

# FACTSHEET

## **Pathways to Inaccessibility in New York City Housing**

### **Key Takeaways**

- **New York City mandates that all new residential and commercial buildings, as well as those that undergo a “major renovation,” be accessible. This was first required in Local Law 58, passed in 1987.**
- **Accessibility, as defined by this law, means that buildings should be able to be approached, entered, and used by people with physical disabilities, and that all of the building’s units must be adaptable for usage by a disabled person with minimal modifications.**
- **Nearly half of all housing units built since 2000 (13 years after Local Law 58 was passed) are inaccessible.**
- **68 percent of New York City’s total housing units fail to meet basic accessibility standards.<sup>1</sup>**
- **Self-certification is a process that allows authorized architects and engineers to certify buildings for which they provide services as accessible under the law. By bypassing the Department of Buildings’ examinations, this process can enable the construction of inaccessible units, in violation of the law.**
- **Architects and other design professionals are legally liable for the construction of inaccessible buildings on which they have worked, even after they are no longer involved with the project.**

<sup>1</sup> NYC Department of Housing Preservation & Development. 2021. “2021 New York City Housing and Vacancy Survey Selected Initial Findings May 16, 2022,” Report. NYC.gov. <https://www.nyc.gov/assets/hpd/downloads/pdfs/services/2021-nychvs-selected-initial-findings.pdf>.

# Snapshot of Disability in New York City / New York State

## NYC Disabled Population by Borough

Borough	Percent
New York City Total	11.3
Bronx	16.1
Brooklyn	10.3
Manhattan	10.8
Staten island	10.3

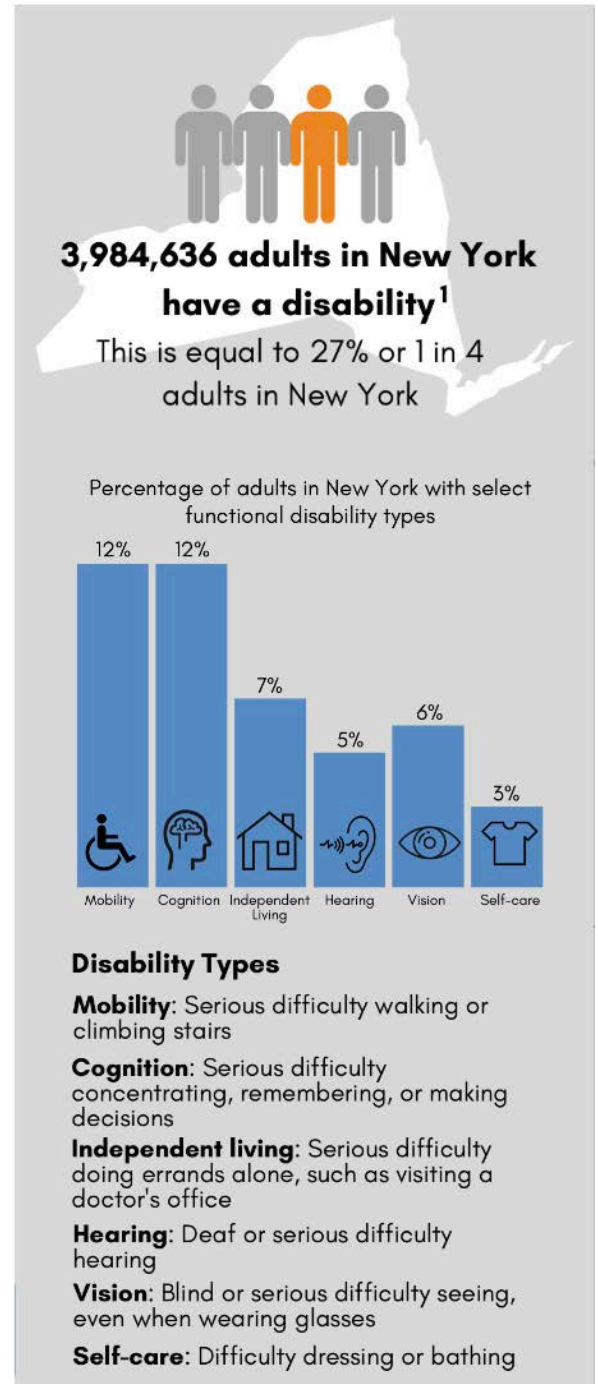
(U.S. Census Bureau 2021)<sup>2</sup>

## Legal Requirements Regarding Accessible Housing

In 1987, New York City Local Law 58 mandated that all new residential and commercial buildings be compliant with accessibility requirements. Pre-1987 buildings would also have to be made accessible if they underwent a “major renovation,” meaning one costing more than 50 percent of the cost of replacing the entire building, or including any change to the building’s use, regardless of renovation cost.<sup>3</sup> The law requires that a covered building be able to be approached, entered, and used by people with physical disabilities, including the inability to navigate stairs. It also requires that all units be adaptable to a disabled person following minimum structural work (e.g. bathroom walls must be reinforced to accommodate the subsequent installation of a grab bar should a disabled person move in).

<sup>2</sup> U.S. Census Bureau. 2021. “Selected Demographic and Socio-economic Characteristics by Disability Status New York City, 2017-2021,” Population Division-New York City Department of City Planning. NYC.gov. <https://www.nyc.gov/site/mopd/resources/resources.page>.

<sup>3</sup> Michael Nolasco, “Understanding renovations + Local Law 58 – Green Light Expediting,” Green Light Expediting, <https://greenlightexpediting.com/blog/renovations-and-local-law-58>.



(Center for Disease Control and Prevention 2023)<sup>4</sup>

<sup>4</sup> Center for Disease Control and Prevention. 2023. “Disability & Health U.S. State Profile Data for New York (Adults 18+ years of age),” DATA SOURCE: 2021 BEHAVIORAL RISK FACTOR SURVEILLANCE SYSTEM (BRFSS). Centers for Disease Control and Prevention. <https://www.cdc.gov/ncbddd/disabilityandhealth/impacts/new-york.html>.

The federal government established additional guidelines regarding the design and construction of residential buildings in 1991.<sup>5</sup>

Covered multifamily housing types that must comply include:

1. All buildings containing four or more dwelling units, if the buildings have one or more elevators
2. All ground-floor units in buildings containing four or more units, without an elevator

All covered housing must comply with the following accessibility requirements:

1. An accessible building entrance on an accessible route
2. Accessible public and common-use areas
3. Usable doors (usable by a person in a wheelchair)
4. An accessible route into and through the dwelling unit
5. Light switches, electrical outlets, thermostats and other environmental controls in accessible locations
6. Reinforced walls in bathrooms for future installation of grab bars
7. Kitchen and bathrooms usable by a person in a wheelchair.<sup>6</sup>

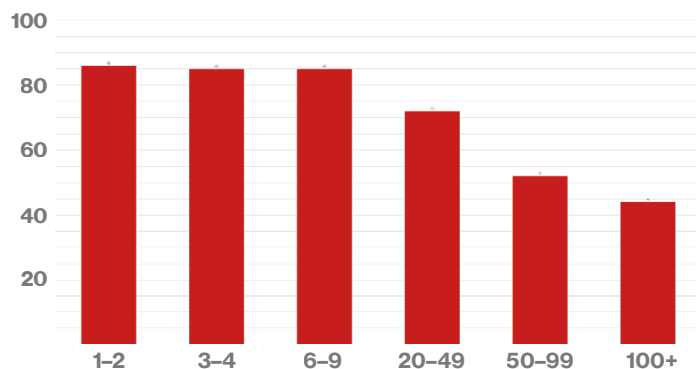
## Accessibility in NYC's Housing Building Stock

- Local Law 58 mandates that all new units within the above parameters be accessible without stairs.

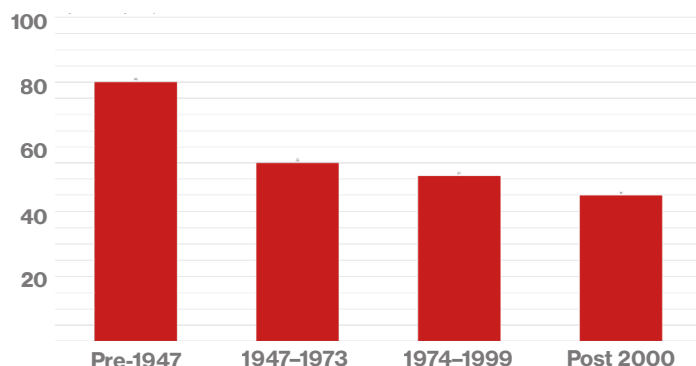
However, according to the 2021 New York City Housing and Vacancy Survey, 68 percent of New York City's housing units fail to satisfy this requirement because they are

not accessible from the sidewalk without climbing stairs.<sup>7</sup> Below are the percentages of housing that failed to comply with this basic accessibility standard:

### Percentage of inaccessible housing units in New York City by number of units



### Percentage of inaccessible housing units in New York City by year built



(NYC Department of Housing Preservation & Development 2021)<sup>8</sup>

While there was some improvement after Local Law 58, nearly half of all units constructed since 2000 do not meet this basic level of accessibility.

<sup>5</sup> U.S. Department of Housing and Urban Development. n.d. "Accessibility Requirements for Buildings | HUD.gov / U.S. Department of Housing and Urban Development." HUD. Accessed May 30, 2024. [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/disabilities/accessibilityR](https://www.hud.gov/program_offices/fair_housing_equal_opp/disabilities/accessibilityR).

<sup>6</sup> "New Construction Fair Housing Accessibility Requirements." n.d. Housing Equality Center of Pennsylvania. Accessed May 30, 2024. <https://www.equalhousing.org/fair-housing-topics/new-construction-fair-housing-accessibility-requirements>

<sup>7</sup> NYC Department of Housing Preservation & Development. 2021. "2021 New York City Housing and Vacancy Survey Selected Initial Findings May 16, 2022," Report. NYC.gov. <https://www.nyc.gov/assets/hpd/downloads/pdfs/services/2021-nychvs-selected-initial-findings.pdf>.

<sup>8</sup> *ibid.*

# Self-Certification

Inaccessibility can be cemented at any stage of the design and construction process. Often, a combination of multiple parties – such as the architect, the developer, and the contractor – contribute to the inaccessibility of an apartment building or unit.

Also known as “professional certification,” self-certification is a process in which registered architects and engineers can, in the words of the NYC Department of Buildings [DOB], “certify that the plans they file with the Department are in compliance with all applicable laws.”<sup>9</sup> This dramatically decreases the length of time an architect or engineer has to wait before their project can proceed.<sup>10</sup> If a development application is professionally certified, it does not need to undergo examination by the DOB. However, to ensure compliance, roughly 20 percent of professionally certified applications are randomly audited by the DOB after the application’s first permit has been issued.

New York City streamlined the building renovation process in 1975 with the passage of Directive 14, which permitted an architect, rather than the DOB, to perform the final inspection of a building. In 1995, the City expanded the right to self-certify beyond certification of fully constructed buildings to include certification of the design of buildings as well.<sup>11</sup>

Self-certification permits architects and engineers to bypass the lengthy DOB evaluation for accessibility. The incentive to self-certify is therefore significant. However, self-certification can enable the construction of inaccessible buildings that violate the law.<sup>12</sup> A professional who certifies a building’s accessibility, which is later found to be flawed, may be found liable and could both lose their license and/or face financial repercussions if a lawsuit is brought relating to inaccessibility of the certified building.<sup>13</sup>

<sup>9</sup> NYC Buildings, “Obtain a Certificate of Occupancy” accessed February 23, 2024, <https://www.nyc.gov/site/buildings/industry/obtain-a-co.page>

<sup>10</sup> “Back to Basics: How Long Does it Take to Get My Permit?,” Milrose Consultants, 2015, <https://www.milrose.com/insights/the-key-role-of-a-permit-expeditor-in-the-nyc-dob-permitting-process>.

<sup>11</sup> Mimi O’Connor, “What does it mean when an architect self-certifies?,” Brick Underground, 2018, <https://www.brickunderground.com/improve/what-is-self-certification-architect-nyc>.

<sup>12</sup> Kirby Sommers, “Self-Certification (New York City Department of Buildings) – AptStar,” 2019, <https://www.aptstar.com/aptstar-blog/2019/7/6/self-certification-new-york-city-department-of-buildings/>

<sup>13</sup> Marika Washchshyn, “Leave certification to the pros, architects say – The Midtown Gazette,” *The Midtown Gazette*, 2013, <http://themidtowngazette.com/2013/10/leave-certification-to-the-pros-architects-say/>.