

ENFORCEMENT ACTION AGAINST	§	BEFORE THE
LIH WURZBACH MANOR, LP	§	TEXAS DEPARTMENT OF
WITH RESPECT TO	§	HOUSING AND COMMUNITY
WURZBACH MANOR APARTMENTS	§	AFFAIRS
(HTC FILE # 19413 / CMTS # 3277)	§	

**AGREED FINAL ORDER**

**General Remarks and official action taken:**

On this 7<sup>th</sup> day of September, 2023, the Governing Board (Board) of the Texas Department of Housing and Community Affairs (TDHCA or Department) considered the matter of whether enforcement action should be taken against **LIH WURZBACH MANOR, LP**, a Texas limited partnership (Respondent).

This Agreed Order is executed pursuant to the authority of the Administrative Procedure Act (APA), Tex. Gov't Code §2001.056, which authorizes the informal disposition of contested cases. In a desire to conclude this matter without further delay and expense, the Board and Respondent agree to resolve this matter by this Agreed Final Order. The Respondent agrees to this Order for the purpose of resolving this proceeding only and without admitting or denying the findings of fact and conclusions of law set out in this Order.

Upon recommendation of the Enforcement Committee, the Board makes the following findings of fact and conclusions of law and enters this Order:

**WAIVER**

Respondent acknowledges the existence of their right to request a hearing as provided by Tex. Gov't Code §2306.044, and to seek judicial review, in the District Court of Travis County, Texas, of any order as provided by Tex. Gov't Code §2306.047. Pursuant to this compromise and settlement, the Respondent waives those rights and acknowledges the jurisdiction of the Board over Respondent.

**FINDINGS OF FACT (FOF)**

**Jurisdiction:**

1. During 2003, WB Affordable Housing, L.P. (Prior Owner) was awarded an allocation of Low Income Housing Tax Credits by the Board to build and operate Wurzbach Manor Apartments (Property) (HTC file No. 19413 / CMTS No. 3277 / LDLD No. 1072).

2. Prior Owner transferred its interests in the Property to Respondent through a Special Warranty Deed effective June 13, 2019, and filed in the Records at Document Number 20190110021 on June 11, 2019. The restrictions remain in place in accordance with Section 2 of the LURA, thereby binding Respondent to the terms of the agreement.
3. During 2019, Respondent was awarded an allocation of Low Income Housing Tax Credits by the Board to rehabilitate and operate the Property.
4. Two land use restriction agreements (collectively LURAs) restrict the Property. The first LURA is a Declaration of Land Use Restrictive Covenants / Land Use Restriction Agreement for Low-Income Housing Credits, dated as of December 3, 2003, and filed of record on December 24, 2003, at Document Number 20030330672 of the Official Public Records of Real Property of Bexar County, Texas (Records), as amended by a First Amendment executed on April 28, 2006, and filed in the Records at Document Number 20060107904 on May 11, 2006, as further amended by a Second Amendment executed on June 21, 2006, and filed in the Records at Document Number 20060168463 on July 17, 2006. The second LURA is a Declaration of Land Use Restrictive Covenants Land Use Restriction Agreement for Low Income Housing Tax Credits, dated as of December 22, 2020 and filed of record on December 29, 2020 at Document Number 20200320319 of the Records, as amended by a First Amendment dated January 14, 2022, and filed of record on February 7, 2022 at Document Number 20220030905 of the Records. In accordance with Section 2 of the LURA, the LURAs are restrictive covenants/deed restrictions encumbering the Property and binding on all successors and assigns for the full terms of the LURAs.
5. Respondent is subject to the regulatory authority of TDHCA.

Compliance Violations<sup>1</sup>:

6. The Department conducted a final construction inspection on October 29, 2021. The inspection focused on application commitments and representations, amenities, and program requirements relating to accessibility. The Inspection report showed 43 accessibility deficiencies, including violations of Section 504 of the Rehabilitation Act of 1973; Titles II and III of the Americans with Disabilities Act, as further defined through the 2010 ADA Standards for Accessible Design (2010 ADA); Tex. Gov't Code §§2306.6722 and 2306.6730; 10 TAC §§1.201-1.212 (Accessibility Rules); and Addenda C and D of the LURA. The Department issued notifications of noncompliance and provided an extension, setting an August 22, 2022, corrective action deadline. Respondent submitted partial corrective documentation on August 22, 2022, December 5, 2022,

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<sup>1</sup> Within this Agreed Final Order, all references to violations of TDHCA Compliance Monitoring rules at 10 TAC Chapter 10 refers to the versions of the code in effect at the time of the compliance monitoring reviews and/or inspections that resulted in recording each violation. All past violations remain violations under the current code and all interim amendments.

March 31, 2023 and May 22, 2023, but it was incomplete and all violations listed at *Exhibit 1* remain unresolved at the time of this Order.

7. The Department conducted a file monitoring review on March 1, 2022 and April 26, 2022, to determine whether Respondent was in compliance with LURA requirements to lease units to low income households and maintain records demonstrating eligibility. The monitoring review found violations of the LURA and TDHCA rules. The Department issued notifications of noncompliance and provided an extension, setting an extended December 9, 2022 corrective action deadline, however, the following violations were not resolved before the deadline:
  - a. Respondent failed to provide documentation that household incomes were within prescribed limits at the time of transfer for units 4354F and 4210E, a violation of 10 TAC §10.616 (Household Transfer Requirements for All Programs) and Section 4 of the LURAs, which require screening of tenants to ensure qualification for the program. Each building is considered its own project for tax credit purposes until the Form 8609 is filed<sup>2</sup>, therefore, per 10 TAC §10.616, a new certification must be performed when a household transfers from one project to another. The households transferred projects and new certifications were not performed. These violations were corrected on May 22, 2023, after intervention by the Enforcement Committee.
  - b. Respondent failed to provide documentation that household incomes were within prescribed limits upon initial occupancy for units 4227E, 4227G, and 4235E, a violation of 10 TAC §10.611 (Determination, Documentation and Certification of Annual Income) and Section 4 of the LURA, which require screening of tenants to ensure qualification for the program. TDHCA dropped these three violations These violations were dropped because tenant files submitted on May 22, 2023, after intervention by the Enforcement Committee, proved household eligibility at initial occupancy.
8. The following violations remain outstanding at the time of this order:
  - a. All Final Construction Inspection violations described at FOF #6.

### **CONCLUSIONS OF LAW**

1. The Department has jurisdiction over this matter pursuant to Tex. Gov't Code §§2306.041-.0503 and 10 TAC Chapter 2.
2. Respondent is a "housing sponsor" as that term is defined in Tex. Gov't Code §2306.004(14).

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<sup>2</sup> Forms 8609 were signed on July 15, 2022, changing the election to treat each building as part of a multiple building project for purposes of Section 42, but the cited violations remain valid because the requirement to recertify both households at the time of transfer pre-dated that election.

3. Pursuant to IRC §42(m)(1)(B)(iii), housing credit agencies are required to monitor for noncompliance with all provisions of the IRC and to notify the Internal Revenue Service of such noncompliance.
4. Pursuant to Tex. Gov't Code Chapter 2306, Subchapter DD and Tex. Gov't Code §2306.185, TDHCA is authorized to make Housing Tax Credit Allocations for the State of Texas and is required to monitor to ensure compliance.
5. Respondent violated 10 TAC §10.616 and Section 4 of the LURA in 2022, by failing to provide documentation that household income was within prescribed limits at the time of transfer for units 4354F and 4210E.
6. Respondent violated 10 TAC §10.611 and Section 4 of the LURA in 2022, by failing to provide documentation that household income was within prescribed limits upon initial occupancy for units 4227E, 4227G, and 4235E;
7. Respondent violated Section 504 of the Rehabilitation Act of 1973, Titles II and III of the Americans with Disabilities Act, as further defined through the 2010 ADA Standards for Accessible Design (2010 ADA), Tex. Gov't Code §§2306.6722 and 2306.6730, 10 TAC §§1.201-1.212 (Accessibility Rules), and Addenda C and D of the LURAs, by failing to correct the final construction inspection deficiencies outlined at Exhibit 1.
8. Because Respondent is a housing sponsor with respect to the Property, and has violated TDHCA rules, the Board has personal and subject matter jurisdiction over Respondent pursuant to Tex. Gov't Code §2306.041 and §2306.267.
9. Because Respondent is a housing sponsor, TDHCA may order Respondent to perform or refrain from performing certain acts in order to comply with the law, TDHCA rules, or the terms of a contract or agreement to which Respondent and TDHCA are parties, pursuant to Tex. Gov't Code §2306.267.
10. Because Respondent has violated rules promulgated pursuant to Tex. Gov't Code §2306.053 and has violated agreements with the Agency to which Respondent is a party, the Agency may impose an administrative penalty pursuant to Tex. Gov't Code §2306.041.
11. An administrative penalty of \$10,000 is an appropriate penalty in accordance with 10 TAC Chapter 2.

Based upon the foregoing findings of fact and conclusions of law, and an assessment of the factors set forth in Tex. Gov't Code §2306.042 to be considered in assessing such penalties as applied specifically to the facts and circumstances present in this case, the Governing Board of the Texas Department of Housing and Community Affairs orders the following:

**IT IS HEREBY ORDERED** that Respondent is assessed an administrative penalty in the amount of \$10,000.00, subject to partial deferral as further ordered below.

**IT IS FURTHER ORDERED** that Respondent shall pay and is hereby directed to pay a \$2,500 portion of the assessed administrative penalty by check payable to the “Texas Department of Housing and Community Affairs” on or before October 9, 2023.

**IT IS FURTHER ORDERED** that Respondent shall correct all final construction inspection violations as indicated in the exhibits and submit corrective documentation in the correct format and including all necessary parts, as instructed at Exhibit 1, to document the corrections to TDHCA on or before November 6, 2023.

**IT IS FURTHER ORDERED** that if Respondent timely and fully complies with the terms and conditions of this Agreed Final Order, correcting all violations as required, the satisfactory performance under this order will be accepted in lieu of the remaining assessed administrative penalty and the remaining administrative penalty in the amount of \$7,500.00 will be deferred and forgiven.

**IT IS FURTHER ORDERED** that if Respondent fails to satisfy any conditions or otherwise violates any provision of this order, or the property is sold before the terms and conditions of this Agreed Final Order have been fully satisfied, then the remaining administrative penalty in the amount of \$7,500.00 shall be immediately due and payable to the Department. Such payment shall be made by check payable to the “Texas Department of Housing and Community Affairs” upon the earlier of (1) within thirty days of the date the Department sends written notice to Respondent that it has violated a provision of this Order, or (2) the property closing date if sold before the terms and conditions of this Agreed Final Order have been fully satisfied.

**IT IS FURTHER ORDERED** that corrective documentation must be uploaded to the Compliance Monitoring and Tracking System (CMTS) by following the instructions at this link: <http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf>. After the upload is complete, an email must be sent to Ysella Kaseman at [ysella.kaseman@tdhca.state.tx.us](mailto:ysella.kaseman@tdhca.state.tx.us) to inform her that the documentation is ready for review. Penalty payment must be submitted to the following address:

<b>If via overnight mail (FedEx, UPS):</b>	<b>If via USPS:</b>
TDHCA Attn: Ysella Kaseman 221 E 11 <sup>th</sup> St Austin, Texas 78701	TDHCA Attn: Ysella Kaseman P.O. Box 13941 Austin, Texas 78711

**IT IS FURTHER ORDERED** that Respondent shall follow the requirements of 10 TAC §10.406, a copy of which is included at Exhibit 2, and obtain approval from the Department prior to consummating a sale of the property, if contemplated.

**IT IS FURTHER ORDERED** that the terms of this Agreed Final Order shall be published on the TDHCA website.

Approved by the Governing Board of TDHCA on September 7, 2023.

By: /s/ Leo Vasquez  
Name: Leo Vasquez  
Title: Chair of the Board of TDHCA

By: /s/ James "Beau" Eccles  
Name: James "Beau" Eccles  
Title: Secretary of the Board of TDHCA

**THE STATE OF TEXAS §**  
**§**  
**COUNTY OF TRAVIS §**

Before me, the undersigned notary public, on this 7<sup>th</sup> day of September, 2023, personally appeared Leo Vasquez, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

/s/ Nancy Dennis  
Notary Public, State of Texas

**THE STATE OF TEXAS §**  
**§**  
**COUNTY OF TRAVIS §**

Before me, the undersigned notary public, on this 7<sup>th</sup> day of September, 2023, personally appeared James "Beau" Eccles, proved to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

(Seal)

/s/ Nancy Dennis  
Notary Public, State of Texas

STATE OF TEXAS §  
§  
COUNTY OF \_\_\_\_\_ §

BEFORE ME, \_\_\_\_\_ (*notary name*), a notary public in and for the State of \_\_\_\_\_, on this day personally appeared \_\_\_\_\_ (*person signing document*), known to me or proven to me through circle one: personally known / driver's license / passport to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that (he/she) executed the same for the purposes and consideration therein expressed, who being by me duly sworn, deposed as follows:

1. "My name is Jacob Levy, I am of sound mind, capable of making this statement, and personally acquainted with the facts herein stated.
2. I hold the office of Manager of the General Partner for Respondent. I am the authorized representative of Respondent, owner of the Property, which is subject to a Land Use Restriction Agreement monitored by the TDHCA in the State of Texas, and I am duly authorized by Respondent to execute this document.
3. The Taxpayer ID for Respondent is [REDACTED].
4. The mailing address for Respondent is [REDACTED].
5. Respondent knowingly and voluntarily enters into this Agreed Final Order, and agrees with and consents to the issuance and service of the foregoing Agreed Order by the Governing Board of the Texas Department of Housing and Community Affairs."

**RESPONDENT:**

**LIH WURZBACH MANOR, LP**, a Texas limited partnership

By: **LIH Wurzbach Manor GP, LLC**, a Texas limited liability company, its General Partner

By: /s/ Jacob Levy

Jacob Levy, Manager

*[California notary page was attached separately and is intentionally omitted from this web version of the Agreed Final Order because it is not available in an accessible format]*

## **Exhibit 1**

### **Instructions to Correct Final Construction Inspection Violations**

Correct each violation following the instructions in the following pages, and then submit complete corrective documentation via CMTS following the upload instructions at: <http://www.tdhca.state.tx.us/pmcdocs/CMTSUserGuide-AttachingDocs.pdf>.

Evidence of correction must be provided for each deficiency and must provide enough evidence to verify that the work has been done correctly and is 100% complete.

Where photographic evidence is required below, any photographic evidence involving dimensions, clearances, slope, etc. requires the photographer to compose each shot so that the details of the condition as well as a wide view showing the greater context are all included in the same picture. This requires a digital camera to be set at a high enough resolution so that the reviewer can adjust the image and clearly see both the ramp slope being checked and the level's digital readout, or tape's measurement with both ends of the tape visible in the frame. This also requires the camera to be positioned at an angle that aligns the measurement on the tape with the condition being measured.

Where owner certifications are required below, the certifications must specifically address the details of the corrected deficiency and place Respondent on the record as having confirmed that the repair is complete and the corrected condition meets the technical specification cited in the deficiency letter. Requested certifications must state that the correction was made in the cited unit and in all other units where the requirement applies.

Where accessibility specialist, architect, engineer, and/or other service provider certifications are required below, the certifications must specifically address the details of the corrected deficiency and place that professional on the record as having confirmed that the repair is complete and the corrected condition meets the technical specification cited in the deficiency letter. Requested certifications must state that the correction was made in the cited unit and in all other units where the requirement applies. Certifications from accessibility specialists, architects, engineers and other service providers must be provided on company letterhead and be dated and signed with the professional's printed name, designation and registration number. Blanket or vaguely worded statements are not acceptable. The architect or accessibility specialist must be on the record confirming that each repair is complete, and that the corrected condition meets the technical specification cited for each deficiency. *Furthermore, any deficiencies involving dwelling units require the certification to state that the condition has been corrected in the cited unit and all other mobility accessible dwelling units or sensory units.* Please review the corrective action sections below for complete instructions.



**Item #1 Deficiency:** Common Use Amenities The inspection confirmed that amenity items that were identified by the owner in the inspection request form were verified by the inspector to be present. Confirmed items are marked with an “X” above. Items marked with an asterisk \* indicates that the amenity was not verified as being present or as described. The combined point value of the confirmed items is **15** points which does not meet the required threshold (3 more points needed).

- **Corrective Action** – Please provide photographic evidence and an architect’s or accessibility specialist’s certification listing amenity items with total scoring value that meets or exceeds the required threshold.
  - Barbeque grill and picnic table (min. one grill/table set for every 50 units) – one grill without accompanying picnic table seen during inspection; three grill/table sets needed.
  - Horseshoes, putting green, shuffleboard, video game console w/variety of games open to all residents, separate space – none seen during the inspection.
  - High speed Wi-Fi in common area (10 mbps minimum) – was not currently working and could not be verified during inspection.
  - High speed Wi-Fi throughout the development (10 mbps minimum) – was not currently working and could not be verified during inspection.

**Accessible Site and Common Use Facilities** The following item or items were found at the time of inspection to be in non-compliance or it was unclear if the item was in full compliance with applicable accessibility standard.

**Item #2 Deficiency:** Accessible Route Within a Site (HUD 11exceptions/TDHCA TAC 10 Rule 1.206/2010 ADA 206.3) This development is subject to ADA design requirements. At least one accessible route connection is not provided from the accessible route to the community garden concrete planters.



- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected. The certification must verify that a dedicated no-step pedestrian route located within the boundaries of the site is provided between the accessible route and all common use amenities; all employee work areas, and that the route coincides with or is located in the same area as general circulation paths; is not located in a vehicular driveway in the direction of traffic and has a stable, firm, and slip resistant surface.

Notes regarding prior responses: The community garden planters are a cluster of amenities so only 5% (1 total) needs to be accessible. Common use amenities are required to be accessible regardless of whether the amenity is needed to meet the minimum threshold of points specified in the application. One of the owner responses stated that the amenity is no longer available for tenant use. However, it does not describe how this was accomplished, i.e. whether the amenity is still present or whether it was removed.

**Item #3 Deficiency: Accessible Building and Facility Entrance (2010 ADA 206.4)** The primary entrance to mobility accessible unit 4246B is subject to ADA design requirements. The route to the entrance has steps with no ramp or lift and is not connected with the accessible route for the property. Additionally, the route that exits on the property to the public street is not an acceptable alternate to the general circulation path.

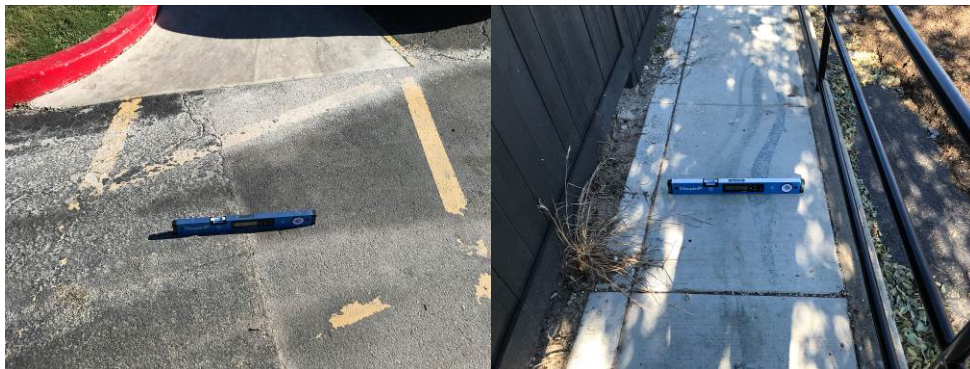


- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence certifying the condition has been corrected at the cited unit and all mobility units. The certification must verify that a dedicated no-step pedestrian route that coincides with or is located in the same area as general circulation paths and is an interior route if the general circulation path is interior connects to the entrances of all common use facilities; employee use work areas; and mobility accessible dwelling units.

Provide a site plan showing the accessible route connecting all accessible parking spaces, mobility accessible units, and public and common use facilities. Indicate on the site plan the locations of all curb-cuts, ramps, handrails, stairs/steps, and overhead hazard cane detection barriers.

Notes regarding prior responses: Unit 4246B is designated as a mobility accessible unit and is subject to ADA design requirements. An accessible route connecting this unit to all common use facilities and amenities is required. Additionally, no site plan was provided in the response.

**Item #4 Deficiency: Accessible Route Cross Slope (2010 ADA 403.3)** This development is subject to ADA design requirements. The accessible pedestrian route between mobility accessible unit 4246B and trash enclosure has a cross slope that exceeds the allowed maximum for any slope that runs perpendicular to the direction of travel along the accessible route. The cross slope was more than 2% and as high as 6%.



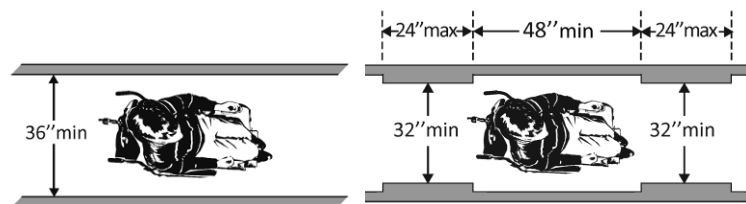
- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected at the location cited and throughout

the accessible route for the property. The certification must verify that the degree of cross slope at any point along the accessible route does not exceed two percent (1:50, or ¼ inch in 12 inches).

**Item #5 Deficiency: Accessible Route Width (2010 ADA 403.5.1-403.5.3)** This development is subject to ADA design requirements. The pedestrian route near the community center is the only commonly used circulation route to the common use mail kiosk and is required to be an accessible route, however, it does not meet the minimum width requirement for an accessible route. An overhanging bush encroaches on the route width. Additionally, the pedestrian route between the public sidewalk and leasing office is required to be an accessible route, however, it does not meet the minimum width requirement for an accessible route. Overhanging vehicle bumpers encroach on the route width.



- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected at the location cited and throughout the accessible route for the property. The certification must verify that the entire route provides a minimum width of 36 inches. Note that route width is permitted to be reduced to 32 inches for short segments of the route no greater than 24 inches long, and where multiple reduced-width segments are separated by segments that are at least 48 inches long and at least 36 inches wide (see illustration)



**Item #6 Deficiency: Curb Ramps (2010 ADA 406)** This rehab development is subject to ADA design requirements. The curb ramp located near the trash enclosure is part of the general-use circulation path, however, the slope of the side flares exceeds the maximum allowed.





- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected at the location cited and throughout the accessible route for the property. The certification must verify that all curb ramps on general circulation paths meet the following conditions: 1) the degree of slope of any side flares is no greater than 10% (1:10) and a minimum 36 inch wide detour route is provided for cross-traffic around the top of the curb ramp, or the degree of slope of any side flares is no greater than 8.33% (1:12) and a minimum 36 inch wide where a detour route is not provided for cross-traffic around the top of the curb ramp; 2) the counter-slope of the adjoining gutter or road surface immediately adjacent to the curb ramp does not exceed 5 degrees (1:20); 3) a smooth transition with no level change is provided where the bottom of the curb ramp meets the gutter or road surface.

**Item #7 Deficiency: Handrails** (2010 ADA 405.8, 505.2) This development is subject to ADA design requirements. The ramp located near the leasing office is an accessible ramp; however, handrails were not provided on both sides the entire length of the ramp. Additionally the stairs located near building 3 is an accessible stair; however, handrails were not provided on both sides.



- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected at the location cited and at all ramps with over 5% slope and with a rise of over six inches and accessible stairs that are part of a means of egress throughout the property. The certification must verify that accessible stairs and ramps meet each of the following handrail specifications: 1) handrails are provided on both sides of the stairs and ramps; 2) rail height is between 34-38 inches, measured vertically from the top of the rail to the stair nosing or ramp and landing surface; 3) the size of handrail gripping surface is from 1¼-2 inches in diameter; 4) clearance around all rails is at least 1½ inches; 5) there are no supports or mounting brackets on the top or sides of handrails; 6) bottom-mounted rail supports are at least 1½ inches long; and 7) handrail extensions are provided meeting all specifications required under ADA 505.10.

**Item #8 Deficiency: Accessible Car Parking Space (2010 ADA 502.2)** This development is subject to ADA design requirements. The accessible parking spaces reserved for mobility accessible units 4362B & D, 4334B & D, 4311B & D, and the community center do not have a level surface.



- **Corrective Action** – Please provide an owner’s certification with photographic evidence that the condition has been corrected at the location cited and at all accessible parking spaces on the property. The certification must verify that all accessible parking spaces meet the following conditions: 1) spaces are located adjacent to accessible access aisles; 2) marked car spaces are at least 96 inches wide (line center to center); 3) marked van spaces are at least 96 inches wide if the adjacent access aisle is 96 inches wide, or 132 inches wide if the adjacent aisle is 60 inches wide; 4) spaces have a level surface (max. 2% slope for drainage); 5) spaces are not obstructed; and 6) accessible parking spaces have a vertically mounted sign designating the parking space as reserved for accessible parking and containing the words “van accessible” for van spaces.

**Item #9 Deficiency: Accessible Parking Access Aisle (2010 ADA 502.3)** This development is subject to ADA design requirements. The accessible parking space reserved for mobility accessible units 4362B & D, 4334B & D, 4311B & D, and the community center do not have an accessible access aisle that is level and unobstructed. Additionally, the accessible van parking spaces reserved for mobility accessible units 4363B & D and the community center do not have an accessible van access aisle of the required minimum dimensions.



- **Corrective Action** – Please provide an owner’s certification with photographic evidence that the condition has been corrected at the location cited and at all accessible parking spaces on the property. The certification must verify that all accessible access aisles meet the following conditions: 1) aisles are located adjacent to each accessible parking space; 2) car aisles are marked to discourage parking within a space that is at least 60 inches wide (line center to center); 3) van aisles are marked to be at least 60 inches wide if the adjacent parking space is 132 inches wide, or 96 inches wide if the parking space 96 inches wide; 4) aisles are marked to discourage parking in them;

5) aisles have a level surface (max. 2% slope for drainage); 6) aisles are not obstructed and have no built-up curb ramps or vertical support columns; 7) aisles extend the full length of the parking spaces they serve; and 8) aisles adjoin directly to an accessible route with no-steps (one aisle may be shared between two adjacent accessible parking spaces).

**Item #10 Deficiency:** Room and Egress Route Signage (2010 ADA 216.2, 216.4.1, 703) This development is subject to ADA design requirements. The signs at doors identifying permanent rooms and spaces (leasing office unisex restroom) do not meet the *tactile* and *visual* character requirements for accessible signage.

- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected at the location cited and throughout the property. The certification must verify that all room and space signage, including egress route signs, and excluding exterior room and space signs not located at a door, meets the technical specifications required under ADA 703, and specifically verifies the following conditions are provided: 1) a non-glare finish with text characters on a high-contrast background (light on dark or dark on light); 2) all room and egress route signs provide *tactile* text characters meeting ADA 703.2 and braille meeting ADA specifications 703.3 and installation height and location meeting ADA 703.4; 3) all room and egress route signs also provide *visual* text characters meeting ADA 703.5; 4) for any signs designating exterior rooms and spaces not located at a door and not accompanied by braille, text characters are *visual* meeting ADA 703.5; and 5) any egress route signs meet all local codes and ordinances.

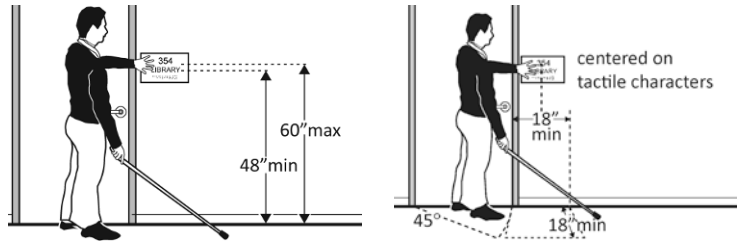
**Item #11 Deficiency:** Room and Egress Signage Height and Location (2010 ADA 216.2, 216.4.1, 703) This development is subject to ADA design requirements. The signs at doors identifying permanent rooms and spaces (leasing office) and dwelling units (4363C, 4311A) do not meet height requirements for accessible signage. Additionally, the signs at doors identifying dwelling units (4363B, 4311B) do not meet position requirements for accessible signage.



- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected at the location cited and throughout the property. The certification must verify that all room and space signage, including egress route signs, and excluding exterior room and space signs that are not located at a door, meets the technical specifications required under ADA 703, and specifically verifies the following conditions are provided: 1) a non-glare finish with text characters on a high-contrast background (light on dark or dark on light); 2) signs are located on either the push-side of the door face if it has a closer (not including spring hinges) and which do not have a hold-open device, or are located on the adjacent wall on the latch-side of the door; 3) a clear floor or ground surface beneath the sign that is at least 18 inches by 18 inches and is centered on the raised characters of the sign; 4) are positioned with



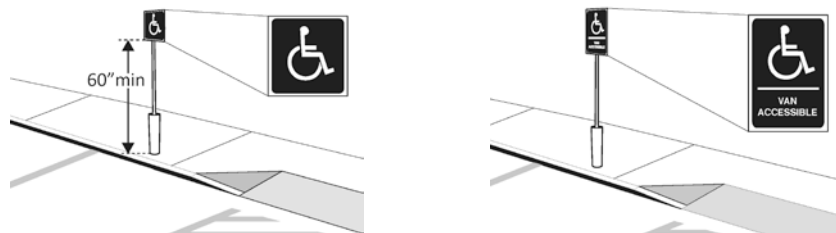
the baseline of the lowest row at or above 48 inches, and baseline of the highest row at or below 60 inches from the floor surface; and 5) any egress signs meet all local codes and ordinances.



**Item #12 Deficiency:** Accessible Parking Signs (2010 ADA 216.5) This development is subject to ADA design requirements. The accessible parking space located near building 3 did not have an accessible parking space identification sign designating the space as reserved for disabled use only.



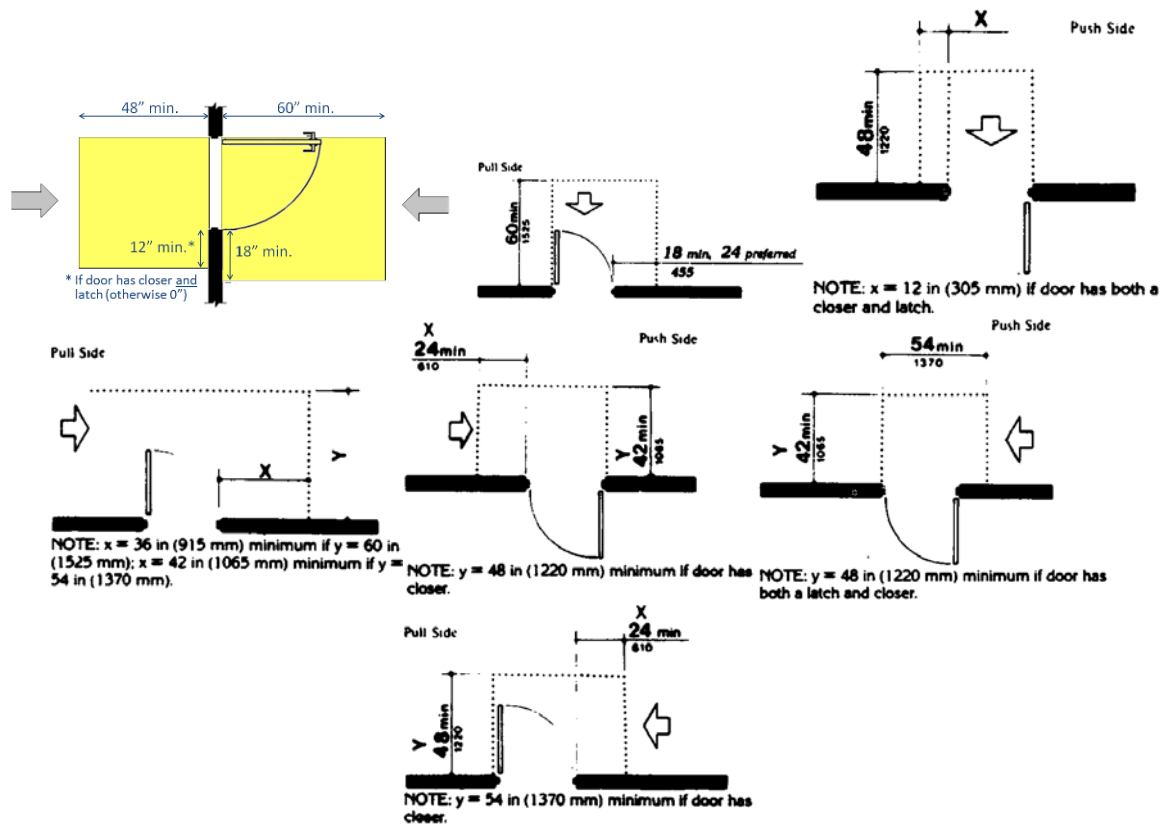
- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected at the location cited and throughout the accessible route for the property. The certification must specifically verify that all accessible parking signs meet the following conditions: 1) signs include the International Symbol of Accessibility; 2) contain the designation “van accessible” for all van spaces; and 3) are mounted at least 60 inches above the floor or ground surface measured to the bottom of the sign.



**Item #13 Deficiency:** Door Maneuvering Clearance (2010 ADA 404.2.4) This development is subject to ADA design requirements. The three pedestrian gates do not provide an unobstructed landing or floor space for maneuvering of proper dimensions that is level and clear for a passage door on an accessible route. An accessible route connecting ADA units to all common use facilities, amenities, and site arrival connections (public sidewalk and public transportation stop) is required.



- **Corrective Action** – Provide an owner’s certification with photographic evidence that the door at this location and at all interior and exterior passage doors on accessible routes provide a landing or floor surface area at either side of the door that is unobstructed and level (max. 2% slope – ¼:12) within the perimeter dimensions illustrated below. This includes a clear floor area that extends 18 inches beyond the latch side of a door that must be pulled to open (see upper left diagram).



**Item #14 Deficiency:** Door and Gate Surface (2010 ADA 404.2.10) This development is subject to ADA design requirements. The three pedestrian gates do not provide a smooth surface on the “push side”.





- **Corrective Action** – Provide an architect’s or accessibility specialist’s certification with photographic evidence that the gate at this location and at all interior and exterior passage doors and pedestrian gates on accessible routes provide a smooth surface within 10 inches of the finish floor or ground measured vertically on the push side extending the full width of the door or gate. Ensure that parts creating horizontal or vertical joints in these surfaces are within 1/16 inch of the same plane as the other and that cavities created by added kick plates are capped.

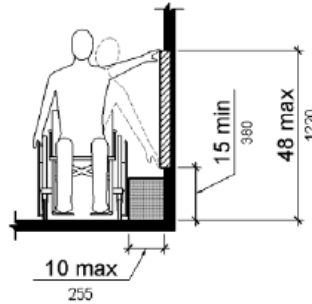
**Item #15 Deficiency:** Operable Parts (2010 ADA 205, 308-9) The leasing office is identified as a common use facility and employee work area subject to ADA design requirements. The paper towel dispenser in the unisex restroom is more than 48 inches above the floor and is not within accessible reach ranges.



- **Corrective Action** – Provide an architect’s or accessibility specialist’s certification with photographic evidence that the paper towel dispenser at this location and at all accessible spaces have been corrected or are already correct, do not require tight grasping, pinching, twisting of the wrist, are on an accessible route, and, where the clear floor space is positioned for an unobstructed side (parallel) approach, the height of the paper towel dispenser is 15-48 inches above the floor (an object that is less than or equal to 34 inches high and less than or equal to 10 inches deep is not considered an obstruction).

**Item #16 Deficiency:** Controls and Outlets (2010 ADA 205, 308-9) The leasing office is identified as a common use facility and employee work area subject to ADA design requirements. The thermostat (highest control) and light switch (“on” position) is more than 48 inches above the floor and is not within accessible reach ranges.

- **Corrective Action** – Provide an architect’s or accessibility specialist’s certification with photographic evidence that the control/switch at this location and all accessible spaces have been corrected or are already correct, are on an accessible route and, where the clear floor space is positioned for an unobstructed side (parallel) approach, the height of the control/switch is 15-48 inches above the floor (an object that is less than or equal to 34 inches high and less than or equal to 10 inches deep is not considered an obstruction).



**Item #17 Deficiency: Mailboxes (2010 ADA 205, 308-9)** The leasing office is identified as a common use facility and subject to ADA design requirements. The drop box is more than 48 inches above the ground surface and not within accessible reach ranges.



- **Corrective Action** – Provide an architect’s or accessibility specialist’s certification with photographic evidence that the drop box at this location and at other accessible drop boxes have been corrected or are already correct. The certification should say that they are on an accessible route, and, where the clear floor space is positioned for an unobstructed side (parallel) approach, the height of the drop box is 15-48 inches above the ground surface (an object that is less than or equal to 34 inches high and less than or equal to 10 inches deep is not considered an obstruction).

**Item #18 Deficiency: Trash Disposal (2010 ADA 205, 308-9)** The garbage dumpsters located throughout the property are identified as common use facilities and subject to ADA design requirements. The sill height of the opening of the dumpsters are more than 48 inches above the ground surface and not within accessible reach ranges and are not on an accessible route.



- **Corrective Action** – Provide an architect’s or accessibility specialist’s certification with photographic evidence that the garbage dumpster at this location and other accessible dumpsters have been corrected or are already correct. The certification must verify that trash facilities are provided with the use of accessible common-use dumpsters or with separate accessible receptacles for use by residents with disabilities. If separate receptacles are used, note that it may be necessary to designate them as reserved for disabled use only. The certification must also verify that all accessible trash facilities meet the following conditions: trash facilities are on an accessible route, and, where the clear floor space is positioned for an unobstructed side (parallel) approach, the height of the dumpster is 15-48 inches above the ground surface (an object that is less than or equal to 34 inches high and less than or equal to 10 inches deep is not considered an obstruction).

**Item #19 Deficiency:** Laundry Machines (TDHCA/2010 ADA 214, 611) The laundry room at the community center is identified as a common use facility serving accessible dwelling units and subject to TDHCA/ADA design requirements. The laundry room does not provide an accessible front-loading washing machine.



- **Corrective Action** – Provide an architect’s or accessibility specialist’s certification with photographic evidence that the laundry machines at this location have been corrected or are already correct. The certification must verify that applicable laundry rooms and accessible laundry machines are on an accessible route, and that at least one front-loading washer and dryer is provided in each accessible laundry room, and that the clear floor space at each accessible machine is positioned for a side (parallel) approach, and is centered on the machine with no obstruction within 24 inches on either side of the centerline, with unobstructed controls and operable parts at 15-48 inches above the floor.

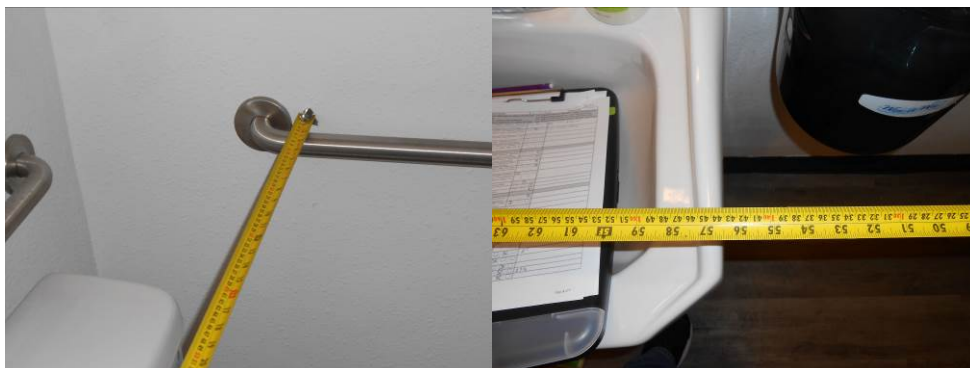
**Item #20 Deficiency:** Exposed Pipes (2010 ADA 606.5) The leasing office and community center are identified as common use facilities and subject to ADA design requirements. The kitchen sink does not provide adequate protection from exposed pipes and sharp or abrasive surfaces under the sink that may

cause injury to certain users. The drain line in the leasing office and community center kitchens are exposed where the flange meets the sink bowl. Additionally, the garbage disposal in the community center kitchen is exposed.

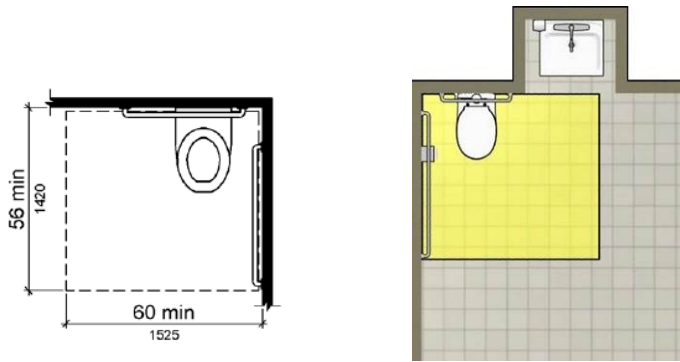


- **Corrective Action** – Please provide an architect's or accessibility specialist's certification with photographic evidence that the condition has been corrected at the location cited and throughout the accessible route for the property. The certification must verify the following: 1) water supply and drain pipes under sinks are insulated or otherwise configured to protect against contact; 2) there are no exposed sharp or abrasive surfaces under the sink; and 3) the minimum clearance beneath the sink is: (a) knee space is 8 inches deep (measured horizontally from the front edge of the sink counter) at a point that is 27 inches above the floor; (b) leg clearance is 11 inches deep at a point 9 inches high; and (c) toe clearance is at least 17 inches deep at a point at least 9 inches high.

**Item #21 Deficiency: Toilet Clear Floor Space (2010 ADA 604.3)** The leasing office and community center are identified as common use facilities and subject to ADA design requirements. The accessible toilet in the unisex (leasing office), men's (community center), and women's (community center) restrooms do not provide an unobstructed clear floor space of the required dimensions. An overlapping lavatory cabinet is located within the required clear floor space.



- **Corrective Action:** Please provide an architect's or accessibility specialist's certification with photographic evidence that the condition has been corrected in all common use restrooms having these conditions. The certification must verify that the width of the clear floor space is at least 60 inches (side to side) and the depth is at least 56 inches (front to back). Note that only grab bars, dispensers, sanitary napkin disposal units, coat hooks, shelves, accessible routes, clear floor space required at other fixtures, and the turning space are permitted to overlap. Ensure that no other fixtures or obstructions are located within the required toilet clearance.



**Item #22 Deficiency: Grab Bars (2010 ADA 604.5)** The leasing office is identified as a common use facility and subject to ADA design requirements. The rear grab bar at the accessible toilet in the unisex restroom did not have the required minimum clearance between the bar and the wipe dispenser.



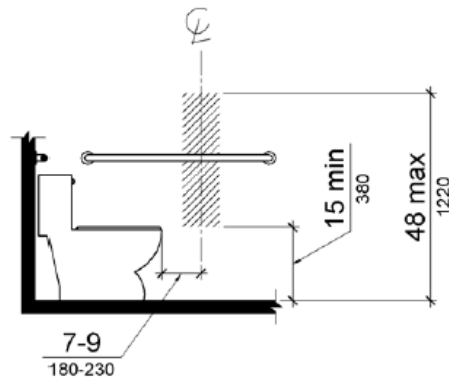
- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected at the location cited and at all accessible restrooms. The certification must verify that the grab bars at the back and sidewall of accessible toilets provide the following features: 1) grab bars are mounted horizontally, securely and will not rotate in their fittings; 2) bars are 1¼ inches to 1½ inches in diameter; 3) the center of the bars are 33 inches to 36 inches above the floor; 4) bars have at least 1½ inches of spacing all around and are not obstructed by any dispenser, any other inaccessible grab bar, fixture or architectural element; 5) the sidewall bar is at least 42 inches long with one end positioned no more than 12 inches, and with the other end no less than 54 inches from the corner; 6) bar at the back is at least 36 inches long and positioned so that the end nearest to the sidewall is no less than 12 inches from the centerline of the toilet, and the other end is no less than 24 inches from the toilet centerline.

**Item #23 Deficiency: Toilet Paper Dispenser (2010 ADA 604.7)** The leasing office and community center are identified as common use facilities and subject to ADA design requirements. The toilet paper dispenser for the accessible toilet in the unisex (leasing office), men’s (community center), and women’s (community center) restrooms is not installed in an accessible location relative to the toilet. It was measured at more than 9 inches from the front of the toilet to the centerline of the dispenser.





- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected at the location cited and throughout the property. The certification must verify that the toilet paper dispenser at all accessible toilets meets the following conditions: 1) does not control delivery or prevent continuous paper flow; 2) centerline is located between 7 and 9 inches in front of the toilet bowl; 3) outlet is between 15 and 48 inches above the floor; and 4) is no less than 1½ inches to the bottom and no less than 12 inches to the top of the grab bar.



**Item #24 Deficiency:** Exposed Pipes (2010 ADA 606.5) The leasing office and community center are identified as common use facilities and subject to ADA design requirements. The unisex (leasing office) men’s (community center), and women’s (community center) restrooms do not provide adequate protection from exposed pipes and sharp or abrasive surfaces under the lavatory that may cause injury to certain users. The drain line is exposed where the flange meets the lavatory bowl.



- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected at the location cited and throughout the accessible route for the property. The certification must verify the following: 1) water supply and drain pipes under lavatories are insulated or otherwise configured to protect against contact; 2) there are no exposed sharp or abrasive surfaces under the lavatory; and 3) the minimum clearance beneath the lavatory is: (a) knee space is 8 inches deep (measured horizontally from the front edge of the counter or lav) at a point that is 27 inches above the floor; (b) leg clearance is 11 inches deep at a point 9 inches high; and (c) toe clearance is at least 17 inches deep a point at least 9 inches high.

**Item #25 Deficiency: Mirror Height (2010 ADA 213.3.5)** The leasing office and community center are identified as common use facilities and subject to ADA design requirements. The mirror in the unisex (leasing office), men’s (community center), and women’s (community center) restrooms was more than 40 inches above the floor.



- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected at the location cited and throughout the accessible route for the property. The certification must verify that restroom mirrors are positioned with the bottom edge of the reflecting surface no higher than 40 inches above the floor.

**Item #26 Deficiency: Drinking Fountain (2010 ADA 211, 602)** The community center is identified as a common use facility with a drinking fountain and subject to ADA design requirements. The drinking fountain did not provide both a high and a low spout at accessible heights.



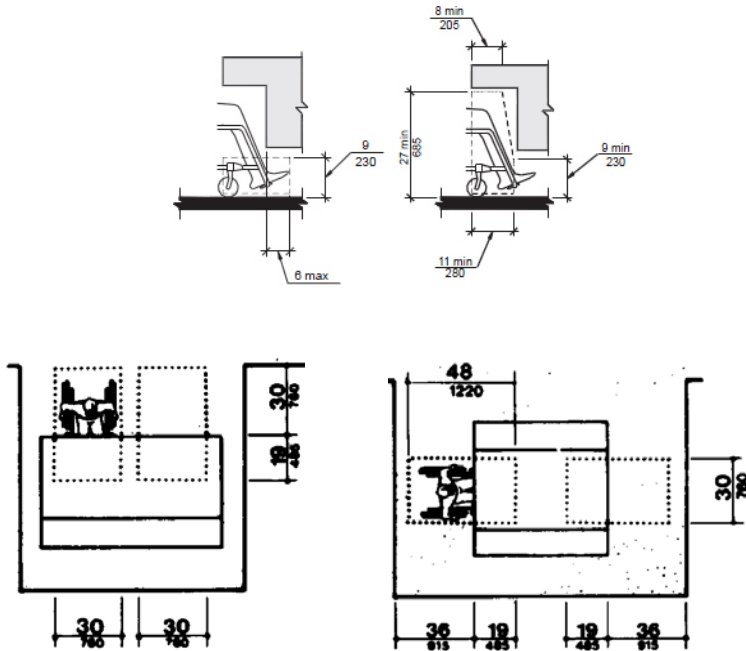
- **Corrective Action** –Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected at the location cited and throughout the property. The certification must verify that for every drinking fountain location, both a high and a low fountain are provided, and at each location, at least 50% (fractions rounded up or down) are accessible and meet the following conditions: 1) high spouts are 38 to 43 inches high, and low spouts are no more than 36 inches above the floor; 2) spout location is no closer than 15 inches from the vertical support behind the spout, and no further than 5 inches from the front of the unit; 3) water flow at fountains is at least 4 inches high, and flows parallel with the front of the fountain; and 4) open knee, leg and toe clearance is provided beneath and fountains are positioned for a forward approach.

**Item #27 Deficiency:** Tables & Work Surfaces (2010 ADA 226, 902) The common use picnic table located near the playground is subject to ADA design requirements. The picnic table is not connected with the accessible route for the property.



- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected at the location cited and throughout the property. The certification must verify that at least 5% of all common use picnic tables on the property meets the technical specifications required under the 2010 ADA, and specifically verifies that the following design features are provided for each accessible picnic table: 1) a minimum 30 inch by 48 inch clear floor or ground space provides one unobstructed side located adjacent to the accessible route for the property, and is positioned for a forward (front) approach; 2) top surface is 28 to 34 inches high; and 3) open space beneath accessible tables and work surfaces provides the required knee, leg and toe clearances.

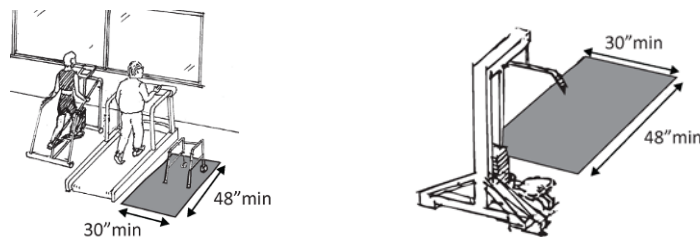




**Item #28 Deficiency:** Exercise Machines Access (2010 ADA 236, 1004.1) The community center is identified as a common use facility and subject to ADA design requirements. The workout facility in the community center does not provide a clear floor space for access to at least one of each type of exercise machine that is located on an accessible route.



- **Corrective Action** – Please provide an owner’s certification with photographic evidence that the condition has been corrected. The certification must verify that a 30 inch x 48 inch clear floor space is provided for transfer or for use by an individual seated in a wheelchair requiring either a parallel or forward approach to at least one of each type of exercise machine.



**Item #29 Deficiency:** Additional Accessible Ground Level Play Components (2010 ADA 240.2.1.2) The play area for 5-12 year olds is identified as a common use facility and subject to ADA design requirements. *Elevated play components* were provided (*i.e.* play components approached from above or below grade and which are part of a composite play structure with 2 or more components). *Ground level play components* were not provided (*i.e.* play component with ground level-only approach and exit). The required total number (2 needed) and number of different types (2 needed) of accessible *ground components* were not provided relative to the total number of *elevated components* provided.

- **Corrective Action** – Please provide an architect’s or accessibility specialist’s written certification on business letterhead with photographic evidence that the condition has been corrected. The certification must verify that the total number of accessible *ground components* and the number of different experience types they provide (*i.e.* general or primary experience) relative to the number of *elevated components* meets or exceeds the minimum totals specified *ADA Table 240.2.1.2*. Minimum number is two ground components of different types.

**Dwelling Units** The following item or items were found at the time of inspection to be in non-compliance or it was unclear if the item was in full compliance with applicable accessibility standard. As a reminder, only a selection of units were inspected, and some Corrective Action instructions below may require you to make corrections in the cited units, and also in units that were not inspected but are subject to the same requirement(s).

**Item #30 Deficiency:** Sight and Hearing Unit Peephole (2010 ADA 809.5.5.2) Unit 4351C is designated as a unit required to provide accessible communication features and subject to ADA design requirements. A means for visually identifying a visitor that provides a full range of view was not provided. Additional dwelling units required to provide accessible communication features were not inspected but may also be affected.

- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected in the cited unit and all other units required to provide accessible communication features. The certification must verify that sight and hearing accessible units are equipped with identification devices or other means for visually identifying a visitor without opening the door and allows for a minimum 180-degree range of view.

**Item #31 Deficiency:** Strobe Alarm (2010 ADA 809.5.2-3) Unit 4351C is designated as a unit required to provide accessible communication features and subject to ADA design requirements. The designated sight and hearing accessible unit did not provide operating strobe-type smoke detectors (living room). Additional dwelling units required to provide accessible communication features were not inspected but may also be affected.

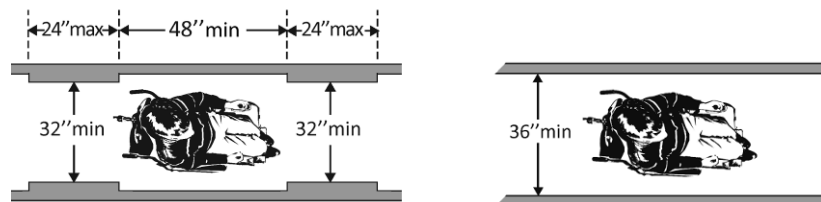


- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected in the cited unit and all other units required to provide accessible communication features. The certification must verify that sight and hearing accessible units meet the following conditions: 1) all appliances activate upon smoke detection and are visible and audible detector/alarms in compliance with NFPA 72 (1999 or 2002 edition); and 2) appliances are provided in all sleeping rooms, in common hallways serving sleeping rooms, and on each level of multilevel units in compliance with Chapter 92 of the Texas Property Code.

**Item #32 Deficiency: Accessible Route Width (2010 ADA 603.2.3)** Units 4311B and 4246B are designated as mobility accessible dwelling units and subject to ADA design requirements. The route between the master bedroom and the master bathroom is required to be an accessible route, however, it does not meet the minimum width requirement for an accessible route. Additional mobility accessible dwelling units were not inspected but may also be affected.



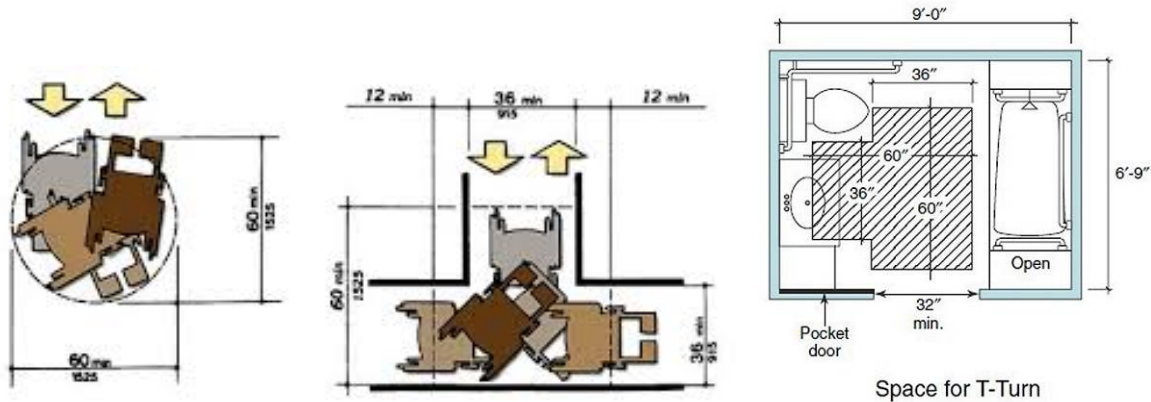
- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected in the cited unit and all other mobility accessible dwelling units. The certification must verify that the entire route provides a minimum width of 36 inches. Note that route width is permitted to be reduced to 32 inches for short segments of the route no greater than 24 inches long, and where multiple reduced-width segments are separated by segments that are at least 48 inches long and at least 36 inches wide (see illustration).



**Item #33 Deficiency: Turning Space (2010 ADA 304.3, 809.2.2)** Units 4311B and 4246B are designated as mobility accessible dwelling unit and subject to ADA design requirements. In dwelling units, a turning space is required in all rooms on an accessible route, including the non-complying bathroom. The turning space required for a user to make an 180° turn in the master bathroom does not provide a 60 inch diameter circle or a T-shaped turning space. Additional mobility accessible dwelling units were not inspected but may also be affected.



- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected in the cited unit and all other mobility accessible dwelling units. The certification must verify that a turning space is provided in the master bathroom that meets the following conditions: 1) allows the user to make a 180° turn with a minimum 60 inch diameter circle, or a T-shaped space with unobstructed 36 inch wide and 12 inch deep arms, and minimum 36 inch wide and 24 inch deep base of T; 2) has a surface that is firm, stable and slip resistant, with no abrupt level changes; 3) has a surface slope no greater than 2% (1:48); and 4) adjoins or overlaps an accessible route.

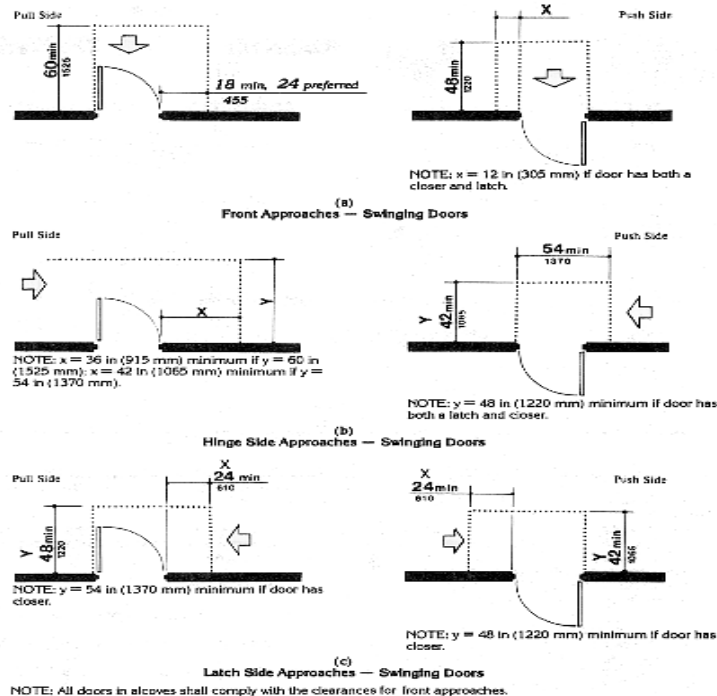


**Item #34 Deficiency:** Threshold Height and Beveled Edge (2010 ADA 404.2.5) Unit 4363B is designated as a mobility accessible dwelling unit and subject to ADA design requirements. The height of the front door threshold is 1 inch. Additional mobility accessible dwelling units were not inspected but may also be affected.



- **Corrective Action** – Provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected in the cited unit and all other mobility accessible dwelling units (one sample photo only). The certification must verify that, for all passage doors along the accessible route, the combined height of any threshold plus any change in floor level occurring at the threshold does not exceed  $\frac{3}{4}$  inch for rehabilitation developments (measured from top of threshold to interior floor and exterior landing surfaces). The certification must also verify that threshold heights and other changes in level along an accessible route that are between  $\frac{1}{4}$  inches and  $\frac{1}{2}$  inches have a beveled edge with maximum 1:2 slope.

*Maneuvering space.* Note that a ramp may not be installed at the edge of the threshold to address this condition. If the surface of the floor or landing is raised to meet the change in level requirement, the maneuvering space within the clear floor area at both sides of the door must be clear and level (a maximum 2% slope is allowed for drainage). Refer to the figure below for dimensions of the required maneuvering space at passage doors.



**Item #35 Deficiency: Door Clear Opening (2010 ADA 404.2.3)** In this rehabilitation development, units 4311B and 4246B are designated as a mobility accessible dwelling unit and subject to ADA design requirements. The master bathroom door does not provide the minimum clear opening for a passage door on an accessible route. The clear opening with the door open 90° was 21½ inches. Additional mobility accessible dwelling units were not inspected but may also be affected.



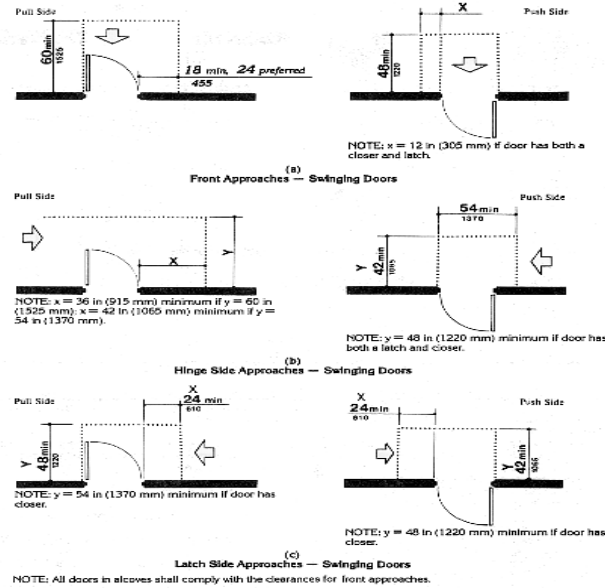


- **Corrective Action** – Provide an architect’s or accessibility specialist’s certification with photographic evidence (one sample photo only) that the door in the cited unit and that all passage doors in all other mobility accessible dwelling units provide at least a 32 inch clear opening width measured from the face of the door when door is opened to 90° to the door stop on the opposite jamb.

**Item #36 Deficiency:** Door Maneuvering Clearance (2010 ADA 404.2.4, 809.2) Units 4334B, 4311B, and 4246B are designated as mobility accessible dwelling units and subject to ADA design requirements. All passage doors on accessible routes are required to comply with door maneuvering clearance requirements, including the non-complying bathroom. The master bathroom (units 4311B and 4246B) and bedroom doors (unit 4334B) do not provide an unobstructed landing or floor space for maneuvering on the interior side that is of the required dimensions for the approach conditions for a passage door on an accessible route. Specifically, there is not 18 inches beyond the latch on the pull side of the doors. Additional mobility accessible dwelling units were not inspected but may also be affected.



- **Corrective Action** – Provide an owner’s certification with photographic evidence (one sample photo only) that the condition has been corrected in the cited units and all other mobility accessible dwelling units. Ensure that the door at this location and at all other interior and exterior passage doors on accessible routes provide a landing or floor surface area on both sides of the door that is unobstructed and level (max. 2% slope) within the perimeter dimensions illustrated below. This includes a clear floor area that extends 18 inches beyond the latch side of a door that must be pulled to open (see upper left diagram).



**Item #37 Deficiency:** Operable Parts (2010 ADA 205, 308-9) Units 4363B, 4334B, 4311B, and 4246B are identified as mobility accessible dwelling units and subject to ADA design requirements. The bathroom pocket door hardware requires tight grasping, pinching, or twisting of the wrist. Additional mobility accessible dwelling units were not inspected but may also be affected.

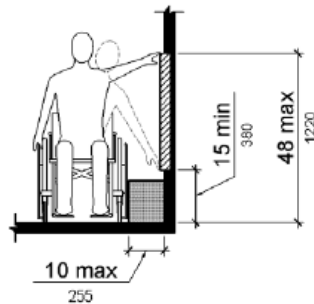


- **Corrective Action** – Provide an architect’s or accessibility specialist’s certification with photographic evidence that the bathroom pocket door hardware at the cited unit and all other mobility accessible dwelling units have been corrected or are already correct. The certification must verify that accessible pocket door hardware does not require tight grasping, pinching, twisting of the wrist, and is on an accessible route, and, where the clear floor space is positioned for an unobstructed side (parallel) approach, the height of the pocket door hardware is 15-48 inches above the floor (an object that is less than or equal to 34 inches high and less than or equal to 10 inches deep is not considered an obstruction).

**Item #38 Deficiency:** Controls and Outlets (2010 ADA 205, 308-9) Units 4363B and 4246B are identified as mobility accessible dwelling units and subject to ADA design requirements. The thermostat controls (units 4363B and 4246B) and light switch near the front door (4363B) are more than 48 inches above the floor and not within accessible reach ranges. Additional mobility accessible dwelling units were not inspected but may also be affected.



- **Corrective Action** – Provide an architect’s or accessibility specialist’s certification with photographic evidence that the thermostat and light switch at the cited unit and all other mobility accessible dwelling units have been corrected or are already correct. The certification must verify that all accessible thermostats and light switches are on an accessible route, and, where the clear floor space is positioned for an unobstructed side (parallel) approach, the height of the control/switch is 15-48 inches above the floor (an object that is less than or equal to 34 inches high and less than or equal to 10 inches deep is not considered an obstruction).

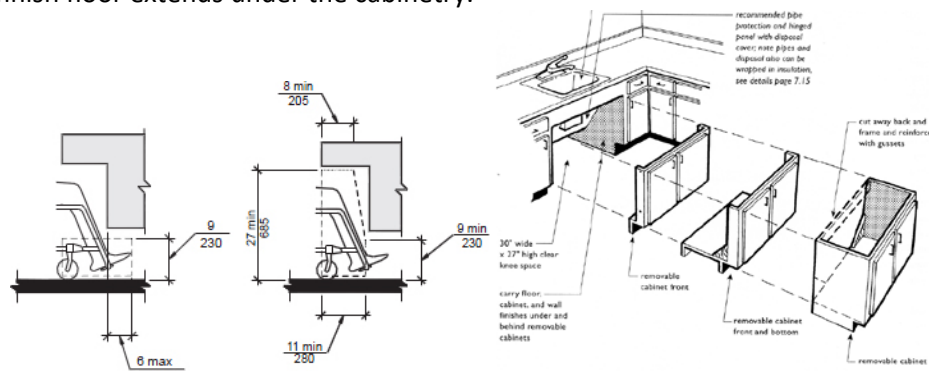


**Item #39 Deficiency:** Work Counter (2010 ADA 804.3, 804.6.5) Unit 4246B is designated as a mobility accessible dwelling unit and subject to ADA design requirements. The kitchen does not provide an accessible work counter with a minimum 30” wide accessible open knee space or removable cabinet beneath. Additional mobility accessible dwelling units were not inspected but may also be affected.





- **Corrective Action** – Provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected in the cited unit and all other mobility accessible dwelling units. The certification must verify that all accessible work counters meet the following conditions: 1) the counter height is no more than 34 inches above the floor; 2) an unobstructed 30 inch by 48 inch floor space is positioned to provide a forward (perpendicular) approach, with the 48 inch dimension measured from a point under the counter that is no more than 19 inches back from the front edge of the counter; 3) the work surface is positioned adjacent to one side of the bottom-hinged oven; 4) the minimum clearance beneath the counter is: (a) knee space is 8 inches deep (measured horizontally from the front edge of the counter) at a point that is 27 inches above the floor; (b) leg clearance is 11 inches deep at a point 9 inches high; and (c) toe clearance is at least 17 inches deep at a point at least 9 inches high; 5) any base cabinetry that conceals the knee, leg, and toe clearance below the counter is quickly and easily removable without removal or replacement of the counter or surrounding structure, the walls behind and surrounding the cabinetry are finished, and the finish floor extends under the cabinetry.



**Item #40 Deficiency: Grab Bar Height & Clearance (2010 ADA 609, 609.4)** Unit 4334B is designated as a mobility accessible dwelling unit and subject to ADA design requirements. The grab bar at the toilet in the accessible bathroom does not provide the required minimum clearance. Specifically, the space between the rear grab bar and the medicine cabinet above is not 12 inches minimum. Additional mobility accessible dwelling units were not inspected but may also be affected.



- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected in the cited unit and all other mobility accessible dwelling units. The certification must verify that grab bars meet each of the following conditions: 1) grab bars are securely-mounted and do not rotate in their fittings; 2) are 1¼ inches to 1½ inches in diameter; 3) grab bars located in the positions that are specified for grab bars at toilets, showers and bathtubs are mounted with the center of the bars at 33 inches to 36 inches above the floor (except the lower grab bar at the back wall of bathtubs); 4) all grab bars located in the

positions that are specified for grab bars at toilets, showers and bathtubs are mounted horizontally; and 5) all specified and non-specified grab bars provide at least 1½” of clearance between the grab bar and any obstruction and 12 inches minimum from the grab bars and any protruding object above it (e.g., soap dish, spray unit bar, valve, and other bars).

**Item #41 Deficiency: Mirror Height (2010 ADA 603.3)** Units 4363B, 4334B, 4311B, and 4246B are designated as mobility accessible dwelling units and subject to ADA design requirements. The mirror above the lavatory in the accessible bathroom was measured at more than 40 inches above the floor. Additionally, the medicine cabinet mirror not above the lavatory in the accessible bathroom was measured at more than 35 inches above the floor. Additional mobility accessible dwelling units were not inspected but may also be affected.

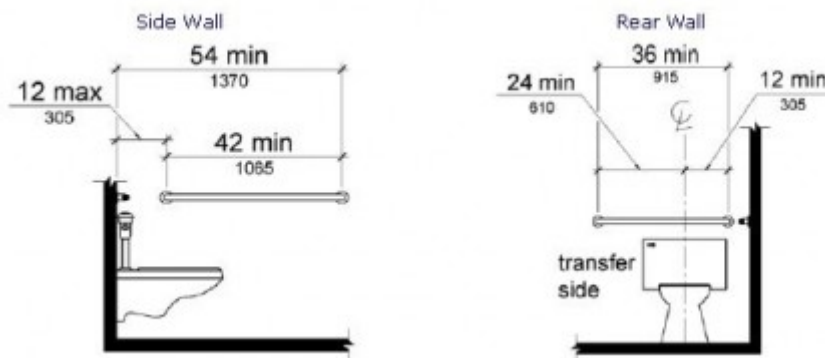


- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected in the cited unit and all other mobility accessible dwelling units. The certification must verify that bathroom mirrors at accessible lavatories are positioned with the bottom edge of the reflecting surface no higher than 40 inches above the floor or mirrors not located above lavatories are positioned with the bottom edge of the reflecting surface 35 inches maximum above the floor. Where mirrors are provided, at least one shall comply with 603.3.

**Item #42 Deficiency: Toilet Grab Bars (2010 ADA 604.5)** Units 4363B, 4311B, and 4246B are designated as mobility accessible dwelling units and subject to ADA design requirements. The grab bars located at the side and back of the toilet in the accessible bathroom were not mounted in an accessible location. The side grab bar in units 4363B and 4311B is 42 inches long and extends less than 54 inches from the corner. The rear grab bar in unit 4311B is 36 inches long and the end nearest to the sidewall extends less than 12 inches from the centerline of the toilet. The rear grab bar in unit 4246B is 36 inches long and the end on the transfer side extends less than 24 inches from the centerline of the toilet. Additional mobility accessible dwelling units were not inspected but may also be affected.



- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected in the cited unit and all other mobility accessible dwelling units. The certification must verify that all of the following installation requirements have been met for toilet grab bars that are currently installed, or, if not installed, that reinforcement has been installed in walls and located so as to permit the installation of grab bars that meet all of the following features: 1) grab bars are mounted horizontally, securely and will not rotate in their fittings; 2) bars are 1¼ inches to 1½ inches in diameter; 3) the center of the bars is 33 inches to 36 inches above the floor; 4) bars have at least 1½ inches clearance and are not obstructed by any dispenser, any other inaccessible grab bar, fixture or architectural element; 5) the sidewall bar is at least 42 inches long with one end positioned no more than 12 inches, and with the other end no less than 54 inches from the corner; 6) bar at the back is at least 36 inches long and positioned so that the end nearest to the sidewall is no less than 12 inches from the centerline of the toilet, and the other end is no less than 24 inches from the toilet centerline.

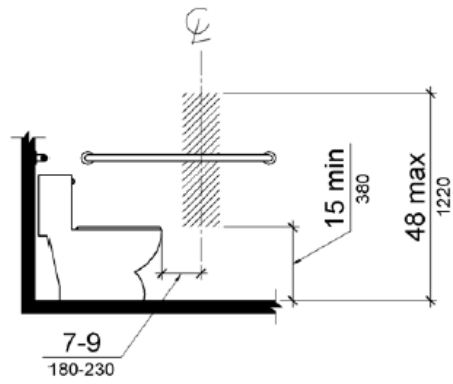


**Item #43 Deficiency: Toilet Paper Dispensers (2010 ADA 604.7)** Units 4363B, 4311B, and 4246B are designated as mobility accessible dwelling units and subject to ADA design requirements. The toilet paper dispenser in the accessible bathroom is not installed in an accessible location relative to the toilet. The centerline of the dispenser was not located between 7 and 9 inches from the front of the toilet. Additional mobility accessible dwelling units were not inspected but may also be affected.



- **Corrective Action** – Please provide an architect’s or accessibility specialist’s certification with photographic evidence that the condition has been corrected in the cited unit and all other mobility accessible dwelling units. The certification must verify that the toilet paper dispenser in all accessible bathrooms meets the following conditions: 1) does not control delivery or prevent

continuous paper flow; 2) centerline is located between 7 and 9 inches in front of the toilet bowl; 3) outlet is between 15 and 48 inches above the floor; and 4) is no less than 1½ inches to the bottom and no less than 12 inches to the top of the grab bar.



**Exhibit 2:**  
**Texas Administrative Code**

TITLE 10           COMMUNITY DEVELOPMENT  
PART 1            TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS  
CHAPTER 10       UNIFORM MULTIFAMILY RULES  
SUBCHAPTER E     POST AWARD AND ASSET MANAGEMENT REQUIREMENTS  
RULE §10.406     Ownership Transfers (§2306.6713)

(a) Ownership Transfer Notification. All multifamily Development Owners must provide written notice and a completed Ownership Transfer packet, if applicable, to the Department at least 45 calendar days prior to any sale, transfer, or exchange of the Development or any portion of or Controlling interest in the Development. Except as otherwise provided herein, the Executive Director's prior written approval of any such transfer is required. The Executive Director may not unreasonably withhold approval of the transfer requested in compliance with this section.

(b) Exceptions. The exceptions to the ownership transfer process in this subsection are applicable.

(1) A Development Owner shall be required to notify the Department but shall not be required to obtain Executive Director approval when the transferee is an Affiliate of the Development Owner with no new Principals or the transferee is a Related Party who does not Control the Development and the transfer is being made for estate planning purposes.

(2) Transfers that are the result of an involuntary removal of the general partner by the investment limited partner do not require advance approval but must be reported to the Department as soon as possible due to the sensitive timing and nature of this decision. In the event the investment limited partner has proposed a new general partner or will permanently replace the general partner, a full Ownership Transfer packet must be submitted.

(3) Changes to the investment limited partner, non-Controlling limited partner, or other non-Controlling partners affiliated with the investment limited partner do not require Executive Director approval. A General Partner's acquisition of the interest of the investment limited partner does not require Executive Director approval, unless some other change in ownership is occurring as part of the same overall transaction.

(4) Changes resulting from foreclosure do not require advance approval but acquiring parties must notify the Department as soon as possible of the revised ownership structure and ownership contact information.

(c) General Requirements.

(1) Any new Principal in the ownership of a Development must be eligible under §11.202 of Subchapter C (relating to Ineligible Applicants and Applications). In addition, Persons and Principals will be reviewed in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee).

(2) Changes in Developers or Guarantors must be addressed as non-material amendments to the application under §10.405 of this subchapter (relating to Amendments and Extensions).

(3) To the extent an investment limited partner or its Affiliate assumes a Controlling interest in a Development Owner, such acquisition shall be subject to the Ownership Transfer requirements set forth herein. Principals of the investment limited partner or Affiliate will be considered new Principals and will be reviewed as stated under paragraph (1) of this subsection.

(4) Simultaneous transfer or concurrent offering for sale of the General Partner's and Limited Partner's control and interest will be subject to the Ownership Transfer requirements set forth herein and will trigger a Right of First Refusal, if applicable.

(d) Transfer Actions Warranting Debarment. If the Department determines that the transfer, involuntary removal, or replacement was due to a default by the General Partner under the Limited Partnership Agreement, or other detrimental action that put the Development at risk of failure or the Department at risk for financial exposure as a result of non-compliance, staff will refer the matter to the Enforcement

Committee for debarment consideration pursuant to §2.401 of this title (relating to Enforcement, Debarment from Participation in Programs Administered by the Department). In addition, a record of transfer involving Principals in new proposed awards will be reported and may be taken into consideration in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee), prior to recommending any new financing or allocation of credits.

(e) Transfers Prior to 8609 Issuance or Construction Completion. Prior to the issuance of IRS Form(s) 8609 (for Housing Tax Credits) or the completion of construction (for all Developments funded through other Department programs), an Applicant may request an amendment to its ownership structure to add Principals. The party(ies) reflected in the Application as having Control must remain in the ownership structure and retain Control, unless approved otherwise by the Executive Director. A development sponsor, General Partner or Development Owner may not sell the Development in whole or voluntarily end their Control prior to the issuance of 8609s.

(f) Nonprofit Organizations. If the ownership transfer request is to replace a nonprofit organization within the Development ownership entity, the replacement nonprofit entity must adhere to the requirements in paragraph (1) or (2) of this subsection.

(1) If the LURA requires ownership or material participation in ownership by a Qualified Nonprofit Organization, and the Development received Tax Credits pursuant to §42(h)(5) of the Code, the transferee must be a Qualified Nonprofit Organization that meets the requirements of §42(h)(5) of the Code and Tex. Gov't Code §2306.6706, if applicable, and can demonstrate planned participation in the operation of the Development on a regular, continuous, and substantial basis.

(2) If the LURA requires ownership or material participation in ownership by a nonprofit organization or CHDO, the Development Owner must show that the transferee is a nonprofit organization or CHDO, as applicable, that complies with the LURA. If the transferee has been certified as a CHDO by TDHCA prior to 2016 or has not previously been certified as a CHDO by TDHCA, a new CHDO certification package must be submitted for review. If the transferee was certified as a CHDO by TDHCA after 2016, provided no new federal guidance or rules concerning CHDO have been released and the proposed ownership structure at the time of review meets the requirements in 24 CFR Part 92, the CHDO may instead submit a CHDO Self-Certification form with the Ownership Transfer package.

(3) Exceptions to paragraphs (1) and (2) of this subsection may be made on a case by case basis if the Development (for MFDL) is past its Federal Affordability Period or (for HTC Developments) is past its Compliance Period, was not reported to the IRS as part of the Department's Nonprofit Set Aside in any HTC Award year, and follows the procedures outlined in §10.405(b)(1) - (5) of this subchapter. The Board must find that:

(A) The selling nonprofit is acting of its own volition or is being removed as the result of a default under the organizational documents of the Development Owner;

(B) The participation by the nonprofit was substantive and meaningful during the full term of the Compliance Period but is no longer substantive or meaningful to the operations of the Development; and

(C) The proposed purchaser is an affiliate of the current Owner or otherwise meets the Department's standards for ownership transfers.

(g) Historically Underutilized Business (HUB) Organizations. If a HUB is the general partner or special limited partner of a Development Owner and it determines to sell its ownership interest, after the issuance of IRS Form(s) 8609, the purchaser of that partnership interest or the general or special limited partner is not required to be a HUB as long as the LURA does not require it or the procedure described in §10.405(b)(1) of this subchapter has been followed and approved. The removal of a HUB requirement prior to filing of IRS Form(s) 8609 is subject to the procedure described in §10.405(b)(2) of this subchapter.

(h) Documentation Required. A Development Owner must submit documentation requested by the Department to enable the Department to understand fully the facts and circumstances pertaining to the transfer and the effects of approval or denial. Documentation must be submitted as directed in the Post Award Activities Manual, which includes but is not limited to:

(1) A written explanation outlining the reason for the request;

(2) Ownership transfer information, including but not limited to the type of sale, terms of any new financing introduced as a result of the transfer, amount of Development reserves to transfer in the event of a property sale, and the prospective closing date;

(3) Pre and post transfer organizational charts with TINs of each organization down to the level of natural persons in the ownership structure as described in §11.204(13)(B) of Subchapter C of this title (relating to Required Documentation for Application Submission);

(4) A list of the names and contact information for transferees and Related Parties;

(5) Previous Participation information for any new Principal as described in §11.204(13)(C) of this title (relating to Required Documentation for Application Submission);

(6) Agreements among parties associated with the transfer;

(7) Owners Certifications with regard to materials submitted as further described in the Post Award Activities Manual;

(8) Detailed information describing the organizational structure, experience, and financial capacity of any party holding a controlling interest in any Principal or Controlling entity of the prospective Development Owner;

(9) Evidence and certification that the tenants in the Development have been notified in writing of the proposed transfer at least 30 calendar days prior to the date the transfer is approved by the Department. The ownership transfer approval letter will not be issued until this 30-day period has expired; and

(10) Any required exhibits and the list of exhibits related to specific circumstances of transfer or Ownership as detailed in the Post Award Activities Manual.

(i) Once the Department receives all necessary information under this section and as required under the Post Award Activities Manual, staff shall initiate a qualifications review of a transferee, in accordance with Chapter 1, Subchapter C of this title (relating to Previous Participation and Executive Award Review and Advisory Committee), to determine the transferee's past compliance with all aspects of the Department's programs, LURAs and eligibility under this chapter and §11.202 of this title (relating to Ineligible Applicants and Applications).

(j) Credit Limitation. As it relates to the Housing Tax Credit amount further described in §11.4(a) of this title (relating to Tax Credit Request and Award Limits), the credit amount will not be applied in circumstances described in paragraphs (1) and (2) of this subsection:

(1) In cases of transfers in which the syndicator, investor or limited partner is taking over ownership of the Development and not merely replacing the general partner; or

(2) In cases where the general partner is being replaced if the award of credits was made at least five years prior to the transfer request date.

(k) Penalties, Past Due Fees and Underfunded Reserves. The Development Owner must comply with any additional documentation requirements as stated in Subchapter F of this chapter (relating to Compliance Monitoring) and Subchapter G of this chapter (relating to Affirmative Marketing Requirements and Written Policies and Procedures). The Development Owner on record with the Department will be liable for any penalties or fees imposed by the Department (even if such penalty can be attributable to the new Development Owner) unless an ownership transfer has been approved by the Department. In the event a transferring Development has a history of uncorrected UPCS violations, ongoing issues related to keeping housing sanitary, safe, and decent, an account balance below the annual reserve deposit amount as specified in §10.404(a) of this subchapter (relating to Replacement Reserve Accounts), or that appears insufficient to meet capital expenditure needs as indicated by the number or cost of repairs included in a PNA or SCR, the prospective Development Owner may be required to establish and maintain a replacement reserve account or increase the amount of regular deposits to the replacement reserve account by entering into a Reserve Agreement with the Department. The Department may also request a plan and timeline relating to needed repairs or renovations that will be completed by the departing and/or incoming Owner as a condition to approving the Transfer. A PNA or SCR may be requested if one has not already been received under §10.404 of this subchapter.

(l) Ownership Transfer Processing Fee. The ownership transfer request must be accompanied by the corresponding ownership transfer fee as outlined in §11.901 of this title (relating to Fee Schedule).

**Source Note:** The provisions of this §10.406 adopted to be effective February 3, 2022, 47 TexReg 266