

Type B Dwelling Units in Existing Buildings

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The [U.S. Fair Housing Act \(FHA\)](#) is a federal civil rights law in place since 1991 that prohibits discrimination in housing, including with respect to persons with disabilities. The scoping and technical criteria developed and maintained by the [U.S. Department of Housing and Urban Development \(HUD\)](#) for accessibility in all types of housing are given in its [Fair Housing Accessibility Guidelines \(FHAG\)](#). It is applicable to new buildings initially built as residential or institutional facilities. While the FHA would be applied to additions that included four or more dwelling or sleeping units, it is not applicable to alterations or change of occupancy.

When the *International Building Code*® (IBC) added FHA requirements into the 2000 edition, the Code called the FHA units Type B units. The initial intent was to coordinate with FHA. However, the IBC traditionally applied the requirements when buildings are altered or are undergoing a change of occupancy. How should this difference be addressed?

The 2012 IBC added requirements for Type B units in existing buildings (Sections 3411.4 Exception, 3411.6 Exception 4, 3411.8.9). When more than 50 percent of the building is being altered (Level 3 alterations in the *International Existing Building Code*® [IEBC]), Type B unit requirements are expected in the spaces being altered. For example, if a warehouse is being altered into apart-



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ments, all dwelling units shall comply with Type B unit requirements. If an apartment building is being extensively altered, whatever is being altered must be fixed to comply. If the bathrooms are altered, those changes should comply with Type B requirements to the maximum extent technically feasible.

Portions of the apartment

not being altered could remain as originally constructed. In addition, while the dwelling units are a primary function space, there is no additional requirement for additional improvements to the routes to the area being altered (Section 34114.2 Exception, 3411.7 Exception 5).

Many apartment buildings were built out of compliance with the FHA. Mediation and court cases have resulted in some being brought into compliance, but not all. The Type B criteria for apartments did not start to come into the legacy codes until 1996-1997. Provisions for other types of facilities covered by FHA — such as assisted living facilities, dormitories and nursing homes — were not added into the IBC until 2001. At that point,

HUD certified the IBC as a “safe harbor” document, meaning the requirements set forth in a given document have been reviewed by HUD and deemed to meet or exceed FHA and FHAG accessibility requirements. Therefore, code officials were not widely enforcing Type B criteria until about 10 years after the FHA was enacted. There has been a steady improvement towards compliance with FHA requirements since that time, but what about the facilities built between 1991 and 2001?

Many of the residential and institutional facilities built in the early 1990s now are coming up for major renovations. During alterations is a perfect time to bring

non-compliant buildings up to code to meet Type B criteria. This reduces the chances of building owners being cited or sued under the FHA and benefits everyone who needs the accessibility features in Type B units. This type of compliance sounds like a win-win situation. **bsj**

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