
CHAPTER 10
REPAIRS FOR OWNED AND MIP PROJECTS

10-1 Introduction. This chapter provides policies and procedures regarding repairs to owned and MIP projects.

- A. HUD is committed to taking necessary actions to ensure that both the quality of housing and quality of life for residents in MIP and HUD-owned projects are upgraded to Departmental standards.
- * B. However, the DHM must assure that both HUD staff resources and the FHA Fund are used efficiently. There are three important ways to reduce cost and speed completion of repairs while making a project decent, safe and sanitary:
- Sell MIP and HUD-owned properties as quickly as possible.
 - Assure competition in the purchase of needed goods and services.
 - Authorize PMs to make most goods and services purchases under their subcontracting authority as quickly as possible. *
- C. Local housing codes apply to MIP projects but not to HUD-owned projects; however, for HUD-owned projects, repair and construction specifications should be developed as if the housing codes applied.
- * D. For construction contracts, building permits are required on MIP projects. However, for HUD-owned projects, as with all federally-owned property, such permits are not required. EXCEPTION: If required by state and local regulations, permits must be obtained for HUD-owned projects when asbestos is being removed. *
- E. HUD's repair responsibilities as manager/owner cannot be over emphasized. As manager/owner, HUD has direct control over day-to-day operations of these projects. Since HUD expects sponsors, owners, and managers of projects with insured or HUD-held mortgages to keep their projects fully repaired, field offices are expected to do no less for HUD-owned and MIP projects. Field Offices are expected to move systematically to improve the level of repairs to include activities which will improve energy efficiency and produce a more cost-effective operation.
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10-2 Preservation of Projects as Residential Rental Housing. All MIP and HUD-owned residential units must be preserved as rental or cooperative housing, except that consolidation, i.e., redesigning a project to include fewer of larger sizes, or demolition may be accomplished when appropriate and such activities have received prior written approval, as stated in the paragraph "Determinations Not to Repair a Project" of this chapter. *

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10-3 Repair Scope. Before a repair survey or plan can be developed an analysis to determine the scope of the repairs must be conducted using the factors listed in APPENDIX 10-1. *

10-4 Repair Survey and Plans. DHMs must assure that total project maintenance, repair and construction needs are promptly determined by conducting the analysis in paragraph "Repair Scope" of this chapter for each project becoming either MIP or HUD-owned. *

Unless the Comprehensive Project Survey and Comprehensive Repair Plan can be completed within the time frame required for the Initial Physical Survey and Plan two separate surveys must be made. *

10-5 General Considerations for All Surveys.

* A. Generally, the DHM should have contractors prepare the Initial and Comprehensive Repair Surveys and Plans that set out the needed repair and/or rehabilitation. Required surveys and plans may be completed by: contractors that are hired directly by HUD; by PM's as a requirement of the PM contract; or by a PM's subcontractor.

While Architectural and Engineering (A) firms are useful and necessary for projects with major structural, systems or environmental problems, such services may not be needed on every project, or they may be necessary to evaluate only certain aspects of a project. For many projects, primarily those where it appears there are no major structural, systems or environmental problems, it may be preferable and more cost effective to initially utilize the services of repair estimators/inspectors, general contractors, specification writers, etc.

However, an A must be used if HUD negotiates a sale.

When a repair survey and plan are received from a *

contractor, it is sometimes difficult to decide whether the course of action recommended is the best and most cost effective. In such cases, value engineering services may be contracted to determine the extent and direction of necessary repairs. A value engineer can determine and estimate the cost of the repair/rehabilitation that is required, review the various options/processes available to complete the repair/rehabilitation, and advise HUD of the most cost effective way to proceed.

All persons or firms used to complete repair surveys and to draft repair plans and/or specifications, must have working knowledge and experience in maintenance, repair or rehabilitation of multifamily property, and be familiar with local building and housing codes.

- B. The repair plans must address habitability. The condition of and resident density of the project, the project's accessibility to disabled persons, the conditions in the neighborhood and other factors (see the "Accessibility for the Disabled" paragraph in this chapter) must be taken into account.
- C. Repair surveys must address the possible presence of hazardous materials (see Chapter 11). Repair surveys should include energy efficiency measures. Data concerning energy usage and efficiency may be obtained from some state energy offices or local utility companies.

The local agency responsible for code enforcement may also be asked to review the project.

- D. All surveys must:
 - 1. Consider local codes and analyze alternatives for completing routine maintenance and major repairs to determine the most effective methods for abating health and safety hazards and upgrading the projects at the least cost to achieve long-term reductions in operating costs (especially energy efficiency and future subsidy expenses).
 - 2. Consider the need to replace, upgrade and/or install items which will improve the residents' living environment, make the project accessible to disabled persons, create recreational areas

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and community space(s), consider residents' perspectives, address serious social problems created by lack of recreational areas, community spaces, etc.

3. Indicate items which need to be repaired and/or replaced. A determination to replace or repair items must consider the projected life of the items involved, demand for the project's units, energy efficiency, the remaining economic life of the project, and the intended continued use of the project, such as a foreclosure sale or PD sale with 15-year project-based Section 8 and long-term use restrictions.
 - * a. Consideration should also be given to installing new pitched roofs over flat roofs to improve energy efficiency and maintenance; installing high efficiency boilers; installing insulated windows/doors; installing new elevators; metering or sub-metering of utilities, etc. (See APPENDIX 10-2, "Energy Efficient Guidelines for Projects where HUD is MIP or owner.")
 - b. In addition, consideration should be given to accessibility requirements for disabled individuals. While the project is HUD-owned or MIP, the RHD is required to provide reasonable accommodation to a disabled current or prospective resident. (See paragraphs 10-11 and 10-12 herein) Where HUD will provide accommodation through physical changes to the project, the repair survey should account for remodeling and construction work to be performed by HUD. If the project will have Federal financial assistance after the project is sold, then the new owner will have the burden of providing the reasonable accommodation for the tenant and any survey should include costs of such physical changes for future use in determining sale price. If the project will not have Federal financial assistance after the sale, then the new owner must permit the

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10-8 Comprehensive Project Repair Plan. Within 90 (120 days for projects exceeding 200 units) of HUD's taking possession, a Comprehensive Repair Plan must be developed by using the resources described in the paragraph "General Considerations for All Surveys" of this chapter. For projects where the Comprehensive Project Survey shows that substantial repairs will be necessary, the DHM, with concurrence of the RHD, may approve a 60 day extension to the above time frames.

The Repair Plan must be based on repair surveys, the standards in Chapter 12, local codes and the provisions in this Handbook, and must cover, in the following order:

- A. Conditions which were included in the initial physical survey and plan not yet completed that still represent a danger to the health and safety of residents and/or are causing the project to deteriorate;
- B. Repairs to make vacant units decent, safe, sanitary and available for rental.
 - 1. Repairs must be made to vacant units where there is a need for rental housing in the market area that could be addressed by repairing and renting units.
 - 2. While Departmental policy is to maximize occupancy, repaired units which remain vacant for even short periods of time are often targets for trespassers, vandals, drug dealers, etc. Therefore, completion of repairs to vacant units should be limited to those units which can be rented quickly, within about 30 days.
- C. Repairs/improvements needed to improve the residents' living environment, create recreational areas and community space(s), etc.
- D. Repairs/improvements needed to move the facility systematically from its present level of energy efficiency to a higher level which will result in a more cost effective operation.

Consideration of equipment rebates, financial incentives, lighting retrofits and other incentives

which may be available from State, utility and other

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programs to conserve energy and shift consumption patterns.

- E. Establishment and maintenance of a system for monitoring the progress and acceptable completion of repairs. On-site oversight inspection may be performed by contracted A/Inspection services or by Field Office staff.
- F. Consideration of the impact of increased occupancy that repair actions and rent rates could have on HUD-insured or HUD-held troubled projects in the area. HUD does not want to be the possible cause of additional defaults or assignments.
- G. Establishment of a plan to handle daily and periodic maintenance, emergency and "after hours" repair needs.

10-9 Evaluation of Repair Plans. DHMs must review all Repair Plans at least semi-annually. The review shall evaluate the estimated period of time it appears each project will remain HUD-owned or MIP.

DHMs must update all Repair Plans semi-annually. DHMs may update Repair Plans more frequently if warranted by their review, especially when major rehabilitation is in progress.

Based on the time it appears a project will remain HUD-owned or MIP, DHMs/RHDs may decide to make completion of some items the responsibility of the new owner.

When HUD becomes the manager of a property, be it MIP or HUD-owned, we will repair all occupied units and all vacant units for which there is a need. The FHA Insurance Fund is used for this purpose. Reducing or not performing required maintenance and repairs in an effort to avoid using the FHA Insurance Fund is not, and never has been, HUD policy.

10-10 Determination Not to Repair a Project.

- A. If a DHM believes that:
 - 1) all or any part of a project should not be repaired;

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- 2) a project should be partially or totally demolished; or
 - 3) project units should be reconfigured, a written analysis and recommendation must be submitted to the RHD. Appendix 10-1 may be used as a guide in conducting the analysis.
 1. A recommendation not to repair a project, must be submitted with documentation to the RHD for approval.
 2. A recommendation to partially or totally demolish a project, may be approved by the RHD if it involves less than the greater of 10 percent or 20 units. However, the RHD must submit for approval of the Director, OMHPPD all cases exceeding this limit.
 3. A recommendation to reconfigure project units, must be submitted to the RHD for approval with a copy sent to the Director, OMHPPD.
- B. Examples of conditions which may exist where it would be clearly inappropriate to undertake repair of a project, i.e. project demolition, include:
1. Projects where it is estimated that the costs of repairs are such that the monthly debt service needed to amortize the cost of repairs, operating expenses, and a reasonable return to a purchaser could not be covered with rents that are:
 - a. For (formerly) subsidized projects, within 144% of the most recently published Section 8 Fair Market Rents for Existing Housing;
 - b. For (formerly) unsubsidized projects, within rents obtainable in the market.
 2. Cost of repair to bring the project up to code is more than the cost of new construction of similar units.
 3. Construction is incomplete and the project never served as housing.

4. Projects that are uninhabitable because of environmental factors that cannot be mitigated by HUD, i.e., the project is on a site which cannot be made to comply with Section 8 Site and Neighborhood standards in 24 CFR 886.307(k).
5. The project is not needed in the community.

10-11 Planning and Assistance for Disabled Residents. It is HUD's policy to protect disabled individuals from being denied any rights, privileges, advantages or opportunities afforded other individuals. All MIP and HUD-owned projects, to the extent feasible, should conform to the requirements of Section 504 of the Rehabilitation Act of 1973 and Titles II and III of the Americans with Disabilities Act of 1990 and their implementing regulations.

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Definitions related to individuals with disabilities are located in the next paragraph, entitled Accessibility for the Disabled. *

For all MIP and HUD-owned projects, the GTR/GTM must assure that:

- A. Within 60 days of assignment of a project to a PM, the PM:
 1. Alters the project, when necessary, to make the project office accessible or provides an alternate space in order to interview residents, prospective residents and applicants with mobility impairments. The space must be adequately heated and provide furniture and a telephone in order to provide the same level of service as afforded all applicants;
 2. Has in place a system for communicating lease information, resident rules and other resident requirements to rental applicants and residents with vision or hearing impairments;
 3. Installs a Telecommunication Device for Deaf Persons (TDD) in the project office;
 4. Marks accessible parking spaces for mobility-impaired residents and visitors; and

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5. Installs auxiliary visual fire alarms in units occupied by the hearing impaired.
- B. The Comprehensive Project Survey:
 1. Identifies physical obstacles that limit accessibility;
 - * 2. Contains information from a professional who is familiar with Uniform Federal Accessibility Standards (UFAS) and Americans with Disabilities Act Accessibility Guidelines (ADAAG) that formulates designs that provide accessibility alterations for the mobility impaired of one unit of each existing size, determined by number of bedrooms. Mobility impaired disabled accessible units should not be concentrated on any single floor or, in multiple-building projects, be limited to any one building; and *
 3. Provides cost estimates for alterations to achieve accessibility.
- * C. The Comprehensive Repair Plan includes accessibility alterations, as applicable to the project in accordance with the paragraph below.
- D. The PM reasonably accommodates a disabled resident or prospective resident with an accessible unit in the project, or accommodates such an individual through other methods, as guided by the paragraph below.

10-12 Accessibility for the Disabled. HUD-owned and MIP projects are subject to the accessibility alteration requirements of Section 504 of the Rehabilitation Act of 1973, and, where applicable, Titles II or III of the Americans with Disabilities Act of 1990. Among these requirements is the provision of facilities and dwellings that are accessible to disabled individuals. Implementation of these requirements may demand that physical accessibility alterations be made to projects in order to make the projects accessible and to afford full use and enjoyment by disabled individuals. These requirements are implemented by 24 CFR Part 9, 24 CFR Part 40, 28 CFR Part 35, 28 CFR Part 36, and this Handbook.

- A. When a determination is made that accessibility alterations are required, such accessibility

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* alterations should be in accordance with Uniform Federal Accessibility Standards (UFAS) and Americans with Disabilities Act Accessibility Guidelines (ADAAG), standards that should be familiar to the HUD employee or contractor that develops the Comprehensive Repair Survey and Plan. The GTR should ensure that a professional familiar with UFAS and ADAAG accessibility requirements comments upon or has input into the Comprehensive Project Repair Survey and Plan.

B. Definitions.

1. Accessible means:

a. For a project or portion of a project other than an individual dwelling unit, the project or portion of the project, when altered, can be approached, entered and used by individuals with disabilities;

b. For a dwelling unit, the unit, when altered, can be approached, entered and used by individuals with disabilities.

(1) A unit that is on an accessible route and is adaptable and otherwise in compliance with accessibility standards as stated herein and in applicable regulations, is accessible.

(2) When a unit in an existing project is being altered for the intended use of a specific, individual with disabilities (for example, a current or prospective resident, or resident of another HUD-owned or MIP project), the unit will be deemed accessible if it meets the requirements of the particular disability or impairment of that individual.

c. "Accessible to and usable by" is synonymous with accessible.

2. Adaptability means the ability of certain

elements of a dwelling unit, such as kitchen
counters, sinks and grab bars, to be added or

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- * altered, to accommodate the needs of persons with different types or degrees of disability. For example, in a unit adaptable for a person with impaired hearing, the wiring for visible emergency alarms may be installed but the alarms need not be installed until such time as the unit is made ready for occupancy by a person with impaired hearing, or, a shower wall is reinforced for the addition of a grab bar, door jams are easily widened, kitchen cabinets and counters are easily moved or removed.
3. Accessibility Alteration means any physical change to a project, or its permanent fixtures or equipment (features), to accommodate the needs of persons with different types or degrees of disability. It is required with physical changes to a project that include, but are not limited to, remodeling, renovation, rehabilitation, reconstruction, changes or rearrangements in structural parts and extraordinary repairs performed by HUD. It is not required with physical changes to a project that include normal maintenance, re-roofing, interior decoration or changes to mechanical systems. Project exterior and grounds are included. For use in this Handbook, "Accessibility Alteration" is synonymous with "Accessibility alteration for individuals with disabilities."
 4. Element means an architectural or mechanical component of a building, facility, space or site, e.g., telephone, curb ramp, door, drinking fountain, seating or water closet.
 5. Individual with Disabilities means any person who has an impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such an impairment. This includes physical and/or mental disabilities. For a detailed list of included and excluded conditions, refer to 24 CFR Part 9.

6. Disabled Prospective resident for this chapter of the handbook means a disabled individual, or a member of his family, that has:

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- * a. requested occupancy in a project and intends to execute a lease; or,
- b. executed a lease but has not yet taken possession of a unit.
- C. Considerations in Determining the Commencement and Extent of Accessibility Alterations. Accessibility Alterations are required when: 1) a project is physically changed, including, but not limited to, remodeling, renovation, rehabilitation, reconstruction, changes or rearrangements in structural parts and extraordinary repairs performed by HUD; or, 2) a disabled resident or disabled prospective resident requests an accessible unit (or unit with the accessible features necessary to meet the individual's needs) and no other reasonable accommodation can be found, as explained in the guidance below. Although, in most cases, HUD will perform accessibility alterations, HUD is not required to make every existing project accessible to and usable by disabled individuals. Within the Property Disposition program, specific conditions invoke or limit the requirement for accessibility alterations. Accessibility Alterations on each project should be determined on a case-by-case basis by the RHD or his/her designee, using the following guidance:
1. MIP Feasibility. Accessibility Alterations should be implemented in accordance with the Comprehensive Repair Plan, or when a resident or prospective resident requests an accessible unit (or unit with features that fulfill the individual's needs), taking into consideration all the requirements of this paragraph. Such accessibility alterations are limited by the financial feasibility of the specific project. As fiduciary for the owner, HUD may not commit to rehabilitation that exceeds the owner's ability to pay. Accessibility alteration expenditures must be limited to an amount equal to the net positive cash flow for the applicable project.

2. HUD-Owned Feasibility. Financial feasibility for HUD-owned projects is not dependent upon a specific project's net income. Accessibility Alterations should be implemented in *

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- * accordance with the Comprehensive Repair Plan, or when a resident or prospective resident requests an accessible unit (or unit with features that fulfill the individual's needs), taking into consideration all the requirements of this paragraph.
3. Repair Requiring Accessibility alterations vs. Normal Maintenance or Repair.
- a. A level of repair that meets this Handbook's definition of rehabilitation (See Appendix 10-1) requires accessibility alterations.
- b. If the level of repair needed is less than rehabilitation, accessibility alterations may or may not be required:
- (1) Accessibility alterations are not necessary, for example, when a project becomes HUD-owned or MIP and requires the completion of minor deferred maintenance to bring the project up to the decent, safe and sanitary standard. Such maintenance should be considered normal repairs and does not come under the definition of accessibility alterations, above.
- (2) Accessibility alterations are necessary when the deferred maintenance is of an extent that HUD's repair activity is unusual. Such "extraordinary repairs" constitute a physical change that requires accessibility alterations (See B.3. above). Examples of such extraordinary repairs include replacing bath tubs and showers in 20 units of a 100 unit project, replumbing an entire bathroom, or

rewiring an entire unit.

4. Reasonable Accommodation. When a disabled individual is, or will become, a resident while a project is HUD-owned or MIP, HUD must furnish an accessible unit (or a unit with features that meet the disabled individual's needs), *

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* or otherwise reasonably accommodate the individual. HUD may use various methods to accommodate such an individual and is not required to perform accessibility alterations in every case. (See Methods of Reasonable Accommodation Other than Accessibility alteration below) Depending upon the configuration of a project and the type of disability being provided for, it may be unreasonable to perform accessibility alterations on units or on access routes. What is reasonable in a particular case depends on such factors as the cost of the accommodation, the type of disability, and whether a unit with accessible features is available which will provide equivalent use and enjoyment to the disabled individual. Determinations must be made on a case by case basis. A determination that the accommodation is a fundamental alteration of the Property Disposition Program or an undue financial and administrative burden must be made by the RHD or his or her designee and must be accompanied by a written statement reaching that conclusion.

For example, for projects that have walk-up buildings if a current resident of a third floor walk-up is physically disabled, has been using the existing route to the unit, and requests a grab bar to meet his/her needs, the installation of the grab bar in the unit will make it accessible to that individual and is reasonable. However, accessibility alterations to make the same unit accessible to a prospective resident who uses a wheelchair exclusively may be unreasonable. The installation of an elevator and its shaft or a ramp to the third story would be unreasonable and should not be made. Accessibility alterations inside the unit to accommodate an individual who uses a wheelchair exclusively are normally not necessary, since

very few individuals who use wheelchairs inside the unit could reach the unit. In walk-up buildings, accessibility alterations are reasonable for, and are normally limited to, ground floor units and their approaches.

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- * 5. Methods of Reasonable Accommodation Other than Accessibility Alteration.
- a. If a disabled individual requests an accessible unit (or unit with the accessible features necessary to meet the individual's needs), and there is no such existing unit in the project, alternative methods of fulfilling (reasonably accommodating) the individual's needs should be sought before commencing accessibility alterations.
- (1) The GTR must ensure that the PM:
- (a) advises HUD of any accessibility request by a disabled resident, prospective resident or individual seeking residence in a project; and,
- (b) refers the requesting individual to suitable, equivalent housing that meets the individual's needs.
- (2) The DHM should ensure that other HUD-owned and MIP projects are available for viewing by the requesting individual and that the PM is furnished with a list of available housing within the FHA insured inventory.
- (3) Such referral should be to other projects that are equivalent in both physical and financial characteristics and are within both:
- (a) HUD's owned and MIP inventory; and,
- (b) the surrounding neighborhood.

- b. If no such housing can be found, reasonable accommodation through accessibility alteration of the project should be made for the individual within the guidelines set forth in this paragraph. *

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- * 6. Historic Properties. If a project is listed in or is eligible for listing in the National Register of Historic Places, or is designated as Historic under statute, accessibility alterations that result in substantial impairment of the historic features need not be made. The State Historic Preservation Officer (SHPO) may be contacted to obtain guidance on historic features. Other reasonable accommodation should be made.
7. Load-Bearing Structures. Accessibility alterations that have little likelihood of being accomplished without removing or modifying a load-bearing structural member need not be made. Other reasonable accommodation should be made.
8. "Not to Repair." If a determination "not to repair" has been made (See the paragraph titled, "Determination Not to Repair a Project"), accessibility alterations should not be made unless a current disabled resident requests the accessibility alteration and no other reasonable accommodation can be made. In this case, a minor accessibility alteration, such as adding a grab bar or replacing a toilet, should normally be made. However, major accessibility alterations, such as installing wider doors and building an access ramp on the route to the unit, should normally not be made. If available, issuance of a Rental Certificate or Voucher to the resident, if eligible, would be a reasonable course of action. Accessibility alterations and accommodations, when made, should be guided by this paragraph.
9. Time of Occupancy. When there is a request for an accessible unit (or unit with the accessible features necessary to meet the individual's needs) is made after the terms and conditions of a coming sale have been made public, e.g., a prospectus has been distributed or an

advertisement has been placed, accessibility alterations that HUD can not complete before sale need not be made. The RHD should follow the procedures contained in C-4 above to document the project file that such alterations would be "an unreasonable administrative

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* burden." However, other reasonable accommodation should be made.

D. Required Accessibility alterations During Rehabilitation.

1. Placement of Accessible Units. To the greatest extent possible, accessible units should be distributed throughout a project and, when part of a rehabilitation effort, in a sufficient range of sizes and amenities so that the choice of living arrangements for a disabled individual is comparable to those available to the non-disabled.
2. Substantial Accessibility alteration. If HUD elects to rehabilitate a project of 15 or more units and the estimated cost of the rehabilitation exceeds 75% of the replacement cost of the project, the project must be made accessible at the time of rehabilitation. A minimum of five percent of the units (but not less than one unit) must be made accessible to mobility impaired individuals. An additional two percent (but not less than one unit) must be made accessible to individuals with hearing or vision impairments.
3. Other Accessibility Alterations. Single elements (for example, bath tubs, kitchen sinks), spaces (for example, bathrooms, kitchens) and/or entire units are all included in the requirements for accessibility alterations. Other accessibility alterations may be made during rehabilitation or deferred until requested by a disabled individual.
 - a. In order to avoid the development of off-line accessible units (those not immediately required by disabled individuals), accessibility alteration of

elements, spaces and units should be completed in such a way that the unit is usable by a non-disabled resident and is adaptable for use by a disabled individual. Such adaptable elements, spaces or units are considered to be accessible. *

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- * b. Once five percent of the units are accessible to the mobility impaired, no further accessibility alterations of elements, spaces or units for physical disabilities are necessary.
- c. Once an additional two percent of the units are accessible to the hearing and vision impaired, no further accessibility alterations of elements, spaces or units for these impairments are necessary. *

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