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Excluding Persons with Disabilities
From Affordable Housing:

A Systemic Failure

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Fair Housing Act

"A person using a wheelchair is just as effectively excluded from the opportunity to live in a particular dwelling by the lack of access into a unit and by too narrow doorways as by a posted sign saying 'No Handicapped People Allowed.'"

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Section 504

"No otherwise qualified individual with handicaps in the United States . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance . . ."

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"This is my ANSI
Type B unit"

"Don't Worry, I
know all about
those ADA
requirements"



"This is the handicapped unit"

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*United States ex rel. Mei Ling v.
City of Los Angeles*

- Over 300 hundred multifamily housing projects constructed with HUD funds
- Virtually all of the properties do not meet Section 504/UFAS/ADA accessibility requirements

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*United States ex rel. Mei Ling v.
City of Los Angeles*

- Examples of "Accessibility issues" included:
 - Slopes, ramps, and thresholds are too steep;
 - Balconies are too narrow for wheelchair access;
 - Steps prohibit access to common areas;
 - Kitchen cabinets, shelves, and surfaces are outside of accessible reach ranges
 - Sinks, grab bars, mailboxes, and circuit breakers are mounted so they are outside of accessible reach ranges; and
 - Insufficient numbers of designated accessible parking spaces in garages and parking lots.

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*United States ex rel. Mei Ling v.
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- At least up until May 2014, the City—including its departments, agencies and housing authorities acting on its behalf—did not monitor or enforce the federal accessibility laws before issuing permits, during inspections, and for purposes of code enforcement



*United States ex rel. Mei Ling v.
City of Los Angeles*

- The City required that owners and developers of apartment buildings submit detailed architectural plans to the City for review and approval
- However, the City failed to evaluate architectural plans for compliance with the federal accessibility laws.



*United States ex rel. Mei Ling v.
City of Los Angeles*

- In each bid solicitation issued by the City (called notice of funding availability), the City appended the approved architectural requirements. At least up until 2010, the City's architectural requirements did not reference Section 504, the FHA, or UFAS.



*United States ex rel. Mei Ling v.
City of Los Angeles*

- The City makes regular presentations to developers and other housing stakeholders and bidders highlighting issues of concern, including issues related to noncompliance with various requirements.
- At least until 2012, the City did not make a presentation to its stakeholders or bidders addressing compliance with Section 504, including compliance with UFAS specifications.



Local Building Inspector

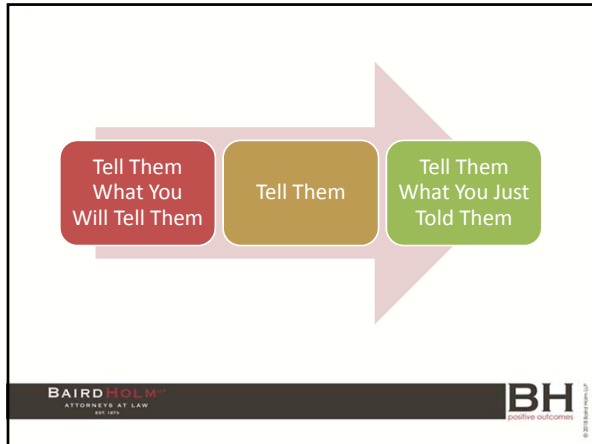
- Do NOT rely on local building inspector
 - Only enforce state and/or local codes
 - No responsibility to monitor compliance with federal law
 - She/he has no liability for mistakes

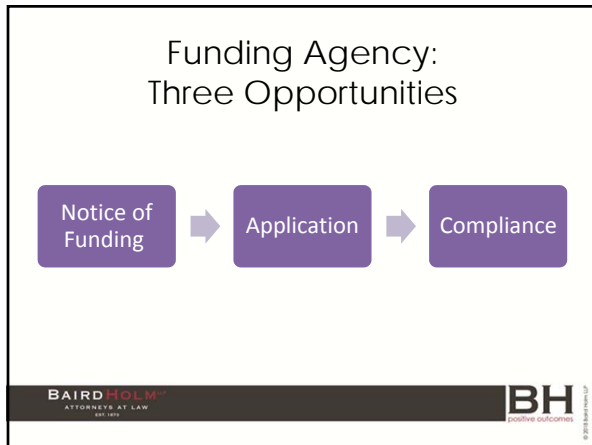


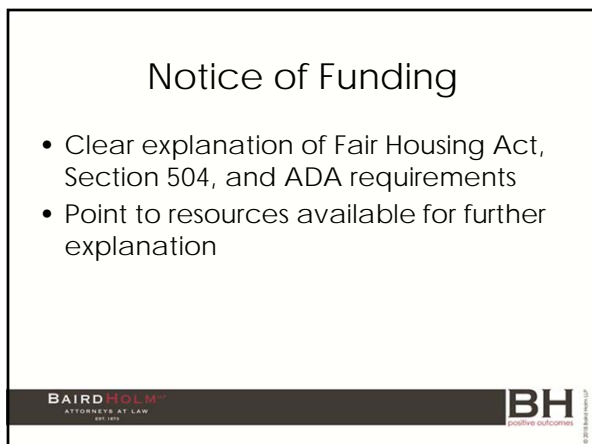
Design Professionals

- Liable to injured person for design defects
- Courts have rejected claims by developers against design professionals for indemnity/contribution









Application

- Clear explanation of Fair Housing Act, Section 504, and ADA requirements
- Require applicant to explain how it intends to ensure compliance
- Attestation of understanding of obligations

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Compliance



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Recommendation # 1 Training

MANDATORY for the Development Team to attend an Accessibility Seminar

1. Architect
2. Developer/Owner
3. Contractor
4. Job Superintendent
5. Representatives from all Trades that affect Accessibility (Grading, Concrete, Framing, Electrical, Plumbing, Sheetrock, Cabinetry, etc.)



Require it to be written into contract for service, mandatory attendance to learn and understand the requirements for Section 504, ADA and Fair Housing Accessibility requirements.

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**Recommendation # 2
Plan and Specification Review**



Require that each **new and rehab** construction project have a Accessibility Plan Review (APR) by an Accessibility Specialist based on the type of funding and the date of occupancy.

This review should included an analysis for all site, architectural, engineering drawings, and specifications reviewing them for compliance with applicable accessibility regulations and standards.

Once the corrections have been incorporated into the plans and specs by the architect, then the REVISED plans should be given back to the Accessibility Specialist for a subsequent review. This should continue until all plans and specs are cleared.

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**Recommendation # 3
Construction Inspection**



- At least four site visits:
 - Site Development
 - Framing/Rough-In
 - Final Stages of Construction
 - Completion / Punch list
- Findings during these originally scheduled inspections may necessitate the need for additional site visits until all accessibility issues have been cleared.

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