

EXHIBIT Z: MONITORING CERTIFICATION FORM

DISTRICT OF COLUMBIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

DHCD requires each applicant to sign a “Monitoring Certification Form” indicating their agreement to comply with the regulations, to be subject to DHCD monitoring for compliance, and to accept any applicable penalties for noncompliance. The applicant is responsible for any and all costs associated with implementing and maintaining records to comply with and allow for DHCD monitoring. The “Monitoring Certification Form” is included here as an (attachment).

The following are attached.

- ☐ Exhibit Z: Monitoring Certification Form and Monitoring, Elements Guidelines and/or Requirements
- ☐ Exhibit Z-1: Fair Housing and Equal Opportunity (FHEO) Certification and DHCD Accessibility Requirement for Subrecipients
- ☐ Exhibit Z-2: Section 504 Certification Form and Section 504 Certification Form
- ☐ Exhibit Z-3: Affirmative Fair Housing Marketing Plan
- ☐ Exhibit Z-4: Section 3 Program Certification & Checklist
- ☐ Exhibit Z-5: Lead Safe Housing Addendum
- ☐ Exhibits Za-Zd; Project Monitoring (Monitoring Rental and Homeownership Projects)

Department of Housing and Community Development

Monitoring Certification Form

The U.S. Department of Housing and Urban Development (HUD) and the District of Columbia regulations require the Department of Housing and Community Development (DHCD) to monitor projects funded with federal and/or District of Columbia funds for compliance with various federal and District regulations. Applicants receiving financial assistance from DHCD could be subject to any and all of the following laws and regulations:

- Community Development Block Grant (CDBG), including all applicable Office of Management and Budget (OMB) Circulars, such as A-110 and A-122
- Housing Production Trust Fund regulations, (including continuous affordability requirements)
- Environmental Reviews - 24 CFR Part 85
- Affirmative Action Program
- Section 3 - (24 CFR Part 135)
- First Source Agreements
- Davis Bacon and related Acts
- Conflict of Interest
- Fair Housing
- American with Disabilities Act of 1990
- Lead Safe Housing Rule (Lead Based Paint)
- Section 504 of the Rehabilitation Act of 1973
- Uniform Relocation Act or District of Columbia Relocation Assistance provisions (10 DCMR Chapter 22)
- OMB Circular A-133
- Freedom of Information Act

Project Name _____
Project Address _____

Developer Name _____
Developer Address _____

As an authorized official for the respective organization I certify to my organization's acceptance to:

- (1) Comply with all applicable regulations,
- (2) Incur all costs required for compliance with the applicable regulations,
- (3) Be subject to DHCD monitoring for compliance, and
- (4) Accept any applicable penalties for noncompliance.

(Print Full Name)

(Signature)

(Print Title)

(Date)

EXHIBIT Z-1:

Fair Housing and Equal Opportunity Certification (FHEO)

ATTACHMENTS

- ☐ Fair Housing and Equal Opportunity Certification (Multi-family projects)
- ☐ Fair Housing Accessibility Checklist
- ☐ Accessibility Technical Requirements
- ☐ DHCD Accessibility Requirements for Subrecipients



D.C. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
OFFICE OF PROGRAM MONITORING - FAIR HOUSING DIVISION

Fair Housing & Equal Opportunity (FHEO) Certification (Multifamily Housing Projects)

(Completed form to be submitted at time of application)

The Department of Housing and Community Development (DHCD), under regulations from the U.S. Department of Housing and Urban Development (HUD), requires that each applicant for federal and/or District of Columbia funds sign the "Fair Housing and Equal Opportunity Certification Form" which indicates that *neither the applicant nor its contractors for which these funds are being granted* have any pending fair housing or civil rights legal proceedings against them "*for fair housing or for equal opportunity violations in community planning and development programs and/or service*" (as defined by HUD, and described in the attached information), and is responsible for any and all costs associated with implementing and maintaining records to comply with and allow for DHCD monitoring. Applicants receiving financial assistance from DHCD need to be knowledgeable of all FHEO laws and regulations which affect the execution of their activities.

Signature and Certification:

The undersigned certifies to DHCD that it has read and understands all of its obligations under the FHEO requirements. The undersigned acknowledges that this certification will be relied upon by DHCD in its review and approval of proposals for funding, and any misrepresentation of information or failure to comply with any conditions proposed in this certification could result in penalties, including the disbarment of Applicant for a period of time from participation in DHCD administered programs.

Name and address of Project

Applicant (Organization Name)

Executive Director Name & Signature

Date

Project Manager/Developer - Name and Signature

Date

Architect/Engineer - Name & Signature (If applicable)

Date



Notice of Non-Discrimination: In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code Section 2-2401.01 et seq. (Act) the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.





FAIR HOUSING ACCESSIBILITY CHECKLIST

(For Residential Housing Projects ONLY- Certificate of occupancy after March 13, 1991)

This form is to be used as a guide for Compliance with the Fair Housing Act, as amended effective March 12, 1989 and the Fair Housing Accessibility Requirements (If not applicable, please write N/A and the reason why, e.g., rehabilitation, alteration, etc.)

Applicant Name: _____ Date of Preparation: _____

Address: _____

1. Project Name & Location

Program/Project Name: _____

Address: _____

Program Director/Property Owner: _____

2. Type of Development

☐ Apartment Building(s)

☐ Townhouse(s)

☐ Single Family Home(s)

No. of Buildings/townhouses/homes _____

Is it a Scattered Site: Yes ☐ No ☐

Type of Apartment/Condominium

☐ Garden Style (3-story walk-up- No elevator)

☐ Low-Rise (No more than 4 stories - No elevator)

☐ Elevator Multi-Family Building

☐ Mid-Rise (5 to 8 stories)

☐ High-Rise (9 and above)

No. of Units _____

No. of Units _____

No. of Units _____

No. of Units _____

No. of Units _____

Is project Rental or Sales? _____

Is there a Rental/Sales office on the premises?

Yes ☐ No ☐

Is there Retail space on the premises:

Yes ☐ No ☐

If Yes, What type: _____

3. Is the Development Subject to the Fair Housing Act as Amended? Yes ☐ No ☐

NOTE: The Fair Housing Act covers residential multi-family dwellings for first occupancy after March 13, 1991 (covered multi-family dwellings are all types of buildings with four or more units). 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. The Fair Housing Act includes condominiums, single story town houses, garden apartments, vacation timeshares, dormitories, and homeless shelters.

- Development has buildings containing 4 or more units, and was designed and constructed for first occupancy on or after March 13, 1991? Yes ☐ No ☐
- Building(s) contain elevator? Yes ☐ No ☐
If YES, all units in the building are "covered units under the Act."
If No, only ground-floor units in building are "covered units".
- Have **all** ground-floor units in buildings without elevators been designed and constructed with features required by the Act? Yes ☐ No ☐
- Have public and common use facilities in development containing "covered units," been designed and constructed with features required by the Act? Yes ☐ No ☐

NOTE: Fair Housing Act Accessibility Guidelines contain a narrow "Site Impracticability Exception" which provides that a non-elevator building does not have to meet all of the Act's requirements if it is impractical to have an accessible entrance to the building because of the natural hilly terrain or other unusual characteristics of the site.



ACCESSIBILITY TECHNICAL REQUIREMENTS

(NEW RESIDENTIAL CONSTRUCTION ONLY)

(24 CFR 100.205)

The Fair Housing Act, as Amended sets seven technical requirements in the Accessibility Guidelines for “covered buildings.” Multifamily buildings, *if new construction*, must be in compliance with the following guidelines:

1. AN ACCESSIBLE ENTRANCE ON AN ACCESSIBLE ROUTE:

Refer to American National Standards Institute's (ANSI A117.1, Section 4.3)

- The accessible route is a continuous, unobstructed path (no stairs) through the development that connects all buildings containing covered units and all public and common use facilities.
- The accessible route also connects to parking lots and to at least one public street, public sidewalk, and to a public transportation stop, when provided.
- All slopes on the accessible route are no steeper than 8.33%.
- All slopes on the accessible route between 5% and 8.33% have handrails.
- Covered units have at least one entrance on an accessible route.
- There are sufficient numbers of curb ramp cuts for a person using a wheelchair to reach every building in the development.
- Curb ramp cuts slope and cross slope specifications.
- If separate entrances for ground-floor units, each entrance must be accessible.
- If common entrances to a multi-unit building, at least one entrance—typically used by residents for entering the building—must be accessible.
- An accessible entrance must be located on a route that a person in a wheelchair can easily travel, leading to and from meaningful locations; e.g., parking, public transportation, other buildings in the complex, amenities such as laundry room, and recreational facilities.

Does your building have an accessible entrance on an accessible route? Yes ☐ No ☐

2. ACCESSIBLE PUBLIC AND COMMON-USE AREAS:

(Doors in public or common-use areas can comply by using ANSI Standards)

- At least 2 percent of all parking spaces serving covered units are designated as accessible handicapped parking spaces.
- At least one parking space at each common and public use amenity is designated as handicapped accessible parking.
- All handicapped accessible parking spaces have adequate signage.

- All handicapped accessible parking spaces are at least 96" wide with a 60" wide access aisle which can be shared between two spaces.
- The rental or sales office is readily accessible and usable by persons with disabilities as required by both the Fair Housing Act and the Americans with Disabilities Act.
- A sufficient number of mailboxes, swimming pools, tennis courts, clubhouses, rest rooms, showers, laundry facilities, trash facilities, drinking fountains/water coolers, public telephones, and other common and public use amenities offered by the development are readily accessible and usable by persons with disabilities.
- Parking areas, curb ramps, passenger loading areas, building lobbies, lounges, halls and corridors, elevators, public use restrooms, and rental or sales offices must be accessible to people with disabilities. Included are community and exercise rooms, swimming pools, playgrounds, recreation facilities, nature trails.

Are public and common areas accessible to persons with disabilities? Yes ☐ No ☐

3. USABLE DOORS:

- All doors into and through covered units and common use facilities provide a clear opening of at least 32" nominal width to enable a person in a wheelchair to maneuver through them *easily*. Included are public and common-use doors, doors leading into an individual dwelling unit, and all doors within the dwelling unit itself.
- All doors leading into common use facilities have lever door handles operating hardware that does not require grasping and twisting.
- Thresholds at doors to common use facilities are no greater than 1/2".
- All primary entrance doors to covered units have lever door handles operating hardware that does not require grasping and twisting.
- Thresholds at exterior primary entrance doors to covered units are no greater than 3/4" and beveled.

Does your building have usable doors? Yes ☐ No ☐

4. ACCESSIBLE ROUTES INTO AND THROUGH DWELLING UNIT:

- Thresholds of unit's exterior doors may not exceed 3/4" (also applies to sliding door tracks).
- In single-story units, changes in height of 1/4 to 1/2" must be beveled. Those greater than 1/2" must be ramped or have other means of access.
- All routes through all rooms in the covered units have a minimum clear width for accessible route inside the unit of 36".
- Hallways, passages, and corridors must be wide enough to allow room to maneuver a wheelchair throughout the unit.

Does your building have accessible routes into and through the dwelling unit? Yes ☐ No ☐
If so, are doors and hallways wide enough for wheelchairs? Yes ☐ No ☐

5. ACCESSIBLE LIGHT SWITCHES, ELECTRICAL OUTLETS, AND ENVIRONMENTAL CONTROLS:

- All light switches, electrical outlets, thermostats, and other environmental controls are no less than 15" and no greater than 54" from the floor.
- Operable parts of controls must be no lower than 15" and no higher than 48" from the floor.
- Switches, outlets, thermostats, and controls must be accessible to people in wheelchairs.

Do your building units have accessible light switches, electrical outlets, thermostats, and other environmental controls? Yes ☐ No ☐

6. REINFORCED WALLS IN BATHROOM:

- 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 reinforcements in bathroom walls to allow later installation of grab bars around toilet, tub, shower stall and shower seat, where such facilities are provided.

Do your building units have reinforced bathroom walls to allow later installation of grab bars? Yes ☐ No ☐

7. USABLE KITCHENS AND BATHROOMS:

Covered multifamily dwelling units contain usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

- 30" x 48" clear floor space centered at each fixture and appliance.
- A minimum of 40" of clear floor space between opposing elements to allow a person in a wheelchair to maneuver between opposing base cabinets, countertops, appliances, or walls.
- A U-shaped kitchen with sink or cooktop at end have 60" diameter clear turning space or have sink or cooktop base with removable cabinets. Appliances must be located so they can be used by a person in a wheelchair. A 30" x 40" clear floor space is required for a parallel or forward approach.
- Adequate maneuvering space is required in bathrooms so that a person in a wheelchair can easily enter, close the door, use the facilities and fixtures, and exit.

USABLE BATHROOMS

Type A Bathroom

30 x 48" clear floor space outside the swing of the door

30 x 48" clear floor space at lavatory (if centered for parallel approach, cabinet may be fixed)

Toilet next to the tub allowing a perpendicular approach

Centerline of toilet is 18" from bathtub and 15" from lavatory

Type B Bathroom

30 x 48" of clear floor space outside swing of door;

30 x 48" of clear floor space centered in front of sink;

30 x 48" of clear floor space adjacent to the bathtub

If at least one Type B bathroom is included the other bathroom(s) is exempt from only the maneuvering space requirements.

Are all kitchen and bathrooms in building to be used by people in wheelchairs? Yes ☐ No ☐

This checklist represents many, but not all, of the accessible and adaptive design and construction requirements of the Fair Housing Act. This checklist is not a safe harbor for compliance with the Fair Housing Act, nor does it act in lieu of the accessibility requirements under Sec 504 of the Rehabilitation Act of 1973. HUD and the Department of Justice recognize the following standards as safe harbors when used in conjunction with the Fair Housing Act, regulations, and Fair Housing Act Accessibility Guidelines (i.e. scoping requirements):

1. HUD's March 6, 1991 Fair Housing Accessibility Guidelines (the Guidelines), and the June 28, 1994 Supplemental Notice to Fair Housing Accessibility Guidelines: Questions and Answers About the Guidelines;
2. HUD's Fair Housing Act Accessibility Design Manual;
3. ANSI A117.1-1986, used in conjunction with the Act and HUD's regulations, and the Guidelines;
4. CABO/ANSI A117.1-1992, used in conjunction with the Act, HUD's regulations, and the Guidelines;
5. ICC/ANSI A118.1-1998, used in conjunction with the Act, HUD's regulations, and the Guidelines;
6. Code Requirements for Housing Accessibility 2000 (CRHA) approved and published by the International Building Code 2000 (IBC) as amended by the IBC 2001 Supplement to the International Codes.

Failure to comply with all of the accessible and adaptive design and construction requirements of the Fair Housing Act may result in loss of funding from DHCD through the:

- (1) Housing Production Trust Fund;
- (2) Community Development Block Grant Program;
- (3) HOME Investment Partnership Program and/or
- (4) The Low Income Housing Tax Credit.

Therefore, you should consult an attorney and/or design professional to ensure that the construction of the multi-family development complies with the accessible and adaptive design and construction requirements of the Fair Housing Act.

Signature of Applicant: _____
Name and Title



FHEO - DEFINITION OF LAWS

(For Information Purposes ONLY)

THE FAIR HOUSING ACT

Title VIII of the Civil Rights Act of 1968 (**Fair Housing Act**) prohibits discrimination in the ***sale, rental and financing of dwellings based on race, color, religion, sex or national origin***. Title VIII was amended in 1988 (effective March 12, 1989) by the Fair Housing Amendments Act to prohibit discrimination based on ***disability or on familial status*** (presence of child under age of 18, and pregnant women). The 1988 Amendments also established new administrative enforcement mechanisms with HUD attorneys bringing actions before administrative law judges on behalf of victims of housing discrimination; and revised and expanded Justice Department jurisdiction to bring suit on behalf of victims in Federal district courts. In connection with prohibitions on discrimination against individuals with disabilities, the ***Act contains design and construction accessibility provisions for certain new multifamily dwellings developed for first occupancy on or after March 13, 1991.***

Complaint Process:

Complaints filed with HUD are investigated by the Office of Fair Housing and Equal Opportunity (FHEO). If the complaint is not successfully conciliated then FHEO determines whether reasonable cause exists to believe that a discriminatory housing practice has occurred. Where reasonable cause is found, the parties to the complaint are notified by HUD's issuance of a Determination, as well as a Charge of Discrimination, and a hearing is scheduled before a HUD administrative law judge (ALJ). Either party -- complainant or respondent -- may cause the HUD-scheduled administrative proceeding to be terminated by electing instead to have the matter litigated in Federal court. Whenever a party has so elected, the Department of Justice takes over HUD's role as counsel seeking resolution of the charge on behalf of aggrieved persons, and the matter proceeds as a civil action. Either form of action -- the ALJ proceeding or the civil action in Federal district court -- is subject to review in the U. S. Court of Appeals.

THE ARCHITECTURAL BARRIERS ACT OF 1968

The Architectural Barriers Act (ABA) requires buildings and facilities that are constructed by or on behalf of, or leased by the United States, or buildings financed, in whole or in part, by a grant or loan made by federal funding ***to be accessible to persons with mobility impairments***. The Architectural and Transportation Barriers Board has coordination authority for the ABA. ***Legal Authority:*** 42 USC 4151, et seq; 24 CFR Parts 40 and 41.

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 (TITLE VI)

Title VI prohibits discrimination on the basis of race, color or national origin in programs and activities receiving "Federal financial assistance". Complaints must be filed within 180 days of the alleged act of discrimination. Complaints received from a program participant or service recipient will be forwarded to the Fair Housing Equal Opportunity division at the U.S. Department of Housing and Urban Development. ***Legal Authority:*** 42 USC 2000d; 24 CFR Part 1.

EXECUTIVE ORDER 13166

E.O. 13166 eliminates, to the extent possible, limited English proficiency as a barrier to full and meaningful participation by beneficiaries in all federally-assisted conducted programs and activities.

EXECUTIVE ORDER 11063, NON-DISCRIMINATION

E.O. 11063 (*Non-Discrimination and Equal Opportunity in Housing*) directs HUD and all other executive departments and agencies to take appropriate action to promote the abandonment of discriminatory practices with respect to property or facilities owned or operated by the Federal Government or provided with Federal financial assistance in the sale, leasing, rental, or other disposition of such property or facilities. **Legal Authority:** Issued Nov. 20, 1962, 27 FR 11527; 24 CFR Part 107.

AGE DISCRIMINATION ACT OF 1975

The Age of Discrimination Act of 1975 prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance directly or through contractual, licensing, or other arrangements, use age distinctions or take any other actions which have the effect, on the basis of age, of:

- Excluding individuals from denying them the benefits subjecting them to discrimination under, a program or activity receiving Federal financial assistance; or
- Denying or limiting individuals their opportunity to participate in any program or activity receiving Federal financial assistance. **Legal Authority:** 42 USC 6101 et seq. and 24 CFR Part 146.

SECTION 109, HOUSING & COMMUNITY DEVELOPMENT ACT OF 1974

Sec. 109 of the Act requires that no person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance made available pursuant to the Act. Section 109 also directs that the prohibitions against discrimination on the basis of age under the Age Discrimination Act and the prohibitions on the basis of disability under Section 504 shall apply to programs or activities receiving Federal financial assistance under Title I programs. **Legal Authority:** 24 CFR Part 6.

EXECUTIVE ORDER 11246

E.O. 11246, as amended, bars discrimination in federal employment because of race, color, religion, sex, or national origin. This order was superseded by Executive Order 11478 (Sec 401: 1101), which called for affirmative-action programs for equal opportunity at the agency level under general supervision of the Civil Service Commission. **Legal Authority:** 41 CFR Chapter 60 (DOL)

EXECUTIVE ORDER 12892

E.O. 12892, as amended, requires federal agencies [and their subrecipients] to affirmatively further fair housing in their programs and activities.

DHCD Accessibility Requirements for Subrecipients

The 2008 DHCD Notice of Funding Availability (NOFA) and Request for Proposals (RFP) require that all projects funded under the NOFA meet all Federal and State accessibility standards as well as all accessibility requirements. Because accessibility requirements may differ depending on the funding sources of a particular project as well as the type of construction contemplated for a project, identifying the correct standards can be difficult. The following is an overview of the primary accessibility laws and requirements that are applicable to projects funded under the Plan.

Failure to comply with applicable accessibility, adaptive design and construction requirements of these laws may result in loss of project or program funding. Therefore, you should consult an attorney and/or design professional to ensure that the rehabilitation and/or construction of the multi-family project/development complies with the accessible and adaptive design and construction requirements of each applicable law.

I. District of Columbia Accessibility Requirements

The District of Columbia Municipal Code of Regulations (DCMR) 12A - Building Code, Section 512.0: "Physically Handicapped and Aged" specifies the required minimum of accessible units per number of units in a project being constructed. Each prospective grantee must be thoroughly knowledgeable with these regulations when applying for project funding from DCHD. In particular Section 512.2 (Use Group R-1) reads: Buildings of Use under this section containing more than 10 bedroom units shall be made accessible to physically handicapped persons in accordance with Section. The number of bedroom units accessible to physically handicapped persons shall not be less than (1) one unit per project containing 11 through 20 bedroom units; and one unit plus one for each additional 20 units or fraction of a unit when the project contains 21 and more bedroom units. To determine the total number of accessible units, more than one structure on a building site shall be considered as one building. The entrance doors to all bedroom units and to the toilets in these units shall have a minimum clear width of 32 inches (813 mm). All common use areas, public areas, and areas that may result in the employment of handicapped persons, except those enumerated in §512.1, shall be accessible.

Section 512.3 (Use Group R-2) Buildings under this category containing more than 10 dwelling units shall be made accessible to physically handicapped person in accordance with this section. The number of dwelling units accessible or adaptable to physically handicapped persons shall not be less than twenty-five percent (25%) of the dwelling units. To determine the total number of accessible units, more than one structure on a building site shall be considered as one building. The dwelling units allocated for the physically handicapped shall be proportionately distributed throughout all types of units.

Laundry and storage facilities shall be made accessible from the barrier-free units. Access to additional floors without public facilities is not required.

Section 512.4 – Accessible buildings and facilities: states that buildings and facilities required to be accessible by this section shall comply with ANSI A117.1-1986 as modified by section 512.4.2.

Projects receiving funding through DHCD must also comply with the regulations under Section 512.0 *Physically Handicapped and aged* of the Building Officials & Code Administrators International, Inc. (BOCA) of 1990.

DHCD requires that all projects which receive funding be designed and constructed in a manner so that the units and common areas, facilities and services are readily accessible to and usable by disabled persons. All projects that receive allocations or funding under this NOFA must comply with all applicable Federal and State accessibility laws. When two or more accessibility standards apply, the provider is required to follow and apply both standards so that a maximum accessibility is obtained. In addition, DHCD mandates that the accessibility requirements of Section 504 be incorporated into the design and construction of all new projects funded under the 2008 Notice of Funding Availability (NOFA) and the Request For Proposals (RFP), such as the Housing Production Trust Fund and Community Development Block Grants (CDBG) regardless of whether or not the project will receive federal financing assistance. The attached chart, Summary of Accessibility Laws and Standards, can be used to initially determine the appropriate design standards that should be incorporated into a project. Project Architects, Engineers and Contractors should be familiar with the requirements of each standard to ensure that the appropriate requirements are met.

II. Federal Fair Housing Act

A. Applicability. The Fair Housing Act (FHA), Title VIII of the Civil Rights Act of 1968 as Amended, (42 U.S.C. 3601 § 800; 24 CFR) § requires that covered public and private multifamily dwelling units designed and constructed for first occupancy after March 13, 1991, be designed and constructed in a manner that the public and common use portions of such dwellings are readily accessible to and usable by disabled persons. First occupancy is defined as a building that has never before been used for any purpose. The Act's construction and design requirements apply on a building by building basis. Under the 2008 NOFA, all new construction projects applying for HOME funds must be built in accordance with the accessibility requirements of the FHA. In addition, rehabilitation projects applying for HOME funds must also meet the design and construction standards of the FHA if the first use of the building was after March 13, 1991. These specific design and construction standards can be found in the appropriate requirements of the American National Standards Institute (ANSI), Fair Housing Accessibility Guidelines (FHAG) and in HUD's Fair Housing Act Design Manual. If a project is built in compliance with HUD's PHAG requirements, a safe harbor for compliance purposes is created.

B. Requirements (Please see Fair Housing Accessibility Checklist attachment)

NOTE: Fair Housing Act Accessibility Guidelines contain a narrow "Site Impracticability Exception" which provides that first floor units do not have to meet all of the Act's requirements if it is impractical to have an accessible entrance to the building because of the natural hilly terrain or other unusual characteristics of the site. Any project that claims such an exception must submit documentation from the project architect outlining the basis for the site exception. Supporting documentation of the "site impracticability" must also be submitted. DHCD may also request the Owner to provide a legal opinion that the project falls with the requirements of the Site Impracticability Exception. DHCD's acceptance of such documentation should not be construed as conclusive that the project meets the legal requirements of the exception. Each Project Owner should consult their own attorney to make that determination.

III. Section 504 of the Rehabilitation Act of 1973

(A) **Applicability.** Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against persons with disabilities in the operation of programs receiving federal financial assistance. These programs include, but are not limited to HOME, CDBG, and other programs under the jurisdiction of the HUD Office of Multifamily Housing Program. HUD regulations implementing Section 504

contain accessibility requirements for new construction and rehabilitation of housing as well as requirements for ensuring that the programs themselves are operated in a manner that is accessible to and usable by persons with disabilities. Both individual units and the common areas of buildings must be accessible under Section 504. All projects funded under the 2008 NOFA which provide for the new construction or rehabilitation of multifamily housing projects must be designed and built in accordance with the appropriate accessibility requirements of Section 504 if the projects will receive HOME or other federal funding. These specific design and construction standards can be found in the Uniform Federal Accessibility Standards (UFAS). A copy of the UFAS is provided in the appendix to this Section.

(B). Specific 504 Requirements.

New Construction — A minimum of 5% or at least one unit (whichever is greater) of the total units in the project must be accessible to individuals with mobility impairments. A minimum of 2% or at least one unit (whichever is greater) of the total units in the project must be accessible to individuals with sensory impairments (hearing or vision).

Substantial Rehabilitation — 11 alterations are undertaken to a project that has 15 or more units and the cost of the alteration is 75% or more of the replacement costs of the completed facility than the accessibility requirements for the projects are the same as for newly constructed projects.

Other Alterations- When other alterations are undertaken, including, but not limited to modernization and rehabilitation which does not meet the Threshold of “substantial” rehab under the act, such alterations are required to be accessible to the maximum extent feasible, up to the point where at least 5% or the units in a project are accessible. If alterations of single elements or spaces of a dwelling unit, when considered together, amount to an alteration of a dwelling unit, then the entire dwelling unit shall be made accessible.

NOTE: Section 504 contains a narrow exception when alterations that do not meet the standard of “substantial rehabilitation” are undertaken. This exception provides that a recipient is not required to make a dwelling unit, common area, facility or element accessible if doing so would impose undue financial and administrative burden on the operation of the project. Therefore recipients are required to provide access for covered alterations up to the point of being infeasible or an undue financial and administration burden. Any project that claims such an exception must submit documentation from the project architect outlining the basis for the site exception. Supporting documentation regarding the feasibility of the modification must also be submitted. DCA may also request the Owner to provide a legal opinion that the project falls with the requirements of the Exception. DCA’s acceptance of such documentation should not be construed as conclusive that the project meets the legal requirements of the exception. Each Project Owner should consult their own attorney to make that determination.

C. Increasing Program Accessibility

Section 504 regulations also require that a recipient of Federal Funds ensure that its project, when viewed in its entirety, is accessible to persons with disabilities. In order to meet this obligation, Section 504 requires that the Project Owner must:

- To the maximum extent feasible, distribute accessible units through the projects and sites, and make them available in a sufficient range of sizes and amenities so as to not to limit choice.
- Adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with disabilities. Reasonable nondiscriminatory steps to maximize use of such units by eligible individuals must also be taken.
- When an accessible unit becomes vacant, before offering the unit to an individual without a disability, offer the unit: first, to a current occupant of the project requiring the accessibility

feature; and second, to an eligible qualified applicant on the waiting list requiring the accessibility features.

- When an applicant or tenant requires an accessible feature or policy modification to accommodate a disability, a federally assisted project must provide such feature or policy modification unless doing so would result in a fundamental alteration in the nature of its program or an undue financial and administrative burden.
- Project Owners are required to ensure that information about their project is disseminated in a manner that is accessible to persons with disabilities.
- Include a lease provision that requires a non disabled family occupying an accessible unit to move if a family with a disability needing that size unit applies and there is an appropriately sized nonaccessible unit available for the relocating family.

IV. Visitability

HUD recommends that all design, construction and alterations for multifamily units, incorporate, whenever practical, the concept of visitability in addition to the requirements under Section 504 and the Fair Housing Act. DCA has also adopted the concept of visitability as a recommended practice for all projects that receive funding under the 2003 Qualified Allocation Plan. The concept of visitability is to design units so that persons with disabilities can visit relatives, friends and neighbors. The following are the basic visitability design requirements:

- Provide 32 inch clear openings in all bathroom and interior doorways
- Provide at least one accessible means of egress/ egress for each unit.

V. The American with Disabilities Act

A. Applicability. The American with Disabilities Act guarantees equal opportunity for individuals with disabilities in employment, public accommodations, transportation, state and local government services and telecommunication. It is divided into five titles. Two of which are primarily applicable to multifamily housing agencies.

Title II. Public Services, which include state and local government instrumentalities, cannot deny people with disabilities from participating in programs or activities which are available to people without disabilities.

Title III. Prohibits disability based discrimination and requires privately owned places of “public accommodation” to be designed, constructed, and altered in compliance with certain accessibility standards.

Under the 2003 Qualified Allocation Plan, the ADA is applicable to all new construction projects that are selected for funding. In Rehabilitation projects, existing facilities must comply to the extent readily achievable. Please note that generally the requirements of the ADA are not as restrictive as the requirements under section 504. Therefore, if you follow the design criteria set forth in the UFAS, you will satisfy the criteria of the ADA as it pertains to common area and facilities. Projects financed through an allocation of 4% or 9% tax credits, need to closely review the requirements of the ADAAG or UFAS as it pertains to these areas of public accommodation.

B. Basic ADA Requirements

For all DCA new construction projects the following requirements are applicable:

- Public accommodations does not include portions of privately owned rental housing used exclusively as residents, but does not include areas within such facilities that are available to the general public such as rental offices and community rooms for rental by non residents.
- Social Service programs operated by a housing provider that are available to non-residents would be considered public accommodations and must be accessible under Title III.

Design, Construction, or alteration of facilities in conformance with the UFAAS or with the ADA Accessibility Guidelines (ADAAG) shall be deemed to comply with requirements of the Act. For rehabilitation projects, the following requirements are applicable to those areas covered by the ADA:

- All architectural barriers in existing facilities must be removed where such removal is readily achievable that is easily accomplished and able to be carried out. This would include adding grab bars, ramping a few steps and lowering telephones. If barrier removal is not readily achievable then services must be made available through alternative methods.

NOTE: Any project that claims a required modification is not readily achievable must submit documentation from the project architect outlining the basis for the exception. Supporting documentation regarding the achievability of the modification must also be submitted. DCA may also request the Owner to provide a legal opinion that the project falls with the requirements of the Exception. DCA's acceptance of such documentation should not be construed as conclusive that the project meets the legal requirements of the exception. Each Project Owner should consult their own attorney to make that determination.

VI. Layered Properties

In many projects, multiple sources of funding may mean the projects must meet both the Fair Housing and Section 504 new construction requirements. Where two or more accessibility standards apply, the Project Owner is required to follow and apply both standards so that maximum accessibility is obtained. The US Department of Housing and Urban Development has provided the following examples illustrating how these requirements would apply:

- A project building with an elevator constructed with HOME funding would be required to have 5% of its dwelling units meet the Section 504 accessibility requirements. The remaining 95% of its units would be required to comply with the Fair Housing design and construction requirements.
- A newly constructed 100 unit two story garden apartment development with no elevator construction with HOME assistance with half (50) of its dwelling units on the ground floor and half (50) on the second floor would be required to have 5 of its ground floor dwelling units built to comply with Section 504 accessibility requirements and the remaining 45 ground floor dwellings built to comply with the Fair Housing Act design and construction standards.
- A development consisting entirely of multistory rental townhouses constructed with Federal financial assistance is not a covered multifamily dwelling for purposes of the design and construction requirements of the Fair Housing Act. It would still have to meet the Section 504 5% accessibility requirements.

VI. Additional Resources

The below referenced links may be used to access different accessibility standards and information:

Fair Housing Accessibility Guidelines (FHAG):

<http://www.hud.gov/fhe/fhefhag.html>

Uniform Federal Accessibility Standards (UFAS):

<http://www.access-board.gov/ufas/ufas-html/ufas.htm>

ADA Accessibility Guidelines for Buildings and Facilities (ADAAG):

<http://www.access-board.gov/adaag/html/adaag.htm>

Disability Guidelines and Legal resource

www.diabilityfirst.com

Disability Legal and Advocacy information

www.bazelon.org

ADA Information Center

adainfo@transcen.org

Disability Rights Council

rights@erols.com

Please note that DHCD does not endorse any of the above sites, but provides them as an additional resource only. Please consult with your Project Architects, Engineers, Contractors and Attorneys to determine how the requirements of each standard will be met.

EXHIBIT Z-2:

Section 504 Program Certification Form

ATTACHMENTS

- ☐ Section 504 Certification Form
- ☐ Section 504 Checklist
- ☐ Information on Section 504



D.C. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
OFFICE OF PROGRAM MONITORING FAIR HOUSING DIVISION

Section 504 Program Certification Form

(Housing & Construction Projects)

(Completed form to be submitted at time of application)

The Department of Housing and Community Development (DHCD), under regulations from the U.S. Department of Housing and Urban Development (HUD), requires that each applicant for federal and/or District of Columbia funds sign the "Section 504 Certification Form" which indicates the subrecipients (authorized official for the respective organization) acceptance to:

- (1) Comply with all applicable regulations,
- (2) Incur all costs required for compliance with the applicable regulations,
- (3) Be subject to DHCD monitoring for compliance, and
- (4) Accept any applicable penalties for noncompliance.

Signature and Certification:

The undersigned certifies to DHCD that it has read and understands all of its obligations under the Section 504 requirements. The undersigned acknowledges that this certification will be relied upon by DHCD in its review and approval of proposal for funding and any misrepresentation of information or failure to comply with any conditions proposed in this certification could result in penalties, including the disbarment of Applicant for a period of time from participation in DHCD administered programs.

Name and address of Project

Applicant (Organization Name)

Date

Applicant Name & Signature

Date

Site Manager/Developer (If applicable)

Date

Architect/Engineer (If applicable)



Notice of Non-Discrimination: In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code Section 2-1401.01(a), (Act) the District of Columbia does not discriminate on the basis of actual or perceived race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.



Updated: dpmwpg08/05



Section 504 Checklist

(Guide for Compliance with Section 504 of the Rehabilitation Act of 1973)

Applicant Name: _____

Date of preparation: _____

Address: _____

Telephone No. _____

1. Project Name & Location

Project Name: _____

Address _____ Ward: _____

Project Director: _____

Tel.: # _____

Property Owner: _____

Tel.: # _____

Management Co.: _____

Tel.: # _____

2. Project Activity:

New Construction <input type="checkbox"/> Residential <input type="checkbox"/> Scattered Site <input type="checkbox"/> Multifamily <input type="checkbox"/> Commercial <input type="checkbox"/> Façade	Rehabilitation <input type="checkbox"/> Residential <input type="checkbox"/> Scattered Site <input type="checkbox"/> Multifamily <input type="checkbox"/> Commercial
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Type of Commercial Site (include services provided):

Cont.: Sec 504 Project Certification

Updated 08/05

Submit Certification with application

Applicant Accessibility Compliance

3. Program Services

Is your Sales/Rental office site wheelchair accessible?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
Do you provide training on-site?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
Do you have alternative program sites?	Yes <input type="checkbox"/> # _____	No <input type="checkbox"/>	N/A <input type="checkbox"/>
Number of wheelchair accessible program sites?	_____		
Is your training facility wheelchair accessible?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>

If training facility is not accessible, what alternative methods do you employ to make your program accessible to persons with mobility impairments?

Do you employ alternative methods for providing your services to prospective clients with vision or hearing impairments?

Yes ☐ No ☐ N/A ☐

Describe methods used to comply with accessibility requirements for your program, if your office and/or training facilities are not accessible to people with mobility impairments.

Project Compliance

4. New Construction (Residential)

Project Type:

☐ Apartment Building(s) Total number of Buildings/townhouses/homes _____

☐ Townhouse(s) Is development a Scattered Site project: Yes ☐ No ☐

☐ Single Family Home(s)

Type of Apartment/Condominium Project. Dwelling Units:

☐ Garden Style (3 story walk-up- No elevator) Total No. of Units per Project: _____

☐ Low-Rise (4 or less stories - No elevator) Total No. of Accessible Units per Project: _____

☐ Mid-Rise (5 to 8 stories)

☐ High-Rise (9 and above)

Is project Rental or Sales? _____

Is there an Rental/Sales office on the premises? Yes ☐ No ☐

Is there Retail space on the premises: Yes ☐ No ☐

If Yes, What type: _____

NOTE: New developments are required to have a minimum of **5%** of total dwelling units or at least one unit, whichever is greater, accessible for persons with mobility impairments and **an additional 2%** of the units must be made accessible for persons who have hearing or vision impairments.

4. New Construction (Non-Residential/Commercial)

Type of business: _____

No. of Commercial Establishments _____

Total Parking Spaces _____

Total No. of *Accessible* parking Spaces _____

5. Substantial Rehabilitation (Residential)

NOTE: Substantial rehabilitation applies to properties with 15 or more units and the cost of the alteration is 75% or more of the **replacement cost** of the completed property.

Does the Project have 15 or more total number of dwelling units?

Yes ☐ How Many _____ (Complete Replacement Cost Worksheet below) No ☐ N/A ☐

NOTE: Replacement Cost is the current cost of "Construction and Equipment" for a newly constructed housing facility of the size and type being altered. Please provide cost of a comparable site, including name and address of property.

What is the Total project cost? \$ _____

Cost of a comparable Housing Facility \$ _____

Replacement Cost Worksheet	
The following costs will not be considered in the calculations of "construction and equipment" cost.	
1. Cost of Land (If applicable)	\$ _____
2. Cost of Demolition (If applicable)	\$ _____
3. Cost of Site Only Improvements (i.e., grading, sidewalks, site drainage, etc.)	\$ _____
4. Cost of Non-dwelling facilities (i.e., parking lots, laundry rooms, elevators, day-care facilities, retail space, etc.)	\$ _____
5. Cost of Administrative Costs (i.e., Architects, legal (financial or acquisition), site/civil engineering, Surveyor, etc.)	\$ _____
6. TOTAL (Add 1 through 5)	\$ _____
7. Subtract Worksheet Total (line 6) from Total Project Cost	\$ _____
If line 7 above totals 75% or more of the Replacement Cost of a completed property, then the New Construction guidelines apply, and a minimum of 5% wheelchair accessible units are required.	

Other Alterations (Residential):

"Alteration" is defined under Section 504 as "any change in a facility or its permanent fixtures or equipment. It includes, but is not limited to, remodeling, renovation, rehabilitation, reconstruction, changes or rearrangements in structural parts and extraordinary repairs." If line 7 above totals Less Than 75% of the Replacement Cost of a completed property, **or the project has fewer than 15 units, then Applicant shall, to the maximum extent feasible, make alterations to dwelling units accessible to ensure that 5% of the units are readily accessible to and usable by individuals with mobility disabilities.**

Name & Title of Applicant: _____

Signature: _____ Date: _____