

## Evolving Code 1

### **Subject: Alterations to Existing Public Housing Facilities**

2016 CBC Sections: §11B-233.3.4.3

Explanation: Currently, in public housing dwelling units, where a bathroom or a kitchen is substantially altered, and at least one other room is altered, the altered dwelling units must be brought up to the current adaptable dwelling unit standards of Chapter 11A.

For a building constructed for first occupancy prior to March 13, 1991 (trigger date), the design and construction standards of the Fair Housing Act and CBC Chapter 11A do not apply to the alteration, repair, rehabilitation, or maintenance of residential dwelling units. However, as currently written, the trigger date is not formally adopted by the DSA. There is a note referring to the trigger date. However, notes are not considered regulatory or enforceable. Therefore, DSA is proposing to reinstate its adoption of the trigger date for alterations to adaptable residential dwelling units.

DSA has been working with the Treasurer's Office and the California Tax Credit Allocation Committee (CTCAC) and received feedback that many tax credit projects do not move forward because it is too cost-prohibitive to bring all ground-floor dwelling units in non-elevator buildings or all dwelling units in elevator buildings into compliance with adaptability requirements. Owners and developers of these projects often decide not to receive public funding and provide no accessibility upgrades to the housing facilities. So, while the intent of this requirement was to increase accessibility/adaptability at public housing facilities, it appears to have a negative effect of decreased accessibility. Without the adaptability requirements, the same projects have a higher chance of moving forward and providing 5% dwelling units with mobility features (fully-accessible dwelling units) and 2% dwelling units with communication features (accessible to people with hearing and visual impairment).

Proposed Language under §11B-233.3.4.3: *The building standards in this chapter do not apply to the alteration, repair, rehabilitation or maintenance of residential dwelling units with adaptable features complying with Chapter 11A, Division IV for units with adaptable features constructed for first occupancy prior to March 13, 1991. Multifamily dwelling units shall be maintained in compliance with the accessibility standards in effect at the time of construction.*

**M|O Opinion: This is a much-needed clarification. We frequently have conversations with clients needing guidance related to this. Rehabilitation projects at properties built in the 70s and 80s are being stalled, confronted with the adaptability requirements. Focusing on providing fully-accessible units at these properties appears to be a better use of public resources rather than losing them altogether because upgrades to the rest of the units make the project cost prohibitive.**