



SERVING PEOPLE WITH DISABILITIES

The National Housing Trust Fund (NHTF) statute clearly declares that the NHTF is “federal financial assistance” for the purposes of the application of federal civil rights laws. In addition, any activity funded in whole or in part with NHTF dollars must comply with fair housing laws and laws regarding accessibility in federally assisted housing, including Section 504 of the Rehabilitation Act of 1973.

§1338(a)(2) & §1338 (c)(8)(C) statute

The NHTF program run by HUD, states, and any local subgrantees must comply with fair housing laws, including Title VI of the Civil Rights Act of 1964 and the Fair Housing Act of 1968 (also known as Title VIII). In addition, they must comply with other nondiscrimination and equal opportunity laws, regulations, and Executive Orders, such as Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act.

§93.150(a) and 350(a) regulations

Any multifamily housing assisted with NHTF must meet the accessibility requirements of Section 504 of the Rehabilitation Act of 1973, Titles II and III of the Americans with Disabilities Act, and the Fair Housing Act.

§93.200(a)(1), §93.301(a)(1)(i) & (b)(1)(iv) & (c)(1)

In short and for most multifamily projects, that means 5% of the units, or at least one unit, whichever is greater, must meet Uniform Federal Accessibility Standards (UFAS) for people with mobility disabilities. Plus, an additional 2% of the units, or at least one, whichever is greater, must be accessible for people with hearing or visual disabilities.

24 CFR part 5§8.22

Also, newly constructed or substantially rehabilitated multifamily properties must meet design and construction requirements set out in HUD’s Fair Housing regulations. In short these include: at least one building entrance must be on an accessible route; common areas must be accessible; and all units must have wide doors, reachable light switches, grab bars in the bathroom, and kitchens and bathrooms a wheelchair can maneuver about in.

24 CFR part 100 §205

NHTF Money May Be Used To Make Homes Accessible

HUD's interim rule makes it clear that NHTF dollars may be used to cover eligible project costs to meet the property standards required by the proposed rule, such as accessibility.

§93.201(a)(1)&(2)

The interim regulations allow NHTF money to be used to make improvements that are not required by law or regulation if they enable use by people with disabilities.

§93.301 (b)(1)(iv)

Tenant Selection

If an owner limits or gives preference to a particular segment of the population, that limitation or preference must:

- Not violate the NHTF regulations' nondiscrimination and equal opportunity provision;
- Be permitted in writing by the jurisdiction and be described in the jurisdiction's ConPlan;
- Be in the owner's written tenant selection policy; and,
- Be subject to affirmative marketing procedures that apply to the context of the limitation or preference.

§93.303(d) and §93.350(b)(1)

The interim rule clarifies that a limitation or preference does not violate nondiscrimination requirements if the housing also receives funding from a federal program that limits eligibility to a particular segment of the population, and the limit or preference is tailored to serve that segment of the population. As an example of a federal program, the interim regulation names the Housing Opportunity for Persons with AIDS program (HOPWA).

§93.303(d)(3)(i)

Eligibility may be limited to or preference may be given to people with disabilities who need the services offered at a project only if:

- The limitation or preference is limited to the population of households with disabilities that significantly interfere with their ability to obtain and maintain housing; and,
- These households will not be able to obtain or maintain themselves in housing without appropriate supportive services; and,
- The services cannot be provided in a non-segregated setting.
 - The household must not be required to accept the services.
 - In advertising the project the owner may advertise it as offering services for a particular type of disability.
 - The project must be open to all otherwise eligible persons with disabilities who may benefit from the services provided at the project.

§93.303(d)(3)(ii)

If an owner has approval to limit or give preference to a particular segment of the population, then the state or local subgrantee must have affirmative marketing procedures and requirements that apply in the context of the limited or preferred tenant eligibility.

(See separate paper, "Fair Housing Features" for more about affirmative marketing.)

§93.350(b)(1)

REV June 2015