

## APPENDIX 4

### Remediation Tolerances

With respect to the Remediation Properties, remediations will be made to one or more "safe harbors," selected by TCR, and modified as follows<sup>2</sup>:

- a. Thresholds: all thresholds, in units, having a vertical rise of more than ¼" but no more than ¾" will either be beveled or replaced with a conforming threshold. Thresholds having a vertical rise in excess of ¾" will be replaced with conforming thresholds.
- b. French Door Thresholds: vertical rise on French door threshold may, if ramped at a ratio of 1:12, be up to 1".
- c. Patio/Balcony Thresholds: at all patio and balcony thresholds having an interior vertical rise of more than ¼," but no more than 1" a ramping mechanism at 1:2 from ¼" to ¾", or at 1:12 from ¾" to 1", may be installed so as to make the doorway accessible to persons using wheelchairs. Thresholds with an interior vertical rise of more than 1" will be replaced with one meeting all other criteria of a safe harbor.
- d. Doors:
  - (i) In the event that a door to an accessible bathroom is in compliance with the selected safe harbor, a second door to that same bathroom will not be required to be remediated;
  - (ii) The interior door width requirement of 32" nominal (31.5") may be met through the use of offset hinges;
  - (iii) Closets of 26" or lesser depth will not be required to meet 32" nominal width door requirements.
- e. Kitchens:
  - (i) Clear floor space on sinks and applicable appliances may be off-center by up to 2";

<sup>2</sup> "Safe Harbor" means any of the following: a) ANSI A117.1 (1986); the Fair Housing Accessibility Guidelines (HUD, 1991); the Fair Housing Design Manual (1998); the Guidelines and Supplemental Questions and Answers (HUD, June 28, 1994); CABO/ANSI A117.1 (1992); ICC/ANSI A117.1(1998); the Code Requirements for Housing Accessibility (CRHA, 2000); the International Building Code (2000, with 2001 Supplement); the International Building Code (2003); the International Building Code (2006); and b) any other Safe Harbor recognized by HUD. To the extent TCR relies upon ANSI standards as a Safe Harbor, those standards shall be read in conjunction with the Fair Housing Act, HUD's regulations, and the HUD Fair Housing Accessibility Guidelines.

- (ii) In U-shaped kitchens, no remediation would be required if turning diameter is no less than 59". If diameter is less than 59" removable base cabinets sufficient to allow for "T-turns" would be sufficient;
- (iii) In galley kitchens, no remediation would be required if the distance between the faces of the opposable elements (cabinets and appliances) is 39" or greater.
- (iv) If the clear floor space is impinged by an appliance, the resident will be offered a smaller replacement appliance at no cost.

f. Switches, Outlets, and Environmental Controls:

- (i) Maximum height of 49" and minimum height of 14", each measured to the centerline of, respectively, the higher or lower receptacle or an outlet or switch or the centerline of the highest operable control of the thermostat; if higher than 49", lower to 47" or lower, and if lower than 14" raise to 16" or above; and
- (ii) Outlets over kitchen counters in inaccessible locations could remain if an equal number of outlets with comparable electrical capacity are provided in accessible locations within the same area. For purposes of this provision, the "same area" means that an accessible outlet is located within 36" or serves the same uninterrupted countertop as the inaccessible outlet, and is not within 32" of any corner.

g. Bathrooms (unless otherwise agreed upon):

- (i) Clear floor space on sinks, toilet and tub may be off-center by up to 2";
- (ii) Toilets at least 16" from the "grab bar" side wall and 14" from the "non-grab bar" side wall need not be repositioned. Off-set flanges may be used to reposition toilets requiring remediation;
- (iii) countertop heights in unit bathrooms need not be altered if no higher than 35" AFF; and
- (iv) wing-its may be used in lieu of cross-bracing as reinforcement for grab bars.

h. Mailboxes

- (i) If the lower rows of mailboxes are less than 49" they will not need to be repositioned so long as any tenant with a disability is provided the option to be assigned (or moved to) a mailbox on a level below 48".

i. Common Use Areas:

- (i) At least one route to the primary door and various parts of the clubhouse and leasing office must be "accessible" as defined by a recognized safe harbor;
- (ii) reflective mirrors need not be altered if no more than 45" AFF, and mirror is tiltable;
- (iv) signage need not be altered if it meets all other FHA and ADA criteria and is no more than 62" AFF measured to the center of the sign;
- (v) grab bars for toilets need not be altered if no more that 35"- 37" AFF;

j. Accessible Routes

- (i) Site or legal constraints will be acknowledged as a basis to provide an accessible route to a secondary entrance;
- (ii) Running Slopes and Cross Slopes: unless otherwise agreed to by the parties (a) walkways (excluding at entries and landings) need not be altered as to running slope if their running slope is 5.25% or less, and the walkways are otherwise FHA and ADA compliant. Walkway slopes above 5.25% will be altered to 5.00%, or will be considered ramps not walkways, and will have handrails on both sides except at curb ramps ; (b) ramps with running slopes of up to 8.75% (but complying with all other requirements for ramps) need not be altered. Ramps with running slopes above 8.75% will be altered to no more than 8.33%; (c) cross-slopes of walkways and ramps (but not at entries or landings) need not be altered as to cross-slope if the existing cross-slope is no greater than 4.00%, and the walkways and ramps are otherwise FHA and ADA compliant. Walkways and ramps with cross-slopes in excess of 4.00% will be altered to no more than 2.00%;
- (iii) accessible parking spaces need not be altered if they meet all other FHA and ADA requirements, and width is no less than 12';
- (iv) handrail extensions need not be altered if they are no less than 11".

- k. Protruding Objects: Sconces or other objects that protrude 5" or less as measured from the baseboards of the walls in hallways (if such baseboards are a uniform distance from the wall) or which are higher than 78" AFF and protrude any distance may remain.

1. General Provisions: The Parties recognize that some remediation efforts would be impossible or substantially burdensome balanced against the objectives of the FHA and ADA. In such circumstances, the parties will, in good faith, seek alternative accessibility modifications to mitigate the violation and maximize accessibility.
  - (i.) In no event shall TCR be required to move a load bearing wall or a wall that would include relocating plumbing, electrical panels, or an HVAC chase, or to install an elevator as part of a retrofit, or to provide any remediation under this paragraph 3 when no feasible alternative is identified.
  - (ii.) If, after negotiating in good faith to agree on alternative accessibility modifications under this provision, the Parties remain in disagreement, either party may promptly petition the Court for a determination as to the extent of the retrofit to be performed, or for a determination that no retrofit need be made.
  - (iii.) The applicability of this provision is limited to those situations in which a single alleged deficiency necessitates the retrofit with a substantial magnitude or burden. This provision does not apply in situations where the cumulative effect of several alleged deficiencies results in a substantial magnitude or burden for fixing a single unit, nor will it be applied to any alleged deficiency that causes a retrofit with a substantial magnitude or burden only because a retrofit is necessary for a large number of units.