

The violator may be ordered to pay for the victims attorney fees.





Amanda Lee Gross

VP of Compliance
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(603) 223-0003

Ms. Gross has over 22 years of hard-won, real-world knowledge and experience in all aspects of the affordable housing industry.

She began her career as a site manager, eventually rising to the position of compliance director for a large multi-state property management company.

Ms. Gross leveraged her experience to become a highly skilled, nationally recognized trainer in Fair Housing, LIHTC, Rural Development, HUD, and HOME.

Over the last 12 years, she has conducted hundreds of trainings nationwide and has provided consulting services to state housing finance agencies, public housing authorities, management companies, and developers.

Ms. Gross is a featured speaker at numerous industry housing events. She also provides custom-tailored training to private organizations that understand that highly-trained staff are more effective and better able to protect the assets and reputation of the company. She also works in the consulting capacity, advising clients in the development of their policies and procedures, optimizing project compliance performance, and addressing audit findings.

"I have had the great pleasure of leading a couple of classes with Amanda Gross – trainer extraordinaire at US Housing Consultants. I feel like I'm the "old guard" watching over the "rising star". Amanda's classes are full of necessary information, and she has a knack for delivering compliance content in such a way that you will never be bored. If you get a chance, be sure to join her for a LIHTC or HUD training."

--- Mary Ross, President, Ross Business Development, Inc.

Ms. Gross's areas of expertise focus on the following programs:

- Fair Housing & Violence Against Women Act (VAWA)
- Low-Income Housing Tax Credit (LIHTC) Program
- USDA Rural Development Rental Housing Program
- HUD Multifamily Housing Programs
- HOME Investment Partnerships Program
- Tax-Exempt Bond Compliance



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Gary Kirkman

Director of Compliance Training

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Gary Kirkman brings over 20 years of leadership experience in the affordable housing industry and currently serves as the Director of Compliance Training at US Housing Consultants.

Gary began his career as a Regional Property Manager, overseeing Rural Development and HUD properties. His passion for supporting communities and mentoring others led to his promotion to Training Specialist, where he managed multiple affordable housing communities while providing hands-on training to staff on program requirements.

He later advanced to the role of Training Director, where he played a key role in developing company policies and procedures and leading the organization's training initiatives. During this time, Gary also partnered with property owners and developers to present at town council meetings, advocating for the development of affordable housing in areas where it was most needed.

Earlier in his career, Gary was recognized as an award-winning Community Manager, receiving the Best Overall Compliance in Affordable Housing award for the Southeast Region within a property management company portfolio.

Known for his engaging and relatable style, Gary is a seasoned public speaker who regularly conducts both public and private trainings. He is a frequent presenter at industry conferences, where he provides expert guidance on all major affordable housing programs.

Gary is highly respected by colleagues and industry professionals alike, with many praising his deep knowledge, approachable demeanor, and dedication to helping others succeed. Colleagues have stated, *"He has the ability to learn complex compliance requirements and teach them in a manner that others can learn"* and *"Because of his positive disposition, his reflective way of operating, and all of the character traits that make him so special, Gary's questions never go unanswered, and his searches always bring him to exciting new discoveries."*

Gary's areas of expertise focus on the following programs:

- Low-Income Housing Tax Credit (LIHTC) Program
- HUD Multifamily Housing Programs
- USDA RD Rental Housing Program
- HOME Investment Partnerships Program
- Fair Housing and Accessibility
- Violence Against Women Act (VAWA)
- Project and Asset Management
- Customer Service & Marketing



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Randy McCall

Housing Compliance Trainer

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Mr. Randy McCall brings over twenty years of affordable housing experience. His passion and in-depth knowledge of affordable housing programs has enabled him to successfully provide training to management companies, city/state/federal agencies, and non-profit entities.

Mr. McCall's career began as an on-site leasing agent and then progressed to other on-site positions including Assistant Manager, Assistant Maintenance Supervisor, Bond Compliance Manager, Social Activities Manager, and Senior Community Manager.

His experience also includes work as a Compliance Specialist, Physical Inspector, and Regional Compliance Auditor. His experience led him to a State Housing Finance Agency where he worked as a Training Specialist and was promoted to Supervisor of Rental Compliance in the Asset Management Department.

Throughout his career he has also utilized his experience and skills to create training materials for inexperienced and seasoned learners. He has also been featured on panels at industry conferences.

Mr. McCalls's areas of expertise focus on the following programs:

- Low-Income Housing Tax Credit (LIHTC) Program
- HUD Multifamily Housing Programs
- USDA RD Rental Housing Program
- HOME Investment Partnerships Program
- Fair Housing and Accessibility
- Violence Against Women Act (VAWA)
- Project and Asset Management
- Customer Service & Marketing
- Underwriting and Funding Application



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Morgan Baldwin

Housing Compliance Trainer

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Morgan Baldwin brings years of experience in the affordable housing industry to her role as a Housing Compliance Trainer at US Housing Consultants.

She began her career as a Compliance Specialist, focusing on detailed monitoring and auditing of various multifamily housing programs throughout Florida.

Morgan's path into affordable housing was anything but conventional. Originally pursuing a career in dentistry, she entered the industry with no prior experience — a journey that reflects her curiosity, resilience, and commitment to purposeful work.

Today, Morgan delivers training nationwide on the complexities of programs such as:

- Low-Income Housing Tax Credit (LIHTC)
- HOME Investment Partnerships Program
- Community Development Block Grant Disaster Recover (CDBG-DR)
- National Housing Trust Fund (NHTF)
- HUD Multifamily Housing Programs.

Morgan's expertise is supported by a Bachelor of Applied Science (BAS) degree and the respected Housing Credit Certified Professional (HCCP) certification from the National Association of Home Builders.

Recognized for her ability to make compliance approachable and relatable, Morgan empowers others to confidently navigate the complexities of regulatory requirements with clarity and assurance.

Morgan's mission is clear: to inspire and educate the next generation of housing professionals, ensuring affordable housing remains accessible, equitable, and sustainable for all.



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Affordable Housing programs provide so much more than shelter. For millions of families, these programs provide a life with hope, stability, safety, and dignity. Staying in compliance with the requirements for these programs is not just red tape – it is about ensuring the long-term viability of assisted housing programs and it is about ensuring that families have a place to call home that is safe and well-maintained.

Contact Us For More Information

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