

HUD CNA eTool CNA e-Tool Fine Points of Accessibility

Toni Gallo: Welcome to the virtual classroom on the HUD CNA e-Tool. I'm Toni Gallo with ICF. We're a contractor to the U.S. Department of Housing and Urban Development, and we've been assisting the folks in the Office of Housing implement and train on the CNA e-Tool. So, today's webinar focuses on the fine points of accessibility in relation to the tool. For the initial CNAs, a lack of understanding of the Fair Housing Act, Section 504, UFAS, and ADA requirements, as well as how they impact the capital needs assessment has led to numerous issues for HUD reviewers.

Now, in the past couple of months, HUD acknowledges that the quality of the submissions has been better. But today's issue is something that we want to talk about further. Many of these issues have been about CNA mutual submissions in which the users are uncertain about how to recognize and describe accessibility issues in the assessment and where and how accessibility issues are summarized in the submission portal and the reviewer tool results.

Today's webinar will have two sections. Roughly 1/2 to 3/4 of today's webinar will be recorded for posting on the HUD Exchange. You registered for this course on the HUD Exchange, so you should know where to find it. The recorded portion will be a traditional webinar. And as I mentioned earlier, I asked participants to mute their phone lines. During the recorded portion, I will present lessons learned from the first batch of CNA e-Tools, and you can use the WebEx Chat box to ask questions.

You're welcome to put questions there during the presentation, or you're also more than welcome to ask questions in real time or post questions in the chat box during the unrecorded portion of the session. So, as I mentioned previously, after the recorded portion, I'll ask participants to unmute their phone lines and we can interact like a regular classroom. At that time, you'll be welcome to share your screen and pull up various tabs and forms.

This portion of today's webinar will be archived and posted on the HUD Exchange in approximately two weeks as will the slides. There will be no live questions during the webinar, and participants will be muted throughout. If you have any questions, again, please enter them in the chat box on your screen as shown on the slide at the bottom. While the time available for this presentation might be tight, we'll do our best to get to as many of your questions as possible, particularly during the final segment of the presentation, the part that's unrecorded.

If in the unlikely event we run over the hour scheduled for the webinar to answer additional questions for those who are available, I can stay on the call for a little while. Questions that we are not able to get to or that I cannot answer during the webinar, I promise to e-mail you the responses sometime in the next couple of days. Just please note that while I'm presenting, I also have to record the webinar, share my screen, as well as monitor the chat box, so please be patient with me. I'll get to your questions as soon as I can.

So, today's learning objectives, of course, are to learn how to ensure that the accessibility requirements affecting a property's individual units and common areas affect how you are to

complete the CNA to ensure its correctness. And then I also want to make sure that you understand where to access available resources and tools, both on the HUD.gov website and the HUD Exchange. And then, of course, during the unrecorded portion of the presentation, I'm hoping that we can discuss some problem areas that you're having with accessibility issues in the e-tool. And we can discuss our individual findings and show examples as necessary.

So, I wanted to talk just about a few of the highlights of the CNA tool over the last few months. What we want to emphasize here is the fact that the CNA e-Tool's actually gaining traction and people are actually using it and deals are getting approved. This table was updated as of May 15th, 2018, which is about three weeks ago. So, from March 5th to March 15th, which is just over two weeks, the number of approvals has increased from 43 to 167. So, in just over two months, the number of approvals has practically quadrupled, which is a great thing. I don't want to belabor the point on this slide, but I did want to draw your attention to the yellow part of the pie where the number is 223.

This notes the number of tools that have been returned to the lender, and it's roughly 1/3 of all CNAs that have been submitted. So, what this means is that when HUD actually gets the submission from the lender, they have a checklist of things that they check for in the CNA e-Tool. And if any of those initial triage items are not met, the HUD reviewer will send the CNA e-Tool automatically back to the lender. Now, this doesn't mean that it's rejected in total, but that means that the lender needs to work with the assessor to make sure that they can get the CNA e-Tool to a point where it will pass the initial triage and then it gets resubmitted.

And frequently, these end up getting approved, but it just takes longer if certain baseline requirements of the tool are not met. So, a couple of the resources – and frankly, this one is the best resource – is the HUD CNA e-Tool web page. This continues to be your primary resource for information about the CNA e-Tool. Hopefully, you have this page bookmarked. But if for some reason you don't, the site can be found really easily. If you type: "HUD CNA e-Tool" in your browser, this page will usually be the first item on the resulting search list.

The next resource that I want to mention is the Ask a Question or AAQ resource, which is actually found on the HUD Exchange website. And I show the URL below the first bullet here. This is a place where you can always come to ask questions about any aspect of the CNA e-Tool. The Ask a Question help desks are literally staffed from 9:00 to 5:00 Monday through Friday. And staff can answer a lot of your questions immediately, and those they cannot answer go to HUD Headquarters. And HUD Headquarters staff have been really trying hard to keep up with them and to provide really solid, helpful answers. So, I suggest that whenever you have a question to use this resource.

There have been some updates with regard to CNA e-Tools that I wanted to highlight here. The assessor tool has had some appearance changes, particularly for entering information about parking. And the most current version is 1.2 Version 6. You need to use this for all new assignments. This version was posted in April of 2018. Now, if you were in the middle of using a CNA e-Tool Version 5 when this version was posted, it's fine to continue working on the previous version. But for all new deals, please use Version 6.

Release 2.2 of the validation and submission portal features some improvements for handling flags and flag notes. And those of you who have been working with the CNA e-Tool for a while know how important that is. HUD reviewers use the reserve for replacement financial factors tool that's posted on the HUD.gov CNA e-Tool resources page. And they use it to confirm whether the reserve for replacement funding plan meets MAP Guide requirements, the loan applications; namely, that the projected year-end balance is greater than or equal to the minimum amount balance in Years 3-10 of your projection.

And, too, if the minimum balance is not met in Years 11-12, then the amortization test is applied. And the shortfall may not exceed 50 percent of the cumulative amortization of the proposed loan. So that's an important point. So, lenders should definitely use that tool, because it's the same tool that HUD reviewers will use to check your calculations. And then finally, the RAD program published a guide explaining how the RAD program uses the CNA e-Tool. So, I urge folks that are using the CNA e-Tool for RAD deals to look at that particular resource.

Okay. So, we're going to get into the portion of the presentation where we talk about specific lessons learned over the past several months of e-tool submissions. The needs assessors need to be aware of all of the relevant accessibility requirements that impact federally assisted multifamily housing properties. And the categories include the following: The Fair Housing Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act of 1990. As a lender, you really need to be aware of these requirements also.

Now, I know you can read, but I wanted to go over the various types of properties that are covered by each of these statutes: The Fair Housing Act design and construction requirements apply to all covered dwellings built for first occupancy after March 13, 1991. And that's a very important date, as you will see through the rest of the presentation. Section 504 of the Rehabilitation Act applies to all federally assisted programs, including housing programs. And the Americans with Disabilities Act of 1990 or '88 applies to public accommodations and commercial facilities tied to multifamily housing and requires that they are accessible.

You'll see on this next slide that there's a very detailed summary of the requirements for insured multifamily properties. And I'm not going to go over these now, but I suggest that you take a look at these. This screenshot is actually pulled from the MAP Guide, the 2016 version, Appendix 5B, page 90. And it's a really nice summary of the requirements under each statute. With regard to accessibility, per the MAP Guide, Appendix 5B, page 92 – and I quote: "When the CNA identifies deficiencies in existing properties, remedies must be identified and described in corrective action plans."

A corrective action plan (CAP) must be prepared in the CNA e-Tool in accordance with Appendix 5G. The corrective action plan must: address all accessibility deficiencies, describe any circumstances where implementation of a remedy to a deficiency would compromise other architectural design requirements – such as it would require elimination of closet space – and examines possible alternatives, and recommends an alternative. The CAP must define remedies together with a detailed schedule of the work and associated costs. It must demonstrate the described remedies are appropriate. And finally, it must describe when and how the required corrective modifications will be completed.

So, the lender must demonstrate that the period of time requested for implementing and completing the items listed in the CAP is the minimum amount of time possible given the physical characteristics of the repair's impact on tenants, such as the cost of displacement. The Fair Housing Act and Section 504 of the Rehabilitation Act requires that reasonable accommodations are made for persons with disabilities. These requirements are separate from, and not a substitute for immediate repairs addressing accessibility deficiencies that have been identified in a CNA.

Many assessors and lenders have the misconception that the correction of a violation can be treated as though it were an accommodation to be done only when a tenant requests the remedy. Remedying a violation that is noted in the CNA e-Tool is not optional based on a tenant's needs or desires. So, I hope that's clear to folks, because there is a distinction there.

So, you may be wondering, where do I find the corrective action plan? We'll get into that in a moment. And this is actually a screenshot of a tool that has been put through the public validation portal. And this is the resulting set of panels that you get once you validate the tool. Accessibility remedies are always considered critical repairs. Many of you are accustomed to the critical repairs as items that must be completed before endorsement. But accessibility remedies were recently reclassified from noncritical to critical repairs. And this was done by Mortgage e-Letter 2012-2025. These requirements are restated in Appendix B of the 2016 version of the MAP Guide.

So where is the corrective action plan embedded in the CNA tool? You can find it in the critical repairs panel, as I just mentioned previously, in either the results produced by the public validation engine or the same panel on a CNA that was validated or located in the submission panel. And remember, assessors can use the public validation engine; lenders use the submission panel to validate CNAs received from assessors.

Now, coincidentally, HUD reviewers see the same panel in their reviewer tool. But actually, we now have two classes of critical repairs: We have life safety and accessibility repairs, both of which are now considered critical repairs. So, if you bear with me for just a moment, I want to pull up an actual version of the CNA e-Tool that's been completed. You will be able to find this version on the HUD.gov site, the CNA e-Tool resources page. If you're interested, I'd urge you to take a look at the completed CNA e-Tool. The reason for this is it's completed in a way that HUD hopes that assessors and lenders complete the tool. So, if you want to see an example of a tool that would pass muster with your HUD reviewer, take a look at this tool.

I'm going to change screens in just a moment, so just bear with me for a second. Okay. Now you should see one of the tabs of the CNA e-Tool that's been completed. We're currently looking at the inspected sample tab, but I'm going to go to the repair or replace recommendations tab. What I'm going to do here is I'm going to open the form so that I can discuss a particular component and show you how accessibility factors impact how one completes that particular form.

And I do need to put in a plug here: If you've attended any of the webinars or any of the in-person mortgagee advisory council meetings or classes that we held in the fall, you'll know that one of the things that we tell people to do is when you're working in the e-tool, do not type directly on a particular tab or worksheet. Try to remember to open the form and complete the

information in the form, because it's much easier to detect an error and correct it on the form than it is to detect it on the spreadsheet and remember to go back and correct it.

I'm going to open the form. And I apologize. It takes a minute because this is a very large file. Okay. So, you'll see because this is a filled-out version of the tool, all of the component types are already listed. So, I am going to go scroll down in the component type panel to interior hollow core doors or 2068 bathroom doors to illustrate what is going on with regard to accessibility issues. So, bear with me a moment – okay. I'm going to look at 2068 bathroom doors. So, you can see once I select that, the component ID and the alternative pop-up in the upper part of the window.

The important things here to note are that on the repair, replace recommendations tab, on each form, the user must select either the light safety or accessibility indicator to designate a particular recommended action is critical. So, you'll see to the right, you'll see life safety indicator and accessibility indicator. Only one of these may apply. So, you cannot have yeses to both of these. Life safety should be chosen only when delay in making the repair poses a risk that might cause personal harm to tenants or visitors in a multifamily housing property. Life safety items must be remedied before endorsement. There's absolutely no getting around that.

Now, accessibility items must be done as soon as possible – a slight nuance of difference that is apparent when we talk about these two common facts. So, accessibility violations are denials of civil rights that are protected by law. That is why we don't call them noncritical anymore. They are not to be remedied at the convenience of the lender or owner, but rather as quickly as physically possible. It's best to address these before endorsement when possible, but if that's not possible, it's much preferable to address them sooner rather than later. So, if the lender and assessor have the option of scheduling those repairs within 3 months, that's better than waiting a full 12 months.

Many accessibility remedies cannot be completed before endorsement and must be included in the repair escrow, which was historically associated with noncritical repairs. But accessibility remedies need to be addressed immediately rather than at the end of cycle. So, when we look later at the repair, replacement recommendations panel, we'll see how the lender and/or assessor determine when these repairs are going to take place. So, the two choices are now or at the end of cycle. So actually, under the recommendations portion of this particular form, you'll see the component ID and when, and this is when the schedule of the repairs is put in.

And there are only two options: now and at end of cycle. But you need to make sure that if it's an accessibility remedy or related to accessibility issues, that you must schedule it for now. And as I hope you know by now, now doesn't mean this second, but it means sooner rather than later and certainly within the first 12 months after endorsement.

I'm going to show you – I'm going to stop sharing this particular screen and then go back to the slide so I can give you an example of the panel. Okay. So, remember you've validated the tool. And let's, for sake of illustration, we'll say that you validated it through the public's validation engine. And this is the resulting set of panels you'll see. And I've highlighted on this slide the critical repair needs. Actually, this is the slide we were looking at before. I apologize. Let me go forward.

So, when we were on that previous screen, we had the list of the panels. And what I've done here is I've shown you a screen where I've taken the critical repair needs panel, and there's an arrow to the left of critical repair needs – I clicked on that arrow and I got a resulting set of two different charts. The first chart is life safety critical repairs. And the second chart is accessibility critical repairs, which is the item that we're most interested in looking at.

So again, I just want to reiterate that once you're in the validation portal and you see these different panels, you get these nice charts when you select the panel or you click on the arrow next to the panel. But you also have the ability to export them to an Excel file or detach them so that you can see a larger version of them. And then when you want to move out and after you've detached them, you can reattach them and move on to another panel. So, the upshot here is that when the tool is validated, you do get this list of critical repair needs. And this is basically the nuts and bolts of your corrective action plan. Okay.

So, on this slide and couple of the following slides, this is based on an Excel file that was exported from the accessibility repairs panel in a validated tool, such as what we saw on the last slide. These slides are intended to show the column headings that appear in the panel and to identify the location of the data sources from the tool itself that appear in each column. And as we move from column to column from left to right, we can see the data items or data field names that are reported in the CAP.

And what I'm talking about here is that this is not a replica of the chart in the previous slide. But what we're trying to show is for each column, where the information comes from in the assessment tool. One of the things to remember is that when you are working on an assessment tool, you set up your site, your property, and your buildings and your unit types and your components. And as you're doing that, the information that you put in helps to populate the remaining tabs in the worksheet. So, it's important to know, particularly if there's a mistake somewhere in the recommendations form that you know what the initial source of that information was so that you could go back and correct it if there's an error.

I'm just going to show you a couple things. So, for instance, on the recommendations form, you'll see that for a particular remedy, there's quantity and unit of measure, unit cost, total cost, months to complete, and the accessibility statute or standard. The quantity comes directly from the component for where you note how many of each item you're going to replace or repair, what have you. And then the unit of measure comes from the alternatives form. The unit cost comes from the alternatives form. And the system calculates the total cost based on the unit cost multiplied by the quantity. So that makes perfect sense. And then the accessibility statute or standard comes from the recommendations form itself.

And here's some more information that's shown on the recommendations form that – so you'll see under comments – this is the comment that the assessor put in regarding what they were going to do to remediate a particular issue with regard to accessibility that wasn't in compliance. And so, these comments should be shown on the recommendations form. And then the ASTM section is provided by the system. And if there's any utility associated with whatever the item is, the utility savings per year will show up here. And this is actually not a really common occurrence and is generally more important when you're doing a green [inaudible] deal.

So, the next thing I wanted to do is show you the alternatives form. And you can see where some of the information that showed up in the CAP and the reserve for replacement recommendations form comes from. This is one of the forms under the alternative's tab. The red boxes are data entry items that populate the corrective action plan or are used in calculations reported in the plan. So, in other words – and again, I hate to beat a dead horse – but the charts that I showed you on the previous screen – particularly the one that shows the two lists of critical repairs – obtain most of their information from these fields on the alternatives tabs.

So, you'll see the alternative name. And this is where you install – you're recommending installing roll-under approaches at sinks for accessibility reasons. And then the information about cost and unit of measure comes directly from the alternatives tab. So, as you know, this is a form that I opened from the alternative's worksheet. So, I'm going to go back and show you the alternative's worksheet. So, once you complete all of the forms for alternatives and when you go to the worksheet itself, you'll see the component type, the component ID, and the alternative name. And you'll see here how the component ID, these are some of the accessibility component IDs.

And the alternatives are very descriptively named. So, one of the things that I'd like to also emphasize here is we've talked a lot about naming components and alternatives in a very descriptive way. So, you'll see here that where the alternative name is for the install roll-under approach at sinks. It says that it's a critical repair, and it also shows what statute this repair is in compliance with, so this is really easy for you to remember what is a compliance alternative. And it helps the HUD reviewer note that as well. So again, this is actually a form that comes from the repair, replace recommendations form. So, remember, I have my spreadsheet; I open the form.

And what I want to show you is that many of the data entries that populate the corrective action plan originate from the assessor's entries on this recommendation form. So, remember when we were looking at the panel from the public validation portal under critical repairs – most of the information that show in that panel come directly from this form: The component ID, when it will be replaced or repaired, which part of the cycle, what type of action it is – whether it's a one-time repair or replacement – the common area, the number of months it will take to complete, etc. So, it comes directly from the recommendations form into the corrective action form.

Somebody I can hear. If you could put your line on mute, that would be great. I can still hear you. Okay. Great. Thank you.

Now, a lot of the things that we've been talking about in terms of making sure that your CNA passes muster have to do with the fact that you need to explain, explain, explain. So if you have a comment box on your repair, replacement recommendations form and you don't have enough room in that comments field to describe what you're going to be doing to explain the accommodations that you will be addressing, and if won't be addressing them where you can explain why – so basically, if you need to explain more about accessibility deficiencies and how you intend to address them, you can include the information on the narratives tab comments field on the various screens and flag notes.

And one of the best places to address these items is on the narrative form itself. Section 7.1 of the narrative form is dedicated to accessibility. So, for instance, sometimes you cannot address a deficiency. Why? Maybe it would cause an undue administrative or financial burden. And this is explained in the MAP Guide Appendix 5B. Or obviously, it's really difficult and financially burdensome to change or alter the structure – remove a load-bearing wall, etc. So, if you have those situations and you can't address a certain remedy because of them, you need to explain that somewhere. And the best place to do that is on the narrative tab.

So, this is what the narrative form looks like. If you see here, each of the different fields on the narrative tab are numbered and named. And again, you wouldn't type directly on this sheet. You'd open the form. But the forms are associated with the different sections of this particular spreadsheet. And you have 2,000 characters in which you can include your explanation. So, you would enter the additional explanation in the narrative form.

Accessibility is described, as you see, in 7.1. And if after completing the field you still don't have enough space, or you need to attach photos or sketches, or you need to create a will [ph], you need to create an attachment for that. And make sure that it's named appropriately and descriptively, and reference it here in the narrative and then have the lender attach it at submission. Again, somebody is not muted, if you would please mute your line so that we don't have the background noise.

So, what's a good name? How about 7.1 accessibility deficiencies that are exempt? Somebody please mute your phone. Okay. Well, I guess they're not listening.

The next thing I wanted to talk about briefly is our flag notes. If you don't have enough room in the narrative or you don't want to include a description on the repair, replace recommendations form, if you have a comment that's short enough, you may just use the flag note for the reference deficiency. So, this is what the flag notes – the flag panel and flag notes – look like. You'll see the number of Sensory Impaired Units is below 2 percent is the flag. And the field directly to the right of that is the flag note. So, you can use the flag note to explain whether or not you are going to address a deficiency or how you're going to address it. Again, excuse me. I don't know whose line is not muted, but I hear a lot of conversation. So please mute your phone.

I wanted to talk a little bit about the accessibility flags. Now, one of the things you may note in working on the CNA e-Tool, and if you've ever looked at the huge list of flags that is near the end of the CNA e-Tool instruction manual, there are numerous flags that result in items related to accessibility in the tool. Some of these are warning flags. A few of them are informational. And some are actually severe flags. We're not going to spend a lot of time on these, but notice that warning flags might result with things like: Fair Housing Act covered units are not in compliance, or public space does not meet ADA requirements.

What I'm trying to do is not to get you to memorize these, but I want to get you familiar with the types of flags that might result. And I think it's important here to know that, because then you can get a sense of the magnitude of the issues that you may encounter when completing the CNA with regard to accessibility issues.

So, on this particular screen, you'll note that there are a lot of S-flags. So, as you know, you cannot submit a CNA to HUD through the submission portal if there are S-flags. So, assessors should be aware of the fact that if they have any S-flags in their tool once they've validated it, that they need to address those S-flags so that they can be cleared through the validation portal, and then the lender may be able to submit this to HUD.

So, the types of things that result in S-flags that are related to accessibility are when the total number of Mobility-Impaired Units are greater than the total units, or the total Sensory Impaired Units are greater than the total units, or the total Sensory Impaired Units are required when federally assisted and there don't appear to be any of these in the property.

I'm just going to spend a couple seconds on this. As you can see, accessibility flags occur if certain fields are left blank on a particular form under the unit type or under decisions and recommendations. So, another thing to remember is that you can't leave certain things blank, or the tool will issue you a flag. So here are some more flags. And a lot of flags have to do with things like parking.

Now, in terms of accessibility and parking, there have to be the correct number of accessible parking spaces on an uncovered lot, but this also demonstrates how the tool knows if you have the appropriate accessible parking garages or covered parking spaces. So those are things that you really need to pay attention to.

This will end the recorded portion of the session. What I'm going to do now is I'm going to unmute. And if folks have any questions that they haven't asked in the panel – which I don't see any – if you would like to remain on the line, you are more than welcome to. You can unmute your phone. And we can talk about anything that you want to talk about.

So, I'm going to turn off the recording now. Okay. The recording is turned off.

(END)