

6-24

JUN 17 1998

Department of Commerce

Emergency Rule for the exemption of multilevel multifamily dwelling units with separate exterior entrances in buildings without elevators from the accessibility laws.

Finding of Emergency and Rule Analysis

The Department of Commerce finds that an emergency exists and that the adoption of the rule included in this order is necessary for the immediate preservation of public peace, health, safety and welfare. The facts constituting the emergency are as follows:

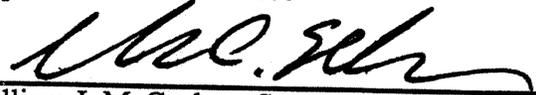
The Wisconsin Administrative Code, chapter ILHR 57, subchapter II, establishes design and construction requirements for accessibility in covered multifamily housing as defined in s. 101.132 (1) , Stats., formerly s. 106.04 (2r) (a) 4., Stats. The design and construction requirements in chapter ILHR 57, subchapter II, are based on the multifamily accessibility law in s. 101.132, Stats. The state law on accessibility in covered multifamily housing is substantially equivalent to the federal Fair Housing law of 1988. The proposed changes in chapter ILHR 57, subchapter II, are in response to 1997 Wisconsin Act 237 that exempts multilevel multifamily dwelling units without elevators from the multifamily accessibility law. This state law change does not conflict with the federal Fair Housing law since the federal Fair Housing law does not cover multilevel multifamily dwelling units with separate exterior entrances in buildings without elevators.

The proposed rule eliminates only those sections requiring access to and accessible features within multilevel multifamily dwelling units with separate exterior entrances in buildings without elevators. If the rules are not revised an inconsistency between the statutes and the administrative rules would result. This inconsistency may cause confusion in application and enforcement within the construction industry and may result in construction delays, which may be costly.

This rule is therefore adopted as an emergency rule to take effect upon publication in the official state newspaper and filing with the Secretary of State and Revisor of Statutes as provided in section 227.24, Stats..

10/28/97
Carol contacted Shirley (follow-up to her call to our office on 10/24) about scheduling this bill for a hearing on 11/13.
Okay with Shirley... she wanted to get this going as soon as possible.

Dated at Madison, Wisconsin
This 11 day of June, A.D. 1998
Department of Commerce


for William J. McCoshen, Secretary

SECTION 1. Table 57.81 I. B. line 2. and ILHR 57.84 (2) (d) are repealed.

(END)

EFFECTIVE DATE

Pursuant to s. 227.24 (1) (c), Stats., this rule shall take effect on the date of publication in the official state newspaper.

FISCAL ESTIMATE
DOA-2048 (R02/97)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
AB 570
Amendment No. if Applicable

Subject

Multilevel multifamily dwelling units with separate exterior entrances in buildings without elevators from the accessibility laws.

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

- Increase Existing Appropriation
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

- Increase Costs - May be Possible to Absorb Within Agency's Budget Yes No
- Decrease Costs

Local: No local government costs

- 1. Increase Costs
 Permissive Mandatory
- 2. Decrease Costs
 Permissive Mandatory

- 3. Increase Revenues
 Permissive Mandatory
- 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
- Towns Villages Cities
 - Counties Others _____
 - School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

s. 20.143 (3) (j)

Assumptions Used in Arriving at Fiscal Estimate

The Division of Safety and Buildings reviews construction plans and performs inspections for all multifamily housing, including multilevel housing without elevators and with separate exterior entrances. These reviews and inspections include all building related requirements, including requirements for accessibility. The Department does not anticipate that the enactment of this legislation will significantly affect the fiscal impact for this agency or municipalities administering and enforcing building related codes. Eliminating the review and inspection for only the accessibility features of multilevel multifamily buildings will not reduce workloads or staffing levels for this agency or for municipalities performing plan reviews and inspections.

Long-Range Fiscal Implications

None known

Agency/Prepared by: (Name & Phone No.)
Diane Meredith/266-8982

Authorized Signature/Telephone No.

[Handwritten Signature] 68976

Date

6-11-97

FISCAL ESTIMATE WORKSHEET
Detailed Estimate of Annual Fiscal Effect
DOA-2047(R02/97)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
ILHR 57, Subch. II

Amendment No.

Subject: Exemption of multilevel multifamily dwelling units with separate exterior entrances in buildings without elevators from the accessibility laws

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

None known

II. Annualized Costs:	Annualized Fiscal Impact on State funds from:	
	Increased Costs	Decreased Costs
A. State Costs By Category	\$	\$ --
State Operations - Salaries and Fringes		
(FTE Position Changes)	(0 FTE)	(- 0 FTE)
State Operations - Other Costs		-
Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs By Category	\$ 0	\$ -0
B. State Costs By Source of Funds	\$	\$ -
GPR		
FED		-
PRO/PRS	0	-0
SEG/SEG-S		-
III. State Revenues- Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	\$	\$ -
GPR Taxes		
GPR Earned		-
FED		-
PRO/PRS	0	-0
SEG/SEG-S		-
TOTAL State Revenues	\$ 0	\$ -0

NET ANNUALIZED FISCAL IMPACT

STATE

LOCAL

NET CHANGE IN COSTS

\$ 0 _____

\$ 0 _____

NET CHANGE IN REVENUES

\$ 0 _____

\$ 0 _____

Agency/Prepared by: (Name & Phone No.)
Diane Meredith 266-8982

Authorized Signature/Telephone No.

[Handwritten Signature] 6-8982

Date

6-11-97

**Metropolitan
Builders
Association**

NOV 19 1997

of Greater Milwaukee, Inc.

11-20

FAX COVER SHEET

Date: 11/19⁹/97

Please forward to: Representative Owens

This FAX has been sent by: Matt Moroney

Number of pages including this cover sheet: 2

If you have any problems with this transmission, or do not receive all pages, please call (414) 258-9850 immediately. Our FAX number is (414) 258-9878.

Thank You!

NOTE: _____

Metropolitan
Builders
Association

of Greater Milwaukee, Inc.

November 18, 1997

Via Facsimile: 608/266-7038

Representative Carol Owens
Wisconsin State Assembly
PO Box 8953
Madison, WI 53708

Dear Representative Owens:

On behalf of the Metropolitan Builders Association of Greater Milwaukee, I am writing to indicate our support for AB 570, relating to exempting multilevel, multifamily housing without elevators from the multifamily housing accessibility law.

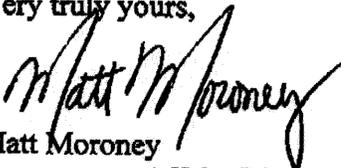
Townhouses should not be included in the accessibility law because it is expensive and technically difficult to make them truly handicapped accessible by virtue of the fact that they are multilevel. An owner would have to invest a large amount of money and do extensive remodeling to install a wheelchair lift to make a townhouse truly accessible.

Furthermore, exempting multilevel, multifamily housing without elevators from the multifamily housing accessibility law is a positive step towards bringing the state law closer to the scope and application of the federal Fair Housing Act.

Please enter this letter into the record as supporting AB 570.

Thank you for your attention to this matter.

Very truly yours,


Matt Moroney
Government Affairs Director

CC: Representative Shirley Krug

Vote Record

Assembly Committee on Housing

Date: November 18, 1997
 Moved by: foti Seconded by: Yemey
 AB: 570 Clearinghouse Rule: _____
 AB: _____ SB: _____ Appointment: _____
 AJR: _____ SJR: _____ Other: _____
 A: _____ SR: _____

A/S Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____
 A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Sub Amdt: _____
 A/S Amdt: _____ to A/S Amdt: _____ to A/S Sub Amdt: _____

Be recommended for:

- Passage
- Introduction
- Adoption
- Rejection

- Indefinite Postponement
- Tabling
- Concurrence
- Nonconcurrence
- Confirmation

Committee Member

Rep. Carol Owens, Chair
 Rep. Neal Kedzie
 Rep. Steven Foti
 Rep. Daniel Vrakas
 Rep. Steve Wieckert
 Rep. Johnnie Morris-Tatum
 Rep. John La Fave
 Rep. Leon Young
 Rep. Tammy Baldwin

<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Totals: 9 0 0 0

Motion Carried

Motion Failed

NOV 17 1997

**WISCONSIN
COALITION
FOR ADVOCACY***Advocacy for citizens with disabilities*

November 17, 1997

Representative Carol Owens
Chair Housing Committee
Wisconsin Assembly
State Capitol
Madison, WI 53706

RE: Proposed deletion of 106.04 (2r)(g) 3. Wis. Stats.

Dear Representative Owens:

It has come to our attention recently, that there is a proposal under consideration by the assembly to eliminate the accessibility provisions that apply to newly built multilevel dwelling units without elevators in housing consisting of three or more dwelling units with separate exterior entrances. As the designated protection and advocacy organization for people with disabilities in Wisconsin we, the Wisconsin Coalition for Advocacy, must voice our opposition to this proposal. We urge you to vote against this change in the law.

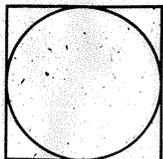
There is, at this time, a tremendous shortage of accessible housing for persons with disabilities. Lack of accessible housing continues to be a barrier to community living for many. Over the past several years the Wisconsin Legislature has shown bipartisan support for creating more opportunities for community living for people with disabilities. Just recently additional funding was provided for the Community Options Program. The Legislature, to its credit, has supported the rights of individuals with disabilities to live as others live, in the community, and not have their housing options limited to nursing homes and institutions. With provisions such as this in the law, accessibility can be built right into housing at the time of construction, a less costly alternative than using COP funds or other precious dollars later to make accessibility modifications. This proposal is a step in the wrong direction. We need to create more housing opportunities for people with disabilities not fewer. Please reject this change in the law that limits the opportunities of people with disabilities.

Respectfully Submitted,

Lynn Breedlove
Executive Director

Tom Hlavacek
Milwaukee Office Director

NOV 17 1997



**THOMAS
HIRSCH
ARCHITECT**

608/233-7797 14 North Allen Street
Madison, Wis. 53705-3924

November 14, 1997

Rep. Shirley Krug
P.O. Box 8952
Madison, Wisconsin 53708

Dear Rep. Krug:

I regret being unable to attend yesterday's hearing on AB 570; I hope there is still time to re-consider the scope of what you think needs fixing. Based on your 11/6 memo, AB 570 appears to me to be a reaction to a limited incidence situation (a fire) and as such is overreaching. A more appropriate "fix" would be in catastrophe recovery situations to exempt exterior access if it wasn't already present and the addition of a ground floor bathroom or toilet room, but retain current law which we've had more or less since 1975 for new construction.

I believe there is ample public interest and valid public purpose in retaining the ground floor access features in new construction. I believe the notion that one doesn't "need" access is mistaken; we may have friends with mobility impairments to invite into our homes. We are an active society which results in one in three of us being disabled either temporarily or permanently, and also an aging society which increasingly appreciates ground floor useability. Finally, none of the required features impair marketability; in fact, an entry level toilet room is an amenity.

I hope you will refine your approach, still granting relief for existing townhouse owners without denying others visit- and use-ability of their homes.

Sincerely yours,


Thomas Hirsch, AIA

c: Rep. Spencer Black
Rep. Carol Owens

Sen. Fred Risser

Rep. Rebecca Young
Bill Babcock, AIA Wisconsin

AB 570

Shirley Krug → see written testimony. Introduced on behalf of her constituent, Rae Brown of Milwaukee.

Rae Brown → fire started in neighbor's condo - she lost everything! Condo has three floors (including basement). Who would want to live in a 2 story, 1,000 sq. foot condo in a wheelchair? Fire was in Feb. of this year and the condo is still not yet done because all had to be redesigned. She is losing original space to accommodate for handicap accessibility. Her insurance does not cover these additional changes - not original floorplan.

Dorothy Brown → Mother of Rae Brown - her daughter lost everything in the fire, including a pet cat! This fire was caused by the negligence of a neighbor. Rae has been out of her condo since Feb and won't be back in it until Jan. '98 - yet she still has paid a mortgage and taxes. This is a very small condo with bedroom and main bath upstairs. No handicapped person would want to live in that type of home! The law is unfair!!

Marie Anderson → Owns condo and involved in rebuilding the condo. The two units have to be torn down to the shell and they obtained the ^{original} blueprints from the city (built in the ^{early} '70's). There are 101 units and the largest of them all is 1,022 sq. feet. When they were informed of the new law, their atty. checked into local, state & federal laws - there were several discrepancies and the state was stricter. Because of this, they asked for a variance on the ^(bedroom & bath) second floor and it was granted. However, the first floor had to be changed and because the units couldn't be expanded, the

powder room ran into the dining room - not much room for a table!
In addition, a 20 foot railing & ramp had to be added from
front door to street - this also has to be shared and these two
designs don't match the other units. The condo assoc. ^{rules} states
that all must look alike in front of bldg. Several \$ invested
by the two owners and now by the condo owners & assoc.

Nancy
Dunn → lives in same condo bldg. "We own the units and
pay taxes like a regular homeowner - this is unfair to
demand on us."

AB 570: Exempting Townhouses from Accessibility Requirements
Testimony of State Representative Shirley Krug
Assembly Committee on Housing
November 13, 1997

Good morning, chairwoman and members of the committee. Assembly Bill 570 eliminates townhouses from the laws that require certain buildings to be accessible to persons with disabilities. A townhouse is defined as a multilevel, multifamily housing without elevators.

The motivation for introducing this bill came from a constituent of mine, Rae Brown, whose townhouse condominium burned down in February. Rae Brown lost all her belongings in that fire. Since then, she has been living with her mother. She had to go back to work after retirement in order to afford the rent she is paying her mother on top of the mortgage payments, condo fees, and property taxes for her condo.

The displacement from her home has lasted much longer than she and the condo association anticipated. Ms. Brown and the condo association had planned on re-building the two units exactly as they were before the fire. But they soon learned that the unit would have to be re-built in compliance with the state fair housing code. The code requires the condo be built with a wheelchair ramp, widened doorways, and re-enforced walls for subsequent installation of grab bars around the toilet, tub and shower.

All of these requirements would be well and good if the home were on one level, but it is not. A staircase leads to the second story. There is no elevator and no wheelchair lift in this little townhouse. The accessibility modifications would make the first floor fully accessible, but a disabled resident would be confined to the first floor, without access to the bedrooms upstairs, nor the laundry and storage facilities in the basement. Being confined to one floor of your home is not what I consider accessibility.

Neither Ms. Brown's nor the condo association's insurance covered these modifications, so they were forced to pay the costs where insurance left off.

As you may know, the exemption contained in this bill was originally a part of the governor's 1997-99 budget, but was taken out with other provisions that were deemed policy items. The governor's office proposed the changes in order to make the state accessibility law more consistent with federal law. In the case of townhouse-style units, state law exceeds what federal law requires.

I am a strong supporter of laws that make housing and other buildings more accessible to disabled people. The problem with the law as it is written is that it does not make townhouses fully accessible. It does not make townhouses like Rae Brown's very attractive to disabled people looking to buy a home. And with long, concrete ramps stretching out from the front door, it makes these homes particularly unattractive to many potential buyers.

I urge you to approve this bill. Thank you.

Allison Hull & Andy Buteyn
1805 Park Apt 22
Milwaukee WI 53211

November 09, 1997

Dear Sirs:

On August 30th, 1996 we purchased a condominium at 6607 N Bourbon Street in Milwaukee. At the end of February there was a fire which destroyed this residence completely, it relit during the night and completely destroyed the residence next to it. Myself, Allison Hull and my husband Andy Buteyn, lost everything we owned and were left with only the clothes we had on and the things we had in our cars.

Since the time of the fire we have been paying both apartment rent and mortgage payments on this property. It has been a most difficult time in our lives. Please consider the following points in making your decision in a fair and timely manner. This would allow us to come to some resolution in this matter and move on.

1. Although the ramp would give access to a wheelchair bound person, once inside that person would not have available to them a bedroom (they are on the second floor), or a utility, storage and laundry space which are in the basement. Living in this unit would just not be user friendly for someone who had to negotiate it's space with a wheelchair.
2. It is estimated that to build the ramp required to meet code compliance it would cost about 10% of the total real estate value of this property. As there is no insurance coverage by the Condominium Association or the individual owners, this would need to be privately paid for by the owners themselves.
3. As it is very unlikely that a wheelchair bound person's independence would be facilitated by this property, there would be no resale market for that population. Due to the appearance a concrete ramp would create and the necessity of using the ramp with it's incline to enter the front door, we feel it would not appeal to and actually would be a hindrance to persons who did not require wheel chair access. Thus it would render the property virtually unsalable.

4. These condominiums are individually owned townhouse units, they have no common entrances or common access to each other. Because of this we are asking that they be treated as a private residence.

At this time we ask that you support Shirley Krug's Assembly Bill 570 which would exempt townhouse style units from the multifamily housing accessibility law.

Thank you for your time and consideration.

Sincerely,

Allison Hull and Andy Buteyn



Wisconsin Builders Association

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Bill Carity
Brookfield

President-Elect

Bill Binn
Lake Geneva

Treasurer

John O. Shaline
Green Bay

Secretary

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Ken Zaruba
New Richmond

**Executive
Vice-President**

Bill Wendle

**Director
Governmental Affairs**

Gerard Deschane

November 12, 1997

State Representative Carol Owens and Members
of the Assembly Housing Committee

Dear Representative Owens:

On behalf of the over 6,000 companies that comprise the Wisconsin Builders Association, we wish to support Assembly Bill 570, relating to multifamily housing. This bill takes an important and practical step toward making Wisconsin's housing construction laws more consistent with federal law.

Wisconsin law currently requires that all grade-level floors of multistory multifamily dwellings without elevators must be accessible. In addition, 25% of all units within such a development must be accessible on the second story, even if there is no elevator to provide access to that story.

The Federal Fair Housing law has no such requirement. That law recognizes that these multistory buildings, commonly called "townhouses," are inherently not accessible, since there is no practical way for an individual to circulate throughout the unit in a wheelchair. Therefore the federal law exempts these units from accessibility requirements.

The Wisconsin Builders Association opposed this provision of Wisconsin's law when it was first proposed in the early 1990's. Our concern was that the result of the law would not be increased accessibility, but a reduction in the number of housing choices available for all citizens. As Representative Krug's constituent has discovered, that concern is valid.

We hope that the committee will support this legislation.

Sincerely,


Jerry Deschane
Director of Government Affairs

cc: State Representative Shirley Krug



NO-10-9-97

**SHIRLEY
KRUG****STATE
REPRESENTATIVE****Memorandum****To:** All Colleagues**From:** Rep. Shirley Krug SK7**Date:** October 1, 1997**Re:** Co-sponsorship of LRB 3959/1, relating to exempting multilevel, multifamily housing without elevators from the multifamily housing accessibility law.

I am introducing legislation to exempt townhouses from complying with the disability accessibility laws, as was proposed in the governor's 1997-99 budget. This exemption, along with other proposed changes in the multifamily housing accessibility law, were removed from the budget because they were deemed policy items.

Office:
P.O. Box 8952
State Capitol
Madison, WI 53708
(608) 266-5813

Home:
6105 W. Hope Ave.
Milwaukee, WI 53216
(414) 461-2223

Legislative Hotline:
(Toll-free)
1-800-362-9472

FAX:
(608) 266-7038

Townhouses should not be included in the accessibility law because it is expensive and technically difficult to make them truly handicapped accessible by virtue of the fact that they are multilevel. An owner would have to invest a large amount of money and do extensive remodeling to install a wheelchair lift to make a townhouse truly accessible.

A constituent of mine discovered this problem with the accessibility law when her two-story condominium burned down. She was told the home she owns had to be rebuilt according to the accessibility code, which would force her to spend thousands of dollars for modifications she does not need, cannot afford, and which insurance will not cover.

Wisconsin law goes beyond federal fair housing law in this area. This bill will make state law more consistent with federal law.

To co-sponsor this bill, call my office by October 15th at 266-5813. The LRB analysis of the proposal appears below.

Analysis by the Legislative Reference Bureau

Under current law, housing that is ready for occupancy after September 30, 1993, consisting of 3 or more dwelling units (covered multifamily housing) is required to be accessible to persons with disabilities. Current law requires the department of commerce to promulgate rules establishing minimum accessibility requirements for multilevel covered multifamily housing without elevators (townhouses). This bill eliminates townhouses from the coverage of the accessibility laws.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

