

## **New REAC Clarifications for 2016**

REAC has issued a new document titled UPCS Guidance & Protocol Clarifications which is effective as of May 23, 2016. This document provides answers to a few frequently asked questions that have come to REAC from property reps, REAC consultants, and even from REAC inspectors. We find that this document contains more good news than bad, although it contains a few strange statements that will come as a surprise to most readers as they did to us.

### **The very worst news in our opinion:**

Inspectors are now instructed to cite a defect for breaker panels that have been caulked. Where ever owners and managers have instructed staff to caulk gaps in electrical panels, these are now at risk of being cited for a high scoring Exposed Wires defect despite the presence of caulking to fill gaps. Part of your future REAC preparations might include going back to strip out caulking that staff has used to fill gaps in such panels.

### **Other bad news includes:**

Damage to the exterior hood of a dryer vent or bathroom exhaust vent can be cited as Building Exterior; Walls; Damage, as if the vent cover was part of the wall itself. A missing filter from the kitchen exhaust (whether or not it is operable) is to be cited as Kitchen; Range Hood/Exhaust – Excessive Grease/Inoperable; Level 3. These are all rather bizarre and unexpected turns on issues that that have never been considered defects in the last 18 years.

### **Good news:**

Most of this new document otherwise either represents good news or neutral restatement of existing policies. One of the most significant items of good news is a new interpretation saying that vegetation touching a fence but not causing any damage is not to be cited as Overgrown/Penetrating Vegetation as it typically has been for many years.

Double cylinder deadbolts in Common Areas do not present an Emergency Exits Blocked/Unusable defect unless they the direct path of egress from one or more Units.

Issues with bathroom sink stoppers are always Level 1, regardless of whether they involve removable stoppers or permanent mechanical stopper assemblies.

Property staff may turn on water valves that are turned off under sinks and toilets to demonstrate that these fixtures are operable, and may turn on circuit breakers to demonstrate that various electrical devices are operable. Inspectors are not to prohibit staff from turning on water or power to demonstrate operation. Property staff may reset a tripped garbage disposal, and may plug in AC units and/or other devices that are unplugged.

Aluminum foil on or inside a stove is NOT to be cited as Flammable Materials. A pizza box, plastic bag, and other resident owned items stored in an over should be cited as Hazards/Other rather than Flammable Materials. (Hazards/Other is non-scoring.)

Kitchen sink sprayers are to be evaluated for leaks only, and not to be cited for being inoperable or missing.

Inspectors will not cite bedbugs as Infestations, but rather as the non-scoring Hazards/Other.

**Disappointing news:**

The document also gives two photographic examples of conditions that are not to be cited as erosion. This could have been the very best news in this new document, by far, if it had been clearly stated. Unfortunately, the statement on erosion is not nearly as clear or complete as it should be.

Many REAC inspectors have been overstating Erosion/Rutting issues since the beginning of the REAC inspection in 1998. The official Level 3 Erosion/Rutting definition requires that there be evidence of “extensively displaced soil” and “potential failure of adjoining structures.” This definition has been dumbed down for REAC inspectors by REAC’s trainers and QA Reps over the years to simply mean that there is evidence of undermining – that dirt has washed away leaving a structure unsupported.

This has led to situations where a property is cited for Level 3 Erosion because a tiny bit of mulch has been washed away at the corner of a prefabricated air conditioner pad leaving a small gap, even though there is no extensive displacement of soil and no danger of damage. This defect when cited at Level 3 can result in a scoring deduction as high as 7.5 points. We have long complained that this is ridiculous, and the photos in this new set of clarifications are directly out of a complaint that we submitted to REAC.

We firmly believe that REAC should have gone further in explaining when this defect is and is not to be cited, instead of simply presenting two photos and saying “this should not have been cited.” The photos by themselves do not make the purpose and meaning of this new clarification abundantly clear. It seems inevitably that this interpretation will be largely ignored because the advice given in the document is so vague and inconclusive.

Michael Gantt

The Inspection Group

There is a new set of clarifications from REAC on a number of items that have become the topic of discussion in the housing industry, as to whether these things are or are not legitimate REAC defects.

I find that these clarifications are mostly good - they mostly spell out answers that are good for me and my clients, so I like them.

They are not ALL good, however. I have indexed this new set of clarifications as follows:

**Good**

I think it's a good clarification, something we've been hoping for or at least it represents a positive step.

**Bad**

it may be either an accurate interpretation of UPCS protocol in my opinion or just something that will catch some of my clients off guard - beware!

**Eh...**

Not really a change in my understanding, or doesn't have a clear positive or negative outcome - however, the reader is cautioned to read this and make sure it is understood.

If you have any questions as to why any of these clarifications have been made, or as to why I think any of them are good or bad, drop me an email:

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Highlighting and other emphasis is mine - boxes like this are my comments, not REAC's

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The following guidance and clarifications are provided as part of REACs continuing effort to minimize the variances in the application of the UPCS protocols and definitions.

## **Site: Overgrown Vegetation-**

- Are weeds and grass overgrown in an area of the property that is not in use a defect or not? (e.g. see photo below - a strip of land between the driveway and property fence) **No defect**

Good



- There is some vegetation touching a fence but it is not causing any damage. Is this a defect? **No defect.**

Good

## **Site: Erosion-**

- Here are two actual examples of what inspectors are recording as erosion. Neither of these meets our definition of erosion and should not have been recorded.

Good



It seems that simple minor undermining should NOT be cited as Erosion, as I have been saying for years, though we have seen it cited frequently. MG

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## **Building Exterior:**

Good

- Stains on exterior walls? The defect for a staining on a wall is only applied to “intended painted surfaces”. Such as wood siding – **not vinyl, aluminum, or brick.**

Bad

- Is it a defect if the dryer vent exhaust has missing slates or openings in the exhaust cover plate mounted on the exterior wall? Yes – It is considered a penetration and is recorded as a hole in the wall. **Wow! This one is WHACKY! MG**

## **Common Areas:**

Eh...

- Fire walls between townhouse units – Do we assess these differently? No – These are not inspected as part of the “Building Systems - Fire Protection”.
- Properties are permitted to use double sided deadbolts only in common areas that residence do not have access to? **False. Properties can use double sided deadbolts in all common areas that are not in the direct path of the unit egress from the building.**

Good

## **Building Systems:**

Eh...

- Is a handicap chair lift or a stair lift considered an elevator? Yes. Any conveyance system is considered an elevator. In instances where these conveyance systems are not inspected, the property staff shall demonstrate to the inspector, that the chair lift or stair lift performs each function as designed by the manufacturer.

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- Inspection of Zip Ties: Should we test the integrity of plastic zip ties used to secure electrical enclosures? If the inspector sees a reason why they should be tested (e.g. sun baked, color is worn and faded, etc.) and when tested it breaks off in their hands and exposes bare electrical wiring or connections to be exposed, it is a defect. Otherwise, if the zip ties breaks when tested, but no bare wiring or connections are exposed, it is not a defect. This does not imply that every zip tie on every property has to be tested. Professional common sense must be applied for this situation on a case-by-case basis.

## Unit:

- The shower head leaks when the water is turned on but does not leak when the water is off. Is this a defect? Yes. It is a defect and shall be recorded as a L1 if contained and a L3 if not contained.
- The showerhead is missing. Is this a defect or not? It is a defect for missing hardware.
- If the mechanical sink stopper is inoperable is it a L1 – sink stopper defect or a L3 – hardware defect? It is a L1 – sink stopper defect.
- Upon entering the bathroom, the inspector observed that the water is turned off to the sink and/or toilet. Is this a defect? If the water cutoff valve under a sink or behind the toilet is turned off, the inspector can allow the property rep to turn on the valve to allow proper testing of the sink or toilet.

## Entry Door:

- If entry door has never had a seal installed and day light is observed under the frame, is this a defect? No

## Self-Latching Doors:

- Is it acceptable for inspectors to allow the property representative to remove door sweeps and items hanging from hooks on self-closing doors during the inspection? If a resident has added a door sweep or wreath hanger, our protocol

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Good

allows the resident or POA to remove the item to demonstrate that the door closer works properly.

Eh...

- How many times should an inspector attempt to open/close a “self-closing” door? Two attempts shall be made varying the angle of the opened door (e.g. 45 degrees, 90, degrees, etc.). If after two attempts the door does not latch it is a defect.

Bad

- Can the resident or POA assist the “self-closing” doors function by raising/closing windows using airflow to assist? No. Do not allow a resident or a POA to open a window to get a door to shut. The door should work when the windows are opened or closed.

Eh...

- During the inspection, can the POA or the inspector repair the door hardware on a bi-fold door (e.g. replace the pin in the top track)? No. It is a defect.

Bad

- You observe a missing strike plate on the door frame but the door latches and stay’s secure. It is a defect? Yes, it is a defect for door hardware and the level is based on the type of door.

## **Unit: Electrical System-**

- Tripped Breakers: Is there a protocol to provide for the property to reset a tripped breaker for electrical devices or equipment?

Good

**Disposals:** If the garbage disposal is tripped the inspector will allow the POA to press the reset button; if it works there is no deficiency. However, if the POA has to use any tools to make repairs to the garbage disposal, it is a defect.

Eh...

**GFI's:** Must be tested and reset by the inspector per the CB.

Good

**Tripped Breaker:** The POA can reset a tripped breaker as long as the breaker does not affect a life safety item such as a call-for-aid or smoke detector and there will be no deficiency observed.

*Note: The inspector should never turn on any breaker that is found to be in the “off” or “tripped” position, since he/she is not sure what appliance or dangerous condition that it might create (e.g. turns on stove). The POA should be given the option to turn on any breakers that are off. The exception to this is the testing of the GFCI and AFCI protected breakers.*

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- If a garbage disposal is missing the plate underneath it, is this recorded as exposed wires? **If it exposes bare wires** and/or bare connections **it is an electrical defect.**
- Unplugged Appliances: Do we need to verify whether an unplugged appliance, such as a dryer, is in use or not? The Inspector must use their best judgement based for this situation.

Bad  
Bad  
Bad  
Bad

- Can caulk be used anywhere in the panel/fuse box? No. This is a defect. The introduction of a foreign material into this type of device is not an acceptable repair. It shall be recorded in the appropriate inspectable area as an “H&S – Electrical Hazard” under “Opening in the electrical panel are **not** properly covered”. **DO NOT CAULK BREAKER BOXES TO FILL GAPS !!!**

I have been saying NOT to caulk around breakers for over ten years, but this is the first time REAC **MG** has said that caulked breakers WILL BE CITED as a defect BEWARE

## Unit: HVAC-

Eh...

- If the HVAC system has holes in it from the manufacturer, can this be considered exposed wires? **If the holes expose bare wires** and/or bare connections **it is an electrical defect.**

Good

- What should the inspector do if the window air conditioner in a unit is unplugged? The inspector shall allow the property representative to plug it in and then test it for correct operation. (HVAC is seasonable)

## Unit: Kitchen Items-

Bad

- The **range hood exhaust fan is missing the filter.** Is it a defect? Yes, it is a defect. (Inoperable –L3) **?????? MG**

Good

- Is aluminum foil in the oven or on the stove top a defect? No defect

Good

- Is a pizza box, plastic bags, etc., stored in the oven a defect? Yes. It is recorded as **Hazards- Other.** **Non Scoring - Instead of Flammable Materials**

Good

- What should the inspector do if the stove in a unit is unplugged? The inspector will allow the property representative to plug it in and then inspect the stove for correct operation.

Good

- How do we inspect kitchen sink sprayers? The sink sprayer is only evaluated for leaks. If it is not present; it is not a defect.

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## Unit: Windows-

- **Good** Are thumb latches suitable substitutes for window locks? Yes. As long as they can be operated without the use of a tool.
- **Good** Are sash pins (with or without a chain) suitable substitutes for defective balances? Yes. But they must be tested to ensure they function.
- **Eh...** Some inspectors allow the escort to operate the windows, especially if they are difficult or the inspector fears damaging the window. Is this allowed? **The inspector shall operate all windows** except those that are not accessible due to a large bed blocking access or the window is elevated. In each of these cases the inspector must observe the window being tested, either by the escort or the resident.
- **Eh...** What level of effort must an inspector expend to open a window before determining it is inoperable and/or a blocked egress? The Inspector must use **their own professional judgment** to determine if the level of effort to open a window constitutes a deficiency for being inoperable and/or a blocked egress.

## Unit: Health & Safety-

- **Eh...** A window AC unit is installed in the only window in a bedroom, but it is **not** secured to the window frame or sash. Is this a defect? Yes. It is recorded as a blocked egress regardless if it is secured to the window or not.
- **Good** Can a broken child's toy with a sharp edge be recorded as a defect? Yes. **Hazard - other.** (E.g., Resident owned personal property that's broken. See Comp. Bulletin.)
- **Eh...** Below is a photo of a hasp lock, this lock is on the unit entry door. Is it a blocked egress? It is a blocked egress. (All blockages that limit a person's ability to exit a room in case of emergency are a deficiency. Unlike a thumb turn deadbolt this has the potential to be pad locked.) Professional common sense and inspector knowledge are to be applied.

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- How do you record the defect when bed bugs are observed in a unit? The inspector **will** record as an “H&S – Hazards Other” defect, and make the comment that bed bugs exist in the unit. Currently, you **will not** record bed bugs as an “H&S- Infestation” defect.

Good

## General Questions Concerning the UPCS Inspections:

- Vacant units are now included in the sample. True (but not always) – for some HFA inspections and all MF properties with a vacancy rate of 15% or more the vacant units, if selected in sample, are inspected.
- Do we inspect vacant units that are still in the process of being repaired before renting? Yes and all defects are recorded in accordance with the CB guidance concerning “Work in Progress”.
- A certified inspector is no longer permitted to be hired to “shadow” and cannot be on the property while the inspection is being conducted. True – this is part of the new IA Business rules.

Eh...

This statement is causing a lot of confusion - see the next page, please, from the IA Business Rules mentioned above...

Rules below are found in Inspector Notice (2016-02) which can be downloaded at

<http://portal.hud.gov/hudportal/documents/huddoc?id=IABusRules2016-01.pdf>

This is a prohibition on current REAC Inspectors only, and does not apply to YOU or your right to have anyone you like escort your REAC inspector. You can still have an expert consultant present to monitor the conduct of your inspection.

These rules say, in effect:

1 - A current REAC inspector cannot attend any inspection that he/she has not been specifically authorized by HUD to attend, and

2 - Your REAC inspector cannot bring anyone else along during your REAC inspection - even if they are now or have been at some time a REAC inspector themselves. (But, a QA Rep could still be present.)

#### **D. Code of Conduct**

The UPCS Code of Conduct requires every inspector to maintain professional conduct, demeanor, appearance and attire at all times prior to, during, and after an inspection, and in all interactions with residents, inspection participants, property representatives, and any other individual with whom the inspector comes in contact. Non-exclusive examples of conduct required and prohibited by the Code of Conduct are described below.

Inspectors must:

- Display the REAC-issued photo identification card throughout the entire inspection;
- Respect resident privacy. For example, inspectors must not attempt to open a closed door in a residence; they defer to the property representative;
- Comply with reasonable requests from residents and project representatives during the inspection;
- Defer all questions from residents regarding the property to the property representative accompanying the inspector; and
- Defer all questions from third parties about the inspection or the results to the property owner or representative.

**Inspectors must not:**

The REAC Inspector must not bring along anyone who is not authorized by HUD/REAC to be present - EVEN IF they happen to be currently or formerly certified as an inspector.

must not attend an inspection by another inspector

- Express opinions or comment about the nature or condition of the property or residents;
- Make representations or promises to residents or property representatives or staff that items will be repaired based on inspection results;
- **Attend an inspection, or participate in an inspection in any capacity, that is being conducted by another HUD certified UPCS inspector** while providing independent consulting services of any kind on behalf of the property owner or representative;
- **Include in attendance or participation during a UPCS inspection any unauthorized person, including family, friends, or UPCS certified/decertified inspectors;**
- Use any facility on a property, property owner's office, housing agency office, or HUD field office to conduct personal business;
- Use profanity or other offensive language prior to, during or after an inspection;