

noncompliance by a State or unit of general local government are deemed to be conclusive, local jurisdictions will be discouraged from performing compliance reviews because they will not be able to provide a building permit applicant with a sense of finality that proposed design plans are in compliance with the Act.

**Response.** Sections 100.205 (g) and (h) of the Fair Housing regulations implement sections 804(f)(5) (B) and (C), and section 804(f)(6)(b) of the Fair Housing Act. The language of §§ 100.205 (g) and (h) is taken directly from these statutory provisions. The Congress, not the Department, made the decision that determinations of compliance or noncompliance with the Act by a State or unit of general local government shall not be conclusive in enforcement proceedings. The Department, however, agrees with the position taken in the statute. The Department believes that it would be inappropriate to accord particular "weight" to determinations made by a wide variety of State and local government agencies involving a new civil rights law, without first having the benefit of some experience reviewing the accuracy of the determinations made by State and local authorities under the Fair Housing Act.

**Comment.** Two commenters stated that local building departments, especially those in smaller urban areas and in rural areas, do not have the manpower or expert knowledge to assure a proper determination of compliance, particularly in "close call" situations. The commenters recommended that liability for any infractions exclude local building departments unless the Department is willing to provide qualified personnel from its local field office to attend staff reviews of every building permit request.

**Response.** The Department is reluctant to assume that State and local jurisdictions, by performing compliance reviews, will subject themselves to liability under the Fair Housing Act, particularly in light of section 804(f)(5)(C) of the Act, which encourages States and localities to make reviews for compliance with the statute; and the implicit recognition, under Section 804(f)(6)(B), that these reviews may not be correct.

**Comment.** With reference to a violation of the Act's requirements, several commenters questioned how violations of the Act would be determined, and what the penalty would be for a violation. The commenters asked whether a builder would be cited, and fined, for each violation per building, or for each violation per unit.

**Response.** If it is determined that a violation of the Act has occurred, a Federal District Court or an administrative law judge (ALJ) has the authority to award actual damages, including damages for humiliation and emotional distress; punitive damages (in court) or civil penalties (in ALJ proceedings); injunctive relief; attorneys fees (except to the United States); and any other equitable relief that may be considered appropriate. Whether a violation will be found for each violation per building, for each violation per unit, or on any other basis, is properly left to the courts and the ALJs.

#### *Enforcement Mechanisms*

In the proposed guidelines, the Department solicited public comment on effective enforcement mechanisms (55 FR 24383-24384). Specifically, the Department requested comment on the effectiveness of: annual surveys to assess the number of projects developed with accessible buildings; recordkeeping requirements; and a "second opinion" by an independent, licensed architect or engineer on the site impracticality issue. The Department stated that comments on these proposals would be considered in connection with forthcoming amendments to the Fair Housing regulation.

The Department appreciates all comments submitted on the proposed enforcement mechanisms, and the suggestions offered on other possible enforcement mechanisms, such as a preconstruction review process, certification by a licensed architect, engineer or other building professional that a project is in compliance with the Act, and certification of local accessibility codes by the Department. All these comments will be considered in connection with future amendments to the Fair Housing Act regulation.

#### *First Occupancy*

**Comment.** A number of commenters requested clarification of the determination of "first occupancy" after March 13, 1991. A few commenters referred to the Act's first occupancy requirement as that of "ready for occupancy" by March 13, 1991.

**Response.** The phrase "ready for occupancy" does not correctly describe the standard contained in the Fair Housing Act. The Act states that covered multifamily dwellings subject to the Act's accessibility requirements are those that are "for first occupancy" after March 13, 1991. The standard, "first occupancy," is based on actual occupancy of the covered multifamily dwelling, or on issuance of the last building permit, or building permit

renewal, on or before January 13, 1990. Where an individual is relying on a claim that a building was actually occupied on March 13, 1991, the Department, in making a determination of reasonable cause, will consider each situation on a case-by-case basis. As long as one dwelling unit in a covered multifamily dwelling is occupied, the one occupied dwelling unit is sufficient to meet the requirements for actual occupancy. However, the question of whether the occupancy was in compliance with State and local law (e.g., pursuant to a local occupancy permit, where one is required) will be a crucial factor in determining whether first occupancy has been achieved.

**Comment.** Several commenters requested clarification of "first occupancy", with respect to projects involving several buildings, or projects with extended build-out terms, such as planned communities with completion dates 5 to 10 years into the future.

**Response.** "First occupancy" is determined on a building-by-building basis, not on a project-by-project basis. For a project that involves several buildings, one building in the project could be built without reference to the accessibility requirements, while a building constructed next door might have to comply with the Act's requirements. The fact that one or more buildings in a multiple building project were occupied on March 13, 1991 will not be sufficient to afford an exemption from the Act's requirements for other buildings in the same project that are developed at a later time.

#### *Costs of Adaptation*

**Comment.** A few commenters requested clarification on who incurs the cost of making a unit adaptable for a disabled tenant.

**Response.** All costs associated with incorporating the new design and construction requirements of the Fair Housing Act are borne by the builder. There are, of course, situations where a tenant may need to make modifications to the dwelling unit which are necessary to make the unit accessible for that person's particular type of disability. The tenant would incur the cost of this type of modification—whether or not the dwelling unit is part of a multifamily dwelling exempt from the Act's accessibility requirements. For dwellings subject to the statute's accessibility requirements, the tenant's costs would be limited to those modifications that were not covered by the Act's design and construction requirements. (For example, the tenant would pay for the cost of purchasing

and installing grab bars.) For dwellings not subject to the accessibility requirements, the tenant would pay the cost of all modifications necessary to meet his or her needs. (Using the grab bar example, the tenant would pay both the cost of buying and installing the grab bars and the costs associated with adding bathroom wall reinforcement.)

Section 100.203 of the Fair Housing regulations provides that discrimination includes a refusal to permit, at the expense of a handicapped person, reasonable modifications of existing premises occupied or to be occupied by that person, if modifications are necessary to afford the person full enjoyment of the premises. In the case of a rental, the landlord may reasonably condition permission for a modification on the renter's agreeing to restore the interior of the unit to the condition that existed before its modification—reasonable wear and tear excepted. This regulatory section provides examples of reasonable modifications that a tenant may make to existing premises. The examples include bathroom wall reinforcement. In House Report No. 711, the Congress provided additional examples of reasonable modifications that could be made to existing premises by persons with disabilities:

For example, persons who have a hearing disability could install a flashing light in order to 'see' that someone is ringing the doorbell. Elderly individuals with severe arthritis may need to replace the doorknobs with lever handles. A person in a wheelchair may need to install fold-back hinges in order to be able to go through a door or may need to build a ramp to enter the unit. Any modifications protected under this section [section 804(f)(3)(A)] must be reasonable and must be made at the expense of the individual with handicaps. (House Report at 25)

#### *Reasonable Modification*

*Comment.* One commenter requested clarification concerning what is meant by "reasonable modification".

*Response.* What constitutes "reasonable modification" is discussed to some extent in the preceding section, "Costs of Adaptation", and also was discussed extensively in the preambles to both the proposed and final Fair Housing rules. (See 53 FR 45002-45003, 54 FR 3247-3248; 24 CFR Ch. I, Subch. A, App. I at 580-583 (1990).) Additionally, examples of reasonable modifications are provided in 24 CFR 100.203(c).

#### *Scope of Coverage*

*Comment.* A number of comments were received on the issue of which types of dwelling units should be subject to the Act's accessibility requirements, and the number or percentage of

dwelling units that must comply with the Act's requirements.

*Response.* The Department lacks the authority to adopt any of the proposals recommended by the commenters. The type of multifamily dwelling subject to the Fair Housing Act's accessibility requirements, and the number of individual dwelling units that must be made accessible were established by the Congress, not the Department. The Fair Housing Act defines "covered multifamily dwelling" to mean 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." (See Section 804(f)(7) of the Act.) The Fair Housing Act requires that covered multifamily dwellings for first occupancy after March 13, 1991 be designed and constructed in accordance with the Act's accessibility requirements. The Act does not permit only a percentage of units in covered multifamily dwellings to be designed in accordance with the Act's requirements, nor does the Department have the authority so to provide by regulation.

#### **VI. Other Matters**

*Codification of Guidelines.* In order to assure the availability of the Guidelines, and the preamble to the Guidelines, to interested persons in the future, the Department has decided to codify both documents. The Guidelines will be codified in the 1991 edition of the Code of Federal Regulations as appendix II to the Fair Housing regulations (i.e., 24 CFR Ch. I, Subch. A, App. II), and the preamble to the Guidelines will be codified as appendix III (i.e., 24 CFR Ch. I, Subch. A, App. III).

*Regulatory Impact Analysis.* A Preliminary Impact Analysis was published in the *Federal Register* on September 7, 1990 (55 FR 37072-37129). A Final Regulatory Impact Analysis is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500.

*Environmental Impact.* A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, room 10276, 451 Seventh Street, SW., Washington, DC 20410-0500.

*Executive Order 12606, The Family.* The General Counsel, as the Designated Official under Executive Order No. 12606, The Family, has determined that this notice will likely have a significant beneficial impact on family formation, maintenance or well-being. Housing designed in accordance with the Guidelines will offer more housing choices for families with members who have disabilities. Housing designed in accordance with the Guidelines also may be beneficial to families that do not have members with disabilities. For example, accessible building entrances, as required by the Act and implemented by the Guidelines, may benefit parents with children in strollers, and also allow residents and visitors the convenience of using luggage or shopping carts easily. Additionally, with the aging of the population, and the increase in incidence of disability that accompanies aging, significant numbers of people will be able to remain in units designed in accordance with the Guidelines as the aging process advances. Compliance with these Guidelines may also increase the costs of developing a multifamily building, and, thus, may increase the cost of renting or purchasing homes. Such costs could negatively affect families' ability to obtain housing. However, the Department believes that the benefits provided to families by housing that is in compliance with the Fair Housing Amendments Act outweigh the possible increased costs of housing.

*Executive Order 12611, Federalism.* The General Counsel, as the Designated Official under section 6(a) of Executive Order No. 12611, Federalism, has determined that this notice does not involve the preemption of State law by Federal statute or regulation and does not have federalism implications. The Guidelines only are recommended design specifications, not legal requirements. Accordingly, the Guidelines do not preempt State or local laws that address the same issues covered by the Guidelines.

Dated: February 27, 1991.

Gordon H. Mansfield,

Assistant Secretary for Fair Housing and Equal Opportunity.

Accordingly, the Department adds the Fair Housing Accessibility Guidelines as Appendix II and the text of the preamble to these final guidelines beginning at the heading "Adoption of Final Guidelines" and ending before "VI. Other Matters" as appendix III to 24 CFR, ch. I, subchapter A to read as follows:

**Appendix II to Ch. I, subchapter A—Fair Housing Accessibility Guidelines**

U.S. Department of Housing and Urban Development  
Office of Fair Housing and Urban Development



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# Fair Housing Accessibility Guidelines

Design Guidelines for Accessible/Adaptable Dwellings

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Issued by the Department of Housing and Urban Development

***NOTE: This is a reprint of the final Fair Housing Accessibility Guidelines published in the Federal Register on March 6, 1991, Vol. 56, No. 44, pages 9472-9515. This reprint incorporates corrections to the final Guidelines which were published in the Federal Register on June 24, 1991.***

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# Fair Housing Accessibility Guidelines

## Section 1. Introduction

### Authority

Section 804(f)(5)(C) of the Fair Housing Amendments Act of 1988 directs the Secretary of the Department of Housing and Urban Development to provide technical assistance to States, local governments, and other persons in implementing the accessibility requirements of the Fair Housing Act. These guidelines are issued under this statutory authority.

### Purpose

The purpose of these guidelines is to provide technical guidance on designing dwelling units as required by the Fair Housing Amendments Act of 1988 (Fair Housing Act). These guidelines are not mandatory, nor do they prescribe specific requirements which must be met, and which, if not met, would constitute unlawful discrimination under the Fair Housing Act. Builders and developers may choose to depart from these guidelines and seek alternate ways to demonstrate that they have met the requirements of the Fair Housing Act. These guidelines are intended to provide a safe harbor for compliance with the accessibility requirements of the Fair Housing Act.

### Scope

These guidelines apply only to the design and construction requirements of 24 CFR 100.205. Compliance with these guidelines do not relieve persons participating in a Federal or Federally-assisted program or activity from other requirements, such as those required by section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157). Accessible design requirements for Section 504 are found at 24 CFR Part 8. Accessible design requirements for the Architectural Barriers Act are found at 24 CFR Part 40.

### Organization of Guidelines

The design guidelines are incorporated in Section 5 of this document. Each guideline cites the appropriate paragraph of HUD's regulation at 24 CFR 100.205; quotes from the regulation to identify the required design features, and states recommended specifications for each design feature.

Generally, these guidelines rely on the American National Standards Institute (ANSI) A117.1-1986, American National Standard for Buildings and Facilities—Providing Accessibility and Usability for Physically Handicapped People (ANSI Standard). Where the guidelines rely on sections of the ANSI Standard, the ANSI sections are cited. Only those sections of the ANSI Standard cited in the guidelines are recommended for compliance with 24 CFR 100.205. For those guidelines that

differ from the ANSI Standard, recommended specifications are provided. The texts of cited ANSI sections are not reproduced in the guidelines. The complete text of the 1986 version of the ANSI A117.1 Standard may be purchased from the American National Standards Institute, 1430 Broadway, New York, NY 10018.

## Section 2. Definitions

### As used in these Guidelines:

"Accessible", when used with respect to the public and common use areas of a building containing covered multifamily dwellings, means that the public or common use areas of the building can be approached, entered, and used by individuals with physical handicaps. The phrase "readily accessible to and usable by" is synonymous with accessible. A public or common use area that complies with the appropriate requirements of ANSI A117.1-1986, a comparable standard or these guidelines is "accessible" within the meaning of this paragraph.

"Accessible route" means a continuous unobstructed path connecting accessible elements and spaces in a building or within a site that can be negotiated by a person with a severe disability using a wheelchair, and that is also safe for and usable by people with other disabilities. Interior accessible routes may include corridors, floors, ramps, elevators and lifts. Exterior accessible routes may include parking access aisles, curb ramps, walks, ramps and lifts. A route that complies with the appropriate requirements of ANSI A117.1-1986, a comparable standard, or Section 5, Requirement 1 of these guidelines is an "accessible route". In the circumstances described in Section 5, Requirements 1 and 2, "accessible route" may include access via a vehicular route.

"Adaptable dwelling units", when used with respect to covered multifamily dwellings, means dwelling units that include the features of adaptable design specified in 24 CFR 100.205(c) (2)-(3).

"ANSI A117.1-1986" means the 1986 edition of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people.

"Assistive device" means an aid, tool, or instrument used by a person with disabilities to assist in activities of daily living. Examples of assistive devices include tongs, knob-turners, and oven-rack pusher/pullers.

"Bathroom" means a bathroom which includes a water closet (toilet), lavatory (sink), and bathtub or shower. It does not include single-fixture facilities or those with only a water closet and lavatory. It does include a compartmented bathroom. A

compartmented bathroom is one in which the fixtures are distributed among interconnected rooms. A compartmented bathroom is considered a single unit and is subject to the Act's requirements for bathrooms.

"Building" means a structure, facility or portion thereof that contains or serves one or more dwelling units.

"Building entrance on an accessible route" means an accessible entrance to a building that is connected by an accessible route to public transportation stops, to parking or passenger loading zones, or to public streets or sidewalks, if available. A building entrance that complies with ANSI A117.1-1986 (see Section 5, Requirement 1 of these guidelines) or a comparable standard complies with the requirements of this paragraph.

"Clear" means unobstructed.

"Common use areas" means 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, refuse rooms, mail rooms, recreational areas and passageways among and between buildings. See Section 5, Requirement 2 of these guidelines.

"Controlled substance" means any drug or other substance, or immediate precursor included in the definition in Section 102 of the Controlled Substances Act (21 U.S.C. 802).

"Covered multifamily dwellings" or "covered multifamily dwellings subject to the Fair Housing Amendments" means buildings consisting of four or more dwelling units if such buildings have one or more elevators; and ground floor dwelling units in other buildings consisting of four or more dwelling units. Dwelling units within a single structure separated by firewalls do not constitute separate buildings.

"Dwelling unit" means a single unit of residence for a household of one or more persons. Examples of dwelling units covered by these guidelines include: condominiums; an apartment unit within an apartment building; and other types of dwellings in which sleeping accommodations are provided but toileting or cooking facilities are shared by occupants of more than one room or portion of the dwelling. Examples of the latter include dormitory rooms and sleeping accommodations in shelters intended for occupancy as a residence for homeless persons.

"Entrance" means 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 nonhandicapped residents occasionally use that door to enter.

"Finished grade" means the ground surface of the site after all construction, levelling, grading, and development has been completed.

"Ground floor" means a floor of a building with a building entrance on an accessible route. A building may have one or

more ground floors. Where the first floor containing dwelling units in a building is above grade, all units on that floor must be served by a building entrance on an accessible route. This floor will be considered to be a ground floor.

"Handicap" means, with respect to a person, a physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment. This term does not include current, illegal use of or addiction to a controlled substance. For purposes of these guidelines, an individual shall not be considered to have a handicap solely because that individual is a transvestite.

*As used in this definition:*

(a) "Physical or mental impairment" includes:

- (1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or
- (2) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism. These guidelines are designed to make units accessible or adaptable for people with physical handicaps.

(b) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(c) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(d) "Is regarded as having an impairment" means:

- (1) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by another person as constituting such a limitation;
- (2) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or
- (3) Has none of the impairments defined in paragraph (a) of this definition but is treated by another person as having such an impairment.

"Loft" means an intermediate level between the floor and ceiling of any story, located within a room or rooms of a dwelling.

"Multistory dwelling unit" means a dwelling unit with finished living space located on one floor and the floor or floors immediately above or below it.

"Public use areas" means interior or exterior rooms or spaces of a building that are made available to the general public. Public use may be provided at a building that is privately or publicly owned.

"Single-story dwelling unit" means a dwelling unit with all finished living space located on one floor.

"Site" means a parcel of land bounded by a property line or a designated portion of a public right of way.

"Slope" means the relative steepness of the land between two points and is calculated as follows: The distance and elevation between the two points (e.g., an entrance and a passenger loading zone) are determined from a topographical map. The difference in elevation is divided by the distance and that fraction is multiplied by 100 to obtain a percentage slope figure. For example, if a principal entrance is ten feet from a

passenger loading zone, and the principal entrance is raised one foot higher than the passenger loading zone, then the slope is  $1/10 \times 100 = 10\%$ .

"Story" means that portion of a dwelling unit between the upper surface of any floor and the upper surface of the floor next above, or the roof of the unit. Within the context of dwelling units, the terms "story" and "floor" are synonymous.

"Undisturbed site" means the site before any construction, levelling, grading, or development associated with the current project.

"Vehicular or pedestrian arrival points" means public or resident parking areas, public transportation stops, passenger loading zones, and public streets or sidewalks.

"Vehicular route" means a route intended for vehicular traffic, such as a street, driveway or parking lot.

## Section 3. Fair Housing Act Design and Construction Requirements

The regulations issued by the Department at 24 CFR 100.205 state:

### § 100.205 Design and construction requirements.

(a) Covered multifamily dwellings for first occupancy after March 13, 1991 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 the terrain or unusual characteristics of the site. For purposes of this section, a covered multifamily dwelling shall be deemed to be designed and constructed for first occupancy on or before March 13, 1991 if they are occupied by that date or if the last building permit or renewal thereof for the covered multifamily dwellings is issued by a State, County or local government on or before January 13, 1990. The burden of establishing impracticality because of terrain or unusual site characteristics is on the person or persons who designed or constructed the housing facility.

(b) The application of paragraph (a) of this section may be illustrated by the following examples:

*Example (1):* A real estate developer plans to construct six covered multifamily dwelling units on a site with a hilly terrain. Because of the terrain, it will be necessary to climb a long and steep stairway in order to enter the dwellings. Since there is no practical way to provide an accessible route to any of the dwellings, one need not be provided.

*Example (2):* A real estate developer plans to construct a building consisting of 10 units of multifamily housing on a waterfront site that floods frequently. Because of this unusual characteristic of the site, the builder plans to construct the building on stilts. It is customary for housing in the geographic area where the site is located to be built on stilts. The housing may lawfully be constructed on the proposed site on stilts even though this means that there will be no practical way to provide an accessible route to the building entrance.

*Example (3):* A real estate developer plans to construct a multifamily housing facility on a particular site. The developer would like the facility to be built on the site to contain as many units as possible. Because of the configuration and terrain of the site, it is possible to construct a building with 105 units on the site provided the site does not have an accessible route leading to the building entrance. It is also possible to construct a building on the site with an accessible route

leading to the building entrance. However, such a building would have no more than 100 dwelling units. The building to be constructed on the site must have a building entrance on an accessible route because it is not impractical to provide such an entrance because of the terrain or unusual characteristics of the site.

(c) All covered multifamily dwellings for first occupancy after March 13, 1991 with a building entrance on an accessible route shall be designed and constructed in such a manner that—

(1) The public and common use areas are readily accessible to and usable by handicapped persons;

(2) All the doors designed to allow passage into and within all premises are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

(3) All premises within covered multifamily dwelling units contain the following features of adaptable design:

(i) An accessible route into and through the covered dwelling unit;

(ii) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(iii) Reinforcements in bathroom walls to allow later installation of grab bars around the toilet, tub, shower, stall and shower seat, where such facilities are provided; and

(iv) Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

(d) The application of paragraph (c) of this section may be illustrated by the following examples:

*Example (1):* A developer plans to construct a 100 unit condominium apartment building with one elevator. In accordance with paragraph (a), the building has at least one accessible route leading to an accessible entrance. All 100 units are covered multifamily dwelling units and they all must be designed and constructed so that they comply with the accessibility requirements of paragraph (c) of this section.

*Example (2):* A developer plans to construct 30 garden apartments in a three story building. The building will not have an elevator. The building will have one accessible entrance which will be on the first floor. Since the building does not have an elevator, only the "ground floor" units are covered multifamily units. The "ground floor" is the first floor because that is the floor that has an accessible entrance. All of the dwelling units on the first floor must meet the accessibility requirements of paragraph (c) of this section and must have access to at least one of each type of public or common use area available for residents in the building.

(e) Compliance with the appropriate requirements of ANSI A117.1-1986 suffices to satisfy the requirements of paragraph (c)(3) of this section.

(f) Compliance with a duly enacted law of a State or unit of general local government that includes the requirements of paragraphs (a) and (c) of this section satisfies the requirements of paragraphs (a) and (c) of this section.

(g)(1) It is the policy of HUD to encourage States and units of general local government to include, in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of such dwellings are consistent with paragraphs (a) and (c) of this section.

(2) A State or unit of general local government may review and approve newly constructed multifamily dwellings for the purpose of making determinations as to whether the requirements of paragraphs (a) and (c) of this section are met.

(h) Determinations of compliance or noncompliance by a State or a unit of general local government under

paragraph (f) or (g) of this section are not conclusive in enforcement proceedings under the Fair Housing Amendments Act.

(i) This subpart does not invalidate or limit any law of a State or political subdivision of a State that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this subpart.