

ACCESS ALERT

Highlights from AAB Update

Thomas P. Hopkins, Executive Director of the Massachusetts Architectural Access Board (AAB), presented an insightful update on AAB regulations, interpretations, administration, and legislation to a standing-room-only audience of architects and designers. Following are highlights from his presentation.

Repair Exemption

521 CMR 3.3.1.b exempts certain repairs from the additional barrier requirements of 3.3.1 (entrance, toilet room, telephone, and drinking fountain). There are specific limitations to this exemption:

- These repairs can be done alone or in combination with other exempt work; but they cannot be done in combination with non-exempt work.
- All work over a three year period is considered. Doing a repair one year and an alteration the next year makes the repair work non-exempt.
- There is no repair exemption from 521 CMR 3.3.2. When the cost of repairs exceeds 30% of the building's assessed value, the work is no longer exempt.

Assessed Value

The AAB considers it part of an owner's and architect's due diligence to obtain a property's actual assessed value at the time that the building permit is pulled. Public buildings have assessed values, and many towns now make assessed values available on-line.

Cost of Work Performed

The 30% is the value of work performed. Often there are additional costs after the project begins; and the AAB considers these costs as well as those on the initial building permit. Therefore, if the initial permit cost is close to 30%, architects should advise their clients of possible – even likely – consequences of additional barrier removal.

Variance Preparation

Be sure to include all access options when requesting a variance, even if an option doesn't fully comply with AAB. For example, if space does not allow a ramp with 48" min. clearance between the handrails, consider narrowing the ramp or using just one handrail in lieu of no ramp at all. Or if space does not allow the installation of a ramp with a min. 1:12 slope, but does allow a 1:11 slope, the AAB may grant a variance for this use. It is unlikely that the AAB would grant a variance for a slope greater than 1:10.

All requests for variances or advisory opinions must now be submitted in hard copy (original + 3 copies) as well as on CD. No drawings should be larger than 11" x 17", and they should be included in pdf format on the CD.

Historic Properties

When relying on the historic status of a building for a variance, be sure to include documentation from the Mass. Historic Commission, not the local commission, in the submission.

AAB Website

The AAB's website is now found on the Office of Public Safety's website: www.mass.gov/dps. Click on "Architectural Access Board" in the left hand column; and browse "News & Events" in the right hand column for useful links.

521 CMR Interpretations Available On-Line

The AAB is beginning to post interpretations of its regulations that may have broad implications beyond the property for which it was originally requested. These are posted on the DPS website, with a link under the "News & Events" column. There are four (4) currently posted:

- Ramps Over Amusement Ride Cables
- Portable Toilets
- Parking At Multiple Dwelling Units
- Location of Light Switches Within the 18" Latch Pull-Side of the Door

The AAB will work with the BSA to inform architects of new interpretations when they are posted. The BSA will use its monthly *ChapterNews* and weekly *Currents* electronic news to alert architects of BSA updates.

AAB Creating Electronic Files

The AAB is reviewing all of its files and creating electronic files of all requests for variance and advisory opinions. These files include the requests, documentation, audio files of hearings, decisions, and orders. This will allow the AAB to respond more easily to requests for information; and may eventually enable the AAB to post its decisions on the web.

Legislation Filed to Expand AAB's Jurisdiction

A bill has been filed to expand the AAB's jurisdiction to include areas used by employees. If this were to pass, it would be the first step toward 521 CMR being 'substantially equivalent' with ADAAG. Over 80% of the respondents to a recent BSA Access Committee survey supported the concept of substantial equivalency. As a result the AAB is hoping that the BSA will support this legislation.

Prepared by:

Katherine McGuinness

Chair: BSA Access Committee

Principal: Kessler McGuinness & Associates, LLC

kmcguinness@kmaccess.com

Kessler McGuinness & Associates, LLC, is a nationally known firm that specializes in accessibility compliance planning through access audits, access master plans, architectural plan review, accessible design review protocols, training and resource development. We also serve as expert witnesses for plaintiffs and defendants. Clients include airports, commercial property owners, educational institutions, government agencies, architects, and attorneys.