

## **ON POINT:** **THE AMERICANS WITH DISABILITIES ACT and** **FAIR HOUSING ACCESSIBILITY**

### **BACKGROUND**

*Housing providers have responsibilities under both the Americans with Disabilities Act (ADA) and Fair Housing Act (FHA) to ensure that their communities are accessible to people with disabilities. This sometimes requires the use of specific building design and construction practices. But the complex and sometimes conflicting nature of design guidance, building codes and statutory language have led to varying interpretations of compliance.*

*Importantly, allegations of non-compliance create significant challenges for apartment firms, including operational barriers and litigation concerns. And, unfortunately, litigation solely for financial gain is growing with no intention on the part of litigants to improve accessibility needs nationwide.*

### **KEY TALKING POINTS**

- **The apartment industry supports the goals of the Americans with Disabilities Act and Fair Housing Act** and is fully committed to creating communities that are accessible to people with disabilities.
- **Existing design guidelines and safe harbors fail to fully address the diversity of multifamily building types and real-world construction conditions**, which results in varying interpretations of compliance under the Acts.
- **Research supports the use of alternative design and construction practices** that promote usability and access for those with disabilities, such as the use of reasonable construction tolerances related to pathway site slopes, reach ranges in kitchens and bathrooms, and site measurements.
- **Litigation driven by financial gain, not improvements to access for the disabled**, is a growing trend.
- **Widely dubbed “drive-by lawsuits,” these complaints:**
  - Often result from tester visits to a business for the express purpose of finding violations and filing suit;
  - Typically demand settlement money in lieu of filing a lawsuit; and
  - Do nothing to remedy alleged design and construction violations.

### **SPECIFIC REQUEST**

**Support H.R. 3765, the “ADA Education and Reform Act of 2015” and encourage companion legislation in the Senate.** This **bipartisan measure** would provide a business owner with up to 120 days to cure an alleged ADA design defect prior to the initiation of a lawsuit. This increases access for the disabled and creates an important disincentive for complaints motivated purely for financial gain.