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U.S. Says Many Apartments Violate Law on Disabled

By [CHARLES V. BAGLI](#)

Facing potential lawsuits by the federal government, developers and landlords in New York City may need to spend tens of millions of dollars to renovate more than 100,000 apartments built since 1991 to comply with federal housing laws barring discrimination against tenants who use wheelchairs, real estate industry officials say.

For 20 years, residential developers have complied with a city law requiring them to ensure that all the apartments they build are accessible to disabled tenants. Considered path-breaking legislation when it was enacted in 1988, the city law essentially meets the federal requirements of the Fair Housing Act, developers and city officials say.

But the United States attorney's office in Manhattan has sent letters to about a dozen of the city's most prominent landlords and their architects saying that some of their buildings were "not accessible to persons with disabilities," which would constitute discrimination under the Fair Housing Act. The recipients included Related Companies, the [Durst Organization](#), Rose Associates, Rockrose Development and Silverstein Properties.

The letters said that doors were not wide enough, and that kitchens and bathrooms were not big enough to allow someone in a wheelchair to maneuver. Also, the letters said, tenants could not install "grab bars" to lift themselves in or out of a tub, because the walls had not been reinforced.

The federal prosecutor's office, which began sending the letters in January, has asked owners for meetings, building inspections and all the records of the design and layout of the apartments in specific buildings. Until recently, the real estate industry had hoped that the matter would quietly go away.

But last week, the United States attorney's office filed a lawsuit against one of the recipients, AvalonBay Communities, and its architects, charging them with discrimination against disabled people by failing to provide sufficient access at Avalon Chrystie Place, a building on the Lower East Side with 361 apartments.

Now other landlords and developers — virtually everyone who has built an apartment house in New York City since 1991 — fear they may be next. Along with city officials, they assert that compliance with what is known as Local Law 58 satisfies the standards set by the Fair Housing Act.

"This is not limited to these 12 or 13 buildings," said Steven Spinola, president of the [Real Estate Board of New York](#), the industry's powerful lobbying arm. "If there's a decision that Local Law 58 does not meet the criteria for apartments' being accessible, you could easily argue that every building built since 1991 wasn't built in accordance with the federal guidelines."

Mr. Spinola estimates that 100,000 rental apartments have been built since 1991, as well as thousands of condominiums. The cost of renovating bathrooms and kitchens, one developer said, would be "astronomical." Another said that his company was already redesigning apartments for future buildings in ways that would eliminate foyer closets to provide more room for entryways.

City officials, who had scheduled a meeting with federal prosecutors for the day after the suit was filed against AvalonBay, promptly canceled it, furious that they had not been notified.

"In light of the U.S. attorney's lawsuit, we postponed our meeting so we could assess the matter," Martha Mann Alfaro, a deputy chief in the city's Law Department, said in a statement. "However, we anticipate having productive discussions with the U.S. attorney."

Rebekah Carmichael, a spokeswoman for the United States attorney, Michael J. Garcia, declined to comment, saying the office did not confirm or deny the existence of current investigations.

Edward M. Schulman, general counsel for AvalonBay, said the company's housing was "fully accessible to persons with disabilities."

"Our buildings have been constructed in compliance with New York City's Local Law 58," he said. "We are at a loss to understand why the federal government is suddenly viewing New York City's Local Law 58 as deficient and unsatisfactory."

This year, the landlords and architects enlisted the Bloomberg administration to help push back the federal prosecutors. And the Real Estate Board hired a former federal prosecutor, Sarah L. Shudofsky, to represent them.

Jonathan Durst, co-president of the Durst Organization, described the investigation as "an incredible waste of government resources." The Durst Organization got a letter concerning the Helena, a 600-unit apartment building at 57th Street and 12th Avenue.

But Kleo King, senior vice president for accessibility services for the United Spinal Association, a nonprofit advocacy group, said that the federal government had never recognized Local Law 58 as an acceptable alternative, or "safe harbor," to federal standards. She said that after Law 58 was in place, the city lowered clearance requirements for bathrooms and began allowing kitchen sink and cooktop installations that did not provide adequate floor space for tenants with wheelchairs.

"Just because they were able to get a building permit, it does not mean they complied with Fair Housing," said Ms. King, whose organization used to be known as the Eastern Paralyzed Veterans Association. "The real point that the Department of Justice is trying to make is that people building these buildings have to look at both laws to make sure that they're in compliance."

Twenty years ago, advocates for the disabled hailed the stringent regulations in Local Law 58 while Mr. Spinola denounced it, saying it would drive up housing costs. It required that all new and renovated apartments be made accessible to the disabled, in contrast with federal standards at the time, which required that only 5 percent be accessible.

"It was seen as a breakthrough," said Marilyn Saviola, an advocate for the disabled who was part of a group that helped write the city law. "But it was a hard battle. There was tremendous resistance from the administration, initially, and there was a great deal of resistance from the real estate community."

In 1991, the federal government also raised its requirements for housing accessibility. But there is not a mandatory and uniform set of standards, although the [Department of Housing and Urban Development](#) cites the design standards set by the American National Standards Institute.

The federal investigation in New York began with a 2006 survey by the Fair Housing Justice Center, a nonprofit New York group, covering 14 recently built apartment buildings in Manhattan, including AvalonBay's Chrystie Place.

Diane Houk, executive director of the fair housing center, said that her group found that all 14 buildings had interior apartment doors that were too narrow, 28 and 30 inches, thermostats as high as 63 inches from the floor and a lack of clear floor space in the bathrooms.

"We found that none were in compliance with the Federal Housing Act and referred all the information to the U.S. attorney and briefed HUD," she said. "I do not understand why New York City developers and architects thought they were exempt."

In a July 14 letter to the United States attorney's office, however, [Michael A. Cardozo](#), the city's corporation counsel, wrote that the city's law addressed all the features of accessibility required by the law. He acknowledged that it "does not impose precisely the same requirements," but he added that the local law satisfied the intent of the law.