



# Compliance Hot Topics

## NCSHA

June 20, 2018  
Chicago, Illinois  
3:45-5:15 p.m.



**Two Major Actions  
in the last several months that are going to  
potentially change the way you view  
Accessibility**

- 1. NCSHA introducing 46 new Recommended Best Practices** (voted on December 2017)
- 2. The Department of Justice “Accessibility Initiative”** (announced October 2017)



# NCSHA Board of Directors *Recommended Best Practices*

(Approved December 2017)

NCSHA Board of Directors published its “Recommended Practices in Housing Credit Administration” in December and 4 out of 46 of those practices directly relate to Accessibility.



## NCSHA Board of Directors *Recommended Best Practices* (Approved December 2017)

- **Item 23.** Capital Needs Assessment (Necessary improvements to physical accessibility)
- **Item 28.** Construction Monitoring (evaluate compliance with Fair Housing and Accessibility rules)
- **Item 34.** Training (Fair Housing and Accessibility Rules)
- **Item 41.** Encouraging Fair Housing Compliance



# NCSHA BOARD OF DIRECTORS RECOMMENDED BEST PRACTICES

(APPROVED DECEMBER 2017)

## ➤ **Item 23. Capital Needs Assessment** (Necessary improvements to physical accessibility)

Over the last 10 years of our firm doing CNAs/PNAs and more recently RAD inspections and working with Syndicators, Lending Institutions, and Federal Agencies, there is one common denominator I continually see -- it is what I refer to as “Accessibility Lite” Assessments.

CNA inspectors who worked off of someone else’s Accessibility Check List and had no training or independent knowledge about when state Accessibility Codes, ADA, Section 504, or Fair Housing regulations applied. Or if there was a conflict which one takes precedents.

This results in a delayed closing and more often than not, what we refer to as “value engineer” takes place on the site since the true Accessibility numbers were not taken into consideration when the final numbers were submitted – meaning that some of the major accessibility issues are addressed, but others are not due to financial restraints.



# NCSHA BOARD OF DIRECTORS RECOMMENDED BEST PRACTICES

(APPROVED DECEMBER 2017)

- **Item 28.** Construction Monitoring (evaluate compliance with Fair Housing and accessibility rules)



# Plan and Specification Review

Require that each new and rehab construction project have an **Accessibility Plan Review** by an **Accessibility Specialist** based on the project's funding source and the date of occupancy, if it is a rehab.



This review should include an analysis for all:

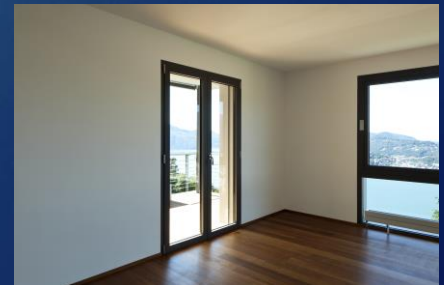
1. **Site**
2. **Architectural**
3. **Engineering drawings**
4. **Specifications**, reviewing them for compliance with applicable **accessibility regulations and standards.**

Once the corrections have been incorporated into the plans and specs by the architect, then the REVISED plans should be given back to the Accessibility Specialist for a subsequent review. This should continue until all plans and specs are cleared of all accessibility deficiencies.



# Accessibility Construction Inspections

- BEFORE construction begins, require a Pre-Con Meeting (either in person or by Video Conference Call) with ALL Team Members
  - At least three site visits:
    - 1<sup>st</sup> Visit - Framing / Plumbing / Electrical Rough-In
    - 2<sup>nd</sup> Visit - Full Site inspection (mid-construction)
    - 3<sup>rd</sup> Visit - A Pre-Final (before sub-contractors move off site)







# NCSHA BOARD OF DIRECTORS RECOMMENDED BEST PRACTICES

(APPROVED DECEMBER 2017)

- **Item 34.** Training (Fair Housing and Accessibility Rules)



# Accessibility Training Seminars

- A **required** training for the Development Team to attend an Accessibility Seminar (approx. 5 hours)
  1. Architect
  2. Developer/Owner
  3. Contractor
  4. Job Superintendent
  5. Representatives from **all** Trades that affect Accessibility:
    - ✓ **Grading**
    - ✓ **Concrete**
    - ✓ **Framing**
    - ✓ **Electrical**
    - ✓ **Plumbing**
    - ✓ **Sheetrock**
    - ✓ **Cabinetry**
  
- Make attendance for all those trades working on the project a **mandatory** requirement in the contract for service. This will help ensure that all of the trades have an understanding of all federal, and possibly, state accessibility requirements.





# NCSHA Board of Directors Recommended Best Practices

(Approved December 2017)

## ➤ **Item 41.** Encouraging Fair Housing Compliance

- Housing Credit property owners are required to certify annually to the state agency any findings of discrimination under the Fair Housing Act, including both disparate treatment and disparate impact of **protected classes**



Be **Pro-Active**  
Not  
Re-Active



# NCSHA Board of Directors Recommended Best Practices

(Approved December 2017)

**FACT:** It is not reasonable to think that a review of a property from 3,5,10,15 years ago, identifies all the Accessibility deficiencies that exist **today.**

**FACT:** Contractors, subcontractors, maintenance persons, and the majority of RD, HUD, State HFA employees **never** receive any Accessibility training.

**FACT:** Do to their lack of Accessibility training, sometimes they suggest a “correction” of an issue, and not only give you bad information, but most times their solutions create new accessibility issues in the process.

**FACT:** You must acknowledge changes that have happened over time: ground shifts and moves, freezes / thaws, repairs / replacements occur. All of these can create new Accessibility issues.

**To ignore these facts and still think your property will be Accessibility Compliant after all of this time is unrealistic.**



Are you vetting your  
Architects/Engineers/Contractors/Sub-Contractors **BEFORE**  
you bring them on the Team by asking:

- What do you know about the Fair Housing Act?
- What do you know about Section 504?
- Do you understand the differences and when to apply UFAS vs ADA 2010?
- What training have you had in the last 12 months?
- What Fair Housing Safe Harbor regs do you use when designing a new property **& do you know which one sits on DOJ's attorney's desk?**
- **Don't forget: If you have investors, you are being asked each YEAR "are you in compliance" on each property.**

# Department of Justice Accessibility Initiative

- Proactive vs Reactive
  - Having your plans & specs reviewed
  - Accessibility Construction Inspections
  - Training your Development Team
    - Architect, Contractor, Job Superintendent, plus all the trades

