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## Re: FHA question

1 message

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**Victoria Morales** <vmorales@portlandmaine.gov>

Mon, Sep 12, 2016 at 2:22 PM

To: Jean Fraser <jf@portlandmaine.gov>

Hi Jean,

For the FHA to kick in the building must either be 1) new construction/addition of 4 or more dwelling units, or 2) a covered multi-dwelling building built for first occupancy after 1991. The situation you have described is not # 2) above.

Typically, conversions of older commercial buildings to residential does not trigger the FHA.

My question is whether the portion of the building dedicated to dwelling units is going to be gutted structurally in order to construct the units? If so, will the outside walls remain the same?

According to the FHA, a renovation is new construction if it keeps the facade in place and guts the remaining structural portion of the building. In my mind, the facade the front facing outside wall of a building. Is that your understanding?

If all outside walls remain in place, however, and the building from the inside is gutted and converted to dwelling units, it is my opinion that the conversion does not trigger the FHA.

I hope this is helpful.

Best,

Victoria

On Mon, Sep 12, 2016 at 12:30 PM, Jean Fraser <jf@portlandmaine.gov> wrote:

Victoria

Here is more info:

1. This is a large existing building that has been used as commercial/business (eg Hurley Travel) for many years and certainly before 1991.
2. On July 26, 2016 the Board approved an internal subdivision into 3 res. units at the rear and a "co-working" shared business office unit that was the rest of the building and accessed by an elevator (the res units were accessed by stairs). I attach the submitted floor plan.
3. Shortly after this approval (which they are moving forward with because they want to start the internal demo) they found that per ADA they could have a 4th residential unit. Prior to that the view was that ADA requirements (Maine Housing Act) would kick in if they added a 4th unit so they kept it to 3. We advised them to amend the July approval if they wanted the 4th unit.
4. They have recently submitted the amendment to the July approval which divides a previously 3BR unit on the first floor into a 2Br unit and a 1 br unit (see second set of floor plans) so that its a total of 5 units (4 res and the co-work space). I asked them to provide a clear statement that this met ADA and the attached note was submitted.



So my question to you is whether the creation of 4 new residential units on the first and second floors results in any ADA requirements and do you agree with their note that concludes that no ADA requirements apply.

Sorry not to get this to you earlier...

thanks  
Jean

(PS I am sending a separate e-mail regarding the ADA question for 75 Chestnut- all new build and going to PB Workshop tomorrow.)

On Fri, Sep 9, 2016 at 12:51 PM, Victoria Morales <[vmorales@portlandmaine.gov](mailto:vmorales@portlandmaine.gov)> wrote:

OK. That changes things a bit. I will wait to hear from you. I am packed next week but available Monday afternoon after 3.

Thanks,

Victoria

On Fri, Sep 9, 2016 at 11:03 AM, Jean Fraser <[jf@portlandmaine.gov](mailto:jf@portlandmaine.gov)> wrote:

Victoria

Thanks for picking this up and apologies for not sending you the background- I am caught up in finishing the PB reports going out today and will get back to you on Monday.

The 3 unit does not exist- it was approved in June 2016. Now they want to amend to make it 4 units and its within a large existing building. Let me send you all of the info, including the ADA assessment they submitted, and we can follow up Monday.

Thanks  
Jean

On Fri, Sep 9, 2016 at 8:30 AM, Victoria Morales <[vmorales@portlandmaine.gov](mailto:vmorales@portlandmaine.gov)> wrote:

Hi Jean,

You asked me to look into whether a 3 unit that is seeking to add an additional dwelling unit must comply with the FHA regulations regarding accessibility. I assume the 3 unit was in existence prior to March 13, 1991,

The answer to the question is no. The FHA only applies to covered buildings as of March 13, 1991. If the building were a 4 unit as of that date, it would be covered.

Examples of renovations that would have to comply with FHA are:

1) significant renovations of an older building, for example a complete gutting of the interior structure creating 4 or more dwelling units while leaving only the facade in place,

2) a new addition/extension of 4 or more units to an older building.

I hope this was helpful.

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