



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-2000

OFFICE OF FAIR HOUSING  
AND EQUAL OPPORTUNITY

April 1, 2019

**VIA ELECTRONIC MAIL & CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

The Honorable Eric Garcetti  
Mayor, City of Los Angeles  
200 North Spring Street  
Los Angeles, CA 90012  
Mayor.garcetti@lacity.org

**Subject: Supplemental Letter of Findings of Noncompliance  
Compliance Review – City of Los Angeles  
Case Numbers: 09-11-R008-4 (Section 504)  
09-11-R008-D (ADA)**

Dear Mayor Garcetti:

This letter reports supplemental findings of the U.S. Department of Housing and Urban Development (HUD or Department), Office of Fair Housing and Equal Opportunity (FHOO) in the compliance review of the City of Los Angeles' affordable housing program. The review was conducted pursuant to Section 504 of the Rehabilitation Act of 1973, as amended (Section 504), 29 U.S.C. § 794, and its implementing regulation at 24 C.F.R. part 8; and Title II of the Americans with Disabilities Act of 1990, as amended (Title II or ADA), 42 U.S.C. § 12131-12134, and its implementing regulation at 28 C.F.R. part 35; and included an examination of whether the City is complying with the accessibility requirements of the Fair Housing Act.

As you know, in a January 11, 2012 letter, FHOO advised the City of its widespread failure to comply with Section 504 and the ADA across the City's affordable housing portfolio. Consistent with its obligation to seek voluntary resolutions with grantees when noncompliance is identified, HUD has repeatedly undertaken efforts to negotiate with the City regarding an appropriate Voluntary Compliance Agreement (VCA) that would remedy noncompliance in the City's current inaccessible affordable housing stock; ensure that future construction of affordable housing meets federal accessibility requirements; and establish policies, procedures, and practices to ensure that its affordable housing program does not discriminate against individuals with disabilities. During these efforts, the City made a variety of representations that it had begun to achieve compliance, including overtures that its entry into a private settlement agreement with organizations representing individuals with disabilities regarding similar issues finally had placed the City on a path towards compliance. Based in part on these representations, HUD undertook additional investigation to determine whether these representations were accurate. HUD's on-site compliance review of housing recently constructed or altered using funds received from HUD confirmed that they were not.

Keenly aware that pursuing enforcement actions, such as termination of funding, could result in harm to the intended beneficiaries of HUD's programs, including thousands of individuals with disabilities, HUD has engaged in extensive efforts to reach a voluntary resolution with the City. Indeed, by pursuing these escalating enforcement actions rather than terminating the City's funding, HUD is intentionally trying to mitigate harm. At this time, because of the City's sustained unwillingness to finalize and execute an appropriate VCA that will put the City on a path towards remedying its past, ongoing, and future violations of federal law, FHEO is now issuing this Supplemental Letter of Findings, urges the City to reach a voluntary resolution, and is prepared to pursue nonvoluntary enforcement mechanisms to obtain compliance.

## **I. Summary of Findings of Noncompliance**

Between June 26-29, 2017, FHEO investigators conducted an onsite accessibility review of sixteen housing developments in the City's affordable housing portfolio. The onsite reviews covered a sample of the properties that were constructed or rehabilitated with funds received from HUD's Community Development Block Grant (CDBG) and Home Investment Partnership (HOME)-programs at various stages of production since FHEO's February 17, 2012 Letter of Determination of Noncompliance. City staff was present at each of the onsite accessibility surveys. FHEO also reviewed thousands of pages of documents, conducted interviews with Los Angeles' Housing and Community Investment Department (HCIDLA) staff, and reviewed materials in the related private litigation. Based on FHEO's 2017 review, as detailed below, the Department finds that the City continues to have significant and widespread accessibility violations throughout its affordable housing program and continues to violate the requirements of Section 504, Title II of the ADA, and their implementing regulations.

None of the sixteen developments FHEO surveyed complied with the required federal accessibility requirements and applicable architectural standards under Section 504, Title II of the ADA, and the Fair Housing Act.<sup>1</sup> For example, FHEO found the following violations:

- Developments lacked a sufficient minimum number of mobility accessible units (5%) and sensory accessible units (an additional 2%) and, in many instances, the designated accessible features for persons with mobility disabilities and persons with sensory disabilities had been placed into a single unit;
- Every designated accessible unit surveyed contained significant accessibility barriers that violated applicable accessibility standards;
- Public and common use areas (areas generally open to members of the public and residents) in developments did not comply with federal accessibility requirements;
- Widespread incidence of individuals *without* disabilities occupying designated accessible units for which individuals with disabilities must have priority access, while individuals with disabilities in the same development occupied non-designated, inaccessible units;
- Developments did not have practices in place that prioritized designated accessible units for

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<sup>1</sup> This Supplemental Letter of Findings does not make findings under the Fair Housing Act; however, many of the violations articulated herein may also constitute violations of the Fair Housing Act and HUD did identify and document numerous Fair Housing Act violations during its onsite reviews.

- the tenants/applicants who need the accessible features; and
- Failure to disperse designated accessible units throughout developments.

In addition to the physical accessibility violations, FHEO also confirmed in its 2017 review that the City continues to have deficient policies and practices with respect to compliance with federal accessibility laws, regulations, and standards. FHEO identified serious issues relating to the City's occupancy monitoring and tenancing of designated accessible units and the City's failure to properly identify or require the use of the applicable federal accessibility standards in its agreements with developers. The City does not conduct sufficient pre-completion onsite reviews or adequate post-construction onsite inspections to ensure compliance with federal architectural accessibility standards. Moreover, the City's loan agreements with its developers demonstrate the City's inconsistent enforcement and failure to require consistent use of the applicable federal accessibility requirements. Finally, FHEO found insufficient policies and monitoring procedures with respect to effective communication requirements.

The City's systemic failure to remedy accessibility violations was similarly confirmed when the court-appointed monitor in the *Independent Living Center* private litigation action filed his semi-annual report with the Court on February 15, 2019, detailing the status of the City's implementation of the private settlement agreement in which the City made a commitment to take certain limited actions to address the lack of accessibility in its housing program. Monitor's Semi-Annual Report for Reporting Period of Sept. 5, 2016, Through Dec. 31, 2018 at 70, *Indep. Living Ctr. of So. Cal., et al. v. City of Los Angeles, et al.*, No. 2:12-cv-00551-FMO-PJW (C.D. Cal. Feb. 15, 2019), ECF No. 631 (hereinafter "*Independent Living Center* Monitor's Report"). FHEO reviewed the Monitor's Report, which further demonstrates the dire lack of progress by the City to meet its federal accessibility obligations.

In sum, the City remains woefully out of compliance with Section 504 and Title II of the ADA.

## **II. Findings of Noncompliance in the City's Affordable Housing Program**

Section 504 prohibits discrimination against any qualified individual with disabilities solely on the basis of his or her disability in any program or activity receiving Federal financial assistance. 29 U.S.C. § 794; *see also Alexander v. Choate*, 469 U.S. 287 (1985). The Department's Section 504 regulation provides that no otherwise qualified individual with disabilities shall, solely on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives federal financial assistance from the Department. 24 C.F.R. § 8.4. A recipient is defined to include, among others, "any State or its political subdivision, any instrumentality of a State or its political subdivision, any public...agency, ...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..." 24 C.F.R. § 8.3.

The City is a recipient of federal financial assistance and receives funding from the following HUD programs, among others: CDBG, HOME, and Housing Opportunities for Persons With AIDS (HOPWA). As such, the City is a recipient of federal financial assistance and must comply with Section 504 and HUD's Section 504 implementing regulation at 24 C.F.R. part 8. 24 C.F.R. § 8.3.

Title II of the ADA similarly prohibits discrimination on the basis of disability in the services,

programs, and activities of public entities, including agencies of state and local governments. 42 U.S.C. § 12132; *see also Pa. Dep't of Corrs. v. Yeskey*, 524 U.S. 206, 209-10 (1998). The City is a public entity and all of its programs, services, and activities, including those related to housing, must comply with the requirements of Title II of the ADA and its implementing regulation at 28 C.F.R. part 35. 28 C.F.R. §§ 35.104, 35.130; *see also Lovell v. Chandler*, 303 F.3d 1039, 1052 (9th Cir. 2002), cert. denied, 537 U.S. 1105 (2003).

Based on FHEO's review, as detailed below, the City continues to violate Section 504 and Title II of the ADA. By failing to ensure accessibility in its affordable housing stock, failing to provide individuals with mobility impairments and individuals with vision and hearing impairments with units containing the accessibility features they need, and otherwise failing to meet the minimal access requirements of federal law, the City is:

- Denying qualified individuals with disabilities the opportunity to participate in, or benefit from housing, aids, benefits, or services, 24 C.F.R. § 8.4(b)(1)(i); 28 C.F.R. § 35.130(b)(1)(i);
- Affording qualified individuals with disabilities the opportunity to participate in and benefit from housing, aids, benefits, or services that are not equal to others, 24 C.F.R. § 8.4(b)(1)(ii); 28 C.F.R. § 35.130(b)(1)(ii);
- Impairing qualified individuals with disabilities in obtaining the same result or gaining the same benefit as provided to others, 24 C.F.R. § 8.4(b)(1)(iii); 28 C.F.R. § 35.130(b)(1)(iii); and
- Otherwise limiting qualified individuals with disabilities in the enjoyment of the rights, privileges, advantages, and opportunities enjoyed by other qualified individuals receiving the housing, aids, benefits, or services. 24 C.F.R. § 8.4(b)(1)(viii); 28 C.F.R. § 35.130(b)(1)(vii).

In addition, FHEO finds the City to be in noncompliance with a variety of Section 504 and Title II specific requirements, as follows.

#### **A. Physical Accessibility Violations**

HUD's Section 504 regulation and the U.S. Department of Justice's (DOJ) Title II ADA regulation both contain physical accessibility requirements for facilities. 24 C.F.R. §§ 8.20, 8.22, 8.23, 8.24, 8.32; 28 C.F.R. §§ 35.149, 35.150, 35.151. HUD's Section 504 regulation requires that new construction and substantial alteration of multifamily housing projects include at least 5% accessible units for persons with mobility disabilities, and an additional 2% accessible units for persons with hearing or vision disabilities, and that other alterations be made accessible to the maximum extent feasible. 24 C.F.R. §§ 8.22, 8.23.<sup>2</sup> HUD may also prescribe a higher percentage or number of required accessible units. 24 C.F.R. §§ 8.22(c), 8.23(b)(2); *see also* 28 CFR § 35.151. DOJ's Title II ADA regulation and the 2010 ADA Standards mirror this requirement and similarly require a minimum of 5% mobility and 2% sensory units in the developments in the City's

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<sup>2</sup> A multifamily housing project for purposes of HUD's Section 504 regulation is defined as a project containing five or more dwelling units. 24 C.F.R. § 8.3.

affordable housing program. *See* 28 C.F.R. § 35.151(c)(2)-(5), App.; 2010 ADA Standards §§ 233. Section 504 and Title II ADA regulations also require that an entity operate each service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. 24 C.F.R. §§ 8.20, 8.24; *see also* 28 C.F.R. §§ 35.149, 35.150.

Among other requirements, designated accessible dwelling units and public and common use areas must comply with federal architectural standards. For Section 504 compliance, HUD requires compliance with the Uniform Federal Accessibility Standards (UFAS), or HUD's Notice on Instructions for Use of an Alternative Accessibility Standard (HUD's Deeming Notice), which allows for compliance with the 2010 ADA Standards for Accessible Design (2010 ADA Standards) with identified HUD Exceptions.<sup>3</sup> 24 C.F.R. § 8.32. For Title II ADA compliance, the 2010 ADA Standards are currently required for certain new construction and alterations (based on construction dates). 28 C.F.R. § 35.151. The design and construction requirements of the Fair Housing Act must be met, where applicable.

In 2017, FHEO conducted accessibility surveys of the following sixteen City-funded developments: (1) 28th Street YMCA; (2) Beswick Senior; (3) Broadway Villas; (4) Hollenbeck Terrace/Linda Vista; (5) Jefferson Park Terrace; (6) New Genesis; (7) NoHo Senior Apartments; (8) Normandie Terrace; (9) Panama Hotel Apartments; (10) Riverwalk at Reseda; (11) Rosslyn Hotel; (12) Sherman Village Apartments; (13) Star Apartments; (14) The Crossings on 29th Street; (15) The Gordon; and (16) Vermont Family Apartments. The developments surveyed had completion dates between January 2013 and March 2017, while one development—Panama Hotel Apartments—was under construction at the time of the survey. All projects received HOME funding, and two also received CDBG funding, since the 2012 Determination of Noncompliance. The projects included both new construction and rehabilitation which amounts to substantial alteration for purposes of Section 504.<sup>4</sup>

Based on FHEO's review, the Department finds that the City continues to fail to ensure that developments funded with federal financial assistance contain the required minimum number of accessible dwelling units and have accessible public and common use areas in accordance with federal accessibility requirements and applicable federal architectural standards. 24 C.F.R. §§ 8.20, 8.22, 8.23, 8.24, 8.32; 28 C.F.R. §§ 35.149, 35.150, 35.151. The Department also finds the City has failed to meet its overall program access obligations. 24 C.F.R. §§ 8.20, 8.22, 8.23, 8.24; 28 C.F.R. §§ 35.149, 35.150; 35.151. FHEO consistently found numerous accessibility deficiencies throughout the various units, developments, and common use areas. The following highlights some of the most serious and recurring accessibility violations.

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<sup>3</sup> *See* Nondiscrimination on the Basis of Disability in Federally Assisted Programs and Activities, 79 Fed. Reg. 100 (May 23, 2014) (HUD's Deeming Notice). The Notice permits HUD recipients to utilize the 2010 ADA Standards for Accessible Design with the identified exceptions until such time when HUD updates its Section 504 regulation to adopt an updated accessibility standard for purposes of Section 504 compliance.

<sup>4</sup> Rehabilitation that constitutes "substantial alteration" as defined by HUD's Section 504 regulation is subject to new construction requirements. 24 C.F.R. §§ 8.23(a), 8.22.

## 1. Inaccessible Dwelling Units at Every Surveyed Development

Based on FHEO's review, the Department finds the City has failed to ensure designated units are accessible in accordance with federal accessibility requirements and applicable federal architectural standards, and similarly failed to monitor developers to ensure compliance with the federal accessibility requirements. 24 C.F.R. §§ 8.20, 8.22, 8.23, 8.24, 8.32; *see also* 28 C.F.R. §§ 35.149, 35.150, 35.151. None of the designated accessible units in the sixteen properties surveyed complied with federal accessibility requirements and the applicable federal architectural standards under UFAS, HUD's Deeming Notice, and the 2010 ADA Standards. By failing to provide even the minimum number of designated accessible units in accordance with federal accessibility requirements, the City has significantly impaired the availability of affordable, accessible housing opportunities for individuals with disabilities. Examples of recurring accessibility violations in individual dwelling units include:

- **Bathrooms:** Uninsulated pipes beneath sinks, which can result in catastrophic burns or puncture wounds to the legs of wheelchair users; toilet centerlines not mounted 18" from the closest side wall, thus too far from the wall for a wheelchair user to safely transfer (in at least one instance the centerline was mounted 21" from the closest side wall); grab bars mounted in incorrect locations or incorrect heights, meaning individuals with mobility disabilities cannot shower or bathe without the risk of falling; bathroom sinks lack removable base cabinets rendering them inaccessible to wheelchair users; inaccessible shower slopes, causing an extreme wheelchair tipping hazard; insufficient knee clearance measured from the floor to the bottom of the lavatory bowl; mirror and medicine cabinets too high and out of reach to be utilized by a wheelchair user.
- **Kitchens:** Lack of removable base cabinets, which render the kitchen, sink, and countertop unusable to wheelchair users; uninsulated pipes that could result in serious burn hazards; sinks and surrounding counters mounted more than a maximum 34" above the finished floor, making them unusable for wheelchair users; oven controls and range controls located behind burners, causing a burn hazard; noncompliant hood fan controls, resulting in potential fire risks if wheelchair users cannot operate the hood fan.
- **Lack of Clear Floor Space:** Units lacked sufficient turning space for wheelchair users, preventing entry, exit, and the ability to turn around or move freely within one's own unit.
- **Closets:** Closet doors measured less than 32", meaning a wheelchair user cannot access and use the closet.
- **Doors:** Doors throughout dwelling units had opening forces exceeding 5 pounds, meaning that persons with mobility disabilities would be unable to independently and freely move throughout units.
- **Balconies:** Balcony thresholds were too high, exceeding the maximum standard, resulting in wheelchair tipping and flipping hazards and rendering a part of the dwelling unit unsafe for and unusable by wheelchair users.

Moreover, at certain developments, property managers informed the FHEO review team that the designated hearing and vision accessible units were the same units as the designated mobility accessible units, further confirming violations that FHEO found on site. Accordingly, FHEO finds that developments lacked the minimum required 5% mobility accessible units and additional 2% accessible sensory units, and that, in some cases, units that contained some of the required accessible features for mobility and sensory units were combined into a single unit, resulting in an inadequate number of units designated to serve different populations of persons with disabilities. 24 C.F.R. §§ 8.20, 8.22, 8.23, 8.24, 8.32; *see also* 28 C.F.R. §§ 35.149, 35.150, 35.151.

These findings are the same types of widespread, serious physical accessibility violations found during FHEO's 2011 compliance review. In 2011, the FHEO review team surveyed a total of thirty-one units at eleven properties: (1) The Gallery at NoHo Commons; (2) The Lofts at NoHo Commons; (3) Vermont Senior Apartments; (4) Triangle Square Apartments (also known as Encore Hall Senior Housing); (5) Palomar Apartments; (6) Buckingham Place Senior Housing; (7) Metro Hollywood Apartments; (8) Colonia Corona Apartments; (9) Hart Village Apartments; (10) Rio Vista Apartments; and (11) Vista Monterey Senior Housing. The Department provided these survey reports to the City as part of the 2012 LOF. The most serious and recurring deficiencies observed in 2011 with respect to bathrooms and kitchens included:

- **Bathrooms:** The reviewers consistently found that the grab bars are not the appropriate length, or are mounted in incorrect locations, or are not located at the appropriate height; consumer information regarding adaptability of the unit is not provided in the unit; there are fixed cabinets under the lavatory (i.e., sink), which prevents a sufficient knee clearance rendering the lavatory unusable by wheelchair users; the hot water and drain pipes are not insulated or otherwise covered; and the centerline of the water closet is not mounted 18" from the closest side wall.
- **Kitchens:** Reviewers consistently found that the sink and surrounding counter is mounted more than the maximum height of 34" above the finished floor; the base cabinet provided under the sink is not removable under the full 30" wide minimum frontage of the work surface making these spaces unusable by wheelchair users; the height of at least one shelf of all wall cabinets mounted above the work counter exceeds the maximum height of 48" above the finished floor; and the hot water and drain pipes are not insulated or otherwise covered.

Notably, the U.S. Department of Justice (DOJ) found the same and similar architectural violations at numerous other properties designed, constructed, or altered by the City. DOJ surveyed a number of developments in the City's affordable housing portfolio, including: (1) 36th St and Broadway; (2) 4070 Ursula; (3) Afton Place; (4) Amistad; (5) Angels Step In; (6) Angelina; (7) Apple Tree; (8) Argyle Arms; (9) Art Share; (10) Asbury Apartments; (11) Avalon Place Senior; (12) Benton Green; (13) Blossom Plaza; (14) Blythe Street; (15) Buckingham Seniors; (16) Casa Libre/Freedom House; (17) Casa Verde; (18) Central City Family; (19) Chancellor; (20) Charleston; (21) Colorado Terrace; (22) Columbus Square; (23) Discovering Horizon; (24) Eagle Vista – Teague; (25) EADS; (26) Eastside Village; (27) EHOP (Enterprise Home Ownership) aka Las Mariposas; (28) El Centro Loretto; (29) Eugene Hotel; (30) Figueroa Apartments; (31) Figueroa Oak; (32) Gallery at NoHo; (33) Greater Bethany (CRCD); (34) Hart Village; (35) Highland Village; (36) Hoover St. Apartments; (37) Hudson Apartments; (38) Ivy Terrace; (39) Jackson

Court; (40) Jenesse Center; (41) Knob Hill; (42) La Brea; (43) LDK – Crenshaw; (44) LDK – Kingsley; (45) Lofts at NoHo Commons; (46) Lyndon Hotel; (47) Main St. (Umoja); (48) Meridian; (49) Metro at Hollywood; (50) Michael’s Village; (51) Miramar City Lights; (52) Miramar Village; (53) Marmion Way; (54) Mission Plaza Apartments; (55) Moonlight Villas; (56) Mt. Zion Towers; (57) My Town Home; (58) New Dana Strand; (59) New Hope Courtyard; (60) Noble; (61) One Santa Fe; (62) Palms Manor; (63) Park Lane Family Housing; (64) Park Place; (65) Paseo at Californian; (66) Penny Lane Permanent Housing Center; (67) Pueblo Esparanza; (68) Rio Vista; (69) Rittenhouse Square; (70) Rock View Senior; (71) Rolland Curtis; (72) Sage Park; (73) Saticoy Gardens; (74) Second Ave; (75) Senderos; (76) Serrano; (77) Sheraton Town House; (78) Southern Hotel; (79) St. Anne’s Transitional; (80) Taylor Yard; (81) Terre One Apartments; (82) The Six; (83) Vermont Seniors; (84) Vermont Villas; (85) Villa Paloma Transitional (group home); (86) Washington 722 TOD; (87) West Angeles; (88) Whittier; (89) Whittier Place; (90) Willow Tree Village; (91) Winnetka Senior; (92) Witmer Heights; (93) Yale Terrace.

FHEO has determined, based on DOJ’s surveys of these properties, that these properties do not comply with federal accessibility requirements. DOJ identified accessibility violations in specific dwelling units of inaccessible properties that are part of the City’s affordable housing program. Examples include accessibility barriers involving doorways, kitchens, bathrooms, sinks, bathroom lavatories, toilets, inaccessible routes and missing ramps, inaccessible balconies, inaccessible kitchens, and inaccessible bathrooms, as well as an insufficient number of designated accessible units.

Moreover, statements by City officials further demonstrate the City’s failure to apply and require subrecipient compliance with the correct physical accessibility standards – contributing to the types of recurring, widespread, accessibility violations described above. For example, in deposition testimony taken on November 18, 2015 in the related private litigation, the General Manager of HCIDLA stated in response to a question regarding the consistency between the California Building Code (CBC) and the federal accessibility standards that it was his “personal opinion and the opinion of many in the City was that the California Building Code standard was equivalent to or more stringent than the federal standard requirements with the exception of perhaps a handful of requirements, and that was the prevailing feeling within the City of Los Angeles.” Transcript of Deposition of the General Manager of HCIDLA at 75, *Indep. Living Ctr. of So. Cal., et al. v. City of Los Angeles*, et al., No. 2:12-cv-00551-FMO-PJW (C.D. Cal. Nov. 18, 2015) (hereinafter “HCIDLA General Manager Deposition”). By contrast, in an interview with FHEO on June 27, 2017 as part of the 2017 onsite, the City’s Accessibility Consultant stated the “City has used Deeming Notice in full since it came out.” In any event, the building practices and as-built conditions demonstrate that the appropriate federal accessibility standards historically have not been and are not being applied.

Finally, the February 15, 2019 Monitor’s Report in the *Independent Living Center* litigation similarly found the City’s use of incorrect standards, leading to the systemic physical accessibility violations FHEO has previously found and again finds in this Letter. For example, the Report notes that the Survey Standards, which have been agreed to by the parties, “deviate substantially from the requirements of UFAS and do not appear to be justified by any applicable exception to those requirements.” *Independent Living Center* Monitor’s Report at 47. The Report expressly states, “[T]he Parties need clarity on this issue and standards.” *Independent Living Center* Monitor’s Report at 49. Moreover, the Report notes that the City is relying on instructions, checklists,



protocols, and assessment tools for new construction and substantial rehabilitation of developments that depart significantly from the standards required by Section 504 and the ADA. *Independent Living Center Monitor's Report* at 55.

In sum, the City has paradoxically represented both that it follows the wrong standard and that it follows one of the correct standards, but nonetheless the as-built conditions, as determined by HUD, the DOJ, and the court-appointed *Independent Living Center Monitor*, reflect that the City consistently fails to ensure that developments meet the federal accessibility standards applicable under Section 504 and Title II of the ADA.

## 2. Inaccessible Common Use Areas Throughout Surveyed Developments

Based on FHEO's review, the Department again finds that the City continues to fail to ensure that common use areas within its affordable housing developments are accessible in accordance with federal accessibility requirements and applicable federal architectural standards under UFAS, HUD's Deeming Notice, and the 2010 ADA Standards, and failed to monitor such developments for compliance with the federal accessibility requirements. 24 C.F.R. §§ 8.20, 8.22, 8.23, 8.24, 8.32; *see also* 28 C.F.R. §§ 35.149, 35.150, 35.151. For example, serious violations include:

- **Accessible Ramps and Routes:** Developments lacked accessible routes throughout, making it extremely challenging, if not impossible, for individuals with mobility impairments to reach designated accessible units or other areas within a development. Designated accessible routes to entrances had slopes greater than 5% and therefore must be considered ramps; ramps did not have handrails on both sides of a ramp segment. This is a serious safety hazard for persons with mobility impairments who use wheelchairs, walkers, canes, and braces.
- **Accessible Parking:** Developments lacked the required minimum number of accessible parking spaces; designated accessible parking spaces are not located on the shortest route to the nearest designated accessible entrance; and tenants with disabilities are not assigned parking spaces closest to the designated accessible entrance.
- **Doors:** Entrance doors to community rooms, kitchens, laundry rooms, resident services offices, and public restrooms had opening forces that exceed 5 pounds, meaning individuals with mobility disabilities would be unable to independently and freely access or leave these areas until another person is available to provide assistance.
- **Toilet Rooms:** Uninsulated pipes beneath sinks, which could cause catastrophic burns or puncture wounds to the legs of wheelchair users; toilet centerlines not mounted 18" from the closest side wall, thus too far from the wall for a wheelchair user to safely transfer; grab bars mounted in incorrect locations or incorrect heights, meaning individuals with mobility disabilities cannot transfer to toilets without the risk of falling; and insufficient knee clearance measured from the floor to the bottom of the lavatory bowl.
- **Shared Kitchens:** Lack sufficient knee clearance under base cabinets, rendering the kitchen, sink, and countertop unusable to wheelchair users; uninsulated pipes that could cause catastrophic burns and puncture hazards for wheelchair users; sinks and surrounding counters

mounted more than a maximum 34” above the finished floor, making them unusable for wheelchair users; and oven controls and range controls located behind burners, causing a significant burn hazard.

- **Laundry Rooms:** There were inaccessible routes between washers and dryers, creating an insufficient clear width that denies access to amenities for persons with mobility disabilities at their residences.

These 2017 violations supplement and are among the same types of accessibility violations FHEO found in its 2012 LOF.

Similarly, FHEO has determined, based on DOJ’s surveys of the 93 properties identified above, that those properties fail to comply with the federal accessibility requirements for providing accessible public and common use areas. For example, DOJ identified accessibility violations that prevent wheelchair users from maneuvering in public and common use areas, including inaccessible laundry rooms, community rooms, trash rooms, mail facilities, elevators, and inaccessible routes and missing ramps.

### **3. Designated Accessible Units Are Clustered in Location and Bedroom Size Within Developments**

Based on FHEO’s 2017 review, the Department finds the City in violation of HUD’s Section 504 requirements regarding dispersal of designated accessible dwelling units. 24 C.F.R. § 8.26. Accessible dwelling units must, to the maximum extent feasible, be distributed throughout projects and sites and must be available in a sufficient range of sizes and amenities so that individuals with disabilities are afforded a comparable array of housing choices to those afforded to individuals without disabilities. 24 C.F.R. § 8.26.

FHEO consistently observed that designated accessible dwelling units were not dispersed throughout developments. As one example, at a surveyed development that consisted of an original building and an addition completed in 2012, the designated mobility accessible units were clustered together on the second floor of the original building, while no accessible units were located in the newly constructed addition. In another development that included one-, two-, and three-bedroom units, the designated accessible units were two-bedroom units, thus failing to have accessible units in a range of sizes and effectively restricting housing choice for persons with disabilities who may want to live in this particular development.

Again, these findings are consistent with FHEO’s 2012 Findings regarding the failure to disperse designated accessible units within developments surveyed at that time.

### **B. Deficient Policies, Procedures, and Practices Resulting in Violations of Section 504 and Title II of the ADA**

As detailed above, Section 504 and Title II ADA regulations include physical accessibility requirements for new construction and alterations and require that an entity operate each service, program, or activity so that the service, program, or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities. 24 C.F.R. §§ 8.20, 8.22, 8.23, 8.24, 8.32;

28 C.F.R. §§ 35.149, 35.150, 35.151. Accessible units must also be tenanted to maximize the utilization of units by individuals with disabilities who need the accessibility features of the units and information regarding the availability of accessible units must reach eligible individuals with disabilities. 24 C.F.R. § 8.27. A recipient, in providing any housing, aid, benefit, or service in a program or activity that receives federal financial assistance from HUD may not, directly or through contractual, licensing, or other arrangements, deny individuals with disabilities the opportunity to participate in or benefit from the program or activity. 24 C.F.R. § 8.4(b)(1)(i)-(v); *see also City of LA v. AECOM Servs.*, 854 F.3d 1149, 1157-58 (9th Cir. 2017) (“[A]n important component in a city’s doing all it can to fulfill its duties under the ADA and § 504 is to require as part of its contracts with necessary third party entities that the requirements of those statutes be met.”). Additionally, HUD’s Section 504 regulation requires subrecipients of federal financial assistance to submit an assurance to the primary recipient of federal financial assistance that it will comply with the requirements of HUD’s Section 504 regulation. 24 C.F.R. § 8.50(a).

FHEO received and reviewed files from the City on approximately fifty housing developments, including the sixteen developments that FHEO surveyed. These files generally consisted of: requests for proposals (RFPs) or notices of funding availability (NOFAs) from the City calling on developers to apply for funding to develop affordable housing; the developer’s application; HCIDLA staff recommendations on the RFPs/NOFAs; a preconstruction package, including loan agreements, architectural plans, and an accessibility matrix; architectural design reviews; construction documents, including construction meeting reports and as-built plans; reports from a certified accessibility specialist (CASp); the project completion form; and the management and tenant selection plan for the development. The files also included emails between the City and developers regarding accessibility or lack thereof. Following the onsite, FHEO requested, received, and reviewed additional information on five of the properties it surveyed: (1) Jefferson Park Terrace; (2) Linda Vista Apartments (Phase II); (3) NoHo Senior Villas; (4) Normandie Terrace; and (5) The Gordon.

## **1. The City Fails to Monitor Developers and Require Compliance with the Federal Accessibility Standards**

The City fails to engage in adequate oversight of its developers throughout the process of developing affordable housing to ensure compliance with federal accessibility requirements that the City must meet because of its receipt of federal funds. The HCIDLA’s Architectural Unit staff is not adequately knowledgeable, which was evident to the FHEO team during the 2017 onsite and clear from the development files. This failure is present at each stage of development. For instance, in 2013, the City began requiring the developers of its federally-funded projects to retain a “certified accessibility specialist” (CASp) to provide a report to the City upon project completion that the development complies with federal accessibility standards. This was also noted during FHEO’s interview of City personnel during the 2017 onsite review and continues to be the City’s practice. *See, e.g.,* HCIDLA, Accessibility (ADA) Compliance Requirements, at <http://hcidla.lacity.org/Accessibility-compliance> (last visited Mar. 17, 2019). The City’s Accessibility Consultant, interviewed by FHEO on June 27, 2017, noted that it relied on CASps because the City did not have the personnel to conduct the type of review necessary for compliance with the federal accessibility standards. Based on FHEO’s review, CASps do not necessarily have the requisite knowledge or expertise to determine compliance with federal accessibility requirements, since their key area of focus is compliance with state accessibility requirements.

The CASp is not a City employee; however, the City's Architectural Unit relies on the reports of CASps in order to sign the City's "Project Completion Form." In many instances, based on FHEO's review of the City's records, a CASp report was provided, identified some accessibility violations and the City's Architectural Unit subsequently signed off on the Project Completion Form without evidence that the violations had been remedied. Even if the file contained evidence of an attempt to remedy some violations identified by a CASp, the CASp reports did not identify all violations (which FHEO determined existed based on its own onsite surveys), and in some instances, did not rely on the proper accessibility standard to make a determination regarding compliance. The continued and ongoing reliance by the City on CASp reports to ensure compliance with federal accessibility standards is but one example of the City's deficient procedures for ensuring actual, post-construction compliance with federal accessibility standards.

The City's Accessibility Consultant stated during FHEO's interview that the City intended to continue to require developers to rely on CASps, who are supposed to review the plans for compliance with the federal accessibility requirements and the California Building Code prior to the project moving forward. In addition, the City has a policy that it will not release the last 10% of funds to a developer until all requirements, including compliance with the federal accessibility requirements, have been satisfied. The City's Accessibility Consultant specifically stated that, "HCIDLA will not release the 10% retention money until the CASp does the final inspection." However, based on the review of the files of many HCIDLA properties, FHEO found that the City does release the 10% retention money even when the CASp identifies accessibility violations during the final inspection without those violations being remediated.

Likewise, in response to the following question posed during a deposition in the private litigation, "Did [the City] conduct any routine inspections to identify units that were out of compliance with the UFAS requirement during the affordability period?" the General Manager of HCIDLA stated: "Not that I am aware of[,]" on November 18, 2015. HCIDLA General Manager Deposition at 131. In response to the question, "So no money can be distributed from [HCIDLA] until [HCIDLA] and its outside consultant are satisfied that a project meets the UFAS requirements; is that right?" HCIDLA's General Manager replied, "No. . Funds are distributed; however, the department withholds final retention until such time that the City is satisfied that the building has been constructed as to the standard that is required..." *Id.* at 84. The City's Accessibility Consultant stated during her interview that the City relies on the project completion form to determine whether the retention should be released. However, upon review of documents in 2017, including files relating to the dispersal of funds to developers upon project completion, FHEO found that the retention funds had been paid out to developers for projects that had significant accessibility violations. For example, a development that FHEO surveyed in 2017 at which it found significant violations, had a project completion form with the box for "The project has obtained the services of an Independent Certified Accessibility Consultant (CASp) and has provided the required final report to our Architectural Unit stating the project is in compliance with all applicable accessibility requirements" checked.

Another example of the City's failures to implement effective policies and procedures is with respect to its requirements of developers to comply with federal accessibility requirements. The City provides the developers with funds, including federal funds from HUD, so they can develop affordable housing throughout the City. A review of a sample of five City loan agreements

executed since FHEO's prior findings reveal either that the City does not provide its developers with adequate or accurate contractual language to ensure compliance with the federal accessibility standards, or, even if the contractual language on its face contains language that could result in compliance with the federal accessibility standards, the City does not comply with or enforce the terms of the loan agreement against developers, resulting in the development of inaccessible housing supported by federal funds.

Panama Hotel Apartments exemplifies this failure. The loan agreement, executed in March 2016, states that the developer "shall not commence construction until [the City] has issued a written notice to proceed. [The City] shall authorize the issuance of a notice to proceed when all construction requirements have been met, including but not limited to the submission and approval of the following: A.) All design documents, including final plans and specifications, scope of work and/or physical needs assessment and CASp report certifying that the project is in compliance with 540/ADA [sic] regulations..." The City's Accessibility Consultant stated during her interview that the dispersal of accessible units in a development is handled at the plan review stage by the CASp and HCIDLA staff. As such, the City had an apparent policy that it would not allow developers to begin construction until the City confirmed that the plans were in compliance with Section 504 and the ADA.

The same day the Panama Hotel Apartments loan agreement was executed the City provided the developer with an Architectural Design Review letter which stated, "The construction documents for this project are consistent with the HCIDLA Architectural Guidelines." The letter further detailed certain specifications that would need to be provided prior to project completion to ensure accessibility; however, the listed items did not include the dispersal of designated accessible units in accordance with 24 C.F.R. § 8.26. Similarly, numerous CASp reports for the project identify what those individuals believe would need to be done to come into compliance with the federal accessibility standards, but none of them identify the dispersal of designated accessible units as a requirement. 24 C.F.R. § 8.26. While on site, FHEO obtained the architectural plans for Panama Hotel Apartments and surveyed the development. FHEO found that the designated accessible units were clustered on the first floor and not dispersed throughout the project in accordance with HUD's Section 504 regulation. Thus, the City's own policies to ensure compliance were either ignored or wholly ineffective and amount to the City's abnegation of its obligation to comply with the federal accessibility standards.

## **2. The City Lacks Sufficient Policies and Practices to Ensure Utilization of Accessible Units and Appropriate Occupancy Monitoring**

The City fails to ensure compliance with tenancy and occupancy requirements designed to ensure accessible units are occupied by individuals with disabilities who need the accessibility features of the units. 24 C.F.R. § 8.27.

During an investigative interview, the City's Accessibility Consultant explained the process the City employs for lease up of newly constructed developments and occupancy monitoring for existing developments. She explained that when a development is 50% constructed, the City tells the developer to create a management plan, which includes Affirmative Fair Housing Marketing Plans, procedures for lease up, waitlists, identification of accessible units, application processes, and policies. The City's Accessibility Consultant stated that occupancy monitoring is conducted every

two years when a development has more than 50 units and every three years if a development has less than 50 units.

According to the City's Accessibility Consultant, the electronic system HCIDLA used to conduct occupancy monitoring did not initially contain fields for identifying designated mobility and sensory units and whether the tenant(s) occupying those units needs the accessible features. City representatives told FHEO on June 27, 2017 that although these columns were added, they were not completely filled in. Nonetheless, while conducting its onsite review in 2017, FHEO found that property managers did not know whether there were tenants with disabilities residing at the developments, and on some occasions represented that there were none. For example, at one location, the property manager informed FHEO that there were no tenants in wheelchairs and no tenants that use walkers or had other visible disabilities. A tenant at the same development, however, contradicted the manager and stated that he uses a walker periodically. While the tenant indeed had a physical disability, this tenant did not reside in a designated accessible unit. At this same property, individuals without disabilities – and who confirmed they did not have physical disabilities – lived in the designated accessible units (though the units were nonetheless inaccessible).

At another property, the property manager indicated that no persons using wheelchairs resided at the property. During the onsite, the property manager identified a designated accessible unit that was unoccupied for survey. Following the survey of that unit, which did not comply with all applicable accessibility requirements but would allow a wheelchair user at least minimal access to the entire unit, including the bathroom, FHEO investigators encountered a wheelchair user who lived around the corner from the unit in an inaccessible unit that required her to transfer in and out of her wheelchair to use the bathroom because the unit lacked an accessible route necessary for wheelchair access to the bathroom.

Similarly, at another location, a property manager told FHEO that he was new and did not know if there were any designated sensory units. Likewise, at a fourth location, which had five designated mobility units, only two of the units were occupied by wheelchair users. The maintenance supervisor at that development, however, informed FHEO that there were other tenants who were wheelchair users who did not reside in designated accessible units. As such, the City continues to lack important elements of its occupancy monitoring to ensure that individuals with disabilities are appropriately matched with units that meet their needs.

The *Independent Living Center* Monitor similarly found that “The City does not have data on who is occupying potentially accessible units. Currently, the City relies on property managers and owners to rent and select tenants for potentially accessible units.” *Independent Living Center* Monitor's Report at 70.

As a further example, the City's Coordinated Entry System (CES), required to be used by many properties to prioritize housing for homeless persons, does not have the capability to effectively match individuals with disabilities to designated accessible units that meet their accessibility-related needs. The City's representative confirmed this to FHEO during the 2017 onsite. Likewise, the *Independent Living Center* Monitor found that “the CES system appears not to comply with existing legal standards and may impede implementation of the [settlement][,]” and that City reported to him “that it presently relies on property managers and owners to identify available CES units on an ad

hoc basis.” *Independent Living Center Monitor’s Report* at 93.

Moreover, FHEO’s review of the HCIDLA website showed that the City, while providing information to the public about affordable housing developments, fails to provide information an individual with a disability would need to locate an available accessible unit. For example, the website fails to provide information regarding whether a development has designated accessible units, the features available in such units, and whether any of the units are available. Instead, the website only provides the total number of units in a particular development. The *Independent Living Center Monitor* similarly found that the list of covered housing developments available on the City’s website “does not contain any information about accessible units, availability of accessible units for rent, the features of accessible units, the application process, application forms, waitlist information or affordability.” *Independent Living Center Monitor’s Report* at 77-78.

While on site in 2017, the City provided FHEO with a copy of the City’s then recently developed materials for a first run of a training entitled “Fair Housing for People with Disabilities: A Workshop for Property Owners and Managers of City-Assisted Affordable Housing.” FHEO found, based on a review of the materials, that the training itself was conducted before the City had a final policy with which the owners and managers must comply. These findings were confirmed by the Monitor in the private litigation: “The City’s informal monitoring findings suggest that the training program [for property owners and managers] has not been very effective in overcoming barriers to compliance by owners and property managers, despite the City’s statistics. The findings indicate owners and managers are unaware even of whether their developments have accessible units and who is occupying such units, and property manager [sic] have a high turnover rate.” *Independent Living Center Monitor’s Report* at 83.

Similarly, the Monitor stated that he believes “[T]he absence of an effective, functioning [Monitoring, Compliance and Enforcement] Plan to backstop voluntary compliance by owners and property managers is a significant omission with respect to ensuring affirmative marketing, uniform application, waiting list, and tenant selection practices, effective communication with people with disabilities, assistance and support animals, the provision of reasonable modifications and reasonable accommodations, and grievance procedures.” *Independent Living Center Monitor’s Report* at 73.

For these reasons, FHEO finds that the City’s policies are inadequate to ensure that individuals with disabilities are provided equal access to the City’s affordable housing program.

### **3. The City Does Not Ensure Effective Communication with Individuals with Disabilities in its Affordable Housing Program**

HUD’s Section 504 regulation requires recipients of federal financial assistance to take appropriate steps to ensure effective communication with applicants, beneficiaries, and members of the public. 24 C.F.R. § 8.6(a). This means that the recipient, including subrecipients, shall furnish appropriate auxiliary aids where necessary to afford an individual with disabilities an equal opportunity to participate in, and enjoy the benefits of, a program or activity receiving federal financial assistance. Recipients are required to adopt and implement procedures to ensure that interested persons (including persons with impaired vision or hearing) can obtain information concerning the existence and location of accessible services, activities, and facilities. 24 C.F.R. §

8.6(b). These requirements are also similarly mandated by Title II of the ADA. *See* 28 C.F.R. § 35.160.

The Department finds that the City has failed to take appropriate steps to ensure communications with applicants, participants, and members of the public with disabilities are as effective as communications with others through the important and often necessary information it provides on its website, <http://hcidla.lacity.org>. *See* 24 C.F.R. § 8.6(a); 28 C.F.R. § 35.160(a). The City provides information on its website for applicants, participants, and members of the public to, among other things, identify housing developments, obtain contact information for leasing personnel at the housing developments, file accessibility complaints and grievances, review and download policies (including those purported to address accessibility and nondiscrimination requirements), and generally obtain information about affordable housing in the City.

Notably, the City links to an “Accessibility” policy at the footer of each page, and on that page, the City indicates that it complies with Title II of the ADA, does not discriminate, provides reasonable accommodations upon request, and “Images on the website contain ‘alt Texts’, (sic) which aid users who listen to the content of the site by using a screen reader, rather than reading the site.” *See* Accessibility, at <https://hcidla.lacity.org/accessibility> (last visited Mar. 17, 2019). The use of “alt text” is a technique available in web design to identify the content of an image in the code to be, among other things, meaningful for a person with a disability who uses assistive technology, such as a blind person who uses a screen reader, to access and interact with content. *See* 24 C.F.R. § 8.6; 28 C.F.R. § 35.160(a); *see e.g.*, World Wide Web Consortium: Web Accessibility Initiative, Web Content Accessibility Guidelines 2.0AA, Guideline 1.1 (Dec. 11, 2008) (providing industry standard for alternative text, which often provides effective communication for users of assistive technology). Failure to use appropriate alt text can render content inaccessible, which, depending on the circumstances, can impair or fully impede processes for individuals with disabilities. Beyond the odd representations in this “policy,” which suggests that it complies with the ADA and cites its use of “alt Texts” to make its site accessible, the site nonetheless fails to consistently use appropriate alt text, or necessary labels for images and forms. A number of other problems with the coding of the site render it very difficult to use in some places, and impossible to use in others. This problem extends beyond the general information provided on the site and even prevents effective communication of the content dedicated to accessibility.

Examples of the inaccessibility include the following:

- Various images throughout the site lack sufficient and meaningful labels where necessary to convey information to a user or where necessary to complete a task across multiple pages.
- The City provides a chart of Covered Housing Developments, but the chart, which includes more than 800 developments, can only be read left to right, top to bottom, without conveying headers and row orientation information. *See* Covered Housing Developments, HCIDLA, at <https://hcidapp.lacity.org/AcHPWeb/ComCon/Tab/RenderTab?tabName=Property%20List> (last visited Mar. 17, 2019). The chart is thus not designed in a way for a screen reader user to understand the massive spreadsheet of information, making it unusable. While the City provides options to download the chart in different file formats, such as PDF, Excel, CSV, and print screen, all options present similar barriers.



- The City provides various policies and forms that it has adopted to implement its “Accessible Housing Program.” *See* Required Policies and Forms, HCIDLA, at <https://hcidapp.lacity.org/AcHPWeb/ComCon/Tab/RenderTab?tabName=Policies> (last visited Mar. 17, 2019). The website allows the user to download the policies and forms into PDF format. However, the many dozens of complex PDFs are not formatted in a manner to be accessible for persons with disabilities who use screen readers and other assistive technologies.
- The City provides a function to submit a grievance related to housing accessibility online, either through a web portal or by downloading a PDF, filling it in, and submitting it via email or regular mail. *See* File a Grievance, HCIDLA, at <https://hcidapp.lacity.org/AcHPWeb/ComCon/Tab/RenderTab?tabName=File%20a%20Grievance> (last visited Mar. 17, 2019). Neither the online portal nor the downloadable PDF are accessible to persons with disabilities. The online portal provides form fields that are neither made available to assistive technology, nor labelled so a person with a disability knows what information to enter. The downloadable form lacks labels for a person with a disability to ensure that information is entered into the appropriate field.

According to the *Independent Living Center Monitor*, “The Plaintiffs are concerned about [the City’s] capacity to ensure web accessibility and related platforms, citing the continued posting of inaccessible PDFs and lack of user testing.” *Independent Living Center Monitor’s Report* at 91-92. FHEO finds that these concerns are well-founded, as the failure to ensure individuals with disabilities have equally effective access to the information and services on the City’s website violates Section 504 and Title II. *See* 24 C.F.R. § 8.6(a); 28 C.F.R. § 35.160(a). Among other things, the City has failed to furnish appropriate auxiliary aids and services where necessary to afford individuals with disabilities, including applicants, participants, and members of the public, an equal opportunity to participate in, and enjoy the benefits of, the City’s affordable housing services, programs, and activities. *See* 24 C.F.R. § 8.6(a)(1); 28 C.F.R. § 35.160(b)(1). The City has failed to do this, even on the topic of accessibility, although the most basic methods of accessible web design would resolve the barriers.

### **III. Remedies and Other Corrective Actions**

In order to remedy the City’s violations of Section 504 and the ADA outlined in this letter, the Department will require, at a minimum, the following remedies and corrective actions by the City:

- Resolve all findings identified in FHEO’s 2012 Letter of Findings, and those identified in this letter;
- Remediate existing housing portfolio<sup>5</sup> to ensure that public and common use areas and the requisite number of designated accessible units are provided at each development and that those units meet the applicable federal accessibility requirements and standards;
- Ensure that all future developments, including those currently in the City’s affordable

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<sup>5</sup> The existing housing portfolio includes the developments that appear on the list the City provided to HUD on February 8, 2016.

- housing pipeline, meet federal accessibility requirements and standards;
- Revise and implement policies, practices, and procedures to fully comply with federal laws and regulations prohibiting disability discrimination, including but not limited to accessibility, occupancy, and effective communication requirements;
  - Undertake a process to identify individuals with disabilities who have been harmed by the City's violations of federal accessibility requirements and standards and provide redress for such harms by providing such individuals with an accessible unit with the accessibility features that the individual needs in the appropriate unit size to accommodate the individual's household; and
  - Take any other actions that would amount to necessary and appropriate relief to resolve the violations, as determined by the Department.

These actions must be taken in accordance with appropriate deadlines agreed to by HUD with a view toward bringing the City's longstanding disability discrimination to an end.

#### **IV. Review Procedures**

Pursuant to 24 C.F.R. § 8.56(h), you may request a review of this Supplemental Letter of Findings by HUD's reviewing civil rights official. Your request must be made within thirty (30) calendar days of receipt of this letter by submitting a written statement of the reasons this letter should be modified in light of supplementary information. Should you make such a request, please provide all records demonstrating the reasons this letter should be modified. A request for review must be submitted to:

David Enzel, Deputy Assistant Secretary for Enforcement and Programs at [david.h.enzel@hud.gov](mailto:david.h.enzel@hud.gov) and a courtesy copy to Jeanine Worden, Associate General Counsel for Fair Housing at [jeanine.worden@hud.gov](mailto:jeanine.worden@hud.gov).

If you do not request that this Supplemental Letter of Findings be reviewed, a Determination of Noncompliance will be issued within fourteen (14) calendar days after the thirty (30) day period for the request for review has expired.

Upon request, HUD's Final Investigative Report will be made available to the City and any complainant(s). 24 C.F.R. § 8.56(g)(3).

Any intimidation or retaliatory acts against a person because he or she has filed a complaint, testified, assisted, or participated in any manner in a Section 504 investigation are prohibited. 24 C.F.R. § 8.56(k).

It may become necessary to release documents, correspondence, and records related to this case under the Freedom of Information Act, but in doing so, HUD will seek to protect, to the extent provided by law, the release of information that would constitute an invasion of privacy.

#### **V. Conclusion**

The above findings reiterate the Department's prior conclusion that the City is not in compliance with Section 504 and Title II of the ADA and has been administering its affordable housing

program in a manner that discriminates against individuals with disabilities. The Department remains willing to resolve these findings of noncompliance through an appropriate VCA. *See* 24 C.F.R. § 8.56(j). Please note, however, that time is of the essence, and HUD will not engage in protracted negotiations. If the City would like to resolve its longstanding noncompliance through a VCA, please advise me at [lynn.m.grosso@hud.gov](mailto:lynn.m.grosso@hud.gov) that the City will accept the terms of the VCA HUD transmitted on November 15, 2018 and I will provide a final copy for the City to execute.

Please note that the City's failure to resolve these findings through execution and implementation of an agreed-upon VCA with appropriate remedies will result in HUD's initiation of actions to obtain the City's compliance through nonvoluntary means. In addition, until such time as the findings are resolved to HUD's satisfaction through a VCA or through nonvoluntary means, the City will continue to be considered ineligible for discretionary funding under any HUD Notice of Funding Availability.

Sincerely,

A handwritten signature in black ink, appearing to read "L Grosso". The signature is fluid and cursive, with the first letter "L" being particularly large and stylized.

Lynn M. Grosso  
Director, Office of Enforcement

Cc: Rushmore Cervantes, General Manager, HCIDLA