U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

Special Attention of
All Multifamily Hub Directors
All Program Center Directors
All FHEO Regional Directors
All Project Managers
All Field Office Directors

Notice H 2012-27

Issued: November 21, 2012
Expires: This Notice remains in effect until amended, superseded, or rescinded.

Cross References:
Mortgagee Letter 2010-21;
Notice H 2010-11;
Notice H 2001-02
MAP Guide
Handbook 4460.1 Rev-2 Chapter 5
Handbook 4350.1 Rev-2, Chapters 4, 13, 14

SUBJECT: Revised Requirements for Project Capital Needs Assessments, Estimated Reserves for Replacements and Remedies for Accessibility Deficiencies

I. PURPOSE

This Housing Notice (HN) clarifies portions of Risk Mitigation guidance (Mortgagee Letter 2010-21 and Housing Notice 2010-11) concerning Project Capital Needs Assessment (PCNA) reports and requirements for sizing initial and annual contributions to Reserves for Replacements. Appendix 5G of the MAP Guide[1] is modified to implement risk mitigation measures and to align PCNA guidance for the multifamily insurance programs. A single scope of work is defined for PCNA reports for all applications under Sections 223(a)(7) and 223(f), for 10 year PCNA updates and for other Office of Multifamily Housing uses of PCNA reports. Accessibility requirements are clarified and re-emphasized.

II. APPLICABILITY

This HN applies to all applications for mortgage insurance under the FHA Multifamily Housing programs, to all 10 year PCNA updates for existing insured properties, and to all PCNAs required by the Office of Multifamily Housing except those required for restructuring of assisted housing projects under the Market-to-Market program. It does not apply to programs administered by the Office of Healthcare. For guidance on the administration of the Reserve for Replacements account, including procedures for

[1] http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/guidebooks/hsg-GB4430

releases and permitted investment options, owners and lenders should consult Chapter 4 of the Asset Management Handbook, 4350.1 Rev-2.

III. BACKGROUND

A. Past Use of PCNA Reports

PCNA reports have been used to measure the capital requirements for major repairs and replacement of building components during the life of an insured loan. In general, PCNA reports have been required for applications for insurance under Section 223(f) and for certain Asset Management functions such as a Transfer of Physical Assets (TPA) or a Partial Payment of Claim (PPC). MAP Guide Appendix 5G defines a scope of work for PCNA reports and requires that capital needs be estimated for the remaining term of the insured mortgage plus 2 years. This time span was divided into periods: "near term," the first 10 years; "long term" the second 10 years; and the "remainder." Forecasts over such extended periods proved unrealistic and often resulted in unreasonably high or low reserves for replacements, with inconsistencies in policy from origination to asset management stages of insured loans.

B. Issues in Risk Mitigation Guidance-PCNA and Reserve for Replacements

Revision of PCNA guidance is needed to implement new requirements for PCNA reports to support Section 223(a)(7) applications and every 10 years through the life of the loan for all new FHA multifamily applications. Mortgagee Letter 2010-21 and Notice H 2010-11 addressed risk mitigation for FHA mortgage insurance for multifamily properties and required the following:

1. A*… new PCNA every 10 years, with the Reserve for Replacement deposit adjusted based on the results of the PCNA.*

   Previously, this requirement for a new PCNA every 10 years applied only to properties insured under Section 223(f). In accordance with the Appendix 5G in the revised MAP Guide, published August 17, 2011, this requirement was extended to all new applications for insurance for apartment properties. On May 2, 2011, HUD published revised loan closing documents including a revised Regulatory Agreement (HUD 92466M) which incorporates the 10 year PCNA update requirement at paragraph 10.b.

2. Reserve for Replacement deposit minimums for new applications under Sections 223(f) and (a)(7):

   The minimum Reserve for Replacement deposit is $250 per unit per year or such higher amount as is indicated by the PCNA,….

Previously the minimum for new Section 223(f) applications was $150.

3. Reserve for Replacement deposit minimums for new applications under Section 221(d)(4):

   …the minimum Reserve for Replacement deposit will be the higher of:

   a. *the amount currently required by the Section 221(d)(4) program, or*
   b. *$250 per unit per year.*

   In order to avoid over-funding Reserve for Replacement accounts for high cost properties with low Reserve for Replacement needs, waivers of the formula based calculation of Reserve for Replacement deposit will be considered if the formula approach results in a per unit per annum deposit requirement of greater than $500.

   Previously, the annual deposit was set exclusively by a formula calculation.

4. A PCNA as part of all applications for refinancing under Section 223(a)(7) of properties already insured under the Act.

   Previously, there was no requirement for a PCNA report for a Section 223(a)(7) application.

C. Remedies for Accessibility Deficiencies

Assisting and promoting multifamily industry compliance with accessibility requirements is a central element of HUD's fair housing mission. The Fair Housing Act design and construction requirements (24 CFR 100.205) apply to all multifamily buildings first occupied after March 13, 1991, whether or not they are HUD insured or assisted. Section 504 of the Rehabilitation Act of 1973 and 24 CFR Part 8 define accessibility requirements for all programs or activities receiving Federal financial assistance, including Federally assisted multifamily housing, whether or not the project is or ever was subject to an insured mortgage. The Americans with Disabilities Act (ADA) also requires accessibility to public accommodations and commercial facilities, including any portions of multifamily properties which provide such accommodations or facilities. The preparation of a PCNA for a HUD insured or assisted project is an opportunity to identify and remedy accessibility non-compliance.

IV. REPAIRS

A. Critical Repairs

For new applications, critical repairs must be completed prior to Endorsement. For 10 year update PCNA reports or PCNA reports prepared apart from a new application, critical repairs must be completed on the most expeditious possible schedule.

Critical repairs addressing accessibility requirements must be included in a corrective action plan which will require completion on the most expeditious possible schedule, but when necessary in cases of applications for new insured financing, completion of such repairs may be deferred beyond Endorsement. The needs assessor must identify all critical repairs and prepare a work write-up and an estimate of costs for the repairs. Critical repairs include:

1. Remedies for exigent health and safety hazards or code violations;

2. Correction of conditions that adversely affect ingress or egress;

3. Correction of conditions preventing sustaining occupancy;

4. Correction of accessibility deficiencies. It is the lender's responsibility to assure that accessibility requirements are accurately applied to projects by needs assessors with knowledge of Federal and, where applicable, state and local requirements. These requirements are:

    a. The Fair Housing Act design and construction requirements apply to all multifamily housing built after March 13, 1991. (See Appendix 1 and Appendix 2).

    b. Section 504 of the Rehabilitation Act of 1973 applies to all federally assisted programs, facilities and housing. (See Appendix 3).

    c. The Americans with Disabilities Act of 1990 (ADA) applies to public accommodations and commercial facilities and to any such portion of a multifamily property. (See Appendix 4 for specific applications of the ADA to multifamily housing).

    d. Summary Table of Applicable Federal Accessibility Requirements

ACTIVITY & YEAR BUILT	MARKET RATE APARTMENTS	AFFORDABLE (not assisted, e.g. LIHTC's)	FEDERALLY ASSISTED**
Projects built (1st occupancy*) after 3/13/1991	Fair Housing Act Requirements	Fair Housing Act Requirements	Fair Housing Act & 504/UFAS Requirements
Projects built from 7/11/1988 to 3/13/1991	None	None	504/UFAS Requirements
Sub Rehab of projects built after 7/11/1988	None	None	504/UFAS Requirements (load bearing wall exception)
Refinance of projects built prior to 7/11/1988***	None	None	504/UFAS Requirements (load bearing wall and financial/administrative burden exceptions)
All Public Accommodation	ADA	ADA	ADA & 504 UFAS

*1st occupancy means a building occupied for any purpose, not just for housing.

**"Federally assisted" projects include those financed or assisted by Project Based Vouchers, 202/811, HOME, HOPWA, Rent Supplements, 236, TCAP, BMIR, etc.

***See Appendix 3 of this document for a discussion of projects existing before July 11, 1988, or before the date of Federal assistance.

e. State and Local Accessibility Laws. The Fair Housing Act does not preempt state and local government measures affording persons with disabilities greater access than is required by the Fair Housing Act and some state and local governments do apply more stringent requirements. When state or local requirements exceed the Fair Housing Act design and construction requirements, the former prevail to the extent of such excess.

f. Adaptable Does Not Mean Deferrable. A common misinterpretation of the Fair Housing Act design and construction requirements holds that the term "adaptable" contemplates a delay or deferral of the time when "features of adaptable design" required by the statute or regulations may be completed. This is inaccurate. The "features of adaptable design" described in the Fair Housing Act design and construction standards are required at original design and construction. Adaptable for purposes of Section 504 is defined at 24 CFR 8.3 and contemplates limited future physical changes to meet specific needs of particular persons with disabilities. (See Appendix 5).

B. Non-critical Repairs

Non-critical repairs are necessary or useful repairs which are currently needed or may be anticipated in the near future and are not critical repairs. Non-critical repairs should be itemized and described in reference to specific building locations and specific units or classes of units. Non-critical repairs may be deferred, subject to HUD approval, but must be completed within 12 months after Endorsement. "Necessary or useful repairs" are broadly construed to permit upgrading, modernization and improvement of projects provided that proposed repairs improve marketability, efficient use of energy and resources, or reduce operating expense, and when considered in the aggregate, do not propose a scope of work equivalent to substantial rehabilitation.

In a future release, the Department expects to issue guidelines for "Green" PCNAs to include analysis of cost effective opportunities for improving energy and water efficiency and improving indoor air quality.

V. RESERVE FOR REPLACEMENTS

The PCNA will provide information needed to estimate future capital requirements as a means of sizing deposits to the Reserve for Replacements. The needs assessor must identify the age, existing condition, as well as the original and remaining useful life of building components and prepare a schedule of component replacements and major maintenance needs with corresponding estimates of costs adjusted for inflation. This information must be described in a Physical Inspection Report (PIR). After reviewing the PIR, the lender should size and schedule deposits to the Reserve for Replacement so that funds will be available to pay the costs of anticipated replacements and major maintenance as and when these needs arise during the Estimate Period.

A. Repairs and Replacements Included in the Reserve for Replacement

HUD's Multifamily Asset Management and Project Servicing Handbook 4350.1 Rev 2 describes the typical physical components of projects for which repair and replacement costs must be escrowed as well as others for which such costs should be expensed. This description is illustrative, not exhaustive. (See Chapter 4, 4-3). The standard table of contents for PCNA reports (see Appendix 6) lists the kinds and categories of building components which should be addressed in PCNA reports when such components are present. Replacement of some components may be treated as an expense or as a capital item depending on circumstances and an owner's standard practice (e.g., carpet replacement). Because there are legitimate differences in the business choices owners make when distinguishing between operating expense and capital replacement items, HUD does not specify a standard list of capital items for which replacement costs must be escrowed. However, the owner's discretion must be expressed in a defined policy consistently applied year after year. It is the lender's responsibility to confirm that the borrower has established, and that the needs assessor has identified, a clear policy distinguishing between repairs and replacements that are or will be

treated as operating expense and similar or related items classified as capital replacements for which reserves must be escrowed. When underwriting applications for mortgage insurance, the lender must determine that the policy is reasonable and that both the needs assessor's enumeration of replacement reserve items and the underwriting of project operating expense are consistent with the policy.

B. Estimate Period is 20 Years for all PCNAs for all Projects

All schedules for component replacement, major maintenance, cost estimates and related inflation adjustments must be for the lesser of 20 years or the remaining life of the mortgage plus 2 years (the Estimate Period). In applications for properties which are currently uninsured the description of non-critical repairs should encompass needs anticipated in the first 24 months (but items an owner normally replaces at unit turnover may be excluded). For PCNAs completed on insured properties, non-critical repairs should supplement, accelerate or revise an existing schedule of repairs and replacements. Separate "near term," "long term" or "remainder" estimate periods and quantities are not required.

C. Evaluation of Long Life Components

The needs assessor should identify major building components with typical economic lives extending beyond the Estimate Period. These components should be described and the remaining useful life of the component estimated. The lender must address these components when recommending a loan amortization period and in its discussion of the remaining useful life and potential obsolescence of the property. Examples of major building components with economic lives often greater than the Estimate Period include roof membranes, roof and wall sheathing, windows and exterior doors, siding and exterior finish systems, hard surface interior flooring and tile, casework, elevators and lift systems, plumbing supply and sanitary waste lines and some elements of mechanical systems.

D. Estimated Total and Minimum Replacement Reserve Balances

When offset against annual capital needs, the lender's proposed schedule of deposits must provide for a minimum balance in the Reserve for Replacement escrow at the end of each year in the Estimate Period (including the last year) that is at least 5% of the total, aggregate, inflation adjusted projection of capital needs for the Estimate Period. Accordingly, the total deposits to the Reserve for Replacement should not be less than 105% of the total estimated costs of component replacements and major maintenance for the Estimate Period. For some properties, particularly those 30 or more years old, a higher minimum balance percentage may be appropriate. Such projects may have components presenting particular risks or high costs in the event of failure (e.g., aging central heat systems serving entire buildings or multiple buildings; aging elevator systems). In such cases a higher minimum balance may be necessary and should be recommended in amounts sufficient to assure that funds are available to

address an untimely failure. Reserve for Replacement deposits, when offset against estimated capital needs, must allow for the maintenance of the minimum balance throughout the Estimate Period except for:

1. Applications under Section 223(a)(7) where the best interest of the project may suggest deferring compliance with the minimum balance requirement until a later year; and

2. PCNAs not associated with an application, (such as 10 year updates, TPAs or PPAs) where the best interest of the project may suggest deferring compliance with the minimum balance requirement until a later year; and

3. Applications for uninsured properties where the physical condition of the property in conjunction with any immediate repairs supports a conclusion that no significant draws from the Reserve for Replacement (excluding capitalized items scheduled for and normally replaced at unit turnover) will be necessary in the first 2 years after Endorsement, in which case compliance with the minimum balance requirement may be deferred until the end of the second year.

When evaluating capital needs, the needs assessor and the lender should assume that, at the end of the Estimate Period, the project is in a better than satisfactory condition.

E. Minimum Annual Contributions

For new mortgage insurance applications the annual deposit to the Reserve for Replacements may not be less than $250 per unit. For PCNAs not associated with a new application for mortgage insurance, the annual per unit deposit should be an amount sufficient to cover anticipated repair and replacement costs and to place, and maintain, in escrow the minimum balance at the earliest date consistent with the mortgagor's ability to meet all program obligations.

F. Variable or Graduated Annual Contributions

In general, fixed, or annual inflation adjusted, deposits to the Reserve for Replacements are preferred since they augment the safety of the level-payment feature of FHA insured mortgages. The schedule of deposits should not require large, lump sums in future years. Any proposed percentage increase in the Reserve for Replacement deposit may not exceed the underwritten, cumulative, projected percentage increases applied to operating expenses through the year(s) prior to and including the year of the proposed increase. The lender must provide an analysis which demonstrates that the property will sustain revenue adequate to meet any proposed graduated increase in Reserve for Replacement deposits.

G. Underwriting of Estimated Interest Earnings on Escrow Balances

Lenders may make reasonable forecasts of future interest earnings on annual balances projected for the Reserve for Replacement escrow. The estimate should be adjusted for the reasonableness of interest rates given historical averages over past decades. The historical averages should be for investments with terms and conditions comparable to those used by the lender for escrow balances in prior years.

H. Only PCNA Enumerated Repairs and Replacements May be Drawn from the Reserve for Replacement Escrow

All future draws from the Reserve for Replacement escrow will be compared to repairs and replacements listed in the PCNA in accordance with Handbook 4350.1 Rev 2. (For this purpose, the comparison will be as to the kinds and categories of repairs and replacements for which draws are requested and not as to the timing of such repairs and replacements.) While disbursements will be permitted for emergency and unforeseen needs, in general, unless specifically approved by the Hub Director, draws will not be authorized for items or categories of items not identified as future repairs and replacements by the PCNA. (See Chapter 4 of Handbook 4350.1 Rev 2).

I. Costs of PCNA Reports

The mortgagor's costs for PCNA reports, including any costs of intrusive inspections or testing or lender review fees, may be treated either as an eligible project operating expense, or as a capital cost eligible for reimbursement from the Reserve for Replacement escrow, or as an eligible cost of financing for refinance applications.

VI. CHANGES TO PCNA CONTENT

A. Existing Guidance

The scope and content of PCNA reports is described in MAP Guide Appendix 5G, except as modified herein.

B. Physical Inspection Report

The needs assessor shall be an independent third-party under contract to the lender. Except for the specific modifications enumerated below or the topics added to the table of contents for reports described in Appendix 6 of this HN, the needs assessor's report shall be prepared in accordance with the Standard Guide for Property Condition Assessments: Baseline Property Condition Assessment Process published as ASTM E 2018-08. Annex 1.1 of the Standard concerning multifamily properties is applicable. For projects with mixed use and/or

commercial, leased space, Annex1.2 for Commercial Office Buildings should be observed to the extent applicable. Appendices to the Standard are applicable as follows: X1.1 concerning qualifications, X1.2 concerning verification of measurements and quantities based on as-built drawings when available or field counts or measurement when necessary, X1.3 concerning service company research, and X1.5 concerning the recommended table of contents for the needs assessor's report.

C. Issues Beyond the Scope of Standard Guide ASTM E 2018-08

1. Accessibility Issues. The inspection, identification and description of accessibility issues and deficiencies as critical repairs shall be described as considerations out of the scope of ASTM E 2018-08, and the needs assessor must specify the statute or regulation that defines the deficiency: e.g., the Fair Housing Act design and construction requirements, Section 504 of the Rehabilitation Act of 1973 and UFAS, the Americans with Disabilities Act, or a state or local government requirement when such requirements exceed the applicable Federal standard.

2. Proposed Improvements and Upgrades. The identification, enumeration and description of the owner's proposed non-critical repairs which are capital improvements and upgrades, by contrast with mere repairs and replacements, shall be described as considerations out of the scope of ASTM E 2018-08.

3. Intrusive tests and examination. ASTM E 2018-08 envisions a site visit by a needs assessor as a "walk-through survey" which it describes as a "non-intrusive visual observation of readily accessible, easily visible" elements of a property which excludes "concealed deficiencies" and "should not be considered technically exhaustive" since it precludes the use by the assessor of tools, equipment, protective clothing, exploratory probes, or "devices of any kind." The standard also notes in defining a "property condition assessment" that at the user's option an assessment "may include a higher level of inquiry and due diligence than the baseline scope" described by ASTM E 2018-08. An "intrusive test", as used herein, describes an examination appropriate to observed circumstances and relying upon standard diagnostic techniques, tools, probes, thermal imagery, and other equipment commonly used by relevant construction trades to evaluate the condition and serviceability of particular building components. The intent is to describe methods that are technically sufficient to make reasoned estimates of the durability and serviceability of building components as well as requisite repair costs, but not "technically exhaustive" except to the extent that evident risks to health and safety may require. The word intrusive does not mean destructive, although in some instances a minimally destructive technique may be required. When this is

the case, care should be taken to select the least destructive approach in locations least detrimental to ongoing operation of the property.

D. Remaining Useful Life

The needs assessor must identify the estimated economic life (i.e., typical life expectancy) and the remaining useful life (RUL) of replaceable components and primary systems of buildings. This is necessarily a subjective, but still professional, judgment based on observed conditions, maintenance records and practices, environmental conditions, original quality of installation and other factors. The needs assessor should identify a reasonable, publicly available, recognized source (e.g., Marshall Valuation Service Life Expectancy Guidelines) for estimated economic life of components and use that source as the starting point for estimating remaining useful life.

E. Intrusive Tests at Older Properties

For older structures the needs assessor and lender should consider intrusive tests, or examinations, of primary building systems, including but not limited to structural, building envelope, conveyance, mechanical, electrical and plumbing systems, where visual or non-invasive examination alone may not be sufficient to support a conclusion about the condition or remaining useful life of system components. While recognizing that age and condition of structures are not always related, a guideline for use of intrusive methods is structures 30 or more years of age. It is the responsibility of the lender to assure that the needs assessor employs investigative methods appropriate to the age, condition, physical composition of the property and the local environment. In general, lenders should not recommend a maximum mortgage term for structures 30 or more years of age without conducting appropriate intrusive tests of primary building systems to confirm the condition and remaining useful life of the building(s).

When undertaken, an intrusive test or examination should result in a written report, attached to the PCNA, which report should include at a minimum the following:

1. A statement of the examiner's particular experience, education, technical or trade certifications or other qualifications establishing the examiner's expertise relevant to the matter examined.

2. A description of the physical component(s) or system examined including the portions, quantities, and/or locations examined and the relevant products and materials found installed.

3. A description of the trade or industry recognized techniques, tests or analytical methods of examination used.

4. A summary of the estimated age, condition, and serviceability of the products, materials or system examined.

5. The examiner's recommendation of any repairs and/or replacements.

6. The examiner's estimate of the remaining useful life of the system or component assuming any recommended repairs or replacements are completed.

F. HUD Management of Local Conditions

Multifamily Hub/Program Centers should be cognizant of local building practices, codes, conditions and climate when reviewing PCNAs, and when appropriate should direct the attention of lenders and needs assessors to such conditions in order to assure that these conditions are addressed. However, multifamily Hub/Program Centers should not publish, or require general use of, unique tables estimating economic life of components, inspection checklists or similar guidance for preparation of PCNAs.

VII. QUALIFICATIONS OF NEEDS ASSESSORS AND REVIEWERS

Lenders must exercise care to require that needs assessors and specialists retained to evaluate properties have qualifications commensurate with the physical characteristics they are asked to examine as well as the technical and/or regulatory standards applicable to the property or its components. The qualifications of needs assessors and reviewers should be consistent with ASTM E 2018-08 Appendix X1.1.

VIII. LENDER UNDERWRITING CONSIDERATIONS, OTHER DUTIES

A. Remedies for Accessibility Deficiencies – Completion of Required Accessibility Modifications; Corrective Action Plans

All covered multifamily dwellings available for first occupancy after March 13, 1991, must comply with the design and construction requirements of the Fair Housing Act whether or not the units are Federally assisted or have FHA insured financing. (See Appendices 1 & 2). Needs assessors and lenders must identify all deficiencies under the Fair Housing Act, and lenders must assure that all identified deficiencies are addressed. Similarly, all Federally assisted housing must conform to Section 504 of the Rehabilitation Act of 1973 and HUD's implementing regulations at 24 CFR Part 8 (See Appendix 3). All public accommodations must comply with Title III of the ADA (See Appendix 4). Lenders may, and sometimes should, retain persons or firms with particular experience and expertise in the recognition and evaluation of accessibility issues in addition to, or in connection with, the needs assessor retained to prepare the PIR.

1. Repairs or modifications that address accessibility deficiencies are critical repairs and must be addressed specifically in a corrective action plan. The corrective action plan:

    a. Addresses all accessibility deficiencies;

    b. Defines remedies together with a detailed schedule of work and associated costs;

    c. Demonstrates that the described remedies are appropriate; and,
    d. Describes when and how the required corrective modifications will be completed.

2. While repairs or modifications addressing accessibility deficiencies are critical repairs, Hub Directors may approve a corrective action plan in connection with applications for insured financing where completion of repairs and modifications is scheduled after endorsement, or in cases with no new financing, completion is scheduled over an extended period provided that:

    a. The extended period or time after endorsement is not greater than 12 months, and

    b. No repairs of accessibility deficiencies which are exigent health and safety conditions are deferred.

3. When providing a corrective action plan the lender must demonstrate that the period of time requested for corrective action is the minimum possible given the physical characteristics of the repairs and the reasonably anticipated impact of the repairs on tenants and/or the costs of displacement.

4. In unusual circumstances (e.g., extensive displacement or scope of work or excessive costs) a corrective action plan may require more than 12 months to complete. Any corrective action plan requiring more than 12 months for completion must be referred to HUD Headquarters to the attention of the Director of Multifamily Development (in the case of new applications) or to the Director of Asset Management (in the case of corrective action plans prepared after Endorsement).

5. When completion of remedies for accessibility deficiencies is deferred, the funds required (including amounts assuring completion) should be provided and disbursed in accordance with the applicable escrow requirements for non-critical repairs for new applications under

Sections 223(f) or 223(a)(7) of the National Housing Act or, when no new insured financing is proposed, in accordance with HUD Handbook 4350.1 Rev 2.

6. Where a deficiency is identified arising from a state or local accessibility requirement that exceeds the applicable Federal standard(s) and the proposed corrective action does not result in full compliance with that state or local requirement, it is the responsibility of the owner and/or the lender to obtain written confirmation that the proposed corrective action is acceptable to the state or local entity with enforcement jurisdiction.

7. The content of a corrective action plan may vary widely depending on the nature and scale of repairs required to correct accessibility deficiencies. Accordingly, lenders must assure that the professional preparing the plan has skill and experience commensurate with the scale of work proposed. While the needs assessor is required to identify accessibility deficiencies in the PIR, the corrective action plan may, and sometimes should, be prepared by other qualified professionals (e.g., a registered architect, engineer) retained either by the owner or the lender provided that the identity and qualifications of the author(s) are fully disclosed.

8. A corrective action plan does not constitute a safe harbor for compliance with the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973 or the ADA. A corrective action plan does not preclude an individual from filing a fair housing complaint with the Department and does not preclude the Department from investigating a complaint or pursuing administrative or legal action under applicable civil rights accessibility laws and regulations to ensure full compliance. Similarly, a corrective action plan does not preclude the Department of Justice from investigating or filing a lawsuit for Fair Housing Act or ADA violations.

9. The Fair Housing Act and Section 504 of the Rehabilitation Act of 1973 require owners to make reasonable accommodations (that is, exceptions to or changes in rules, policies, practices or services) and/or reasonable modifications (physical changes to premises) for persons with disabilities. These requirements are separate and distinct from the requirement to address accessibility deficiencies identified in a PCNA. Reasonable accommodations and modifications will not be addressed in PCNA reports or corrective action plans. References to detailed guidance on reasonable accommodations and modifications may be found in Appendix 2.

B. Review and Reconciliation of Estimates of Remaining Useful Life

The term of any insured financing is limited to 75% of the remaining economic life of the property. In applications for substantial rehabilitation, remaining useful life of building components will impact the minimum scope of work. Lenders

must scrutinize the PIRs prepared by needs assessors and confirm that the estimated economic life for individual components is appropriate and supported by independent authorities or industry standards and that the remaining useful life of components is realistic, and where appropriate, confirmed by active testing or intrusive investigation.

When underwriting applications lenders should organize the work of third-party experts so that appraisers have the PIR from the PCNA available as a resource when evaluating a property.

The lender must reconcile the third-party reports of the appraiser and the needs assessor to assure that deficient or obsolete components are:

1. Corrected by the scope of work describing critical and non-critical repairs;

2. Properly measured and mitigated by adjustments to rents in relation to rent comparables when the condition of such components is visible to tenants and measurable in rent (e.g., outdated floor plans, kitchens, baths); and/or

3. Reflected in a shorter mortgage term, especially when the deficient or obsolete components are not typically discernable to tenants and therefore not susceptible of measurement in rent (e.g., limited utility or useful life of hidden wiring, plumbing or mechanical systems).

C. Age and Obsolescence

When obsolescence is not corrected by immediate repairs or is economically infeasible to correct, the lender must assure that the appraiser has appropriately considered these conditions in valuation and in estimating remaining economic life of the improved property. When underwriting some properties proposed for refinancing or acquisition, the lender may determine that the PCNA identifies repair needs so extensive that they cannot be funded through a combination of immediate repairs and initial and ongoing Reserve for Replacement deposits. Properties with these or comparable repair needs may be eligible under the Section 221(d)(4) Substantial Rehabilitation program.

D. Physical Conditions

The needs assessor (when preparing the PIR) and the lender (when reviewing it and scheduling deposits to the Reserve for Replacement) must consider specific aspects of physical condition. These include: original construction quality; the maintenance regime used at a property; and environmental conditions for the location of the project as well as the differing exposures of individual components resulting from how the components are sited, exposed or sheltered at the property. Lenders must recognize and address the greater frequency of repair and replacement caused by lesser original construction quality, low quality

components, environmental conditions that reduce product lives and inadequate or inappropriate maintenance.

E. Shelf Life of PCNA Reports

1. Section 223(f) Applications. PCNA reports obtained in support of applications under Section 223(f) should be completed and dated not more than 6 months prior to the application for Firm Commitment. The dates of reports of intrusive examinations or separately prepared attachments may exceed this limit subject to the examiner's stated limitations on timeliness, if any, and the lender's conclusion that the report(s) remain timely.

2. Section 223(a)(7) Applications. For applications to refinance insured properties under Section 223(a)(7), an existing PCNA may be accepted on the condition that:

    a. It is dated not more than 2 years prior to the date of application for Firm Commitment;
    b. The Hub's Supervising Project Manager or Director approves the use of the existing PCNA for purposes of the application;
    c. The PCNA contents and scope substantially conform to the requirements of this HN (e.g., minimum balance requirements, identification of accessibility deficiencies and remedies);
    d. The mortgagor and lender are required to provide a new PCNA not later than 10 years after the date of the PCNA accepted with the application.

3. Effective Dates of PCNAs. For purposes of establishing the due date of any future 10 year update PCNA the date of any PCNA completed within 6 months of an application shall be deemed dated as of Final Endorsement.

IX. OTHER LENDER/SERVICER DUTIES-10 YEAR UPDATE PCNA REPORTS

A. Expansion of 10 year update PCNA Requirements

Notice H 2010-11 and ML 2010-21 require that a new PCNA be prepared for all insured projects at intervals not greater than 10 years. It is the lender's responsibility to obtain and review a new PCNA consistent with the requirements of this ML and the MAP Guide. Lenders may charge a reasonable fee for the required review of the PCNA. Except as specifically provided (in VIII.E.2 above) for existing PCNAs that may be accepted with a 223(a)(7) application, the date when such "10 year update" PCNA reports are due is the later of the 10th anniversary of Final Endorsement or the 10th anniversary of the last PCNA completed for the property.

B. Review of 10 Year Update PCNA Reports

When reviewing "10 year updates" the lender is not underwriting an application and therefore will not need to reconcile the PIR with the appraisal conclusions or determine the remaining useful life of the property. However lenders will need to:

1. Assure that critical and non-critical repairs have been identified;

2. Review and recommend a corrective action plan for any accessibility deficiencies identified;

3. As part of the PCNA, obtained at the mortgagor's expense, secure intrusive tests of systems for older properties where continued acceptable operation of a particular system(s) may be doubtful; and

4. Recommend deposits to the Reserve for Replacement that will fund anticipated costs of repairs and replacements during the Estimate Period and maintain the required minimum balance in the escrow for repairs and replacements. The recommended deposits may be higher or lower than those currently being reserved for the property.

X. IMPLEMENTATION

This HN is effective for all Firm Commitment applications and other PCNAs submitted 120 days after the first of the month following publication.

If there are any questions regarding this HN please contact David Wilderman at (202) 402-2803, in HUD Headquarters, Office of Multifamily Development. Persons with hearing or speech impairments may access this number via TDD/TTY by calling 1-877-TDD-2HUD (1-877-833-2483).

Carol J. Galante
Acting Assistant Secretary for Housing –
Federal Housing Commissioner

APPENDIX 1

FAIR HOUSING ACT REQUIREMENTS

The needs assessor must identify as deficiencies all instances of non-compliance with the design and construction requirements of the Fair Housing Act in all covered multifamily units available for first occupancy after March 13, 1991. Note that "first occupancy" excludes both substantial rehabilitation and the conversion of buildings constructed before March 13, 1991, from the design and construction requirements. See 42 USC 3604(f)(3)(C), 24 CFR 100.205 and HUD's Fair Housing Act Design Manual published at 56 Federal Register 9472-9515 [Mar. 6, 1991]. "Covered multifamily dwellings" is defined at 42 U.S.C. 3604(f)(7) and 24 C.F.R. 100.201 and means all units in buildings consisting of 4 or more dwelling units if such buildings have one or more elevators; and ground floor units in other buildings consisting of 4 or more units.

All covered multifamily dwellings must 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. 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 24 CFR 100.205(a).

There are seven design and construction requirements under the Fair Housing Act as follows:

1. Accessible building entrance on an accessible route;
2. Accessible and usable public and common use areas;
3. Usable doors (all the doors allowing passage into and within the units are sufficiently wide to allow passage by persons in wheelchairs);
4. Accessible route into and through the covered dwelling unit;
5. Light switches, electrical outlets, thermostats and other environmental controls in accessible locations;
6. Reinforced walls for grab bars in bathrooms (i.e., to allow later installation of grab bars around the toilet, tub, shower, stall and shower seat, where such facilities are provided);
7. Usable kitchens and bathrooms (e.g., such that an individual in a wheelchair can maneuver about the space).

The needs assessor must measure clear door openings, wheel chair maneuverability areas, slopes and cross slopes of sidewalks and other accessible routes, and other dimensioned aspects of the housing to determine compliance with the Fair Housing Act Accessibility Guidelines or another identified safe harbor standard recognized by HUD. All measurements must be noted and reported. Use of templates or rods of fixed dimension to confirm measurements not less than (or greater than) required is acceptable. Photographs are encouraged. It is insufficient to merely state that a project, building, or a particular feature, meets, or does not meet, the design and construction requirements.

Presently there are ten HUD-recognized safe harbors for compliance with the Act's design and construction requirements and these are listed in Appendix 2. When

conducting an assessment the needs assessor should use the safe harbor standard(s) referenced in the original design documents whenever the identity of the standard(s) is known. The PIR must name the standard(s) used.

APPENDIX 2

FAIR HOUSING ACT SAFE HARBOR STANDARDS, RESOURCES AND BIBLIOGRAPHY

Fair Housing Act Safe Harbor Standards:

1. HUD's March 6, 1991, Fair Housing Accessibility Guidelines and the June 28, 1994, Supplemental Notice to Fair Housing Accessibility Guidelines: Questions and Answers About the Guidelines;

2. ANSI A117.1-1986 – Accessible and Usable Buildings and Facilities, used in conjunction with the Act, HUD's Regulations and the Guidelines;

3. CABO/ANSI A117.1-1992 – Accessible and Usable Buildings and Facilities, used in conjunction with the Act, HUD's Regulations, and the Guidelines;

4. ICC/ANSI A117.1-1998 - Accessible and Usable Buildings and Facilities, used in conjunction with the Act, HUD's Regulations, and the Guidelines;

5. HUD's Fair Housing Act Design Manual published in 1996 and revised in 1998;

6. Code Requirements for Housing Accessibility 2000 (CRHA), approved and published by the International Code Council (ICC), October 2000;

7. International Building Code (IBC) 2000, as amended by the IBC 2001 Supplement to the International Codes;

8. 2003 International Building Code (IBC), with one condition. Effective February 28, 2005, HUD determined that the IBC 2003 is a safe harbor, conditioned upon the International Code Council publishing and distributing the following statement to jurisdictions and past and future purchasers of the 2003 IBC:

   ICC interprets Section 1104.1, and specifically, the exception to Section 1104.1, to be read together with Section 1107.4, and that the Code requires an accessible pedestrian route from site arrival points to accessible building entrances, unless site impracticality applies. Exception 1 to Section 1107.4 is not applicable to site arrival points for any Type B dwelling units because site impracticality is addressed under Section 1107.7.

9. ICC/ANSI A117.1-2003 - Accessible and Usable Buildings and Facilities, used in conjunction with the Act, HUD's Regulations, and the Guidelines.

10. 2006 International Building Code, published by ICC, January 2006, with the 2007 erratum (to correct the text missing from Section 1107.7.5), and interpreted in accordance with relevant 2006 IBC Commentary.

Additional Resources:

1. The Fair Housing Act is codified at 42 U.S.C. §§ 3601-3619. It is posted at http://www.justice.gov/crt/about/hce/title8.php with implementing regulations, including 24 C.F.R. Part 100, posted at http://www.archives.gov/federal-register/index.html

   In particular, *see* 24 C.F.R. §§ 100.203-100.205 for the sections on reasonable modifications of existing premises, reasonable accommodations, and the design and construction requirements.

2. *Final Fair Housing Accessibility Guidelines,* 56 Fed. Reg. 9472 (Mar. 6, 1991), *available at* http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/fhefhag

3. *Supplement to Notice of Fair Housing Accessibility Guidelines: Questions and Answers about the Guidelines,* 59 Fed. Reg. 33,362-68 (June 28, 1994), *available at* http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/fhefhasp

4. *Fair Housing Act Design Manual* (August 1996, Revised April 1998), *available at* http://www.huduser.org/publications/destech/fairhousing.html

5. *For specific guidance on reasonable accommodations in rules, policies, practices, or services for particular tenants see* Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Accommodations under the Fair Housing Act (May 17, 2004), *available at* http://www.hud.gov/offices/fheo/library/huddojstatement.pdf

6. *For specific guidance on tenant requests for physical modifications to premises see the* Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Modifications under the Fair Housing Act (Mar. 5, 2008), *available at* http://www.hud.gov/offices/fheo/disabilities/reasonable_modifications_mar08.pdf

   For Federally Assisted Housing or programs see also 24 CFR §§ 8.20, 8.21(c), 8.24.

7. For additional technical assistance, *see* the Fair Housing Act Accessibility FIRST website at www.fairhousingfirst.org

or call the Fair Housing Accessibility First assistance line at 888-341-7781 on weekdays from 9 a.m. to 5 p.m. ET.

8. See also HUD's Office of Fair Housing and Equal Opportunity website at

http://www.hud.gov/offices/fheo/disabilities/index.cfm

APPENDIX 3

SECTION 504-ASSISTED HOUSING

Assisted Housing

Section 504 of the Rehabilitation Act of 1973 applies to recipients of Federal financial assistance. The Section 504 regulations define "recipient" as any state or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution, organization, or other entity or any person to which Federal financial assistance is extended for any program or activity directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance (24 CFR 8.3).

Federal financial assistance is broadly defined to include, among many things, grants, loans, contracts or other arrangements which may take the form of funds, services from Federal personnel, community development grants, and the use of real or personal property (24 CFR 8.3). Thus, for example, HUD funded Section 811 or Section 202 developments, any developments which have project-based rental certificates or vouchers, (i.e., rent supplement, rental assistance program, Section 8 project-based assistance) are recipients of Federal financial assistance and are subject to the requirements of Section 504. A HUD mortgagor receiving a subsidy through the Section 221(d)(3) Below Market Interest Rate Program or the 236 Rental Housing Program is also a recipient of Federal financial assistance and is subject to the requirements of Section 504. In addition, any project assisted with Community Development Block Grant (CDBG), Neighborhood Stabilization Program (NSP), HOME , or HOPWA (Housing Opportunities for Persons With AIDS) funds or any contribution of Federal land or services is subject to the requirements of Section 504. In recent years the American Recovery and Reinvestment Act (ARRA) and the Tax Credit Assistance Program (TCAP) have become added sources of Federal financial assistance for some multifamily properties. However, a property owner's receipt of housing assistance payments from a recipient on behalf of eligible families under a housing assistance payment or voucher program, *i.e.*, tenant-based rental assistance, does not make a project assisted (24 CFR 8.3). The examples given above do not constitute an exhaustive list of HUD programs subject to Section 504.

All programs or activities which receive Federal financial assistance are subject to HUD's Section 504 regulations, including program accessibility requirements. Owners are also required to make physical changes as reasonable accommodations at the request of tenants or prospective tenants (24 CFR 8.4, 8.20, 8.21, 8.24, 8.33).

When Both Fair Housing Act and Section 504 Apply

With respect to physical accessibility requirements, both Section 504 (applies to programs or activities that receive Federal financial assistance) and the Fair Housing Act (applies to covered multifamily dwellings designed and constructed for first occupancy after March 13, 1991) may apply. Recipients subject to both laws must be aware of and

comply with the requirements of both laws and their implementing regulations. (See HN 2001-02).

New Construction

Newly constructed multifamily housing projects built after July 11, 1988, receiving Federal financial assistance must comply with the requirements in 24 CFR 8.22. Such projects must provide accessible common areas and facilities as well as minimum percentages of units readily accessible to and useable by persons with mobility disabilities [minimum 5% of the units or at least one unit, whichever is greater] and sensory disabilities [an additional minimum 2% of the units or at least one unit, whichever is greater]. 24 CFR 8.22. HUD may prescribe a higher percentage or number upon demonstration of greater need. 24 CFR 8.22(c). Compliance with the Uniform Federal Accessibility Standards (UFAS) is deemed to comply with the accessibility requirements of Section 504 and 24 CFR §§ 8.21, 8.22, 8.23 and 8.25 (24 CFR 8.32). Departures from particular technical and scoping requirements of the UFAS by the use of other methods are permitted where substantially equivalent or greater access to and usability of the building is provided (24 CFR 8.32).

Substantial and Other Alterations

HUD's Section 504 regulation at 24 CFR § 8.23 applies the following requirements to Federally assisted projects that undergo substantial or other alterations. This includes projects built prior to July 11, 1988, which subsequently undergo alterations. This also applies to projects which originally did not receive Federal financial assistance but later receive such assistance, thus triggering coverage of Section 504.

1. Substantial Alterations. After July 11, 1988, any existing Federally assisted multifamily housing project consisting of fifteen or more dwelling units that is substantially altered (meaning the cost of alterations equals or exceeds 75% of replacement cost of the completed facility at the time of the alterations) must contain a minimum of 5% of units, or at least one, whichever is greater, accessible for persons with mobility impairments and an additional 2% of units, or at least one, whichever is greater, accessible for persons with hearing or vision impairments, as though it were newly built after July 11, 1988, with the sole exception that load bearing structural members are not required to be removed or altered. 24 CFR 8.23(a). HUD may prescribe a higher percentage or number upon demonstration of greater need. 24 CFR 8.23(b)(2).

2. Other Alterations. Alterations that do not meet the test for substantial alteration (*i.e.*, where the cost of alterations does not equal or exceed 75% of replacement costs), are subject to the following requirements under HUD's Section 504 regulations:

a. To the maximum extent feasible, alterations to common areas, facilities and corridors were (are) to be made accessible. 24 CFR 8.21(b); 8.23(b)(1).

b. To the maximum extent feasible, all individual unit alterations or replacements were (are) to be accessible. 24 CFR 8.23(b)(1).

c. If alterations of single elements or spaces in a unit, when considered together, amount to alteration of the unit, the entire unit must be made accessible. For example, a combination of alterations to a single unit that includes modifications to the kitchen, bath and entry door meets the threshold of alteration of a unit, thereby requiring that the entire dwelling unit be made accessible. Once 5% of the dwelling units in a multifamily housing project are readily accessible to and usable by individuals with mobility impairments, then no additional elements of dwelling units, or entire dwelling units, are required to be accessible under this paragraph. 24 CFR 8.23(b)(1).

The phrase "maximum feasible extent" is intended to make clear that an owner is "never required to undertake a degree of accessibility which would impose undue financial and administrative burdens" but when alterations were (are) undertaken, accessibility was (is) required "up to the point of infeasibility or undue financial and administrative burdens." (53 Fed. Reg. 20216, 20224 (June 2, 1988)). In addition, measures to achieve compliance with UFAS which had "little likelihood of being accomplished without removing or altering a load-bearing structural member," are not required. 24 CFR 8.32(c).

Existing Housing Projects

Owners of Federally assisted projects built prior to July 11, 1988, have an obligation to make such housing and facilities readily accessible to and usable by individuals with disabilities (24 CFR 8.21(c); 24 CFR 8.23; 24 CFR 8.24). HUD's Section 504 regulations also require that periodic repair and replacement actions and alterations (both substantial alterations and other alterations) completed at such projects contribute to a gradual process of change. See "Substantial and Other Alterations" above. This may present a challenge to evaluation and/or underwriting of such projects because there may be uncertainty whether the presence of certain accessibility features (*e.g.*, 5% / 2% accessible units within the project; individual accessible elements as the project underwent other alterations) is required.

Accordingly, for projects subject to Section 504 the needs assessor or inspector will note on the PIR the absence of accessibility features measured against the requirements for new construction described at 24 CFR 8.22. The Lender must review and evaluate the accessibility features noted as absent in the PIR in light of the requirements described above under "New Construction," and "Substantial and Other Alterations," and demonstrate why the absence of an accessibility feature or features is not a deficiency. Where it is determined that the absence of an accessibility feature or features

does constitute a deficiency, the work required to correct the deficiency must be included in critical repairs and in a corrective action plan. Any determination that the absence of an accessibility feature or features is not required to be corrected is subject to review by HUD.

Section 504 and UFAS Resources

Further information on Section 504 may be found at http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/disabilities/sect504

A useful Field Inspection checklist and guide may be found at

http://www.hud.gov/offices/fheo/library/UFASAccessibilityChecklistforPHAs-5-7-08.pdf

APPENDIX 4

AMERICANS WIITH DISABILITIES ACT (ADA)

Title III of the ADA applies to any portion of an insured multifamily property that is a public accommodation, i.e., a portion intended for use by, and open to, the general public. This includes any leasing office or facility together with public restrooms and public lobbies. Common areas available only for use by tenants or the guests of tenants are not subject to the ADA [but are subject to the Fair Housing Act and/or Section 504]. Any commercial uses included in an insured multifamily property are also covered by the ADA. This includes any retail, office, hotel, or special purpose facility, such as a day care center, senior center, etc.

When evaluating physical characteristics of leased commercial space at insured multifamily projects, tenant improvements and/or furnishings should not be considered as they are not a responsibility of the mortgagor. Particular attention should be given to aspects of accessibility related to the structure, means of ingress, egress, and public safety (e.g. emergency warnings, exits, etc).

The regulations implementing Title III of the ADA are found at 28 CFR Part 36 and extensive regulatory and technical assistance is available at http://www.ada.gov/.

ADA information and technical assistance is available at 800-514-0301 (voice) and 800-514-0383 (TTY).

APPENDIX 5

ACCESSIBLE AND/OR ADAPTABLE

Accessible

For purposes of Section 504, accessible, when used with respect to the design, construction, or alteration of a facility or a portion of a facility other than an individual dwelling unit, means that the facility or portion of the facility can be "approached, entered and used by individuals with physical handicaps. The phrase *accessible to and usable by* is synonymous with accessible". 24 CFR 8.3.

In reference to the Fair Housing Act, 24 CFR 100.201 defines accessible, when used with respect to the public and common use areas of a building containing covered multifamily dwellings, with the same language as Section 504. However, accessibility requirements are not limited to public and common use areas under either the Fair Housing Act or Section 504.

Accessible Routes

For purposes of the Fair Housing Act, an accessible route is defined as a "continuous unobstructed path connecting accessible elements and spaces in a building or within a site" negotiable by a person with a severe disability using a wheelchair and that is also safe and usable by persons with other disabilities. 24 CFR 100.201. Any route which complies with ANSI A117.1-1986 or a comparable standard is an *accessible route.* For Section 504, 24 CFR 8.3 defines an accessible route as a continuous unobstructed path connecting accessible elements and spaces in a building or facility that complies with the space and reach requirements of applicable standards prescribed by § 8.32. Currently UFAS is the standard under 8.32.

Accessible Units

In regard to dwelling units, the Fair Housing Act requires that all "covered units" (see Appendix 1) with a building entrance on an accessible route have accessible public and common use areas and doors wide enough to allow passage into and within the premises by persons in wheelchairs. Unit interiors must have the following "features of adaptable design:" an accessible route into and through the dwelling; light switches, electrical outlets, thermostats and other environmental controls in accessible locations; reinforcements in bathroom walls to allow later installation of grab bars; and usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space. 24 CFR 100.205(c). By contrast HUD's Section 504 regulations require that multifamily housing projects contain a minimum of 5% of units or at least one unit, whichever is greater, accessible for persons with mobility impairments and an additional 2% of units or at least one unit, whichever is greater, accessible for persons with hearing or vision impairments. In circumstances where greater need is shown, HUD may prescribe higher percentages. Further, accessible units must, to the maximum extent

feasible and subject to reasonable health and safety requirements, be distributed throughout projects and sites and shall be available in a sufficient range of sizes and amenities so that a qualified individual with disabilities' choice of living arrangements is, as a whole, comparable to that of other persons eligible for housing assistance under the same program. 24 CFR 8.6. An accessible dwelling unit is defined as a unit "on an accessible route and adaptable and otherwise in compliance with the standards set forth in Section 8.32".

Adaptability

HUD's Section 504 regulations permit recipients to construct or convert adaptable units. A dwelling unit that is on an accessible route, as defined by HUD's Section 504 regulations and currently UFAS, and is adaptable and otherwise in compliance with the standards set forth in 24 CFR § 8.32 is "accessible". Adaptable or adaptability means the ability of certain building spaces and elements, such as kitchen counters, sinks, and grab bars, to be added or altered so as to accommodate the needs of either disabled or nondisabled persons, or to accommodate the needs of persons with different types or degrees of disability.

As noted the Fair Housing Act requires that the interior of covered units have certain "features of adaptable design". The latter are not to be confused with adaptability, as defined by HUD's Section 504 regulations and UFAS. The "features of adaptable design" required by the Fair Housing Act must be accomplished at the time of construction and not as later alterations or on an "as needed" basis. Similarly, adaptability as defined for Section 504 purposes does not contemplate adding or altering features in a manner requiring construction (e.g., raising a kitchen counter or adding grab bars are examples of adaptable features per Section 504.)

Accordingly, needs assessors may not describe construction as an "adaptation" and thereby omit from the enumeration of critical repairs, (or defer to a later or "as needed" time), construction required to comply with accessibility requirements.

APPENDIX 6

Physical Inspection Report

MODIFICATIONS TO ASTM E 2018-08 REPORT TABLE OF CONTENTS

The table of contents of a Physical Inspection Report is to read as follows:

Cover Letter and Needs Assessment reviewer signature.

1. Executive Summary
    - 1.1. General Description
    - 1.2. General Physical Condition
    - 1.3. Opinions of Probable Costs
    - 1.4. Deviations from the Standard Guide-ASTM E 2018-08
    - 1.5. Recommendations
2. Purpose and Scope
3. System Description and Observations
    - 3.1. Overall General Description
    - 3.2. Site
        - 3.2.1. Topography
        - 3.2.2. Storm Water Drainage
        - 3.2.3. Access and Egress
        - 3.2.4. Paving, Curbing and Parking
        - 3.2.5. Flatwork
        - 3.2.6. Landscaping and Appurtenances
        - 3.2.7. Recreational Facilities
        - 3.2.8. Utilities
            - 3.2.8.1. Water
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            - 3.2.8.3. Natural Gas
            - 3.2.8.4. Sanitary Sewer
            - 3.2.8.5. Storm Sewer
            - 3.2.8.6. Special Utility Systems
                - 3.2.8.6.1. Site Lighting
                - 3.2.8.6.2. Site Security Systems
                - 3.2.8.6.3. Other
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        - 3.3.2. Building Frame
            - 3.3.2.1. Floor Frame System
            - 3.3.2.2. Crawl Spaces and Penetrations
            - 3.3.2.3. Roof Frame & Sheathing System, Including Truss Connectors
            - 3.3.2.4. Flashing & Moisture Protection
            - 3.3.2.5. Attic Spaces, Draft Stops, Roof Vents & Penetrations
            - 3.3.2.6. Insulation
            - 3.3.2.7. Exterior Stairs, Railings, and Balconies, including Connection to Structure

3.3.2.8. Exterior Doors and Entry Systems
3.3.3. Facades or Curtain wall
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3.3.3.2. Fenestration (Window) System
3.3.3.3. Parapets
3.3.4. Roofing and Roof Drainage
3.4. Mechanical and Electrical System
3.4.1. Plumbing
3.4.1.1. Supply and Waste Piping
3.4.1.2. Domestic Hot Water Production
3.4.1.3. Fixtures
3.4.2. Heating
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3.4.2.2. Distribution System
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3.4.3.1. Equipment
3.4.3.1.1. Air Filtration and Air Quality Control Devices
3.4.3.1.2. Exhaust Systems
3.4.3.1.3. Compressors, Heat Exchangers and Air Handlers
3.4.3.2. Distribution
3.4.3.3. Control Systems
3.4.4. Electrical
3.4.4.1. Service, Metering, Distribution Panels
3.4.4.2. Distribution
3.4.4.3. Lighting- Building Common Area
3.4.4.4. Lighting- Units
3.4.4.5. Telecommunication Systems
3.4.4.6. Inspection/Recommendations for Aluminum Wiring
3.5. Vertical Transit-Elevators
3.6. Life Safety/Fire Protection
3.6.1. Sprinklers and Standpipes
3.6.2. Alarm Systems
3.6.2.1. In Common Areas
3.6.2.2. In Tenant Spaces
3.6.3. Other Systems
3.7. Interior Elements
3.7.1. Common Areas
3.7.1.1. Offices
3.7.1.2. Access ways, Corridors, Vestibules, Meeting Places
3.7.1.3. Laundry Facilities and Equipment
3.7.1.4. Indoor Recreation & Equipment
3.7.1.5. Maintenance and Storage
3.7.2. Tenant Spaces
3.7.2.1. Finishes, Walls, Floors
3.7.2.2. Appliances
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3.7.2.4. Kitchen Fixtures and Specialties
3.7.2.5. Millwork, Casework, Cabinets and Countertops
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3.7.2.7. Window Treatments

4. Additional Considerations
5. Document Review and Interviews
6. Opinions of Probable Costs to Remedy Physical Deficiencies
7. Out of Scope Considerations
   - 7.1. Accessibility for Persons With Disabilities
     - 7.1.1. Deficiencies per UFAS in Federally Assisted Housing
     - 7.1.2. Deficiencies per the Fair Housing Act Design and Construction Requirements
     - 7.1.3. Deficiencies in Public Facilities Per Americans with Disabilities Act (ADA)
   - 7.2. Recommended Intrusive Examinations of Particular Components/Systems
   - 7.3. Owner Proposed Improvements and Upgrades
8. Qualifications
9. Limiting Conditions
10. Exhibits
    - 10.1. Description and Estimated Cost of Critical Repairs (excluding Accessibility)
    - 10.2. Description and Estimated Cost of Non-Critical Repairs
    - 10.3. 20 Year Table of Quantities and Annual Estimated Costs
    - 10.4. Corrective Action Plan (for Accessibility Deficiencies, if/when available, may be prepared by others)
    - 10.5. Reports of intrusive examinations or tests (if/when available, may be prepared by others.)