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## Government Facilities Affected By Unusual ADA Requirements

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The Americans with Disabilities Act has different requirements for government facilities and buildings owned by private entities. Most architects know the accessible design standards for privately-owned buildings, but are not aware that there are different standards for government facilities.

The technical design standards for government and privately owned facilities are substantially similar. The scoping and jurisdictional triggers, however, vary. For example, the accessible design standards for elevators in either type of facility are the same. However, many privately owned properties – such as commercial buildings and private colleges – can take advantage of the ‘elevator exemption’ for buildings that are less than 3 stories or less than 3,000 square feet per floor (reference state and local building codes that may have standards that require an elevator under those conditions, even though the ADA may not).

The elevator exemption does not apply to government facilities such as town halls, public schools and courthouses. Newly constructed, multistory government facilities must always include an elevator.

The differences become more complex when assessing facilities that were constructed before the ADA became effective in 1992. Many facilities that were built before 1992 contain architectural barriers such as stairs, signage without Braille, small toilet rooms, and alarm systems with no visual components. Privately

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**Government facilities like Boston's City Hall (pictured above) must provide full access to their programs and services. State and local governments – including public and quasi-public authorities – are required under the Americans with Disabilities Act not to discriminate against people with disabilities in providing public programs and services. A town can choose any approach to providing accessibility, as long as the citizen with a disability is afforded equal access.**

owned facilities that are open to the public (such as hotels, restaurants, doctor's offices and private schools) are required to remove those barriers whose removal is “readily achievable” – meaning it can be achieved “without much difficulty or expense.” Installing elevators or lengthy ramps is typically not considered readily achievable, and would not be required unless there were a significant alteration. Installing a short ramp, new signage or lever hardware often is readily achievable and should be done to comply with the ADA.

Government facilities, however, have a different standard for barrier removal in facilities constructed before 1992. Whether alterations are planned for the facility or not, government agencies must provide full access to their programs and services. State and local governments – including public and quasi-public

authorities – are required under the ADA not to discriminate against people with disabilities in providing public programs and services. Although they do not have to make all of their facilities accessible, they do have to make all of its programs and services accessible. This standard is known as “program access.”

As an example let's consider a typical municipality and its 1880s, 2-story town hall with no elevator. If the town assessor's office is on the second floor, the programs and services offered by the town assessor's office are not accessible to some of its citizens with disabilities. This condition is no longer allowed under the ADA. To resolve this problem the city can choose among several alternatives:

- Make its town hall fully accessible;
- Make the first floor accessible and relocate

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the assessor's office to the first floor, or provide a phone or bell on the first floor that rings to the assessor's office on the second floor; and require someone in the assessor's office to provide prompt services on the first floor; or

- Relocate the assessor's office to an accessible building outside town hall.

Making the town hall fully accessible is usually the most expensive compliance strategy. To make the town hall fully accessible, the town typically uses capital improvement funds to support the project; retains an architect to design access improvements; and hires a contractor to construct the alterations. This is a common process, familiar to many towns, architects and contractors. The project is likely to include the following access elements:

- Parking;
- Walkway between parking and public transportation stop to the accessible entrance;
- Entrance doors that can easily be opened independently;
- Elevator;
- Toilet room(s);
- Assessor's office with an accessible transaction counter; and
- Accessible signage with tactile and Braille letters.

However, the town may choose a less costly compliance strategy that requires little or no architectural barrier removal. It could maintain the assessor's office on the second floor and still be in full compliance with the ADA. Using this approach, however, requires careful consideration of several modifications to the town hall's facilities and operations.

These modifications may not require the services of an architect. The town could:

- Restripe two parking spaces;
- Add a van-accessible parking sign;
- Regrade the walkways between the accessible entrance and the accessible parking as well

as the closest public transportation stop (where available);

- Provide a buzzer at its entrance doors;
- Add a sign indicating that assistance is available;
- Purchase a portable ramp;
- Provide a first-floor phone/buzzer to the assessor's office;
- Provide an accessible meeting or transaction space; or
- Add or modify a first-floor toilet room.

A word of caution, however, before recommending the less-expensive solution to your town or city manager: If the town chooses to provide accessibility without making its facilities fully accessible, it must think through the potential problems with the less expensive options. The most important question is: Can the town provide equal access to its citizens with disabilities without modifying the facility to be fully accessible. To answer this question one would ask many questions, including: Is the accessible parking space the closest to the accessible entrance? Is the accessible parking space and striped access aisle level, i.e. with slopes of less than 2 percent in all directions? Is the walkway to the accessible entrance sloped less than 5 percent or treated as a ramp with handrails and a slope less than 8.3 percent, and a cross-slope less than 2 percent? Is the buzzer at the door in an accessible location, i.e. not at the top of the entrance stairs? Is there really someone available at all times to promptly respond and open the door? Is there a place to store the portable ramp near the entrance door? Can the people who might deploy it actually lift it? Is there a clean, covered location that the citizen with a disability can wait – protected from weather – while the door is opened and the ramp deployed? Once inside, is the phone or buzzer to the assessor's office easy to locate? Is there really someone in the assessor's office available at all times to promptly respond, including during

lunch, breaks, vacations, sick days, etc.? Is the first-floor meeting space accessible and available without waiting longer than one would wait at the assessor's office? Is there an accessible toilet room (male and female or single-user) available on the first floor? Can the portable ramp remain in place while the citizen is conducting her business? Or must an employee return and re-deploy the ramp?

In our example, a town can choose any approach to providing accessibility to its programs and services, as long as the citizen with a disability is afforded equal access to the town's programs and services. Likewise, a court, public school or university, park or highway department can use non-architectural methods to comply with the non-discrimination requirements of the ADA. Architects are aware of the architectural solutions, but are often not aware of the alternatives.

When feasible and realistic, the solutions can be less expensive for the town and effective for its citizens with disabilities. However, the less expensive, non-architectural solutions are often chosen without adequate consideration of their real-world consequences. These often require the citizen with a disability to:

- Ask for assistance, when no one else has to ask;
- Wait for assistance, when no one else has to wait;
- Wonder if someone will answer the buzzer, while others walk right in; and
- Accept a lower standard of service than others receive.

The architectural solution is typically the permanent solution that provides for equal access to programs and services, although it is often the most expensive solution. The alternative solution, however, carries hidden operating expenses, and the ongoing risk of a costly civil rights complaint or litigation based on a citizens' need to ask, wait, and wonder. ■