

**CDTC ADA Working Group
March 5, 2015
9:30 AM
at the CDTC Offices
Meeting Agenda**

1. Introductions
2. Background on ADA Transition Planning - (CDTC staff short powerpoint)
3. Review of previously distributed Questions
4. Identification of items to include in draft “work plan” for the group and tasks for CDTC staff research
(Note: Staff proposes that this group convene for 1 year so work plan should reflect that)
5. Other items identified for discussion by the group
6. Schedule of Next Meeting and agenda items

**CDTC ADA Working Group
Notes March 5, 2015 Meeting**

1. Attendees: Ken Kovalchik, Bethlehem; Brad Birge, Saratoga Springs; Pete Rea, Valerie Dean, NYSDOT Region I; Randy Milano, City of Albany; Dave Jukins, Anne Benware, Carrie Ward, CDTC; Maryellen Casey-Usis, Mike Williams, Sam Wells, CDTA; Chris Wallin, Peter Knutson, Steve Caruso, City of Schenectady

2. Anne Benware reviewed the history and requirements of the Americans with Disabilities Act, focusing on the requirement for a transition plan for pedestrian infrastructure. (See handouts)

3. Several questions (as shown in the handout) were posed:

What do you want to get out of your participation in this group? Responses included:

- to ensure transition plans are done correctly
- a clearinghouse of information useful to the municipalities
- to find out about potential funding and grant opportunities
- a template for transition plans and a consistent approach among the region's municipalities
- a better understanding of which fund sources can be used for ADA compliance projects
- assistance with methods of data collection for pedestrian facility inventories/self-assessment

4. The group discussed items to include in the Workgroup's "work plan" and tasks for CDTC staff to research. These included:

- Researching funding sources that could be used for transition plans and implementation.
- Creating a template so all municipalities are completing transition plans in a similar way on a similar schedule.
- Encouraging the NYSDOT Commissioner to send a letter to all municipal heads informing them they must complete a transition plan.
- Arranging for a presentation to CDTC's Policy Board on ADA transition plan requirements.
- Collecting data and the use of GIS.
- Distributing NYSDOT's Transition Plan update, with implementation to 2024.
- Obtaining guidance on whether NYSDOT's self-assessment and inventory process is acceptable for use by other entities.
- Clarifying what constitutes an undue burden, examples of acceptable documentation.
- Finding standards for an implementation timeline and how much should be done annually.
- Researching acceptable standards for ADA that accommodate urban context; there appear to be some contradictory requirements in the PROWAG related to certain standards.
- Researching innovative inventory, maintenance, snow clearance methods for pedestrian ways, such as using non-traditional data gatherers or maintenance workers (i.e. inmates, etc.).
- Obtaining an inventory of state responsibilities for specific roadways and adjacent pedestrian ways on roads within cities and villages.
- Researching financing for sidewalks, esp. special assessments (Ithaca, Ann Arbor, Corvallis OR).
- Clarifying how and how often ADA transition plans are monitored and by whom.

- Researching compliance issues related to existing facilities compliant under ADAAG but not necessarily PROWAG; when they must be compliant outside of alteration/new construction.
- Researching maintenance practices esp. related to snow removal/potential shared services.
- Obtaining AARP's walkability analysis results from a few years ago done around the region.
- Developing and distributing a survey to the region's local governments to gather information on practices for sidewalk maintenance and repair, status of ADA transition plans, and other related issues which could help work toward a coordinated effort.

5. Discussion around the table included:

- Schenectady has 280 miles of sidewalks. It can be difficult to bring curb ramps into compliance with the PROWAG standards due to narrow sidewalks and streets, especially in historic areas.
- Albany noted due to narrow sidewalks/streets installation of the wider/longer curb ramps can mean utilities and traffic signal poles are in the way. These situations result in higher costs.
- It was suggested that following the CDTC Bridge Group approach, a consultant could be hired to inventory sidewalks on the local federal aid system.
- CDTA's STAR ridership increases in the winter because many people can't access fixed route service due to sidewalk snow and ice and are therefore temporarily certified to use STAR.
- CDTA has crews that clear snow for shelter areas or MOUs for clearing with adjacent land owners. High volume shelters are a priority.
- Ken Kovalchik gave an overview of the Bethlehem's sidewalk inventory work. It took 6 weeks of intern field work to create a GIS layer and database of their 40 miles of sidewalks. The Town currently conducts a routine inspection and maintenance program of its roadways (inspections every two years using PASER) and has developed a similar system for sidewalk condition ratings. Arc GIS is used with a collector app for smart phones to be used by highway crews to input data. This summer the Town will inventory ADA curb ramps. Bethlehem's sidewalk inventory includes data useful for a transition plan inventory. (See handout)
- Randy Milano noted that the City of Albany's Department of General Services purchased a grinder used by City staff to fix sidewalk heaves.
- Mike Williams noted that CDTA has GIS data on bus stops and routes, located at <https://gis.ny.gov/gisdata/> (search for Capital District Transportation Authority) Municipalities could use this data to overlay bus stop and shelter locations with sidewalk inventory data in the future.
- NYSDOT staff will share Region 1's draft ADA Transition Plan maps once they are available; the Region 1 ADA Transition Plan may include over \$20 M for compliance upgrades by 2024.

6. It was decided that the next ADA working group meeting would be scheduled for the week of May 5, 2015. A doodle poll will be sent out. Anne and Carrie will also send out a list of items staff can begin working on and to be reported on at that meeting within the next few weeks.

CDTC ADA Working Group
Meeting 1
March 5, 2015

Background Information on ADA Transition Plans

The source of some of the following material was obtained via the internet on March 2nd and 3rd 2015

From:

- 1) ADA Transition Plans: A Guide to Best Management Practices, a powerpoint presented by Ken Woodruff, FHWA-Indiana Jay DuMontelle, FHWA-Indiana in 2011
- 2) Broward County (FL) MPO Roundtable on ADA Transition Plans, February 2015, powerpoint presented by Kimley Horn and Accessology consultants



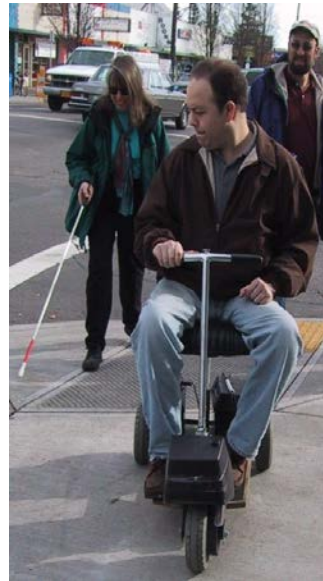
Kimley»Horn

ADA Culture of Compliance

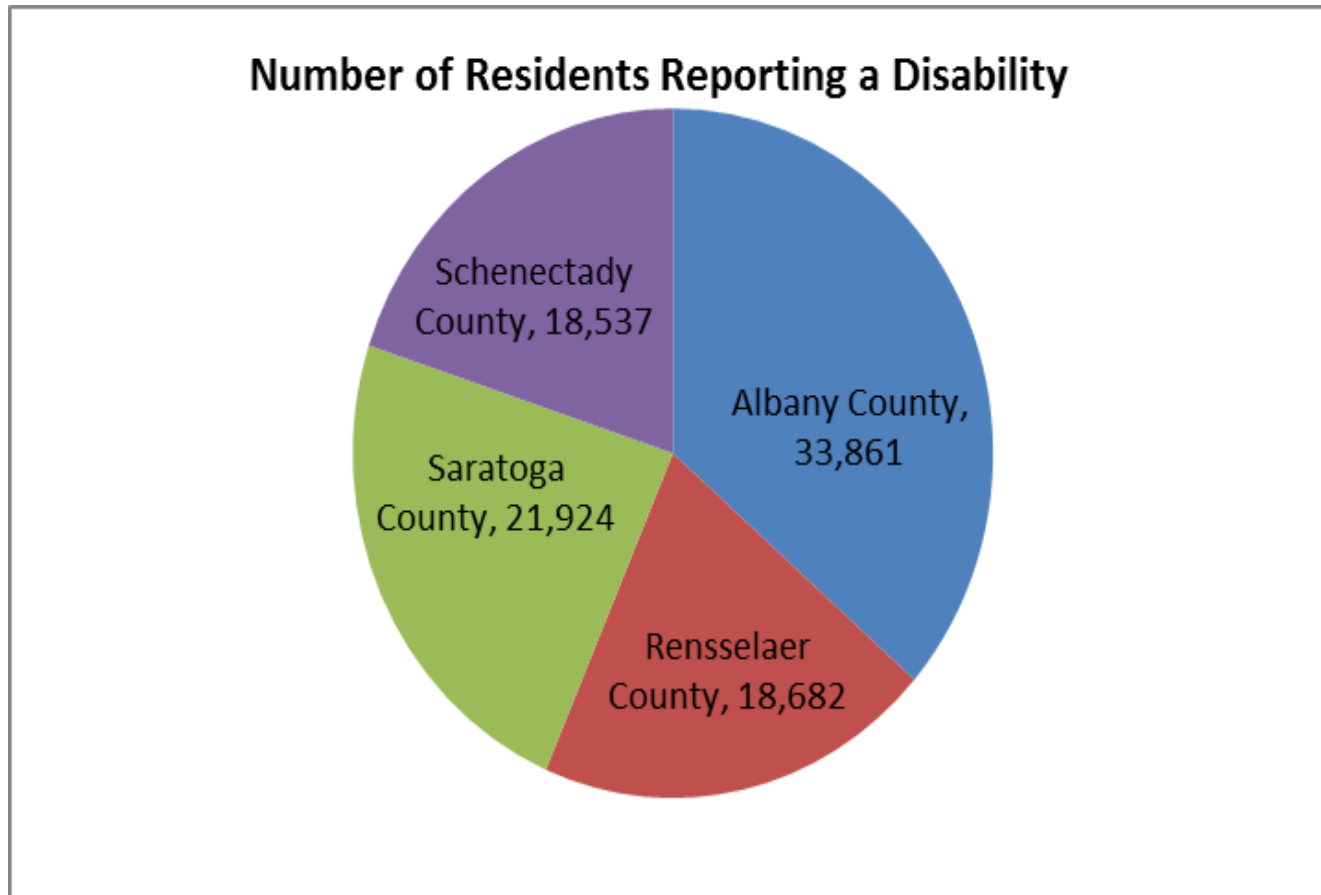
Title II – Government Services: Must ensure that individuals with disabilities are not excluded from programs, services, and activities (pedestrian facilities are an example of a program).



- According to the 2010 Census, 21 percent (or approximately 59 million) of the U.S. population over the age of 15 has a disability.
- The National Council on Disabilities estimates that 70 percent of our country's population will eventually have a temporary or permanent disability that makes climbing stairs difficult.

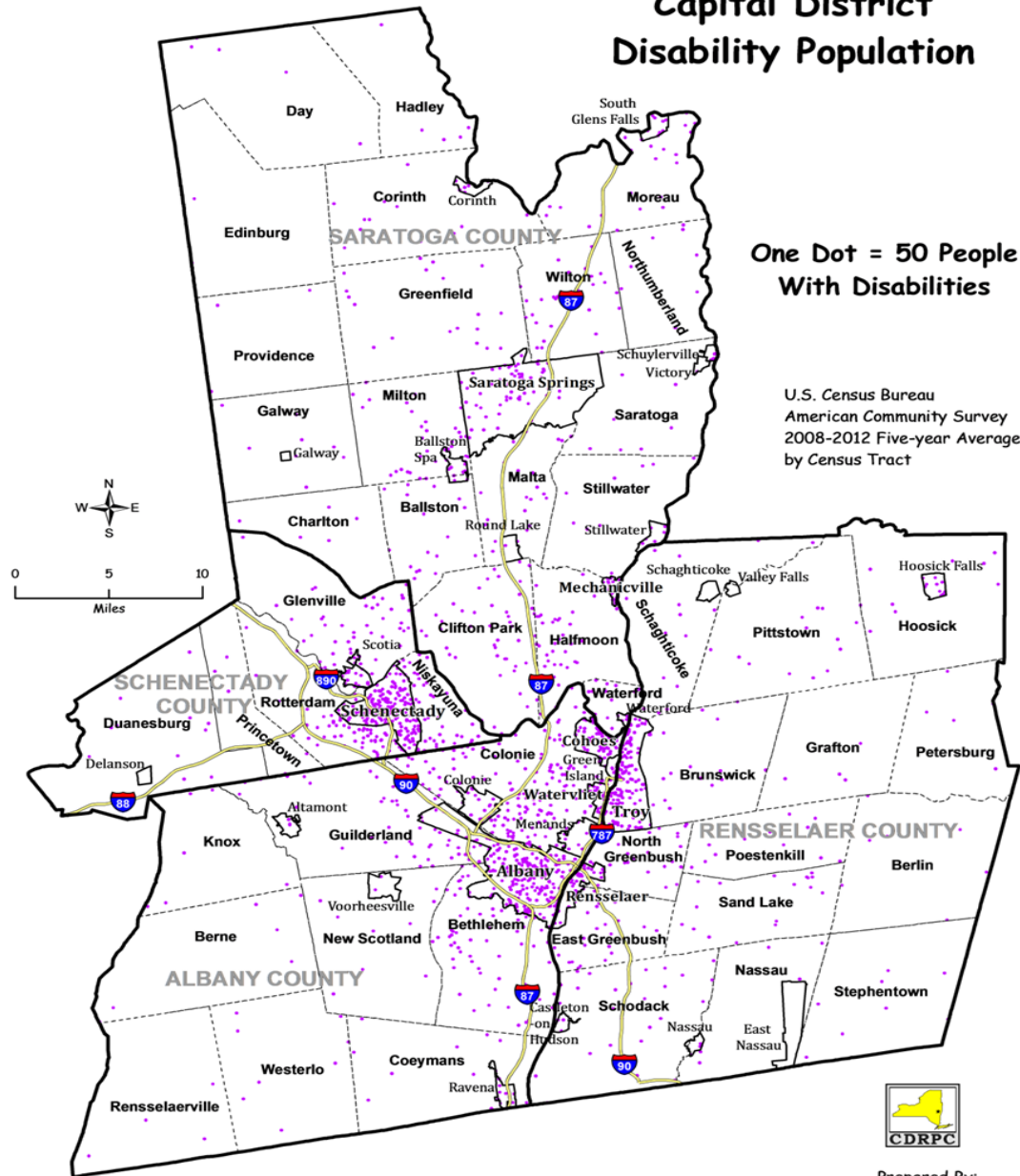


Capital District data on individuals reporting a disability



Source: 2008-2012 American Community Survey 5-Year Estimates

Capital District Disability Population



Prepared By:
The Capital District
Regional Planning Commission
2014

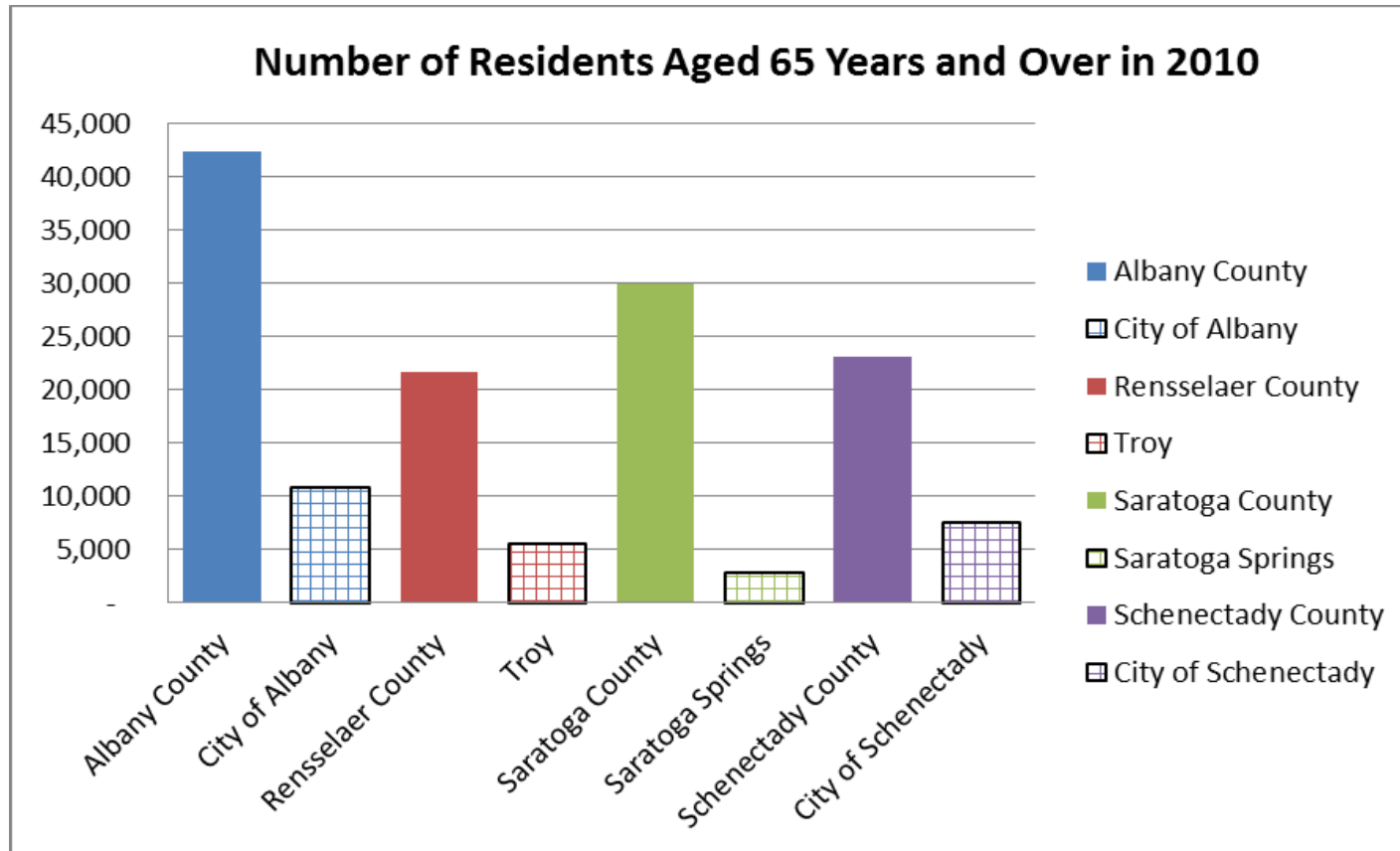
Capital District data on individuals reporting a disability: **By Disability Type**

Persons with Disabilities by Disability Type

	Albany County		Rensselaer County		Saratoga County		Schenectady County		Capital District	
	Estimate	%	Estimate	%	Estimate	%	Estimate	%	Estimate	%
Total Civilian, Non-institutional Population	300,805		157,432		216,481		152,758		827,476	
Hearing Difficulty	10,193	3.4%	4,906	3.1%	6,830	3.2%	5,198	3.4%	27,127	3.3%
Vision Difficulty	5,347	1.8%	2,678	1.7%	3,332	1.5%	3,064	2.0%	14,421	1.7%
Cognitive Difficulty	13,089	4.4%	7,129	4.5%	7,760	3.6%	6,786	4.4%	34,764	4.2%
Ambulatory Difficulty	16,756	5.6%	9,375	6.0%	10,286	4.8%	9,517	6.2%	45,934	5.6%
Self-Care Difficulty	6,489	2.2%	3,077	2.0%	3,608	1.7%	3,311	2.2%	16,485	2.0%
Independent Living Difficulty	12,471	4.1%	6,138	3.9%	7,314	3.4%	7,021	4.6%	32,944	4.0%

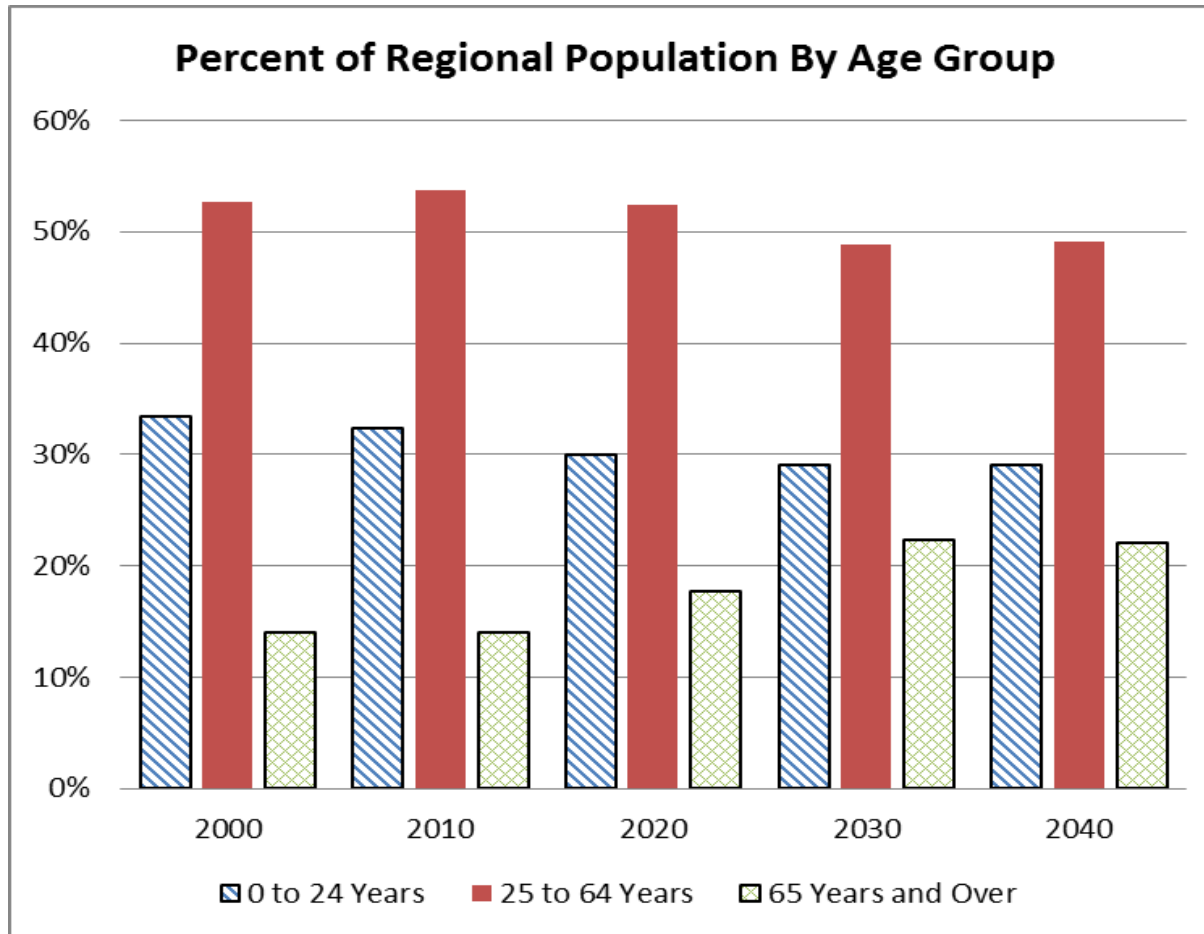
Table 2.5 Source: 2008-2012 American Community Survey 5-Year Estimates, S1810

Capital District Data on Seniors



Source: 2010 US Census

Capital District Data on forecast growth of the senior population



Source: US Census Bureau, 2000, 2010 Census; CDRPC projections

US Population Statistics

- According to the 2010 National Health Interview Survey, 16.1 million American adults between the ages of 18 and 64 and 5.4 millions American adults 65 years and older report experiencing significant vision loss
- Visual disability can range from total blindness to low vision



Legal Background

- Architectural Barriers Act (ABA – originated 1968)
- Rehabilitation Act (1973) – Section 504 (49 CFR Part 27)
- Civil Rights Restoration Act (1987)
- Americans with Disabilities Act (ADA) (1990)
- DOJ Implementing Regulations (28 CFR 35)

Authorities

- *What authority requires public agencies to make public right-of-way accessible for all pedestrians with disabilities?*
 - Section 504 of the Rehabilitation Act of 1973 (Section 504) (29 U.S.C. §794)
 - Title II of the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. §§ 12131-12164).
 - Nondiscrimination

Currently

Departments of Justice and Transportation announced their increased efforts to enforce compliance through “Project Civic Access” and potential withholding of Federal funding.

(USDOJ - Project Civic Action <http://www.ada.gov/civicac.htm>)

Compliance is also becoming a requirement element for all Federal Grant programs.

(see NYSDOT’s Locally Administered Federal Aid Project Manual

<https://www.dot.ny.gov/plafap>)

Project Civic Access

New York

[Town of Poestenkill, New York](#) 7/19/13

[Chautauqua County, New York](#) 8/03/09

[City of Binghamton, New York](#) 2/27/04

[City of Niagara Falls, New York](#) 7/30/09

[Columbia County, New York](#) 5/19/03

[Monroe County, New York](#) 7/25/05

<http://www.ada.gov/civicac.htm>

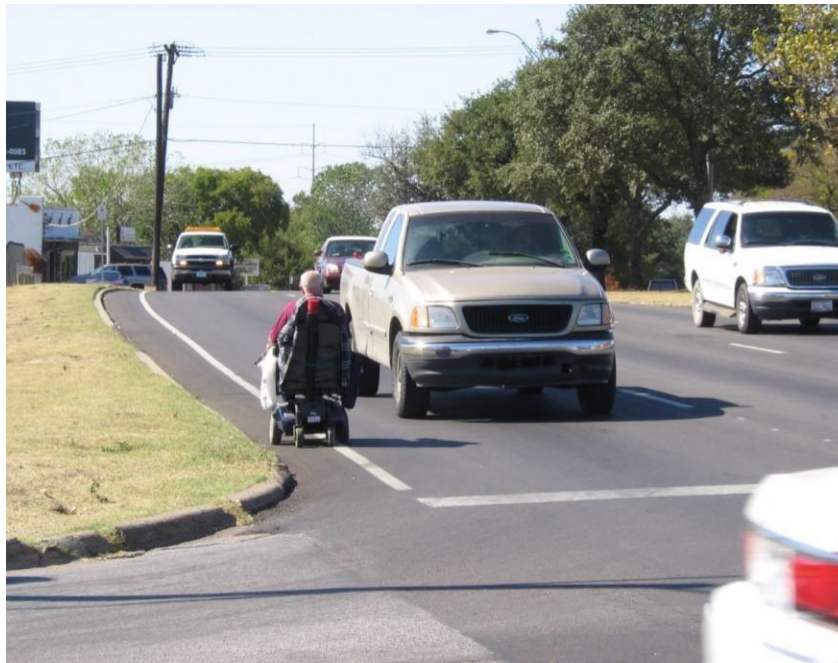
FHWA ppt: “Following your transition plan helps demonstrate systematic removal of barriers”

Five Titles of ADA

- Title I Employment
- Title II State & Local Governments (28 CFR Part 35)
- Title III Public Accommodations (retail, commercial, sports complexes, movie theaters, et al)
(28 CFR Part 36)
- Title IV Telecommunications
- Title V Misc. >> Requirement for Access Board to develop design guidelines
(ADAAG, PROWAG)

Title II – State and Local Governments

Basic Requirement – Must ensure that individuals with disabilities are not excluded from programs, services, and activities (pedestrian facilities are an example of a program)



Title II – State and Local Governments

Basic requirements for government entities:

- Designate an ADA Coordinator
- Development & postings of an ADA Policy Statement
- Development & postings of Grievance Procedures/Complaint Procedures
- Complete a self-evaluation of current services, policies, and practices
- Development of a Transition Plan
- Name/position of the official who is responsible for implementing the Transition Plan

Transition Plans

- Required of government entities with greater than 50 employees (combined full and part-time)
- Less than 50 employees, public entities still need to evaluate programs for discrimination...but no Transition Plan
- Title II requirement that provides a tool to address discrimination in access to **ALL** programs

Transition Plan Elements

Physical Evaluation:

- Buildings
- Parks
- Programs, services, activities
- Boards and Commissions
- Hiring/firing practices
- Job descriptions
- Amenities
- Design standards

Transition Plan Elements

- Identify Public Involvement Opportunities
- Develop/Adopt Design Standards
- Identify/list physical obstacles and their location
- Describe in detail the methods the entity will use to make the facilities accessible
- Provide a schedule for making the access modifications, and a re-evaluation schedule
- Provide a yearly schedule if the transition plan is more than one year long

Transition Plan Elements

Pedestrian right-of-way facilities:

- Curb ramps (special emphasis in regulation)
- Sidewalks
- Parking lots
- Pedestrian signals
- Transit stops
- Shared use trails
- Parks/recreational facilities

The Pedestrian Environment



Accessible Design Principles

- Construct the built environment to be usable by a broad spectrum of users
- Enable users to travel independently
- Integrate pedestrian facilities in planning and design - not as an afterthought



Title II – Existing Facilities

Undue Burden 28 CFR 35.150(a)(3)

- Based on all resources available for a program
- Claims must be proven and accompanied by a written statement of reasons and signed by the head of the public entity
- What constitutes undue burden will often be decided in courts



BEFORE



AFTER

Title II – Maintaining Accessibility

(28 CFR 35.133)

- State & local governments must maintain the accessible features of facilities in operable working conditions
- Maintenance examples: sidewalks that are in disrepair; overgrown landscaping, snow accumulation; broken elevator; work zone accessibility (if construction activity affects pedestrian facilities – provide alternate route if more than temp. disruption)



Steps to Compliance

- Step 1 Designating an ADA Coordinator
- Step 2 Providing Public Notice about ADA requirements
- Step 3 Establishing a Grievance Procedure
- Step 4 Developing internal design standards,
specifications, details
- Step 5 Developing Self Evaluation and Transition Plan
- Step 6 Approving a schedule and budget to implement
the Transition Plan
- Step 7 Monitoring progress on implementation of the
Transition Plan

STEP 1: Designating an ADA Coordinator

- Person Must be familiar with agency operations
- Person must be trained or knowledgeable in ADA and other nondiscrimination laws (Title VI, Title VII)
- Person must have sufficient authority, time, and resources to accomplish the duties
- Possible needs for others to have ADA responsibilities, but ONE PERSON IN CHARGE.
- Suggested position locations – Office of CEO, Civil Rights Office, Legal Department, Planning, Public Information...
 - Regardless of where...must have authority to impact programs

Step 2: Providing Notice about the ADA Requirements

- The public must be notified about rights under the ADA and the responsibility of the agency under the ADA.
- Notice should be on-going/continuous.
- Each entity must decide what is effective
 - Accessible website is recommended at a minimum
- Provide the ability to offer comments and follow-up
- Public outreach should involve activists, advocacy groups, general citizens, organizations that support the rights of the disabled, elected official, Governor's Council, as well as other agencies (local and State).

RESOURCE – Access Board

-
- <http://www.ada.gov/pcatoolkit/chap2toolkit.htm>

Step 3: Establishing a Grievance Procedure

- The grievance procedure should include:
 - A description of how and where a complaint under Title II may be filed with the government entity;
 - A description of the time frames and processes to be followed by the complainant and the government entity;
 - Information on how to appeal an adverse decision; and,
 - A statement of how long complaint files will be retained.
- The procedure should enable the filing of complaints in a variety of forms and formats.
- Once a state or local government establishes a grievance procedure under the ADA, it should be distributed to all agency heads.



Step 4: Developing Internal Design Standards, Specifications and Details.

- ADAAG – Buildings
- PROWAG – Public Rights of Way
 - Currently a “Best Practice”
 - Anticipated to be law within 3 years
- Access Board
 - <http://www.access-board.gov/adaag/html/adaag.htm>
 - <http://www.access-board.gov/prowac/guide/prowguide.htm>

Public Right-of-Way Accessibility Guidelines (PROWAG)

- Originally intended to supplement the ADAAG to provide standards specific to public rights-of-way; most recently formatted as a stand-alone document
- Applicable to new construction and alterations (of existing facilities)
- Undergoing the rulemaking process (2011 Notice of Proposed RuleMaking published w/ updated guidelines)
- NYSDOT has incorporated into Highway Design Manual



Crosswalk/Sidewalk Standards

- Use the PROWAG Standards
- Detectable Warnings
- Audible Warning Warrants/Policies
- Transit/Para-transit
- Furniture/Landscaping Zones
 - Complete Streets
- Trail Standards

Step 5: The ADA Transition Plan

- The Inventory (your baseline)
- Noted as the “most daunting part” due to lack of budget and staffing.
- Potential “stall” waiting for self-evaluation or moving inventory into priorities.
- Requires executive support (staff, budget, time, authority...)

Step 5: Developing Self-Evaluation & Transition Plan

Implementation Plan Components

- A list of physical barriers that limit accessibility to services/programs
- A detailed outline of the methods proposed to address the barriers
- A schedule for achieving compliance
- The name of the official responsible for the plan's implementation (likely department level)

Self-Evaluation Check List (page 5)

Issue	Possible Barriers
Sidewalk/Pathway Clear Width	Narrow, Below Guidelines
Sidewalk/Pathway Cross Slope	Steepness, Irregularity. Variability, Warping
Landings along sidewalks/pathways	Less than 4' X 4'
Sidewalk/Pathway Grade	Steepness, Angle Points
Materials/Finishes	Surface and Marking deterioration, rough materials (cobble, stamped..)
Gratings	Type and Orientation
Discontinuities	Missing sections, gaps, drops, steps

Strongly Recommend Using PROWAG Standards

Self-Evaluation Check List (page 5)

Issue	Possible Barriers
Detectable Warnings	Missing, wrong materials, inadequate size or location
Obstructions	Signs, mailboxes, hydrants, furniture, phones, drainage structures, landscaping
Traffic Signal Systems	No Audible Ped. Signals for visually impaired, inadequate timing (too fast), inoperable, poor access
Curb Ramp	Missing misses marked crosswalk, fails to meet guidelines
Curb Ramp Flares	Missing, Too Steep

Step 5: Key to Success (Inventory)

- Ideally have budget and staff identified through the entire Transition Plan phase.
- Use of summer interns
 - The Nashville approach
- Prioritize “high pedestrian” areas first, thus being able to make impacts prior to completing the full inventory.

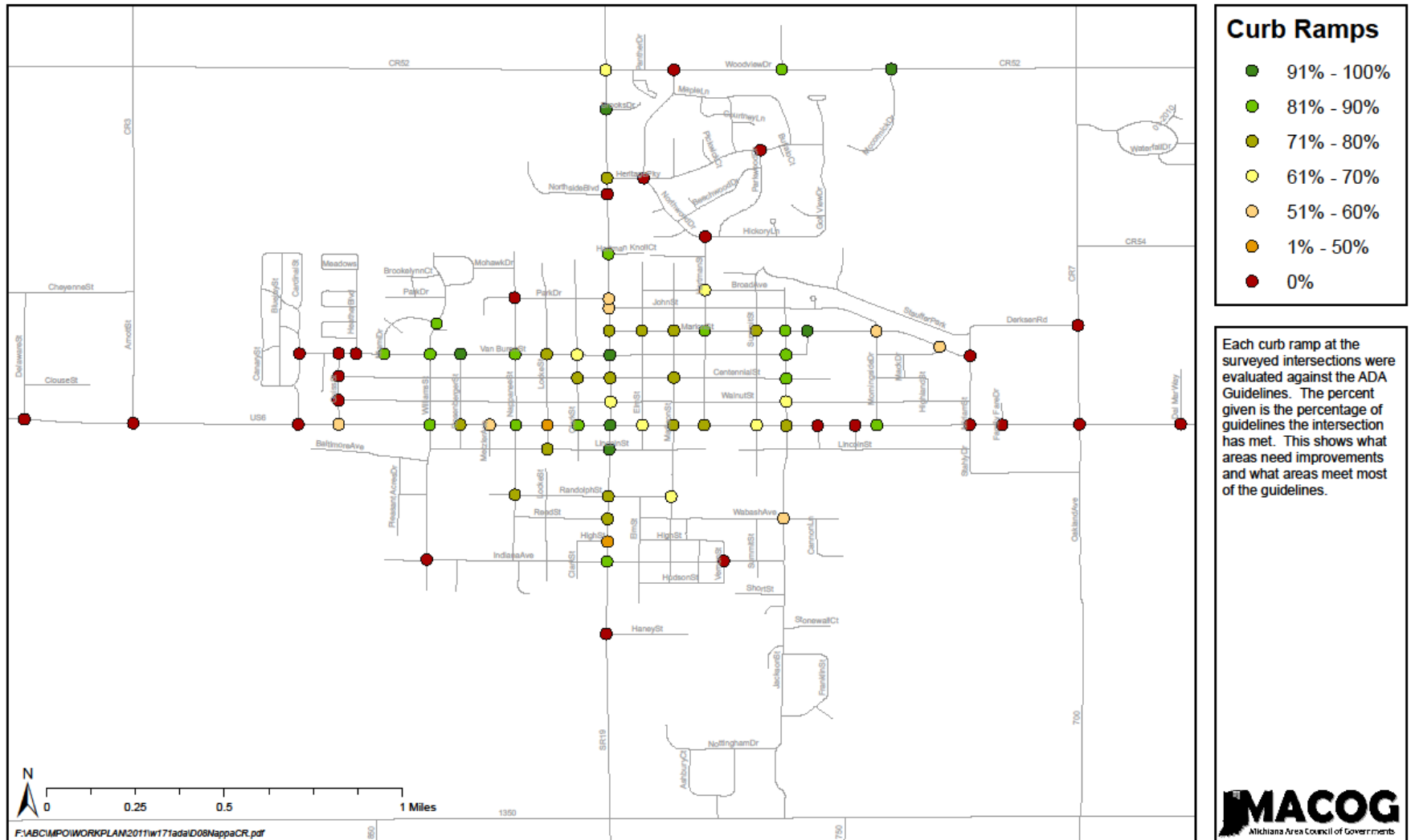


MACOG Approach

- Use of Traffic and Pedestrian Generator Maps
- Functional Classification Maps
- Applied Standards (PROWAG)
 - Sidewalk & Curb Cut Inventory
 - Graded Red (fully noncompliant) to Green (compliant)
- Field Investigations:
 - Extensive photos of site investigations
 - Detailed data collection forms
 - Data management / GIS based system

Curb Ramp Map:

Figure 1: Percentage of Curb Ramps meeting ADA Guidelines



Step 5: ADA Transition Plan

- Making Information Available
 - GIS Based Approach is Common
 - Noted as providing “street level detail” (photos/mapping,...)
- Establishing a Baseline
 - Enables entity to demonstrate good-faith efforts in addressing noncompliance
 - Shows a Starting Point

Step 5 Key to Success (Implementation)

- Self-evaluation detail must be sufficient to characterize/describe the barriers/deficiencies
- A very detailed approach for setting priorities for dealing with barriers helps with successful implementation.
- Criteria for setting priorities should include physical and location considerations



Step 6: Schedule and Budget

- Schedule actions each year to address barriers
- Stand alone projects
 - ADA does not apply to maintenance projects
 - pot hole patching or micro surface
- Regularly occurring programs
 - say 4 crosswalks/year for X years
 - resurfacing projects...others



Step 6: Schedule and Budget

- Funding Sources:
 - Highway Safety Improvement Program
 - National Highway System Improvement Program
 - Surface Transportation Program
 - Transportation Enhancement Program...
- Other Sources
 - Local
 - Grants
 - Private funds...
 - Exactions?

Step 6: Schedule and Budget

- Prioritization
 - Government Centers/Transit/Public Services...
 - Pedestrian Level of Service
 - Citizen requests/complaints regarding inaccessible locations
 - Population Density
 - Presence of Disabled Community
 - Cost...



Step 7 Monitoring the Progress

- Use Transition Plan in Annual Planning Cycle
- Track from Initial Inventory (baseline)
- Transition Plan is a “Living Document”
 - UPDATE Regularly (annually/semi-annually)
- Changes in the pedestrian environment (adding street furniture, landscaping, path of travel) have impacts.

References

- ADA Title II Regulations, September 15, 2010
 - www.ada.gov/regs2010/titleII_2010/titleII_2010_regulations.htm
- Proposed Guidelines for Pedestrian Facilities in the Public Right-of-Way, July 26, 2011
 - www.access-board.gov/guidelines-and-standards/streets-sidewalks/public-rights-of-way/proposed-rights-of-way-guidelines
- Americans with Disabilities Act (ADA)/Section 504 of the Rehabilitation Act of 1973 (504)
 - www.fhwa.dot.gov/civilrights/programs/ada.cfm
- Department of Justice/Department of Transportation Joint Technical Assistance on the Title II of the Americans with Disabilities Act Requirements to Provide Curb Ramps when Streets, Roads, or Highways are Altered through Resurfacing, July 8, 2013
 - www.fhwa.dot.gov/civilrights/programs/doj_fhwa_ta.cfm