

Gause, John P

From: Gause, John P
Sent: Wednesday, May 11, 2011 4:01 PM
To:
Subject: Accessible design of public housing - 20 or more units

You asked whether a housing provider that offers 20 or more public housing units would need to comply with 5 M.R.S.A. §4582 (accessible design of public housing) if none of the buildings contains 20 or more units.

For new construction, the MHRA requires that, “[w]ith respect to any form of public housing or any housing that is financed in whole or in part with public funds offering housing accommodations containing 20 or more units for which construction is begun after October 1, 1988, no less than 10% of the ground level units and a minimum of 10% of the upper story units connected by an elevator must be accessible to and useable by persons with physical disability.” 5 M.R.S.A. §4582(emphasis added). The term “housing accommodation” is defined, in relevant part, as including “any building or structure or portion thereof, or any parcel of land, developed or undeveloped, which is occupied, or is intended to be occupied or to be developed for occupancy, for residential purposes. . . .” 5 M.R.S.A. §4553(6). Reading the definition into §4582, we end up with “. . . any form of public housing or any housing that is financed in whole or in part with public funds offering [any building or structure or portion thereof, or any parcel of land, developed or undeveloped, which is occupied, or is intended to be occupied or to be developed for occupancy, for residential purposes] containing 20 or more units for which construction is begun. . . .”

Therefore, public housing is covered if either (1) a building or structure or portion thereof contains 20 or more units, or (2) a parcel of land has 20 or more units developed on it. In your example, if the provider has 20 or more residential units on a single parcel of land, it is covered. If so, for new construction, no less than 10% of the ground level units and a minimum of 10% of the upper story units connected by an elevator need to be accessible to and useable by persons with physical disability. In your example, the 10% refers to 10% of the total units on the parcel of land, not 10% of the units in each building.

Please let me know if you have any additional questions.

John

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