

Section 203.8 of the Florida Building Code 6th Edition (2017) Accessibility states:

203.8 Residential Facilities. *In residential facilities, common use areas that do not serve residential dwelling units required to provide mobility features complying with 809.2 through 809.4 shall not be required to comply with these requirements or to be on an accessible route.*

Section 233.2 states:

233.2 Residential Dwelling Units Provided by Entities Subject to HUD Section 504 Regulations. *Where facilities with residential dwelling units are provided by entities subject to regulations issued by the Department of Housing and Urban Development (HUD) under Section 504 of the Rehabilitation Act of 1973, as amended, such entities shall provide residential dwelling units with mobility features complying with 809.2 through 809.4 in a number required by the applicable HUD regulations. Residential dwelling units required to provide mobility features complying with 809.2 through 809.4 shall be on an accessible route as required by 206. In addition, such entities shall provide residential dwelling units with communication features complying with 809.5 in a number required by the applicable HUD regulations. Entities subject to 233.2 shall not be required to comply with 233.3.*

Section 233.3 states:

233.3 Residential Dwelling Units Provided by Entities Not Subject to HUD Section 504 Regulations. *Facilities with residential dwelling units provided by entities not subject to regulations issued by the Department of Housing and Urban Development (HUD) under Section 504 of the Rehabilitation Act of 1973, as amended, shall comply with 233.3.*

233.3.1 Minimum Number: New Construction. *Newly constructed facilities with residential dwelling units shall comply with 233.3.1.*

EXCEPTION: *Where facilities contain 15 or fewer residential dwelling units, the requirements of 233.3.1.1 and 233.3.1.2 shall apply to the total number of residential dwelling units that are constructed under a single contract, or are developed as a whole, whether or not located on a common site.*

233.3.1.1 Residential Dwelling Units with Mobility Features. *In facilities with residential dwelling units, at least 5 percent, but no fewer than one unit, of the total number of residential dwelling units shall provide mobility features complying with 809.2 through 809.4 and shall be on an accessible route as required by 206.*

233.3.1.2 Residential Dwelling Units with Communication Features. *In facilities with residential dwelling units, at least 2 percent, but no fewer than one unit, of the total number of residential dwelling units shall provide communication features complying with 809.5.*

Question 1- A Private Developer is using its own funds to build a Multifamily Condominium with Common Use Areas. The Building and Common Use Areas will not be open to the public. Is the Facility (condominium building and common use areas) required to comply with Section 233 and provide the Mobility Features in the Dwelling Units as required in Section 233.3.1.1?

QUESTION 2- If the Developer is pre-selling the Dwelling Units during construction, before the building is occupied, and a buyer purchases a Dwelling Unit with funds provided or insured through a governmental entity, is the facility required to comply with Section 233.3. In this case would the facility be required to comply with Section 233.2?