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ARTICLE

Fulfilling the Promise: Equal, Accessible Housing for All

Kimberly Paarlberg, RA, ICC Senior Staff Architect



Persons with disabilities have a serious need for accessible housing, and there are several reasons why. According to the 2007 American Community Survey – a nationwide survey that is part of the Census Bureau that collects and produces population and housing information yearly – 41.2 million people have some level of disability. They represent 15 percent of the civilian non-institutionalized population 5 years of age and older.

Here's a breakdown:

- 6 percent of children age 5 to 15 have disabilities.
- 12 percent of people age 16 to 64 have disabilities.
- 41 percent of adults age 65 and older have disabilities.

Thanks to baby boomers starting to reach retirement, the population over 65 years of age is the fastest growing in the United States. As the general population ages, the need for housing for persons with mobility impairments will continue to increase.

Olmstead v. L.C., 527 U.S. 581 (1999), is a United States Supreme Court case regarding discrimination of people with disabilities. The plaintiffs were two women with diagnoses of mental retardation, schizophrenia and personality disorder. Both had been treated in institutional settings and community-based treatment facilities in the state of Georgia. Following clinical assessments by state employees both plaintiffs were determined to be better suited for treatment in a community-based setting rather than in an institution. Both sued to prevent the state of Georgia from inappropriately treating and housing them in an institutional setting. The Court held that the unjustified institutional isolation of people with disabilities is a form of unlawful discrimination under the Americans with Disabilities Act.



Accessible and Adaptable housing units make it possible for persons with disabilities to live comfortably and independently.

Since that decision, many communities have made progress in providing appropriate facilities for the disabled. Many individuals have successfully transitioned to community settings; however, many more are on waiting lists which have grown considerably. Many would like to receive services but are not able to obtain them.

History in the federal laws

On November 20, 1962, President John F. Kennedy issued Executive Order 11063, which mandated an end to discrimination in housing. The order, which came during the burgeoning

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Civil Rights movement, prohibited federally funded housing agencies from denying housing or funding for housing to anyone based on their race, color, creed or national origin. When he issued the order in 1962, Kennedy called discrimination in federal housing agencies unfair, unjust and inconsistent with the right to life, liberty and the pursuit of happiness. Although Kennedy's order was a symbolic landmark for ending de facto segregation in housing, the policy was never enforced. The order left it up to the individual housing and funding agencies to police themselves, leaving much room for non-compliance from state to state. It took Kennedy's successor, Lyndon B. Johnson, until 1968 to get a majority of Congress to support a fair housing law.

When Congress first enacted the Fair Housing Act in 1968, it prohibited discrimination based on race, color, religion and national origin. In 1974, they added gender to the list of protected classes, and in 1988, disability and familial status (the presence or anticipated presence of children under 18 in a household). The United States Department of Housing and Urban Development (HUD) is the federal executive department with the statutory authority to administer and enforce the Fair Housing Act. HUD created the Fair Housing Accessibility Guidelines (FHAG) to illustrate to builders and designers what would be considered minimal accessibility requirements.

History in the Building Codes

The codes first required Accessible dwelling units in some residential and institutional types of facilities in 1975. Paralyzed Veterans of America (PVA) provided statistics to code developers on anticipated needs. Percentages were established for institutional facilities such as rehabilitation centers, nursing homes, hospitals and assisted-living residences. Transient lodging, such as hotels and dormitories, were also covered. Apartment buildings with 20 or more units were required to have 2 percent of the units as "Adaptable" units, meaning some elements would be constructed as accessible (i.e., doors with clearances, hardware and maneuvering clearances) and some elements as adaptable (i.e., removable cabinetry under sinks and blocking for grab bars). The intent was that apartments be constructed in a manner where they would be considered esthetically pleasing to renters, but still easily allow for adaptability for persons using wheelchairs.

FHAG and Model Codes

Due to concerns about residential construction complying with all applicable codes, the National Association of Home Builders (NAHB) and others approached the model code groups about incorporating the FHAG requirements into the model code requirements in the mid 1990s. Since the FHA is a civil rights law rather than a building code, code developers needed to study carefully the FHA requirements to interpret them into enforceable language that code developers could use in model codes. Through the efforts of the Board for the Coordination of the Model Codes (BCMC), recommendations to the model codes were proposed in 1994. The existing "Adaptable" dwelling unit requirements were carried forward as "Type A" units, with the FHA requirements reflected in the "Type B" units. The level of wheelchair access in Accessible units and Type A units exceed the requirements in Type B units. Accessible and Type A units might be termed "wheelchair friendly," while Type B units are "wheelchair usable."

In 2000, HUD reviewed the 2000 IBC and the referenced accessibility standard (ICC/ANSI A117.1-1998), for compliance with the FHAG. As always in such evaluations, there was good news and bad news. The good news in the report was that for apartments and townhouses, the IBC 2000 basically had the scoping requirements correct, and the ICC/ANSI A117.1 standard had the technical requirements correct. The bad news was there are other types of facilities that the FHA considers places of residence should be covered. These types of residences as boarding houses, congregate residences, institutional facilities, vacation time shares, etc. Based on HUD's report, a series of modifications were proposed that were part of the 2000 code change cycle. The voting members accepted the proposed modifications and incorporated them into the 2001 Supplement to the IBC.

HUD has certified several editions of the IBC and A117.1 standard as "safe harbor" documents. This means that HUD believes that the IBC and A117.1 either meet or exceed the accessibility requirements in the Fair Housing Accessibility Guidelines (FHAG). These documents include:

IBC –

- 2000 IBC with the 2001 Supplement
- 2003 IBC
- 2006 IBC

[Parking Structure Intact](#)

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[▶ PMG: Methods to Venting Plumbing Fixtures and Traps in the 2009 IPC](#)

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The 2009 IBC is currently under review.

A117.1 –

- ANSI A117.1-1986
- CABO/ANSI A117.1-1992
- ICC/ANSI A117.1-1998
- ICC/ANSI A117.1-2003

ICC/ANSI A11.1-2010 will be soon be available, but was not complete at time of publication.

Thus, using the IBC and ICC A117.1 will comply with building code provisions as well as meet FHAG requirements. A designer does not have to review both documents for additional requirements. This also greatly reduces potential conflicts.

Aging in Place and Visitability in Single-Family Homes

While these requirements will address a large portion of housing, single-family homes and most townhouses are exempt from all accessibility provisions under the International Building Code (IBC) and the Fair Housing Act (FHA).

A special A117.1 subcommittee has put forward a proposal for a new 'Type C' dwelling unit. While the proposal includes only technical criteria and not scoping, the intent is that the application of limited access, aging-in-place or visitability, is based on widespread application to dwellings not covered by other federal laws (e.g., single-family homes, townhouses).

Many communities across the United States have been enacting visibility ordinances. Technical requirements can vary widely. To date, more than 30,000 houses in the U.S. have been constructed under these ordinances with features such as zero-step entrances, wider interior doors, and a few additional access features because of local requirements (which differ). Among the more than 40 states and municipalities that have adopted some form of visitability requirements or policies are: Texas, Georgia, Kansas and Oregon, and the cities of Atlanta, Austin, Texas; Visalia, Calif.; Howard County, Md.; Albuquerque, N.M.; Southampton, N.Y.; Iowa City, Iowa; Bolingbrook, Ill; Escanaba, Mich.; St. Louis County, Mo.; Pittsburgh; St. Petersburg, Fla., Toledo, Ohio; Arvada, Colo.; Tucson, Ariz. and Birmingham, Ala.

To encourage consistency throughout the country, Type C dwelling unit technical requirements have been proposed to provide a model that can be adopted to apply to new houses not covered by the Fair Housing Act. Local authorities may consider exemptions where conditions such as extreme topographical conditions warrant them. The minimum criterion allows people with mobility impairments to visit the homes of family and friends. In addition, these features may permit residents who develop a disability or are recovering from an injury to remain living in their homes for a short time while they plan and make any renovations they might need, or relocate to a different house with the features they need for residency.

The 2009 edition of ICC A117.1 provides technical requirements for Type C dwelling units that the Fair Housing Act Guidelines do not regulate such as single-family homes and townhouses. The intent is that the homes will both accommodate visitors with disabilities and promote the aging in place concept so people may enjoy their homes without requiring major modifications when they, family or friends face short- or long-term mobility constraints. Jurisdictions will specify when Type C units would be required. By providing the Type C provisions in the standard, the committee has taken a step to provide consistency throughout the country and a model of what they believe is a minimum level of accessibility to accomplish the purpose of visitable or inclusive design.

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Dwelling units constructed with a minimum of accessibility means that people who use mobility devices or have difficulty climbing stairs can continue to live in their own homes or visit the homes of others.

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Following is a list of topics addressed in the 2009 edition of ICC A117. To see the entire text you can visit the [A117.1 development site](#).

1006 Type C Units (Visitability)

- 1006.1 General.**
- 1006.2 Unit Entrance.**
- 1006.3 Connected Spaces.**
- 1006.4 Interior Spaces.**
- 1006.5 Circulation Path.**
- 1006.6 Toilet Room or Bathroom.**
- 1006.7 Food Preparation Area.**
- 1006.8 Lighting Controls and Receptacle Outlets.**

Providing these minimum levels of accessibility will lead to dwelling units constructed so that people who use mobility devices or have difficulty climbing stairs can continue to live in their own homes or visit the homes of others. One of the difficulties of establishing this section was determining exactly what level was needed for minimal access.

Primarily, the requirements will establish that portions of a dwelling unit are accessed by a circulation path that does not include any stairways or abrupt level changes. Once inside, the interior path should connect to a toilet room, a habitable space and if provided on the entry level, a food preparation area. The circulation path matches the accessible route's width provisions of Section 403.5 but would need to be wider in certain food preparation areas. The last required element of accessibility is that most lighting controls and receptacle outlets must be located within reach ranges.

If a unit provides these few access features, people with mobility impairments can visit friends or family at that home. Furthermore, these features may permit residents who develop a disability or are recovering from an operation or injury to remain living in their homes for a short time, even if lacking a full bathroom and a separate, designated sleeping space, while they plan and make any additional renovations they might need.

The standard does not address the scoping requirements for when and in what quantity the Type C (visitability) units would be required. The jurisdiction, as specified in Sections 201 and 202, would develop this type of scoping. During the development process, it was the committee's assumption that these units would generally applied to dwellings the Fair Housing

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Act does not regulate. Therefore, it would typically be applied to structures with three or fewer dwelling units within it.

The following comments are provided to quickly address some of the main features of the Type C unit.

- Section 1006.2: The provision requires at least one entrance to be accessible, but unlike the other three types of units, this section does not mandate that it be the primary entry. Other viable options would be the door into the home from the garage or a door off a back deck.
- Section 1006.3: The route provided into and through the dwelling should meet most provisions of accessible routes, but since it does not meet all requirements, it should not be called an "accessible route." To avoid confusion with other requirements, the standard uses the term "circulation path."
- Section 1006.5.4: The standard provides an exception to eliminate handrails or edge protection on ramps that move up with the surrounding grade. Residents of single-family homes often prefer not to have obstructions such as handrails and edge protection along their walkways where they can prevent circulation to portions of the yard or appear different from neighboring homes. The committee believes that handrails and edge protection can be added by an owner when and if needed, but does not believe that every home subject to the modest requirements for Type C units should incur the added cost associated with such elements.
- Section 1006.6: A toilet room or bathroom must be provided that allows for clearances and blocking at the water closet. Clearances are not indicated for the lavatory or any bathing facilities that are provided. Providing clearances at these elements would be best design practice, but are not specifically required.
- Section 1006.7: Although visitability requirements or policies do not always specify access to kitchens and eating areas, they have been included in the standard to address the goals of the Type C unit. The food preparation area, however, may simply be an auxiliary kitchen like a bar area with a small refrigerator and microwave. It is important to note that this requirement is scoped by Section 1006.4 and would only be applicable where a food preparation area was provided on the entrance level.
- Section 1006.8: The requirement for electrical outlets and light switches to be within reach range heights is a limited application of operable parts requirements found in Accessible, Type A and Type B units. There are no requirements for other operable parts, such as appliances, plumbing fixtures, door hardware, etc.

Conclusion

As our population ages, the need for homes of all types with at least a minimal amount of access will significantly increase. These factors obviously have a significant impact on the quality of life. In addition, allowing people to remain in their homes as they age, and providing group home environments for those who need this type of care, is much less expensive than nursing home care. This is an opportunity for designers and developers to move into a market that will have increased demand, as well as do good for their community.