

## Design and Construction in Fair Housing

Fair housing law regulates multi-family residents' consisting of four or more dwelling units. If the building has an elevator, then all units must be accessible according to design and construction requirements. If the building does not have an elevator, only the units on the ground level need to comply with design and construction requirements. The enumerated design and construction requirements apply to multifamily dwellings first occupied after January 1, 1992.

### “Magnificent Seven” Design and Construction Requirements:

1. The public use and common use portions of the dwellings are readily accessible to and usable by persons with disabilities.
2. All doors are designed to allow passage into and within all premises in the dwelling, and are sufficiently wide to allow passage by persons with disabilities in wheelchairs.
3. An accessible route into and through the dwelling.
4. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations.
5. Reinforcements in bathroom walls to allow later installation of grab bars.
6. Usable kitchens and bathrooms so that a person in a wheelchair can maneuver about the space.
7. Covered multifamily dwellings ... shall be designed and constructed to have at least one building entrance on an accessible route ...

The requirements are codified both federally by the Fair Housing Amendments Act of 1988 and in Iowa through 1988 amendments to the Iowa Civil Rights Act.

### Enforcement of Seven Design and Construction Requirements

**Federal law** allows an aggrieved individual several courses of action:

1. File civil suit in federal district court, or state court **within two (2) years** after the termination or occurrence of a discriminatory violation.
2. File an administrative complaint with HUD **within one (1) year** of the alleged discriminatory housing practice.
3. U.S. Attorney General may file a civil suit in federal district court against a violator.

**Iowa law** also provides several enforcement mechanisms:

1. An individual may file a complaint with the Iowa Civil Rights Commissions (ICRC) **within 300 days** after alleged discriminatory or unfair practice occurred:
  - a. Complaint will then be served upon the person whom is committing the alleged discriminatory act.
  - b. Complaint is examined by ICRC investigator who makes recommendation to an administrative law judge on whether there is or is not probable cause.
  - c. If the ICRC's administrative law judge finds probable cause, parties can either:
    - Elect a public hearing, or,
    - Elect a trial in district court
2. Directly file in state court **within two (2) years of the date of the alleged discriminatory action.**
3. Iowa Department of Justice can file a civil suit in state district court on behalf of an injured party.

## How **Statutes of Limitations** Affect the Timeliness of a Claim

Some states take broad view of the Statutes of Limitations, holding that they run from the time the injury took place. One such court held, “In a situation of ongoing wrong, it is as if the continuing policy of discrimination or violation repeatedly triggers and re-triggers the statute of limitations clock.”

The **Iowa Supreme Court** has chosen to **narrowly** interpret the statutes of limitations in the Iowa Civil Rights Act. Under this narrow interpretation, Iowa law bars individuals from pursuing private remedial action in state court if more than **two (2) years** have gone by since the initial violation occurred. The law also bars a person from filing a claim with the ICRC if more than 300 days have elapsed since the initial violation.

So, if the “violation” is the construction of an inaccessible building, and a person with a disability never visits that building (and is thus injured) for five years after it was constructed, under Iowa law they will not be able to bring a claim to address that violation. All claims must be brought within two (2) years of the construction of the building.

However, if the statute of limitations under Iowa law has run out, a person still has several options:

1. In cases involving a “pattern or practice” of housing discrimination, the US Attorney General may file a civil action against the violator in federal district court to seek equitable relief and the end of the discriminatory practice. There is no statute of limitation on this action.
2. The US Attorney General may seek monetary damages against a violator. The statute of limitation here is **three (3) years** after the right of action first arises.
3. The US Attorney General may file actions seeking civil penalties against parties committing discriminatory housing practices within **five (5) years** from the date when the claim first arose.

*“Millions of Americans are being excluded from full participation in the life of this nation by an inaccessible, unavailable, and inappropriate housing stock. Architectural barriers [to entry], which need not be costly to eliminate, are like **KEEP OUT** signs to a substantial part of our population...”*

-Sen. Paul Simon, on the Senate floor in 1988.

### For further information, please contact:

**Iowa Civil Rights Commission**  
Grimes Building, 400 E. 14<sup>th</sup> St.  
Des Moines, IA 50319  
515-281-4121 or 1-800-457-4416  
<https://icrc.iowa.gov/>

**HUD—Regional Fair Housing Office**  
400 State Ave., Room 200  
Kansas City, Kansas 66101  
913-551-6993 or 1-800-743-5323  
<https://www.hud.gov/>

**Iowa Office of Persons with Disabilities**  
Lucas Building, 321 E. 12<sup>th</sup> St.  
Des Moines, Iowa 50319  
1-888-219-0471  
<https://humanrights.iowa.gov/cas/pd>

