

PREDETERMINATION SETTLEMENT AGREEMENT

CP# 10-19-74099
HUD# 07-20-2917-8

PARTIES TO THE SETTLEMENT AGREEMENT:

RESPONDENTS

RIVERVIEW PLAZA INVESTMENTS, L.L.C.

425 East Oakdale Boulevard, Suite 101
Coralville, Iowa 52241-3404

WATTS GROUP DEVELOPMENT, INC.

425 East Oakdale Boulevard, Suite 101
Coralville, Iowa 52241-3404

WATTS GROUP CONSTRUCTION, L.L.C.

425 East Oakdale Boulevard, Suite 101
Coralville, Iowa 52241-3404

OPN, INC.

200 5th Avenue SE, Suite 201
Cedar Rapids, Iowa 52401-1853

COMPLAINANT

ANGELA JACKSON, COMMISSIONER

Iowa Civil Rights Commission
400 East 14th Street, Room 201
Des Moines, Iowa 50319-0201

and

IOWA CIVIL RIGHTS COMMISSION

400 East 14th Street, Room 201
Des Moines, Iowa 50319-0201

Complainant's Allegations:

Complainant is a member of the Iowa Civil Rights Commission (ICRC). As a member, Complainant has the authority to file a complaint alleging a discriminatory practice in violation of the "Iowa Civil Rights Act of 1965," Iowa Code Chapter 216. Complainant alleged Respondents designed and constructed covered multifamily dwellings in violation of the design and construction accessibility requirements of the Iowa Civil Rights Act (ICRA) and the federal Fair Housing Act (FHA). Complainant alleged Respondents violated the "accessible and usable public and common use areas," the "accessible route into; and through the covered

unit,” and the “usable kitchens and bathrooms.”¹ Complainant specifically alleged one feature in the common areas and five features in the units appeared inaccessible to a person utilizing a wheelchair for mobility, as listed below:

- (1) The height to the midline of the keyholes at the top two rows of mailboxes were measured at 57 ¾” and 54 ¼”, which exceeds the 54”-maximum height allowed for a parallel approach by persons using a wheelchair.
- (2) In Unit 210, the clear width of entryway from the bathroom was measured at 28”, which is less than the 31 ⅝”-minimum width required.
- (3) The interior side of the threshold at the sliding glass doorway in Unit 210 was observed to lack 1:2 beveling and its height was measured at 1 ½”, which exceeds the ¼”-maximum that is allowed if the threshold does not have 1:2 beveling.
- (4) The clear floor space at the shower stall measured 33” by 34”, which is less than the 30” by 48”-minimum clearance that is required.
- (5) The midline of the bathroom sink in Unit 210 was measured at 21 ¾” away from the adjacent wall, which is less than the 24”-minimum that is required to allow for the parallel approach by a person using a wheelchair, which is required because the cabinet under the sink is not removable.
- (6) The midline of the kitchen sink in Unit 210 was measured at 11” away from the adjacent opposing countertop, which is less than the 24”-minimum that is required to allow for the parallel approach by a person using a wheelchair, which is required because the cabinet under the sink is not removable.

Description of the Subject Property

Subject Property

According to the Respondents’ written responses to the ICRC questionnaire, (i) both Riverview Plaza 1 (“RP1”) and Riverview Plaza 2 (“RP2”) consist of a building with commercial space on the first floor; and (ii) RP1 has 33 residential units and RP2 has 51 residential units on the three floors above the commercial space. There is one elevator in each building, which means that all residential units in each building are “covered”² by the design and construction provisions of the ICRA and FHA.³

The building at RP1 was issued a Certificate of Occupancy signed by Jim Kessler, Building and Zoning Official for the City of Coralville. The issue date for the Certificate of Occupancy is August 29, 2018, and the corresponding 300-day filing limitation date is June 25, 2019, which is before the filing date for the current complaint, and therefore not jurisdictionally timely. The same parties own, developed, designed, and built RP2 – which was issued a certificate of occupancy during the next year – in a similar manner as RP1.

¹ See Iowa Code §§216.8A(3)(c)(3)(a) [Requirement 2 – Accessible and Usable Public and Common Use Areas]; 216(3)(c)(3)(c)(i) [Requirement 4 – Accessible Route Into and Through the Covered Dwelling]; and 216(3)(c)(3)(c)(iv) [Requirement 7 – Usable Kitchens and Bathrooms].

² Fair Housing Accessibility Guidelines, Federal Register, Vol. 56, No. 44, Wednesday, March 6, 1991, Rules and Regulations, page 9500.

³42 U.S.C. §3604(f)(7); Iowa Code §§216.2(4)(a), 216.2(4)(b).

The building at RP2 was also issued a Certificate of Occupancy signed by Kessler. The Certificate of Occupancy for RP2 was issued on June 20, 2019, and the corresponding 300-day filing limitation date is April 15, 2020. Therefore, the scope of the current agreement is limited to RP2.

The residential units at RP2 consist of nine floor-plan types.⁴ These floor plan types were organized by ICRC investigator and Respondents into six groups as based on the similar design and construction of the units. The groups were also organized such that the measurements and observations made in each of the inspected units may reasonably be expected to either be the same or similar in the other units within each of the respective groups.⁵ The following table lists the floor plan types, the inspected unit numbers, and the total number of units per floor plan type and per group.

Unit Types	Total Units Per Type	Group #	Floor Plan	Inspected Unit # and Type	Total Units Per Group
C	12	1	1BR/1BA	312 [C]	16
C.1	1				
F	3				
B	3	2	Studio/1BA	404 [B]	3
D	2	3	1BR/1BA	214 [D]	2
E	3	4	1BR/1BA	316 [E]	3
F.1	6	5	1BR/1BA	403 [F.1]	6
G	9	6	1BR/1BA	315 [G]	21
G.1	9				
H	3				
GRAND TOTAL = 51 UNITS					

The scope of the current agreement includes (i) the 51 residential units; and (ii) the public and common use areas – the exterior parking spaces, interior hallways, elevator, waste dumpster, and mailbox kiosks.

Respondents’ Defenses

When asked in the questionnaire to respond to the allegations, and indicate what was true or false, Respondents answered:

House [sic] Discrimination Complaint Response:

The noted conditions were observed in unit #210 in the Riverview Plaza Building One located at 304 1st Ave., Coralville, IA. The unit is a studio layout (unit type B) that wraps around the south stair. There are 3 units in this building with the same layout. While Riverview Plaza Building Two located at 308 1st Ave is similar in appearance it does not

⁴ See Appendix A for floor plans.

⁵ ICRC investigators inspected Unit 210 in RP1, and obtained the same measurements and observations as those made by the testers, upon which the allegations in the current complaint are based. Otherwise, the results are not included in the current report since RPP1 is outside the scope of the current report, as previously explained.

have the same studio layout. Therefor[e] the responses to conditions 3, 4, and 5 below only apply to the studio units at Riverview Plaza Building One. [ICRC Note: Conditions 3, 4, and 5 are, respectively, the clear floor space at the shower stall, the entryway from the bathroom into the walk-in closet, and the heights of the midlines of the keyholes at the top two rows of mailboxes at the kiosks.]

1. Claim: “In unit 210, the change in the level from the interior finished floor surface of the units to the top of the balcony threshold was measured at 1 ½”. The maximum allowable threshold is ¼” without 1:2 beveling, which was observed to be lacking.”

Response: A ramp Mat (EZ-Access model TAEM 1.5) will be provided for each unit.

2. Claim: “In Unit 210, the cabinets under the kitchen sink were not [removable]; therefore, a person in a wheelchair would have to pull parallel to the sink to use it.”

Response: The cabinets under the sink in unit 210, 310, and 410 of 304 1st Ave. will be modified to be removable and pull up access. See figure #1.

3. Claim: “In unit 210, the clear floor space at the shower stall measured 33” by 34”, which is less than the 30 by 48” which is required.”

Response: We will modify the wall on the right side of the shower unit back to the shower flange to allow a parallel approach and a 30” x 48” clear space. See figure #2.

4. Claim: “In unit 210, the entryway from the bathroom into the walk-in closet measured 28”, which is less than the 31-5/8” minimum.” See figure #2.

Response: The modifications noted in response to claim #3 will expand this opening by the necessary 3-5/8”. See figure #2.

5. Claim: “The heights of the mid lines of the keyholes of the top two rows of mailboxes were measured at 57 ¾” and 54 ¼”, which exceeds the 54” maximum allowed height for a parallel approach.”

Response: The noted mailboxes were purchased and installed by the USPS and local postmaster Mike Bell. When I discussed the issue with Mike Bell he noted that if the issue arose where we had a tenant using a mobility assistive device that mailboxes would be renumbered to allow access.

Figure #1

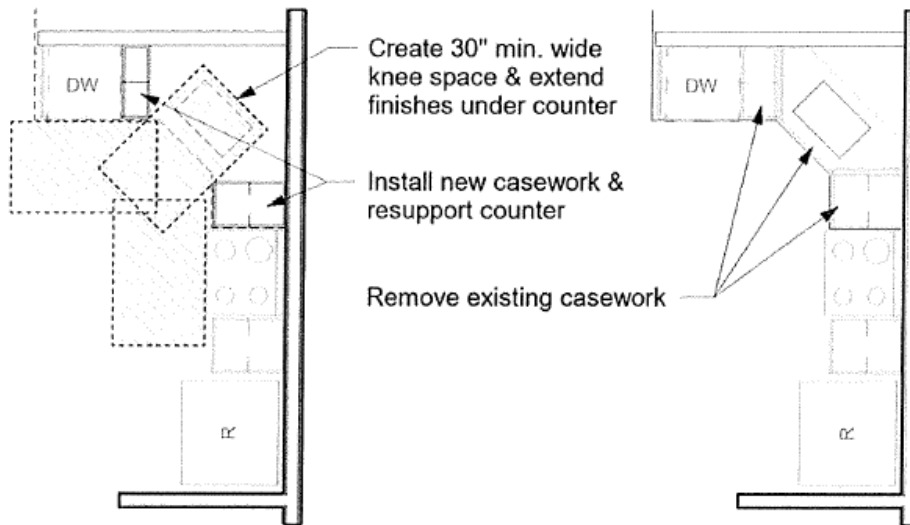
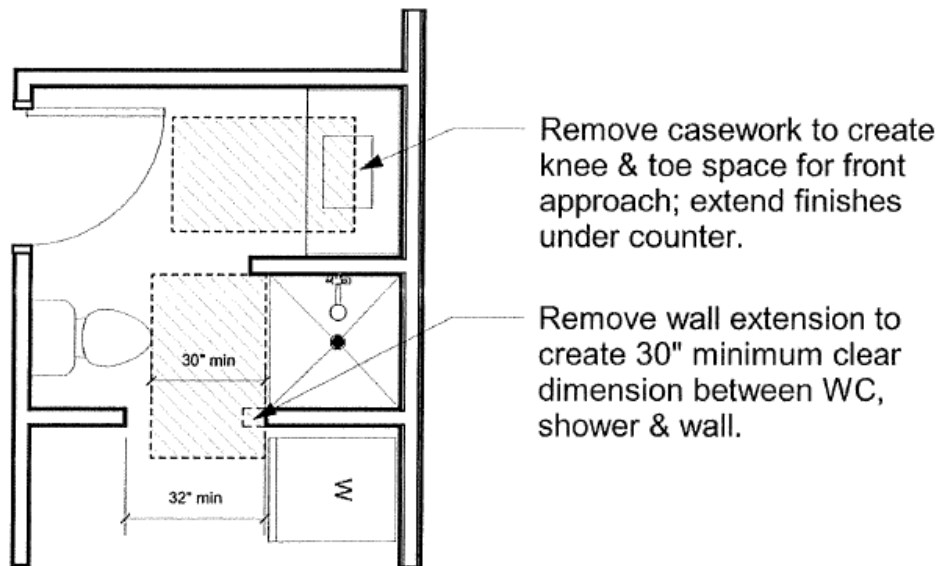


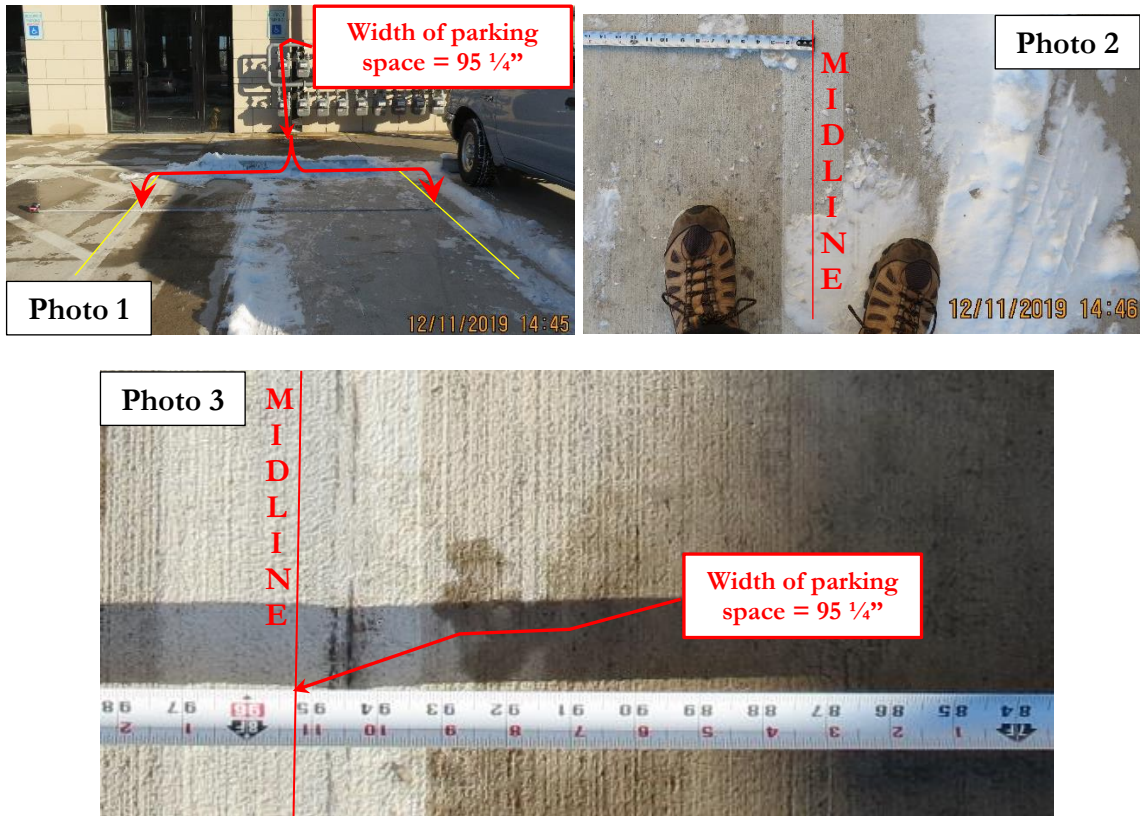
Figure #2



Report of Preliminary Findings:

ICRC Investigators inspected six covered units at RP2 as well as the public and common use areas in and surrounding the complex. ICRC Investigators found and reported the following deficiencies based on the onsite inspection:

- 1) ICRC investigators measured the width of the parking space designated as reserved for use by persons with disabilities – which is adjacent to the south of the west building entrance – at 95 ¼". ICRC investigators took the following photographs to document their measurement (*see* Photos 1, 2, and 3):



Respondents submitted construction plans, which included the following portion indicating the width of this parking space:



The parking space was design to be painted such that the width between the striped paint lines measured 96” in compliance with the 96”-minimum width requirement. However, as painted, the width for this parking space is too narrow because it is less than the 96”-minimum width required in Section 502.2 of the ADAAG.

2) The mailbox kiosks containing the mailbox compartments for the 51 residential units at RP2 are located near to the south of the west building entrance. As this building has an elevator, all units are

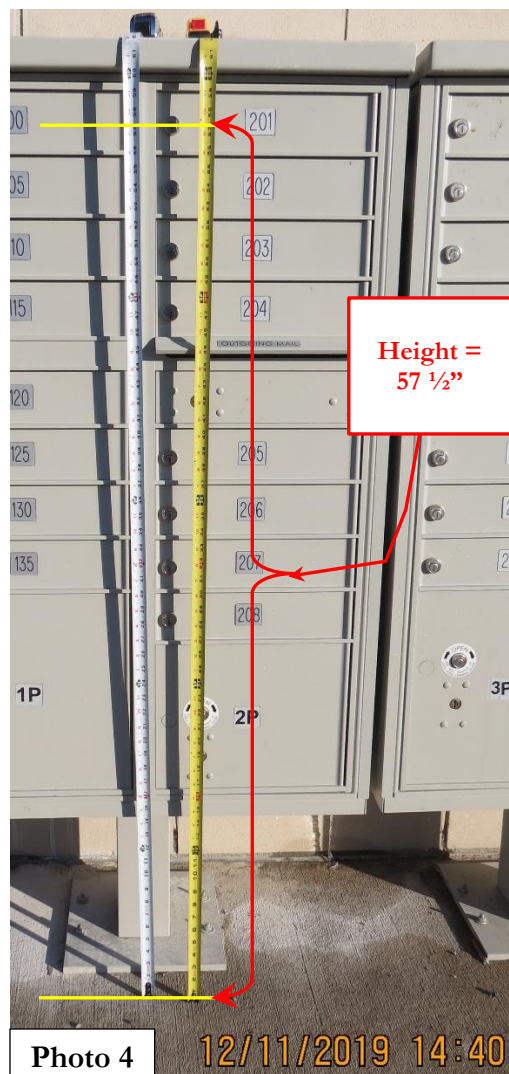
⁶ See Appendix

“covered.” Therefore, all units are required to have reachable mailboxes regardless of the ANSI level of accessibility at each of the covered units.⁷

No guidance was found in the plans submitted by Respondents that included instructions and/or diagrams for the installation heights of mailboxes.

There is sufficient clearance in front of all mailbox kiosks to allow for a parallel approach by persons using a mobility-assistive device such as a wheelchair. The height to the midline of the keyholes at the top row of mailboxes at the mailbox kiosks for RP2 units was measured at 57 ½” which is higher than the 54”-maximum for a parallel approach by persons using a wheelchair allowed by ANSI 1986.⁸

ICRC investigators took the following photograph to document their measurement:



⁷ *Ibid* at pages 76 and 77.

⁸ See Appendix A, Photos 1A, 1B, and 1C.

3) The following table lists the measurements obtained for the interior and exterior threshold heights at the sliding glass doorway onto the exterior surfaces of the balconies for all inspected units and the distance that the exterior surface is below the finished interior floor surface, which is calculated by subtracting the interior threshold height value from the exterior threshold height value. All interior threshold values are reported as numerical values because they exceed the ¼”-maximum height. However, if the resulting difference between interior and exterior threshold meets the above-stated requirements, they are labeled as “Compliant.” All values in the table below are expressed in inches.

UNITS	INTERIOR THRESHOLD HEIGHT	EXTERIOR THRESHOLD HEIGHT	DIFFERENCE BETWEEN THRESHOLDS
214 [D]	1 1/32”	2 1/16”	1 1/32”
312 [C]	1 5/16”	2”	1 1/16”
315 [G]	1 3/8”	Compliant	Compliant
316 [E]	1 7/32”	2 1/4”	1 1/32”
403 [F.1]	1 7/16”	Compliant	Compliant
404 [B]	1 1/8”	Compliant	Compliant

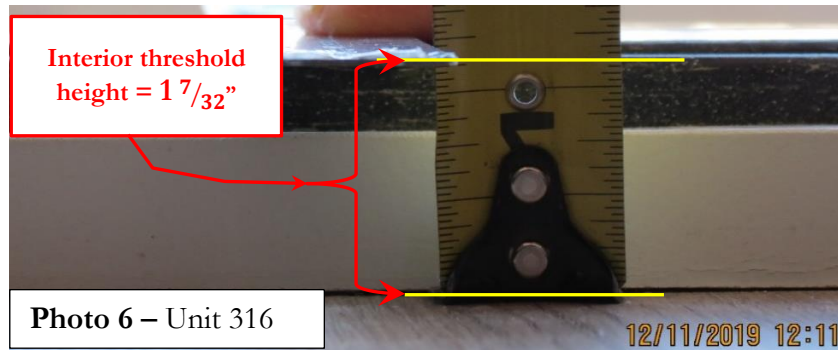
All of the interior threshold heights listed in the table above exceed the ¼”-maximum allowed for thresholds without beveling.⁹ The exterior pervious surface adjacent to the secondary balcony entrance in Units 214, 312, and 316 was measured to be no less than 1 1/16” below the interior finished floor surface, which exceeds the ½”-maximum for balcony surfaces with pervious construction that is allowed by the Guidelines.

ICRC investigators took the following sample photographs (see Photos 5 and 6) to document their measurements:¹⁰



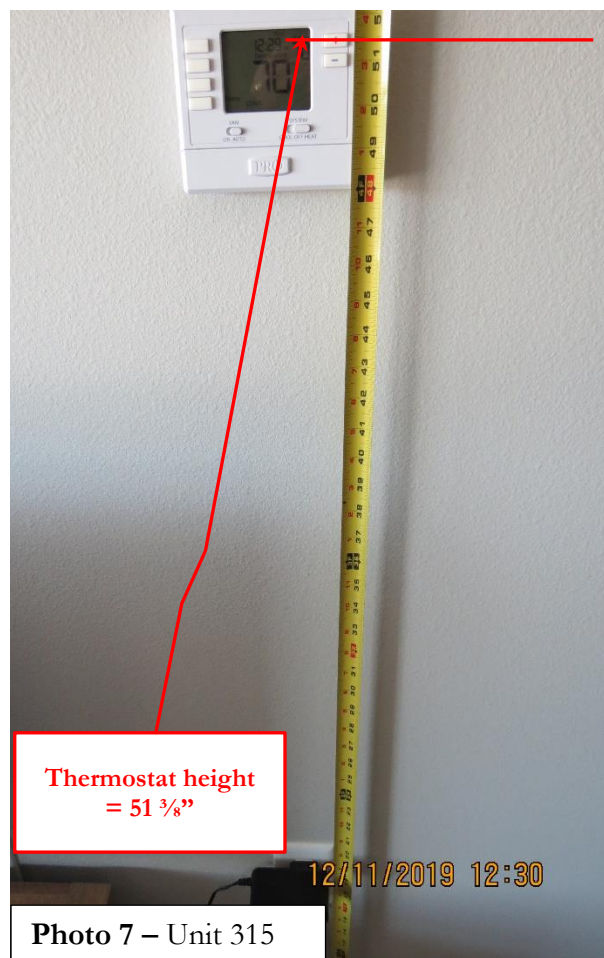
⁹ See Appendix A, Photos 4A and 4B.

¹⁰ Whenever multiple instances of the same type of deficiencies were observed, only a sample of the photographs taken are shown to avoid duplication.



The plans submitted by Respondents did not include any instructions or diagrams about the threshold heights of doorways. The reported thresholds are too high, rendering them unusable by persons using wheelchairs.

4) ICRC investigators measured the height of the highest controls in the thermostats installed in Units 315 [G] at $51 \frac{3}{8}$ " and at $51 \frac{1}{8}$ " in Unit 404 [B], which exceeds the 48"-maximum height allowed in the Manual. ICRC investigators took the following sample photograph to document their measurements:



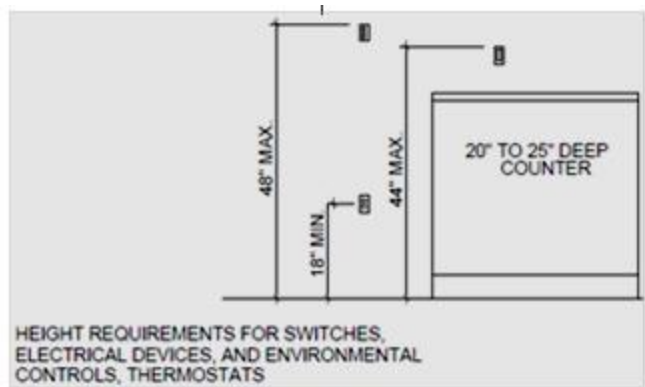
The construction plans submitted by Respondents include a section that includes the "1996 FAIR HOUSING ACT DESIGN MANUAL: A MANUAL TO ASSIST DESIGNERS AND BUILDERS IN

MEETING THE ACCESSIBILITY REQUIREMENTS OF THE FAIR HOUSING ACT” as one of the codes to follow in building RP2.¹¹ This sheet indicates thermostats were to be installed at 48” above the finished floor, as indicated in the following drawings and instructions:

FAIR HOUSING ACCESSIBILITY GUIDELINES (FHAG)
SECTION 100.205(c)(3)(ii) REQUIRES THAT ALL COVERED MULTIFAMILY DWELLINGS WITH A BUILDING ENTRANCE ON AN ACCESSIBLE ROUTE SHALL BE DESIGNED AND CONSTRUCTED IN SUCH A MANNER THAT ALL PREMISES WITHIN COVERED MULTIFAMILY DWELLING UNITS CONTAIN LIGHT SWITCHES, ELECTRICAL OUTLETS, THERMOSTATS, AND OTHER ENVIRONMENTAL CONTROLS IN ACCESSIBLE LOCATIONS.

GUIDELINE

LIGHT SWITCHES, ELECTRICAL OUTLETS, THERMOSTATS AND OTHER ENVIRONMENTAL CONTROLS SHALL MEET SECTION 100.205(c)(3)(ii) IF OPERABLE PARTS OF THE CONTROLS ARE LOCATED NO HIGHER THAN 48 INCHES, AND NO LOWER THAN 15 INCHES, ABOVE THE FLOOR.



**FINAL REVIEW SET
NOT FOR CONSTRUCTION**

If the thermostats had been installed according to the instructions on Sheet AG002, the height of the thermostats would have been compliant with the 48”-maximum height requirement. However, Sheet AG002 – where these instructions are given – indicates that these instructions are a “FINAL REVIEW SET” and “NOT FOR CONSTRUCTION.” Therefore, it is likely that the instructions in this sheet were missed when installing the thermostats in Units 315 and 404, which resulted in the height of these thermostats exceeding the 48”-maximum allowed. The thermostats in both of these units are too high, rendering them unusable by persons using wheelchairs.

5) Measurements were taken from the midline of the kitchen sink to the closest opposing countertop in each of the inspected units to verify compliance with the 24”-minimum required clearance for a parallel approach, which is necessary if the cabinets are not removable. The midlines of the kitchen sinks were found to be less than 24 inches from the opposing countertop in four of the units. The following table indicates the unit numbers, floor plans, and the distance from the midline of the sink to the opposing countertops on both sides.

¹¹ See Appendix A.

Unit # & Floor Plan	Midline of Sink to Opposing Countertops
312 [C]	13 1/2" [left] / 11" [right]
315 [G]	12" [left and right]
316 [E]	12" [left and right]
403 [F.1]	12" [left] / 11 1/2" [right]

ICRC investigators took the following sample photograph to document their measurements:

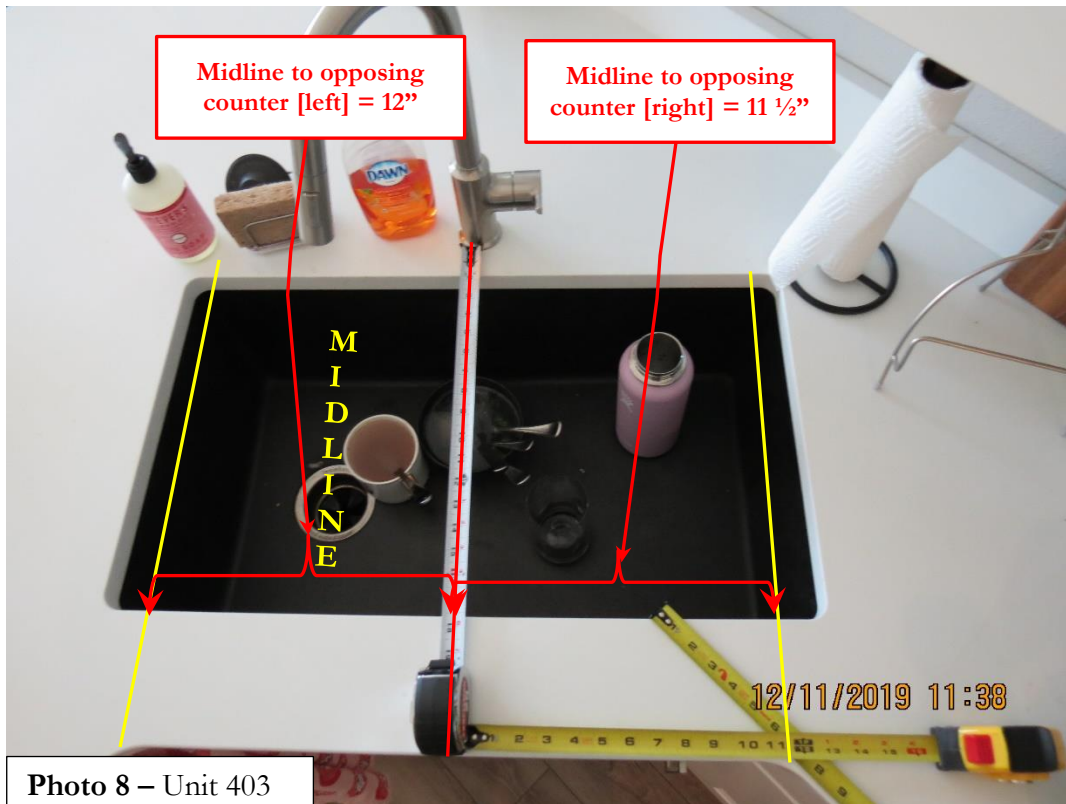
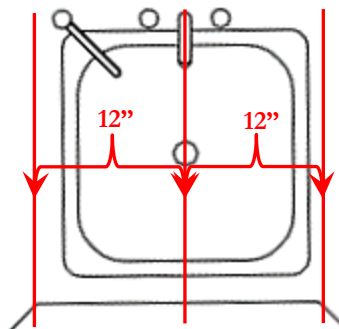


Photo 8 – Unit 403

Respondents submitted construction plans of unit types E, C, F.1, and G drawn to a scale of 1/4" = 1'. The following is a screenshot of the plans for the kitchen sink that was copied and pasted from the design of unit type F.1, and is the same for the other three unit-types:



As shown above, the plans instructed the builder to install the sinks with 12" of clearance on both sides of the midline of the sink.

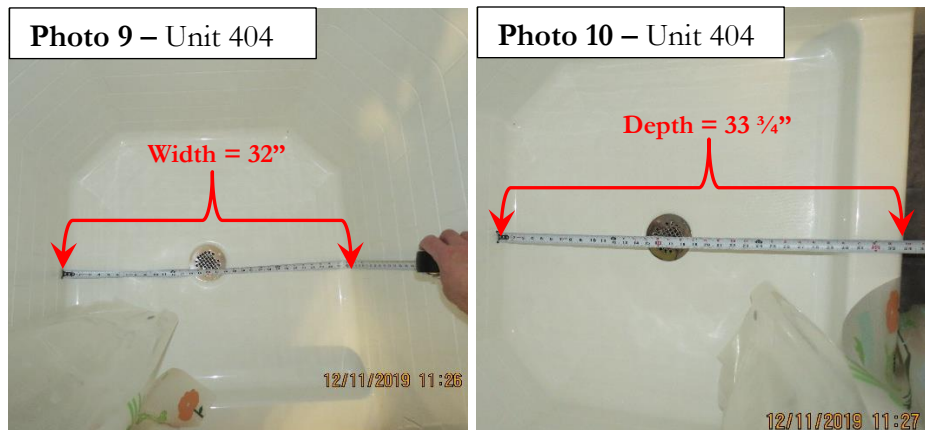
Therefore, as designed and built, this sink is unusable for persons who use a wheelchair for mobility because the midline of the sink is closer to the opposing countertops on either side than what is allowed by either the 15"-minimum for a forward approach or the 24"-minimum clearance that is required for a parallel approach.

The retrofit proposed by Respondents and cited on pages 2 and 3 of the current report – widen the clearance on either side of midline of the sink to 15" or more and modify the cabinets to make them removable – would be acceptable to ICRC and allow the affected kitchen sinks to be brought into compliance with the 15"-minimum clearance requirement.

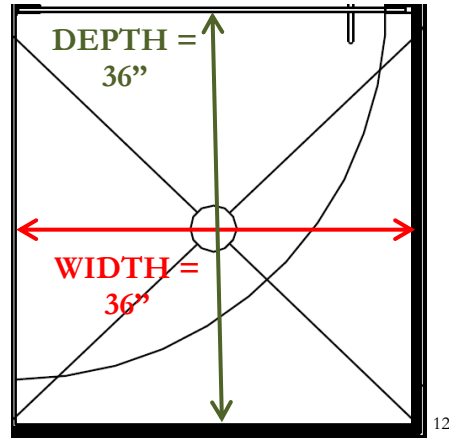
6) Unit 404 [B] has only one bathing facility. As indicated in the description of the requirement referenced above, the 35 1/2" by 35 1/2" minimum dimensions for shower stalls are measured between the interior side walls and from the interior side of the back wall of the stall to the entry edge, which make up the usable space at the interior of the shower stall.

The interior space at the shower stalls in units listed above was measured at 32" wide by 33 3/4" deep, which is less than the 35 1/2" by 35 1/2" minimum clearance required.

ICRC investigators took the following photographs to document their measurements:



Respondents submitted construction plans of unit type B drawn to a scale of 1/4" = 1'. The following is a screenshot of the plans for the kitchen sink that was copied and pasted from the design of this unit:



Based on this scaled drawing, the interior usable space of the shower stalls was designed to be 36” deep by 36” wide. If built as designed, the interior usable space of the shower stall in this unit would have been compliant with the 35 ½” by 35 ½”-minimum requirement. However, as built, this shower stall is unusable by persons who use a wheelchair.

Additionally, the shower stall must have reinforcing to allow for possible future installation of a seat because this shower stall is located in a Specification-B bathroom.

Respondents’ Response to Report of Preliminary Findings:

Following is a summary of Respondents’ responses to the reported deficiencies:

- 1) Respondents will repaint the paint stripe bordering to the south of the parking space designated as reserved for use by persons with disabilities such that the width of both this paint stripe and the parking space will increase by 1” to bring it into compliance with the 96”-minimum width requirement from the 2010 ADAAG.
- 2) Respondents will coordinate with the Coralville Postmaster to swap the location of the top row of residential mailboxes with the commercial mailboxes such that the height to the midline of the keyhole of the new location for the top row of residential mailbox compartments does not exceed 54”-maximum height.
- 3) Respondents will purchase a minimum of 3 accessible ramps – “EZ-Access model TAEM 1.5” – to be installed at the sliding glass doorway threshold of the dwelling units as necessary.

Respondents will measure how far the exterior balcony surface is below the interior finished floor surface. At units where the exterior balcony surface is too far below the interior finished floor surface, Respondents will remove the decking, raise the balcony surface by installing additional framing, and then reinstall the decking to bring it into compliance with this accessibility requirement.

- 4) Respondents will measure the height of thermostats and reinstall thermostats at or below the 48”-maximum height if the measured height of the thermostats exceeds 48”.

¹² See Appendix A.

5) Respondents will replace the base cabinets underneath and adjacent to the kitchen sink with removable cabinets – so as to allow sufficient knee space that is required for a forward approach to the sink by persons who use a wheelchair – at 50% or 23 of the 46 units with the non-compliant kitchen sinks.

6) Respondents will install a 36” x 36” shower base and tile walls with a minimum of 35-1/2” x 35-1/2” available clear floor space.

Assessment of Deficiencies:

Respondents stated all units were built in accordance with the scoping requirements of the International Building Code 2015 [IBC 2015], which incorporates the standards of the American National Standards 2009 [ANSI 2009] for guidance on the technical requirements [i.e., the dimension requirements].¹³ Neither the IBC 2015 nor the ANSI 2009 is one of the safe harbors accepted by HUD.¹⁴ Therefore, the Manual and the Guidelines, which incorporate ANSI 1986 for some of the technical requirements, must be used to assess and determine compliance with the ICRA and FHA, not IBC 2015 or ANSI 2009.

The public areas must meet the requirements of the ADA in addition to those of the FHA, as people other than residents or residents’ visitors will visit or frequent those areas. The common use areas, however, including the exterior parking spaces, interior hallways, elevator, waste dumpster, and mailbox kiosks are governed by the FHA since they are only for use by the residents of RP2 and/or their guests. The ADA will only be referenced in the current report for the public areas, which include the exterior parking spaces, elevators, and the hallways. Finally, the requirements of the ADA will be presented as stated in the “2010 American with Disabilities Act Standards: 2004 ADAAG for Titles II and III Facilities” (ADAAG). *See* 42 U.S.C. 12204, Part 1191, Appendix A, and 42 U.S.C 12186(b); 28 CFR Part 36, Appendix B.

Following is the assessment of Respondents’ proposed retrofits and determination, based on the scoping and technical requirements of the 2010 ADAAG and the Manual:

1) ICRC agrees with Respondents’ proposal to repaint the paint stripe bordering to the south of the parking space designated as reserved for use by persons with disabilities such that the width of both the paint stripe and the parking space will increase by 1” to bring it into compliance with the 96”-minimum width requirement from the 2010 ADAAG.

2) ICRC agrees with Respondents’ proposal coordinate with the Coralville Postmaster to swap the labels of the top row of residential mailboxes with the commercial mailboxes such that the height to the midline of the keyhole of the new location for the top row of residential mailbox compartments does not exceed 54”-maximum height.

3) ICRC agrees with Respondents’ proposal to install accessible ramps at the interior side of the thresholds of the sliding glass doorways. However, ICRC will require the ramps be installed at all units with non-compliant interior thresholds that exceed the 1/4”-maximum height, and without first requiring tenants to request the ramp. ICRC will require that the ramps be reinstalled at units where they were refused by the previous tenant and before the unit is shown to the next tenant. ICRC will allow Respondents to offer tenants the option to refuse the installation of the ramps, but will require Respondents to cease from

¹³ <https://codes.iccsafe.org/content/IBC2015/chapter-35-referenced-standards> (Last visited on Feb. 7, 2020).

¹⁴ <http://www.fairhousingfirst.org/faq/safeharbors.html> (Last visited on Jan. 17, 2020).

offering tenants the option to refuse this retrofit after three years from the date of the Closing Letter from ICRC.

ICRC agrees with Respondents' proposal to measure and verify that the exterior pervious balcony surface is no more than 1/2" below the interior finished floor surface. At units where the balcony surface is too far below the interior finished floor surface, ICRC agrees with Respondents proposed retrofit to remove the decking, raise the balcony surface by installing additional framing, and then reinstall the decking to bring it into compliance with this accessibility requirement.

4) ICRC concurs with Respondents' proposal to measure the height of thermostats and reinstall thermostats at or below the 48"-maximum height if the measured height of the thermostats exceeds 48".

5) ICRC agrees with Respondents proposal to replace the base cabinets underneath and adjacent to the kitchen sink with removable cabinets so as to allow sufficient knee space that is required for a forward approach to the sink by persons who use a wheelchair. However, ICRC disagrees with the Respondents' proposal to only make this retrofit at 50% or 23 of the 46 units with the non-compliant kitchen sinks, as this would allow the remaining 23 units to remain inaccessible in violation of the ICRA and FHA. ICRC will require all 46 units to be retrofitted with the removable base cabinets in the manner proposed by Respondents.

6) ICRC agrees with Respondents' proposal to install a 36" x 36" shower base and tile walls with a minimum of 35-1/2" x 35-1/2" available clear floor space.

Predetermination Settlement Agreement

A complaint having been filed by Complainant against Respondents with ICRC under Iowa Code Chapter 216 and there having been a preliminary inquiry, including an on-site inspection of the subject property, the parties do hereby agree and settle the above-captioned matter in the following extent and manner:

Acknowledgment of Fair Housing Laws

1) Respondents agree there shall be no discrimination, harassment, or retaliation of any kind against Complainant or any other person for filing a charge under the "Iowa Civil Rights Act of 1965" (ICRA); or because of giving testimony or assistance, or participating in any manner in any investigation, proceeding or hearing under the ICRA; or because of lawful opposition to any practice forbidden by the ICRA. Iowa Code § 216.11(2).

2) Respondents acknowledge the ICRA makes it unlawful to discriminate in the terms, conditions or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of race, color, creed, sex, sexual orientation, gender identity, national origin, religion, disability, or familial status. Iowa Code § 216.8(1)(b).

3) Respondents acknowledge the ICRA makes it unlawful to sell, rent, lease, assign, sublease, refuse to negotiate, or to otherwise make unavailable, or deny any real property or housing accommodation or part, portion, or interest therein, to any person because of the race, color, creed, sex, sexual orientation, gender identity, religion, national origin, disability, or familial status of such person. Iowa Code § 216.8(1)(a).

4) Respondents acknowledge the Fair Housing Act (FHA) makes it unlawful to sell, rent, lease, assign, sublease, refuse to negotiate, or to otherwise make unavailable, or deny any real property or housing accommodation or part, portion, or interest therein, to any person because of the of race, color, religion, sex, familial status, or national origin. 42 U.S.C. 3604(f)(1)(a) (§ 804(f)(1) of the Fair Housing Act).

5) Respondents acknowledge the FHA and ICRA make it unlawful to refuse to make reasonable accommodations in rules, policies, practices, or services, when the accommodations are necessary to afford the person equal opportunity to use and enjoy a dwelling and to the extent that the accommodation does not cause undue financial or administrative burden or fundamentally alter the nature of the provider’s operations. 42 U.S.C. 3604(f)(3)(b) (§ 804(f)(3)(b) of the Fair Housing Act); Iowa Code § 216.8A(3)(c)(2).

6) Respondents acknowledge the FHA and ICRA make it unlawful to discriminate against another person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with the dwelling because of a disability. 42 U.S.C. 3604(f)(2)(a) (§ 804(f)(2)(a) of the Fair Housing Act); Iowa Code § 216.8A(3)(b)(1).

7) Respondents acknowledge as owners, developers, builders, or managers of covered multifamily dwellings – ground-floor units in buildings with no elevator or all units in buildings with an elevator, and consisting of four or more dwelling units built for first occupancy after January 1, 1992 – must build those dwellings in compliance with specific design and construction accessibility requirements, in accordance with the FHA and ICRA. Iowa Code §216. 8A(3)(c)(3); 42 U.S.C. §3604(f)(3)(C).

HUD has described these accessibility requirements via regulation and in several publications, including the “Final Fair Housing Accessibility Guidelines.” 24 C.F.R. Part 100.200 et seq.; 56 Fed. Reg. 9,472. In the “Guidelines,” HUD presented the seven specific requirements as:

Requirement 1 – Accessible building entrance on an accessible route.

Requirement 2 – Accessible and usable public and common areas.

Requirement 3 – Usable doors.

Requirement 4 – Accessible route into and through the covered dwelling unit.

Requirement 5 – Light switches, electrical outlets, thermostats and other environmental controls in accessible locations.

Requirement 6 – Reinforced walls for grab bars.

Requirement 7 – Usable kitchens and bathrooms.

Voluntary and Full Settlement

8) The parties acknowledge this Predetermination Settlement Agreement is a voluntary and full settlement of the disputed complaint. The parties affirm they have read and fully understand the terms set forth herein. No party has been coerced, intimidated, threatened or in any way forced to become a party to this Agreement.

9) The parties enter into this Agreement in a good faith effort to amicably resolve existing disputes. The execution of this Agreement is not an admission of any wrongdoing or violation of law. Nor is the execution of this Agreement an admission by Complainant that any claims asserted in her complaint are not fully meritorious.

10) The parties agree the execution of this Agreement may be accomplished by separate counterpart executions of this Agreement. The parties agree the original executed signature pages will be attached to the body of this Agreement to constitute one document.

11) Respondents agree the ICRC may review compliance with this Agreement. And as part of such review, Respondents agree the ICRC may examine witnesses, collect documents, or require written reports, all of which will be conducted in a reasonable manner by the ICRC.

Disclosure

12) Because, pursuant to Iowa Code §216.15A(2)(d), the ICRC has not determined that disclosure is not necessary to further the purposes of the ICRA relating to unfair or discriminatory practices in housing or real estate, this Agreement is a public record and subject to public disclosure in accordance with Iowa's Public Records Law, Iowa Code Chapter 22. *See* Iowa Code §22.13.

Release

13) Complainant hereby waives, releases, and covenants not to sue Respondents with respect to any matters which were, or might have been alleged as charges filed with ICRC, the Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, or any other anti-discrimination agency, subject to performance by Respondents of the promises and representations contained herein. Complainant agrees any complaint filed with any other anti-discrimination agency, including the Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, which involves the issues in this complaint, shall be closed as Satisfactorily Adjusted.

Fair Housing / Accessible Design and Construction Training

14) Respondents agree that:

(a) Adam Hahn and James Koch will receive training on the accessible design and construction requirements of State and Federal Fair Housing Laws within 180 days from the date of the Closing Letter from ICRC. The training will address the Fair Housing accessibility requirements that must be met in order to design and build covered dwellings and common use/public areas that are accessible and usable to individuals with mobility and visual impairments.

The training shall be conducted by a qualified person, approved by ICRC or the U.S. Department of Housing and Urban Development. Additionally, this term may be fulfilled by scheduling a training session with ICRC via email at BuilItRightIowa@iowa.gov; or by attending one of the training events offered by Fair Housing Accessibility First – information about which is available online at <http://www.fairhousingfirst.org/training/calendar.html>.

(b) Send documentation to ICRC, verifying the fair housing / accessible design and construction training has been completed, within ten days of completing the training.

15) Respondents agree all persons identified in paragraph 14 of the current section will:

(a) Review and become familiar with the Fair Housing Accessibility Guidelines, 56 Fed. Reg. 9472 (1991) and the United States Department of Housing and Urban Development, Fair Housing Act Design Manual, A Manual to Assist Builders in Meeting the Accessibility Requirements of the Fair Housing Act, (August 1996, Rev. April 1998), which may be obtained online at <http://www.huduser.gov/portal/publications/PDF/FAIRHOUSING/fairfull.pdf>.

(b) Submit separate signed written statements via email from the persons identified in paragraph 14 of the current section indicating:

- i. They have reviewed and become familiar with the Fair Housing Act Design Manual.
- ii. They understand what the Seven Main “Design Requirements of the Guidelines” are by listing them in the written statement.
- iii. They acknowledge their responsibility to ensure all design and construction at all future covered properties will be performed by their employees and/or agents in compliance with the Seven Main “Design Requirements of the Guidelines.”

(c) Complete the requirements in “a” and “b” paragraphs of the current section within 120 days of the date of the Closing Letter from the ICRC.

Required Retrofits

16) Respondents agree to make the following retrofits to the subject property:

Accessible and Usable Public and Common Use Areas – Parking Space South of the West Building Entrance

(a) The parties agree the parking space designated as reserved for use by persons with disabilities – which is adjacent to the south of the west building entrance – is 95 ¼” wide, which is less than the 96”-minimum width required in the 2010 ADAAG.

(b) Respondents agree they will repaint the paint stripe bordering to the south of the parking space described in “(a)” above, such that the width of both the paint stripe and the parking space will increase by 1” to bring it into compliance with the 96”-minimum width requirement from the 2010 ADAAG.

(c) Respondents agree that they will determine the width of the parking space described in “(a)” paragraph above by measuring distance between the midlines on both sides of the parking space, as indicated in the following excerpt from the 2010 ADAAG, which is available online at (https://www.ada.gov/reg2010/2010ADAStandards/2010ADAStandards_prt.pdf):

502 Parking Spaces

502.1 General. Car and van parking spaces shall comply with 502. Where parking spaces are marked with lines, width measurements of parking spaces and access aisles shall be made from the centerline of the markings.

EXCEPTION: Where parking spaces or access aisles are not adjacent to another parking space or access aisle, measurements shall be permitted to include the full width of the line defining the parking space or access aisle.

(d) Respondents agree they will complete this retrofit no later than 90 days from the date of the Closing Letter from ICRC.

Accessible and Usable Public and Common Use Areas – Mailboxes

(a) The parties agree that the height to the midline of the keyholes at the compartments assigned to residential dwelling units in the top row of all mailbox kiosks exceed the 54”-maximum height allowed by ANSI 1986.

(b) Respondents agree they will coordinate with the Postmaster at the United States Postal Service branch located in Coralville to swap the labels of the top row of residential mailboxes with the commercial mailboxes such that the height to the midline of the keyhole of all residential mailbox compartments does not exceed 54”-maximum height allowed by ANSI 1986.

(c) Respondents agree they will complete this retrofit no later than 90 days from the date of the Closing Letter from ICRC.

Accessible Route Into and Through the Covered Unit – Doorway Thresholds

(a) The parties agree (i) the interior threshold heights onto the finished floor surface at the doorways to the balconies at the units reported on page 8 of the current agreement exceed the ¼”-maximum allowed for thresholds without beveling, as required by the Manual; and (ii) that at Units 214, 312, and 316, the exterior pervious balcony surface is below the interior finished floor surface by more than the ½”-maximum allowed by the Manual for exterior balcony surfaces that are pervious.

(b) Respondents agree to install accessible ramps with a running slope of no greater than 8.33% in the units described in “(a)” paragraph above at the interior side of the threshold at the doorway from the living room to the balcony, as required by the Manual.

(c) Respondents agree to remove the decking, install additional framing, and reinstall the decking at the balcony in Units 214, 312, and 316 such that the exterior balcony surface is below the interior finished floor surface by no more than ½”.

(d) Respondents agree to measure the interior-threshold height at the doorway providing access from the living room to the balcony of the other units that were not inspected by ICRC Investigators, and are in the same floor-plan groups as the units reported on page 8 of the current agreement – which are defined in the table on page 3 of the current agreement – to verify compliance with the ¼”-maximum threshold height for thresholds if no 1:2 beveling is present. Respondents agree to retrofit the non-compliant units in same manner as described in “(b)” paragraph above.

(e) Respondents agree to measure the exterior-threshold height at the doorway providing access from the balcony to the living room of the other units that were not inspected by ICRC Investigators, and are in the same floor-plan groups as Units 214, 312, and 316 – which are defined in the table on page 3 of the current agreement – to verify compliance with the ½”-maximum value that the exterior balcony surface may

be below the interior finished floor surface. Respondents agree to retrofit the non-compliant units in same manner as described in “(c)” paragraph above.

(f) Respondents agree to allow current tenants who do not desire to have the interior threshold at the doorway to the balcony in their units retrofitted as required in “(b)” paragraph above, and future tenants who desire to have the completed retrofit reverted, to have management either not perform the retrofit or revert the retrofit that has been completed.

(g) However, Respondents agree to complete the retrofits, as described in “(b)” paragraph above, if necessary to accommodate the onset of mobility-impairment health condition for those tenants.

(h) At units where the retrofit required in “(b)” paragraph above were not completed or were reverted because of tenants’ requests, Respondents agree to complete the aforementioned retrofit before the unit is rented again.

(i) At units where the ramp has been removed because of a tenant’s request, Respondents agree to reinstall the ramp as required in “(b)” paragraph above before the unit is rented again.

(j) Respondents agree to complete the retrofit described in paragraph “(b)” of the current subsection at units where tenants did not reject the retrofit within 60 days from the date of the Closing Letter from ICRC or sooner if requested by a tenant with a mobility impairment.

(k) Respondents agree to cease offering the option to new tenants to reject the ramp required in “(b)” paragraph above after three years from the date of the Closing Letter from ICRC.

(l) Respondents agree that tenants who rejected the required ramp described in “(b)” paragraph of the current subsection before the aforementioned three-year period will be allowed to continue occupying their unit without the required accessible ramp for the duration of their tenancy.

(m) Respondents agree to complete the retrofits described in paragraph “(c)” of the current subsection within three years from the date of the Closing Letter from ICRC or sooner if requested by a tenant with a mobility impairment.

Light Switches, Electrical Outlets, Thermostats, and Other Environmental Controls in Accessible Locations – Thermostats

(a) The parties agree the height of the top thermostat controls in Units 315 and 404 exceed the maximum height of 48”, as allowed by the Manual.

(b) Respondents agree they will reinstall the thermostats in Units 316 and 404 at a lower height, such that the display screen and all operating buttons do not exceed maximum height of 48”, as required by the Manual.

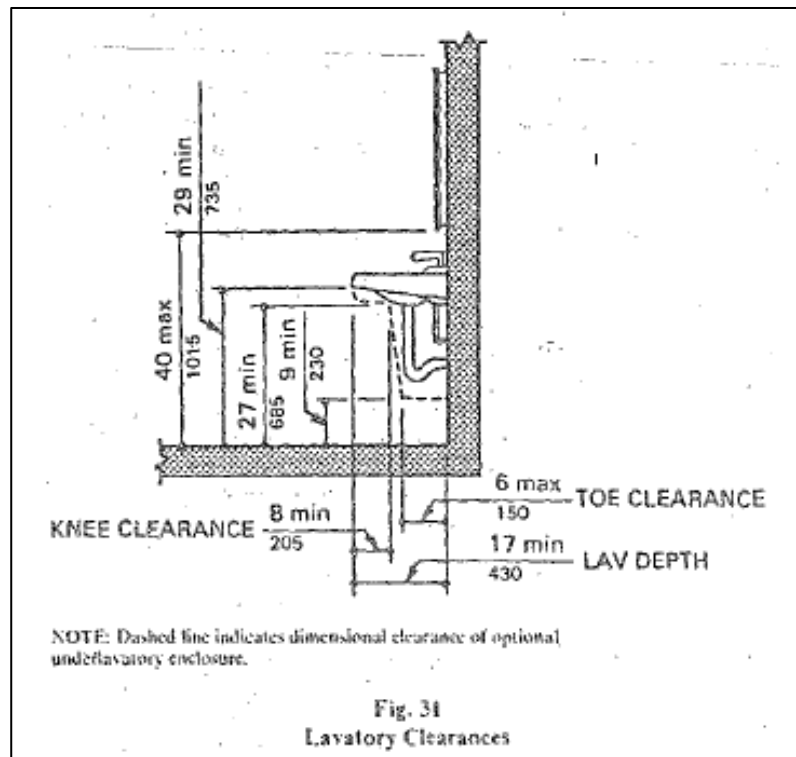
(c) Respondents agree to measure the height to the top controls at the thermostats of the other units that were not inspected by ICRC Investigators, and are in the same floor-plan groups as Unit 316 and 404 – which are defined on page 3 of the current agreement – to verify compliance with the 48”-maximum height. Respondents agree to retrofit the non-compliant units in same manner as described in “(b)” paragraph above.

(d) Respondents agree to complete the retrofits described in paragraph “(b)” of the current subsection within 18 months from the date of the Closing Letter from ICRC or sooner if requested by a tenant with a mobility impairment.

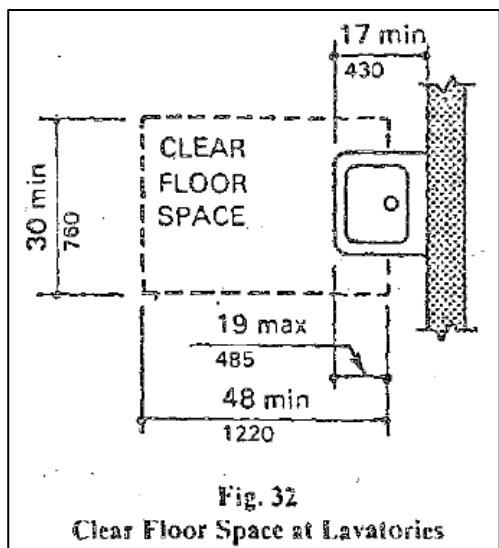
Usable Kitchens – Sinks

(a) The parties agree the distance from the midline of the sink to the opposing countertops on both sides of the sink in the kitchens of the units reported in the table on page 11 of the current agreement, was measured at under the 24”-minimum for kitchen sinks without removable cabinets and under the 15”-minimum required for kitchens with removable cabinets, as required by the Manual.

(b) Respondents agree to retrofit the kitchen sinks in the inspected units listed in “(a)” paragraph by (i) replacing three base cabinets – under the sink, and on both sides of the sink – with removable cabinets; and (ii) by finishing all surfaces that are not already finished – which would be visible if all three removable cabinets need to be removed to create the knee space required for a forward approach – including the flooring vinyl tiles of the closest possible design as the existing flooring, cabinet surfaces of the same design, and painted walls if exposed – such that the dimensions of the space created once the three removable base cabinets are removed for a tenant in a wheelchair, meet the “knee clearance” requirements from ANSI 1986, as indicated in the following figures.

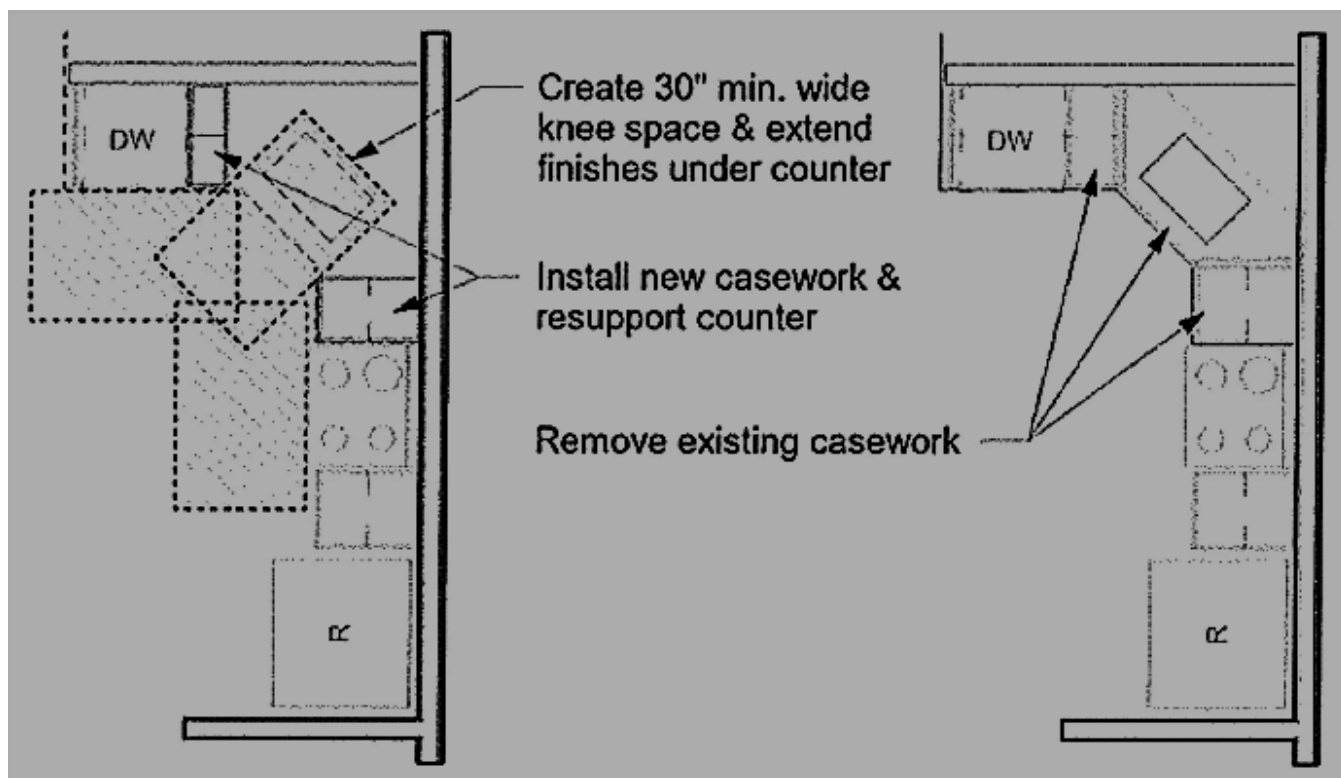


¹⁵ Federal Register, Vol. 55, No. 116, Friday, June 15, 1990, page 24453.



16

Respondents agree to complete the above described retrofit in a manner consistent with the following illustration they submitted to ICRC:



(c) Respondents agree to retrofit the other units that were not inspected by ICRC Investigators – and are in the same floor-plan groups as the units in the table on page 11 of the current agreement – in same manner as described in “(b)” paragraph above.

¹⁶ *Id.*

(d) Respondents agree to complete the retrofits described in paragraph “(b)” of the current subsection within four years from the date of the Closing Letter from ICRC or sooner if requested by a tenant with a mobility impairment.

Usable bathrooms – Shower Stalls

(a) The parties agree the depth and width of the shower stalls in Unit 404 is less than the nominal 36” by 36” required by the Manual, and which is defined by HUD¹⁷ to be 35 1/2” by 35 1/2”.

(b) Respondents agree to replace the existing fiber glass shower stall in Unit 404 with a 36” x 36” shower base that will be installed and the walls tiled with a minimum of 35-1/2” x 35-1/2” available clear floor space.

(c) Respondents agree to retrofit the two other units of the same floor-plan type as Unit 404 in the same manner required in paragraph “(b)” of the current subsection.

(d) Respondents agree to complete the retrofits described in paragraph “(b)” of the current subsection within three years from the date of the Closing Letter from ICRC or sooner if requested by a tenant with a mobility impairment.

Retrofit Requests

17) Within 14 days from the date of the Closing Letter from ICRC, Respondents agree to notify all current tenants – who need any of the required retrofits to be completed in their units because of a mobility impairment – via a letter, about the option to have management complete these retrofits in their units within 14 days at no charge to the tenants.

18) Respondents agree to submit to ICRC a scanned copy of the letter sent to each tenant within 30 days from the date of the Closing Letter from ICRC.

19) Respondents agree to complete all retrofits requested by a tenant due to a mobility impairment within 14 days from the date of the written the request submitted by the tenant.

20) Respondents agree that those tenants who request the retrofits to be performed in their units because of a mobility impairment will be allowed to remain in their units while the renovations are being completed, so long as their continued stay is safe and does not unduly disrupt the renovation work. If their continued stay is not safe or unduly interferes with renovation work, Respondents agree to make available an alternative unit or reasonable accommodations at alternative location on a temporary basis, until the unit is made safe or the renovation work is completed. Respondents agree to pay all costs generated by such accommodations.

Mandatory Reports

20) Respondents agree to notify ICRC when they have completed the required retrofits for each of the units and the public and common use areas. Such notification shall be made within 90 days of completion, and include brief verbal descriptions and photographs. These required notifications to ICRC – after each

¹⁷ https://www.fairhousingfirst.org/documents/BATHROOM_FINAL_BOOK.pdf at page 59 (Last visited on April 3, 2020).

unit or common area is modified or retrofitted – will continue until all required retrofits have been completed in all 51 units, and the public and common use areas.

21) Respondents agree to send a copy to ICRC of all written requests for retrofits that they receive from tenants in response to the written notice sent to tenants that is required in Term 17.

22) Respondents agree, as the required retrofit is made to a particular unit, ICRC may then inspect such unit, and then report the results of its inspection, addressing any outstanding deficiencies, in writing and within 30 days of the inspection to Respondents. If the inspection indicates outstanding deficiencies, Respondents shall correct all such deficiencies within a reasonable period of time as determined by ICRC.

23) Respondents agree to send all reports and written statements required in this agreement to ICRC (Attn: Emigdio Lopez-Sanders; Iowa Civil Rights Commission, 400 East 14th Street, Des Moines, Iowa 50319-0201, OR via email at emigdio.lopez-sanders@iowa.gov).

24) The sale or transfer of ownership, in whole or in part, by any owner of the subject property will not affect any obligation to modify or retrofit the properties as specified in this agreement, unless Respondents have obtained, in writing, as a condition of sale or transfer, the purchaser or transferee's commitment to be bound by the terms of this agreement to complete all required retrofits as specified in this agreement.

Riverview Plaza Investments, L.L.C.
RESPONDENT

Date

Watts Group Development, Inc.
RESPONDENT

Date

Watts Group Construction, L.L.C.
RESPONDENT

Date

OPN, Inc.
RESPONDENT

Date

Angela Jackson, Commissioner
COMPLAINANT

Date

Elizabeth Johnson, Executive Director
IOWA CIVIL RIGHTS COMMISSION

Date