

Fair Housing and Tenant Protection Strategies

 **HOUSING
CREDIT
CONNECT**


NCSHA
50 YEARS

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Most people think ADA when they think about accessibility.

But this creates risk by not understanding what Laws and Regs actually apply to your property.

Just because you have blue paint and the “little blue wheelchair man” sign on your property does not mean you are in compliance with ADA, Section 504 & Fair Housing.



There are two
types of units

Section 504 units

Fair Housing units

To sum up the differences

Section 504 Units

- Accessible Unit
- 5% Units
- Section 504 Units
- Type A Units
- UFAS Units
- ADA Units

Fair Housing Units

- Covered Units
- Adaptable Units
- Type B Units

HANDICAP UNITS




Let's **stop** using this phrase
and use the correct
terminology

All Architecture Schools in
the country teach ADA

Last fall when we checked
there was only **ONE**
Architecture School that
taught
ADA, Fair Housing and
Section 504

ARCHITECTURE SCHOOL



A close-up photograph of a hand reaching down towards a row of white letter blocks. The blocks are arranged to spell out the word 'PROACTIVE'. The background is a soft-focus green and blue gradient. The text on the right side of the image is white and bold.

**The Department of Justice
"Accessibility Initiative"
& NCSHA
Best Practices
(Processes and Protocols)**

**P R O
R E A C T I V E**

Best Practices: Processes and Protocols/Guardrails	Dept of Justice Accessibility Initiative	NCSHA Best Practices
1. Having your complete set of plans & specs reviewed by an Accessibility specialist (other than your architect)	✓	✓
2. Having your Team go through an Accessibility training for Architect, Contractor, Job superintendent, and representative from all trades (except painter and roofer)	✓	✓
3. Engage an Accessibility Specialist for Accessibility construction inspections		
<ul style="list-style-type: none"> • (1st Inspection -rough in framing complete, electrical & plumbing complete • (2nd Inspection -Insulation/drywall compete, cabinets, counters, fixtures & appliances installed) • (3rd Inspection -Project substantially completed; exterior flatwork (sidewalks, parking) complete • (Final Inspection - Final physical clearance inspection 	✓	✓
4. At this point your Accessibility provider can write a Certification and Clearance letter	✓	✓

“I was relying on my architect to design it correctly”

“I was relying on my contractor to build it correctly”

So, I think it begs the question, what Guardrails have you installed?

&

If you do have an action brought against you alleging noncompliance with accessibility, **what is your defense going to be?**

“I was relying on the local building inspector, who issued the Certificate of Occupancy for every building, so I assumed...”

“I was relying on the HFA that asked for a copy of my plans and specs, and they sent them back with no comments about accessibility, so I assumed...”

Are YOUR Current Guardrails strong enough to do what you thought they would do?

1. Will your guardrails reflect how Pro-active or Re-active you really have been?
2. Will your guardrails demonstrate how you tried to accomplish what the purest intent of the letter of the law is asking for?
3. Will you have cost overruns due to lack of understanding of ALL the applicable accessibility regulations that could have been prevented if you would have retained the right team member

They could be, if you implement the recommended Best Practices and Protocols as your guardrails

So, all this information covers *New Construction*
but what about your **existing portfolio**?

Many Owners response are:

“We don’t have those issues because we were built as a senior housing property”

“I am relying on the Property Management Company to watch out for those issues.”

“We just had a NSpire inspection 3 months ago and they didn’t mark it out of compliance”.

Property Management: During the course of an average year while they are handling all the normal day to day madness:

- Moves in & move outs
- Reasonable accommodations requests
- Bedbugs
- Busted pipes
- Evictions
- Recertifications
- Scheduling all the different types of inspections
- Filling out all the crazy paperwork
- All the Fair Housing issues

Do you think it is possible your site manager or maintenance person might miss trip hazards that were caused by the ground shifting, moving, freezing and thawing that popped up?

Or maybe your maintenance staff solved one problem on a work order but created two more accessible issues without even knowing it (remember maintenance usually is not trained on Accessibility).

Face it, accessibility issues tend to fall way down the priority list, *not because they are not important but because people get distracted.*



This new
property
obtained
its C/O in
2021



This property did complete rehab (\$9.2 million) 2020



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2. Having your Team go through an Accessibility training for Contractor, Job superintendent, and representative from all trades (except painter and roofer)	✓	✓
3. Engage an Accessibility Specialist for Accessibility construction inspections	✓	✓
<ul style="list-style-type: none"> • (1st Inspection -rough in framing complete, electrical & plumbing complete • (2nd Inspection -Insulation/drywall complete, cabinets, counters, fixtures & appliances installed) • (3rd Inspection -Project substantially completed; exterior flatwork (sidewalks, parking) complete • (Final Inspection - Final physical clearance inspection 	✓	✓
4. At this point your Accessibility provider can write a Certification and Clearance letter	✓	✓
5. Because ground shifts and moves, freezes and thaws, and because maintenance staff is NOT regularly trained on accessibility, <u>you should have an Accessibility elevation every 3-4 years on your ALL your properties</u> to maintain the Pro-Active protocols and processes	✓ PROACTIVE	✓ PROACTIVE

What about CNAs and PNAs

DOJ and HUD have expressed concern over the lack of accessibility issues being identified the CNA provider.

Seems many providers work off a check list that has been floating around the industry for several years that is NOT a comprehensive accessibility checklist covering all aspects of the ADA, Section 504 and the Fair Housing Act of out of compliance accessibility issues.

Is there a “Get out of Jail FREE Card?”



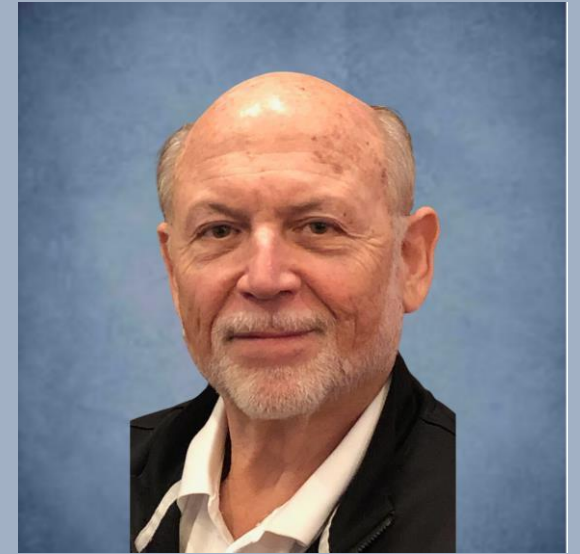
- **“Hoping” everyone does better is not a sound business strategy**
 - Not all architects have the knowledge
 - Most contractor / subcontractors have a lack of understanding on all the applicable regulations
 - The local building officials do not all understand accessibility compliance vs building codes
 - The funding agency (HFA’s, HUD, RD, Banks) are trying to pushing the burden to YOU, even though they too have skin in the game

Remember what the famous architect
Frank Lloyd Wright once said...

“You can use an eraser on the drafting
table



or a sledgehammer on
the construction site.”



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“Providing Solutions in Affordable Housing”