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Subcommittee on Regulations Meeting Minutes -March 27, 2024
Teams Meeting

This meeting was open to the public and began approximately at 10:07 AM.

Subcommittee member attendance:

Jeff Dougan (JD), Chairperson
Carol Steinberg (CS), Vice Chairperson
Paul Logan (PL)
Patricia Mendez (PM)
Elizabeth Myska (EM)
Deborah Ryan (DR)
Ana Julian (AJ)

Division of Professional Licensure Employees attendance:

William Joyce – AAB Executive Director (WJ)
Jamie Dalton – Board Counsel (JaD)
Molly Griffin – Program Coordinator (MG)

JD opened the meeting for Roll Call:

CS, PL, PM, EM, DR, JD, AJ

1. 10:09 AM Section 1104.12 & its subsections

- JD: I'm not sure I like the parallel approach for group 2A units; I think forward approach is more appropriate
- CS: I would agree with that
- DR: I think you should have a front approach in front of a cooktop, and it should be a wall oven instead of a range additionally

Motion to Eliminate 'a parallel or 'from 1104.12.5.4.1 and add the copy of the language from exception 2 from 1104.12.4.1 changing the word 'sink' to 'cooktop' under 1104.12.5.4.2, and strike 1104.12.5.4.3 and replace it with 'reserve' by DR
2nd by PL
By Acclamation/Carried

2. 10:21 AM Section 1104.12 Subsections Continued

- WJ: We've had some advisory opinions come up this year with wall ovens that weren't really ovens, so it might be worthwhile to create some language
- WJ: A catchall section for 'other built-in cooking devices,' may be worthwhile- this would only apply to things that are fixed (add language from other sections, in zone of reach, clear floor space, etc.)
- CS: You kept parallel approach in there
- WJ: Yes, this is not for a primary cook space this is like for a microwave or warming drawer
- DR: I think this works
- PM: Does this account for clear floor space, like for bottom freezers in small apartments where you need the room around it
- DR: You need parallel approach anyways
- PM: A graphic of this would be really helpful
- CS: What's happening with graphics in general?
- WJ: We'll be taking graphics from the 2018 draft and ADAGs where appropriate
- DR: The one thing this does not require is the bread board, which we require now. I'm not sure how helpful the bread board is. In reality, I am not sure it really works
- AJ: Should we use the same language the ADA uses where they require the oven to be next to the work surface
- WJ: Replace countertop with 'the work surface' in 1104.12.5.5.2 and 1104.12.5.5.3
- JD: If they cannot position it next to the work surface then what
- WJ: They have to
- JD: Is that going to be a construction limitation?
- DR: In most places I've seen, I think it would be relatively simple

Motion to Replace 'countertop' with 'the work surface' in 1104.12.5.5.2 and 1104.12.5.5.3 by CS

2nd by PL

By Acclamation/Carried

Motion to Add 1104.12.5.7 which covers the generic catch-all language for any other type of fixed cooking device that requires the minimums as drafted by CS

2nd by PL

By Acclamation/Carried

3. 10:38 AM 1104.12.5.5.4 & 1104.12.5.4.4

- JD: We're not removing either, just tweaking the language

Motion to Accept adding 'Refer back to controls in 300' to both 1104.12.5.5.4 and 1104.12.5.4.4
by PL

2nd by DR

By Acclamation/Carried

4. 10:43 AM 1104.13 Windows

- JD: Do we require a certain amount of windows?
- PL: Why is the language repetitive here? [1104.13- Windows shall comply with Section 1104.13]
- WJ: It's how regulatory structures operate, it just says it must comply with all of these subsections
- WJ: Emergency windows do not have to comply with height because it is there for a firefighter to get in. but you are not expected to operate that window; it has clear floor space so you can get next to it
- WJ: Do you want to accept 1104 as amended?
- CS: I have a comment about showers, in this section [1104.11]
- WJ: When we cut out all of 1104.11 we replaced it with [Toilet and bathing facilities shall comply with section 603 through 610, where at least two bathing rooms are provided, one must have a roll-in shower]
- CS: I have heard if there is one bathroom the preference is that it should be a roll-in shower instead of a bathtub
- PL: I would agree with you CS
- CS: What should the presumption be?
- DR: I agree, I think roll-in showers are preferable for most people, having said that, the same issue comes into place with hotels; I think it gets down to personal preference
- WJ: Do we want to be in the business of dictating peoples' preferences?
- JD: Is there a way to add language to say ' should be retrofitted for a roll-in shower'
- WJ: 30x60 is the roll-in shower dimension
- CS: Which is harder to switch from a roll-in shower to a tub or a tub to a roll-in shower?
- DR: Probably a tub to a roll-in shower because of drainage
- CS: I think in light of that, the presumption should be a roll-in shower. What's presumed? I think most people in wheelchairs like roll-in showers better
- DR: If you have other units and all the other 1 bath units have tubs, is that an issue since you are not providing this comparable unit? Are you preventing a person with a disability from renting a unit with a tub?
- WJ: Would it be easy to get a reasonable accommodation from a roll-in shower to a tub?
- JD: Which option offers the most accessibility for these types of units? The intent is here, the 5% has more space for adaptability
- WJ: Is this a question we should be getting into with Group 2A units?
- JD: Do we want to talk about captive bathrooms?
- DR: I would caution us that whatever the other accessible units have this one should have, because then we go down that road of inequity
- WJ: I think the cost benefit in terms of us writing regs, how they'll be understood- we would have to replace one sentence with two or three paragraphs

- DR: Can we ask for public comment on it [potentially adding this requirement re roll-in showers]?
- WJ: I think once we have a draft, there will be extensive public comment
- CS: I think that's great because my evidence is only anecdotal
- WJ: After the public comment period, the Board will have to come back and address all comments

Motion to Accept 1104 as amended by DR

2nd by PL

Roll Call Vote

DR- yes

EM-yes

PM- yes

PL- yes

CS- no

JD- yes

AJ- yes

6 yes, 1 no, 0 abstentions- Motion Passes

5. 11:34 AM 1105 (Group 1/Type B Unit) and Subsections

- JD: Is the blue language things we've done?
- DR: I think that came from me
- WJ: This is Group 1 Unit
- CS: I don't like exception 2 in 1105.3.1
- DR: These exceptions come right from FHA
- CS: If our goal is to have these units be adaptable, why would we even say these exceptions?
- WJ: I think because this also covers townhouses, and units for rent, lease, higher or sale. This applies to condominiums not just apartments Group 2A just covers rent, lease, or higher
- CS: If it's for sale you can make the decision, but if you're looking for rental housing where you can age in place I just don't see why we have these exceptions

Motion to Exclude all exceptions in exception 2 in 1105.3.1 by CS

2nd by PM

WJ: this would be in line with current regs

By Acclamation/Carried

6. 11:42 AM 1105.3.2

- CS: Is elevators defined somewhere
- WJ: Currently, it is in multiple pieces in regulations
- DR: I think saying elevators and platform lifts takes care of it

7. 11:45 PM 1105.4.2 Changes in Level

- WJ: Reads exception
- DR: So a concrete deck versus a wood deck (so water cannot pass through it)
- CS: 4 inches is not usable for a wheelchair
- WJ: This is just saying right out of the box, we are not making you have a deck at floor level so it does not flood
- DR: The 4 inches comes directly from FHA, we have required that you have raised decking if you need accessibility to that deck; my concern is that when you provide that raised decking, if it's a balcony, that the fencing around the balcony is up to building code. It's just something that people need to plan for
- WJ: We currently don't specify that about raised decking
- CS: When you say raised decking, is that the whole deck is raised?
- DR: Yes
- CS: And it goes on top of the concrete so water cannot get through it?
- DR: Yes
- CS: Does it say something like this exception in the 5%
- WJ: No
- DR: the 5% requires the raised decking

8. 11:53 PM 1105.5.2.1 Clear Width

- DR: a 34 in. door will produce a 31 ¾ in opening which is standard under FHA
- JD: 32 in. has always been our minimum
- DR: A lot of this will eliminate the need for those up-front sections
- WJ: This is setting all of the rules for the individual unit type, within each unit type section; that's why we're seeing a lot of the same things over and over again but allows us to fine-tune them
- CS: So this is within the unit, not to get into the unit?
- WJ: Yes

9. Double Leaf Doors

- WJ: in a public building when you have double leaf doors, at least one leaf has to fully comply like a regular door; here in use of passage doors in a Group 1 unit we're saying the active leaf has to fully comply only if you can't adjust the other leaf
- DR: You usually see them going into studies or closets
- CS: how wide?
- WJ: If the door latch is not within the reach range, then one door has to be big enough to pass through, if both are not within the reach range we'll look at this like a regular door

10. 12:02 PM 1105.5.2.2 Thresholds

- CS: What is 303 saying about thresholds?
- WJ: This is saying the same thing as our current regs

11. 12:03 PM 1105.2.3 Automatic Doors
- CS: I don't think automatic doors are a reasonable accommodation
 - DR: They are probably the easiest
 - CS: You think landlords say yes?
DR: Yes
 - WJ: They are much less expensive and work now
 - WJ: This just has to comply with the auto door section, but calls out each piece, because it treats pieces differently
12. 12:05 PM 1105.9 Operable Parts
- WJ: Not sure if you guys want to drop any of the exceptions here, we definitely need to keep exception 2
 - WJ: Exception 9 got stripped from the hotel section, and now we are talking about Group 1 Units
 - CS: What about exception 10?
 - WJ: The height is the same, the difference is how far you have to reach over the counter
13. 12:13 PM 1105.10 Laundry
- AJ: What about laundry machines kept in by doors- because these doors do not require passage but need to have 32 inches of width to be able to use
 - DR: I think these require clear floor space
 - WJ: We'd be measuring the clear floor space for both parallel and front from the face of the machine. The doorway does not affect the requirement for the clear floor space
 - CS: What about a top loading machine, should we say that it has to be a front loading machine?
 - WJ: We don't say that in the current editions, but we require front-loading in Group 2s; most new machines are front loads
 - WJ: Replacing a laundry machine is another classic reasonable accommodation
 - CS: Philosophically we are saying you can age in place with accommodations
14. 12:22 PM 1105.11.1 Grab bar and shower seat reinforcement
- WJ: So, you don't need them [grab bars and shower seats] from the jump, but need the reinforcements in the walls if you needed to add them
 - WJ: These are the Group 1 bathrooms that are smaller; this is basically saying if you don't have enough wall space they give you some options to choose from
 - DR: Where this generally happens, is when the toilet is between the tub and the sink
 - CS: Is Exception 1 saying the rear is sufficient, no side walls?
 - WJ: Yes, because in that scenario there are no side walls for a grab bar
 - WJ: The current regs don't let you do the swing-down grab bars at all; this is equivalent or more stringent than the current regs for Group 1s
15. 12:27 PM 1105.11.1.1 Swing-up grab bars
- WJ: You just have to have the backing in the walls
 - WJ: In Group 2s, we don't let you do the swings
 - JD: Is that last sentence about Section 609.8 what we have now?
 - WJ: Yes, 250lbs. is pretty standard

- DR: Are people familiar with the difference between Option A and Option B bathrooms in fair housing?
- WJ: You either need to provide all kind of accessible bathrooms or 1 one accessible bathrooms
- WJ: 'Kind of' meaning Group 1 bathrooms
- DR: Between A and B the bathing fixture is the main difference
- CS: What does this mean on the ground for the person in the wheelchair?
- DR: These Group 1 units are not fully accessible units, so it means that you could have 2 bathrooms, 1 has more access at the bathing fixture, so one bathroom has to meet requirements or you have 1 with toilet, bath/shower, sink on the same wall and those are less accessible and both have to meet requirements
- WJ: We really only let you do Option B (more accessible with more space alongside bath/shower)
- DR: Nothing else has to meet the requirements like control location, it's how much clearance you have
- JD: If it's all Option A bathrooms they all have to meet the requirements
- JD: If they have one Option B the other bathrooms do not have to comply
- CS: What's to prevent us from saying you have to have Option B
- DR: That's a huge design change for housing
- WJ: They want to try and get as many fixtures on the same wall due to plumbing layout
- CS: Option A- how long is the front approach?
- WJ: 30 inches (minimum)
- DR: It's usually a little bigger
- WJ: Option A presumes that you can ambulate for short distances or limited periods of time
- DR: It depends on your disability with these units, they're not fully accessible
- DR: If they do an Option B the other bathrooms are not exempt from blocking, etc. but are exempt from maneuvering in fair housing
- WJ: I don't think, if you've got the Option B it only has to comply with electrical location, blocking, and door width, but not the clearances
- JD: Do we want to make that clearer?
- CS: In our regs do we have this Option A and B?
- WJ: We don't make the distinction, they are ambiguously unhelpful at the moment. We currently sort of allow you to do bathrooms as Option A determined on how you interpret the regs
- CS: In the field how do they interpret it?
- DR: That the 30 inches can be parallel to the tub
- CS: What would incentivize someone to do an Option B bathroom?
- DR: In public housing we will always see Option A
- WJ: Is there a lot of new public housing construction in Massachusetts?
- DR: It is happening, especially in South Boston
- JD: Today, would new public housing have to comply with ADADs?
- WR: The Feds have had 3 versions of disability design regs
- JD: We'll start out with Option A and B again next session
- WJ: Please read through the rest of this, we're almost done with housing

1:00PM Public Comments

None

Minutes & Decisions

Motion to approve January 24th meeting with correction of DR's absence and the March 8th meeting with the correction of AJ's absence by PL

2nd DR

Roll Call for Jan. 24

JD- yes

CS- abstain

AJ- abstain

PL- abstain

PM- yes

EM- yes

DR- abstain

3 favor, 0 opposed, 4 abstentions- Motion Passes

Motion to Adjourn by PL

2nd by DR

By Acclamation/Carried