



Access

New England

A publication of the New England ADA & Accessible IT Center

A project of Adaptive Environments, Inc. www.AdaptiveEnvironments.org

This Issue Highlights

Historic Preservation and Accessibility



Boston Public Library Courtyard, renovated by Shepley Bulfinch Richardson & Abbott

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Making Our Past Accessible

New England Historical Trivia

1. What is the location and name of the longest standing home in New England?
2. Can you name the oldest American public school?
3. Which major league ballpark is the oldest in America?
4. How many of the above sites are accessible?

New Englanders can boast not only about their historic heritage, but also about the people who are working to make historical sites accessible to people with disabilities. These concerned citizens recognize that cultural and historical sites have a powerful role in uniting all of us as a people and help us understand our past, and that access to these sites must be made possible for all people. One example of a site recently made accessible is Fort Adams in Newport, RI, built in 1824. The fort was the largest coastal fortification in early 19th century United States. A distinguishing characteristic of the fort was 'the lack of steps', as the fort was specifically designed to maneuver large cannons into position. Today, a 'lack of steps' means access for people with mobility impairments.

With the passage of the ADA, access to properties open to the public became a civil right. However, providing access (exterior and interior) for persons with disabilities in ways that preserve the character of an historic property is a challenge and requires ingenuity and determination.

For example, during the 1980's, a seamstress in Vermont, Judy Krum, decided to attend an antique sewing machine display at the Bennington Museum (built in 1924). Judy, a wheelchair user was unable to access the show, because it was located on the second floor. After ADA's passage, Judy returned to talk with the museum's director about how to make the display accessible. The museum director welcomed her suggestions and made access to the sewing machines, as well as the rest of the museum, possible. Judy went on to form a 'local access committee' and made it her mission to transform the Town of Bennington. Thanks to her and the committee, the town hall, the library and businesses are now accessible.

In this issue of *Access New England*, the Massachusetts Office on Disability describes efforts to make the Boston Opera House accessible and the challenge of "preserving the ambience" (See page 9). Also, small businesses strive to be creative in New Hampshire's historical districts. The New Hampshire Governor's Commission on Disabilities describes businesses' efforts to become accessible while preserving the town's character (See page 8).

From colleges, to monuments, to museums, people with disabilities are gaining more and more access – and it took the passage of the ADA to make it happen. Visit an accessible historical site in your neighborhood and tell us about it.

Oce



From Left to Right: Dennis Begany, Oce Harrison, Will Miller, Andy Washburn, and Kathy Gips with the Office Dog, Dulce

Answers

1. Balch House (c. 1636) located in Beverly, Massachusetts
2. Boston Latin School is the oldest public school in America with a continuous existence. It was founded April 23, 1635 by the Town of Boston.
3. Fenway Park in Boston, MA
4. Two of the three, the Balch House is not accessible.

Access & Historic Properties

Overview

Historically, most buildings and landscapes were not designed to be readily accessible for people with disabilities. In recent years, however, emphasis has been placed on preserving historically significant properties, and on making these properties – and the activities within them – more accessible to people with disabilities. Providing access for persons with disabilities in ways that preserve the character of the historic property is a challenge and requires creativity. Compliance is required under titles II and III of the ADA, but the accessibility standards, the Uniform Federal Accessibility Standards (UFAS) and the ADA Standards for Accessible Design, are more flexible when applied to historic buildings and facilities.

Planning Accessibility Modifications

Historic properties are distinguished by features, materials, spaces, and spatial relationships that contribute to their character. Often these elements, such as steep terrain, monumental steps, narrow or heavy doors, decorative ornamental hardware, and narrow pathways, pose barriers to persons with disabilities, particularly to wheelchair users. A three-step approach is recommended to identify and implement accessibility modifications that will protect the integrity and historic character of historic properties:

1. Review the historical significance of the property and identify character-defining features;
2. Assess the property's existing and required level of accessibility; and
3. Evaluate accessibility options within a preservation context.

Accessibility Solutions

The goal in selecting appropriate solutions for specific historic properties is to provide a high level of accessibility without compromising significant features or the overall character of the property. State and local requirements may differ from ADA requirements. Before making any modification owners should be aware of all applicable accessibility requirements.

The Building Site

An accessible route from a parking lot, sidewalk, and public street to the entrance of a historic building or facility is essential. An accessible route, to the maximum extent possible, should be the circulation route used by the general public. Critical elements of accessible routes are their widths, slopes, cross slopes, and surface texture. The distance between the arrival and destination points should also be as short as possible.

Parking

If parking is provided, it should be as convenient as possible for people with disabilities. Designated parking can often be created to improve accessibility. Modifications to parking configurations and pathways should not alter significant landscape features.

Accessible Routes

The route through a site to a historic building's entrance should be wide enough, generally at least 3 feet, to

accommodate visitors with disabilities and must be appropriately graded with a stable, firm, and slip-resistant surface. Existing paths should be modified to meet these requirements whenever possible as long as doing so would not threaten or destroy significant materials and features. At large properties, it may be possible to regrade a slope to less than 1:20 (5%).

Entrances



The automatic door to this museum building is a practical solution for universal entry.

Whenever possible, access to historic buildings should be through a primary public entrance. If this cannot be achieved without permanent damage

to character-defining features, at least one entrance used by the public should be made accessible. A rear or service entrance should be avoided as the only mean of entering a building. Creating an accessible entrance usually involves overcoming a change in elevation. Steps, landings, doors, and thresholds often pose barriers for persons with disabilities. To preserve the integrity of these features, a number of solutions are available to increase accessibility.

Regrading an Entrance

In some cases, when the entrance steps and landscape features are not highly significant, it may be possible to regrade to provide a smooth entrance into a building. If the existing steps are historic masonry, they should be buried, whenever possible, and not removed.

Incorporating Ramps

As a new feature, ramps should be carefully designed and appropriately located to preserve a property's historic character. Larger buildings may have below grade areas that can accommodate a ramp down to an entrance. Ramps can often be incorporated behind features, such as cheek-walls or railings, to minimize the visual effect.

Ramps can be faced with a variety of materials, including wood, brick, and stone. Often the type and quality of the materials determines how compatible a ramp design will be with a historic property. Railings should be simple in design, distinguishable from other historic features, and should extend one foot beyond the sloped area.



A new elevator entrance was provided next to the stairs to provide universal access to the services inside.

Installing Wheelchair Lifts

Platform lifts and inclined stair lifts can be used to overcome changes of elevation ranging from three to 10 feet in height. Inclined stair lifts, which carry a wheelchair on a platform up a flight of stairs, may be employed selectively. They tend to be visually intrusive, although they are relatively reversible. Platform lifts can be used when there is inadequate space for a ramp.



The ramps at this historic federal building were designed to provide equal access while preserving the building's original fabric.

Considering a New Entrance

When it is not possible to modify an existing entrance, it may be possible to develop a new entrance by creating an entirely new opening in an appropriate location, or by using a secondary window for an opening. This solution should only be considered after exhausting all possibilities for modifying existing entrances.

Retrofitting Doors

Historic doors generally should not be replaced, nor should door frames on the primary elevation be widened. However, if a building's historic doors have been removed, there may be greater latitude in designing a new entrance. Most accessibility standards require at least a 32" clear opening with manageable door opening pressures. The most desirable preservation solution to improve accessibility is retaining historic doors and upgrading the door pressure with one of several devices. Automatic door openers (operated by push buttons, mats, or electronic eyes) can eliminate or reduce door pressures that are accessibility barriers, and make single or double-leaf doors fully operational.

Altering Door Thresholds

A door threshold that exceeds the allowable height, generally 1/2", can be altered or removed with one that meets applicable accessibility requirements. If the threshold is deemed to be significant, a bevel can be added on each side to reduce its height.

(continued, next page)

FEATURE STORY (CONTINUED)

Moving Through Historic Interiors

Persons with disabilities should have independent access to all public areas and facilities inside historic buildings. Primary spaces are often more difficult to modify without changing their character. Secondary spaces may generally be changed without compromising a building's historic character.

Installing Ramps and Wheelchair Lifts

If space permits, ramps and wheelchair lifts can also be used to increase accessibility inside buildings. However, some States and localities restrict interior uses of wheelchair lifts for life-safety reasons. Care should be taken to install these new features where they can be readily accessed.

Upgrading Elevators

Some buildings have existing historic elevators that are not adequately accessible for persons with disabilities because of their size, location, or detailing, but they may also contribute to the historical significance of a building. Significant historic elevators can usually be upgraded to improve accessibility. Control panels can be modified with a "wand" on a cord to make the control panel accessible, and timing devices can usually be adjusted.

Modifying Interior Stairs

Stairs are the primary barriers for many people with disabilities. However, there are ways to modify stairs to assist people who are able to navigate them. It may be appropriate to add hand railings if none exist. Railings should return to the wall so straps and bags do not catch. Beveled or closed risers are recommended unless the stairs are highly significant, because open risers catch feet.

Building Amenities

Some amenities, such as restrooms, seating, telephones, drinking fountains, counters, may contribute to a building's historic character. They will often require modification to improve their use by persons with disabilities. In many cases, supplementing existing amenities, rather than changing or removing them, will increase access and minimize changes.



Example of a well-designed modification of a historic railing to comply with accessibility requirements.

Upgrading Restrooms

Restrooms may have historic fixtures such as sinks, urinals, or marble partitions that can be retained in the process of making modifications. Larger restrooms can sometimes be reconfigured by relocating or combining partitions to create an accessible toilet stall. Other changes to consider are adding grab bars around toilets, covering water pipes under sinks with insulation to prevent burns, and providing a sink, mirror, and paper dispenser at a height suitable for wheelchair users. A unisex restroom may be created if it is technically infeasible to create two fully accessible restrooms.

Signage

Signage should be integrated into the historic building fabric in ways that preserve the historic character, and avoid degradation, removal, and damage of historic finishes and signs.

Modifying Other Amenities

Other amenities inside historic buildings may require modification. Seating in a theater can be made accessible by removing some seats in several areas. New seating that is accessible can also be added at the end of existing rows, either with or without a level floor surface. Readily removable seats may be installed in wheelchair spaces when the spaces are not required to accommodate wheelchair users. Historic water fountains can be retained and new, two-tiered fountains installed if space permits. If public telephones are provided, it may be necessary to install a Text Telephone (TT). Historic service counters commonly found in banks, theaters, and hotels generally should not be altered. It is preferable to add an accessible counter on the end of a historic counter if feasible.

Making Historic Landscapes Accessible

Careful research and inventory should be undertaken to determine which materials and features convey the landscape's historical significance. As part of this evaluation, those features that are character-defining (topographical variation, vegetation, circulation, structures, furnishings, objects) should be identified. Historic finishes, details, and materials that also contribute to a landscape's significance should also be documented and evaluated prior to determining an approach to landscape accessibility.

For example, aspects of the pedestrian circulation system that need to be understood include walk width, aggregate size, pavement pattern, texture, relief, and joint details.

Alternatives to Physical Access

In some cases, programmatic access may be the only option for extremely small or unaltered historic properties, such as a two-story house museum with no internal elevator. Programmatic access for historic properties refers to alternative methods of providing services, information, and experiences when physical access cannot be provided. It may mean offering an audio-visual program showing an inaccessible upper floor of a historic house museum, providing interpretive panels from a vista at an inaccessible terraced garden, or creating a tactile model of a historic monument for people with visual impairments.

Conclusion

Historic properties are irreplaceable and require care to ensure their preservation for future generations. With the passage of the ADA, access to historic properties open to the public is a civil right, and owners of historic properties must evaluate existing buildings and determine how they can be made more accessible. Most historic buildings are not exempt from providing accessibility, and with careful planning, historic properties can be made more accessible, so that all citizens can enjoy our nation's diverse heritage.

Sources: "Making Historic Properties Accessible," Thomas C. Jester and Sharon C. Park, AIA, National Park Service, 1993 and "Comply with Accessibility Requirements," WBDG Historic Preservation Committee, www.wbdg.org/design/comply_requirements.php?print=1.

Building Your Rolodex

The National Register – National Parks Service

www.cr.nps.gov/nr/index.htm

The National Register of Historic Places is the Nation's official list of cultural resources worthy of preservation. Authorized under the National Historic Preservation Act of 1966, the National Register is part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect our historic and archeological resources.

Historic Preservation Learning Portal

www.historicpreservation.gov/NPS_Portal/user/home/home.jsp

A cultural resource search engine tool to assist with historic preservation responsibility compliance initiated by the Federal Preservation Institute at the National Parks Service. A partnership initiative of the National Park Service and other federal agencies.

National Conference of State Historic Preservation Officers

www.ncshpo.org

The National Conference of State Historic Preservation Officers is the professional association of the State government officials who carry out the national historic preservation program as delegates of the Secretary of the Interior pursuant to the National Historic Preservation Act of 1966, as amended.

Accessible Buildings: Historic Preservation

www.ada.gov/reg3a.html#Anchor-1296

Link to the Department of Justice's ADA Standards for Accessible Design. Section 4.1.7 details access requirements and historic preservation.

National Trust for Historic Preservation

www.nationaltrust.org

The National Trust for Historic Preservation is a private, nonprofit membership organization dedicated to saving historic places and revitalizing America's communities.

Association for Preservation Technology International

www.apti.org

The Association for Preservation Technology International (APT) is the premier cross-disciplinary organization dedicated to promoting the best technology for conserving historic structures and their settings. With members in 28 countries, APT connects a network of architects, conservators, tradespeople, consultants, planners, curators, landscape architects, engineers, developers, educators, engineers, historians, apprentices and students.

Historic Preservation and Accessibility

Q: What are “historic properties”?

A: These are properties that are listed or that are eligible for listing in the National Register or Historic Places, or properties designated as historic under State or local law.

Q: Are historic properties exempt from complying with accessibility requirements under the ADA?

A: No. Alterations to historic properties must comply with the historic property provisions of the ADA Standards for Accessible Design (ADAAG), to the maximum extent feasible. Title II entities also have the choice of using the Uniform Federal Accessibility Standards (UFAS) to achieve compliance. Under those provisions, alterations should be done in full compliance with the alterations standards for other types of buildings. However, if following the usual standards would threaten or destroy the historic significance of a feature of the building, alternative standards may be used. The decision to use alternative standards for that feature must be made in consultation with the appropriate advisory board designated in ADAAG, and interested persons should be invited to participate in the decision-making process.

Q: What are the alternative requirements?

A: The alternative requirements provide a minimal level of access. For example:

1. An accessible route is only required from one site access point (such as the parking lot).

2. A ramp may be steeper than is ordinarily permitted.
3. The accessible entrance does not need to be the one used by the general public.
4. Only one accessible toilet is required and it may be unisex.
5. Accessible routes are only required on the level of the accessible entrance.

Q: What if complying with even these minimal alternative requirements will threaten or destroy the historic significance?

A: In such a case, which is rare, structural changes need not be made. Rather, alternative methods can be used to provide access, such as providing auxiliary aids or modifying policies.

For example: A historic house is being altered to be used as a museum. The architect designing the project concludes that most of the normal standards for alterations can be applied during the renovation process without threatening or destroying historic features. There appears, however, to be a problem if one of the interior doors is widened, because historic decorative features on the door might be destroyed. After consulting ADAAG, the architect determines that the appropriate historic body with jurisdiction over the particular historic home is the Advisory Council on Historic Preservation. The architect sets up a meeting with the Council, to which a local disability group is invited.

At the meeting the participants agree with the architect's conclusion that the

normal alterations standards cannot be applied to the interior door. They then review the special alternative requirements, which require an accessible entrance. The participants determine that application of the alternative minimal requirements is likewise not possible. In this situation, the museum owner is not required to widen the interior door. Instead, the owner modifies the usual operational policies and provides alternative access to the activities offered in the inaccessible room by making available a video presentation of the items within the inaccessible room. The video can be viewed in a nearby accessible room in the museum.

Q: Under title II of the ADA, are there any special limitations on measures required to achieve program accessibility in historic preservation programs in addition to the general fundamental alteration/ undue financial and administrative burdens limitations?

A: Yes, a public entity is not required to take any action that would threaten or destroy the historic significance of an historic property. In cases where physical access cannot be provided because of either this special limitation, or because an undue financial burden or fundamental alteration would result, alternative measures to achieve program accessibility must be undertaken.

Sources: “Title II Technical Assistance Manual section II-5.0000,” Department of Justice, www.ada.gov/taman2.html and “Title III Technical Assistance Manual section III-6.4000,” Department of Justice, www.ada.gov/taman3.html.

The ADA Center

ADA Distance Learning Opportunities

ADA Distance Learning provides continuing education on regulations and trends under the ADA. All you need is a telephone. Participate by yourself or invite colleagues to sit around a speakerphone. The toll free phone number will be sent to registrants prior to each session. The program is available in three formats: Teleconference, Streaming Audio via the Internet and real-time captioned on the Internet.

All sessions are on Tuesdays from 2–3:30 pm Eastern.

This year all registration is centralized. Go to www.ada-audio.org for information.

Pro's and Con's of Web Accessibility Validation Tools, November 15, 2005

Terry Thompson, Do-IT Program and Access-IT, University of Washington

Accessible Web Based Communication Tools: Why are they so hard to find?, December 13, 2005

Steve Jacobs, IDEAL Group, Inc.

Employer Case Studies: Best Practices of Employers, January 17, 2006

Representatives from the Research and Training Center on Workplace Supports and Job Retention

Leave as an Accommodation: Interplay between the ADA and FMLA, February 21, 2006

TBA

National Initiatives Sponsored by the Network of ADA & IT Centers

ADA Document Center www.adaportal.org

The ADA Collection is a one-stop web resource consisting of more than 7,400 documents relating to the Americans with Disabilities Act (ADA). Other disability-related collections are also available at this same site, including Fair Housing, Section 508, IDEA, Air Carrier Access Act, and the Help American Vote Act.

ADA National Symposium www.adaproject.org/Symposium.html

The National ADA Symposium is the most comprehensive and effective annual event available on the Americans with Disabilities Act and disability related issues. It is designed to meet the specific needs and interests of professionals who are involved in implementing the American with Disabilities Act's guidelines and regulations.

ADA Game www.adagame.org

An accessible online interactive experience designed to build ADA knowledge and leadership. A user survey is underway to determine if players have used Game information to remove barriers in their local communities.

ADA Basic Building Blocks www.adabasics.org

The ADA Basic Building Blocks is an introductory web course that explores the legal requirements and the spirit

of the ADA. The course content is self-paced and organized into 12 topics that have been designed to be studied in order. It covers the basic principles and core concepts contained in the ADA.

At Your Service: Welcoming Customers with Disabilities To Your One Stop Center www.wiawebcourse.org

This self-paced course is designed primarily for frontline staff and others interested in learning about ways to create an accessible and welcoming environment for customers with disabilities. Participants will increase their understanding of the needs and experiences of people with disabilities, learn how to adjust general customer service standards to meet the needs of customers with disabilities, and develop basic etiquette for interacting with customers who have disabilities.

Breaking Down Barriers: K-12 and Beyond

This multi-modal toolkit for educators contains a multi-media CD ROM with information on accessible information technology (IT) including stories from students and teachers about barriers to accessible IT. This CD provides a link to a checklist (www.washington.edu/accessit/it-checklist) that allows a school to determine the accessibility of their IT as well as track their progress as they improve access. A brochure for parents, developed in collaboration with PACER and DOIT, guides parents to an understanding of how their student can benefit from accessible IT.

Around the Region

Washington County Courthouse to be more Accessible



The Washington County courthouse in Machias, ME.

The building is more than 150 years old, but that did not stop the federal government from presenting county commissioners with a laundry list of improvements needed to bring the Washington County courthouse in Machias, ME into ADA compliance. The county recently entered into an agreement with the Department of Justice to bring the building into compliance. Once the agreement is signed, the county will have three years to complete the renovations.

In 2003, the county received a telephone call from a Department of Justice representative saying they were going to visit the courthouse. County Clerk Joyce Thompson said she questioned the department to learn if the visit was as a result of a complaint. Although the selection

process was random, the county is not unknown to the department because of federal funding.

The majority of renovations required are quite minor. The bathroom on the second floor is inaccessible because the hot water pipes are not insulated, the toilet paper dispenser is mounted at 25 inches and the rear grab bar at the toilet is mounted at 37 1/2 inches above the finished floor. Inspectors also want doors in the building enlarged to accommodate wheelchairs.

Source: "County Nears Pact On Courthouse," Diana Graettinger, Bangor Daily News, August 25, 2005.

Historic St. Johnsbury Starting to Comply with ADA

The owners of some buildings in historic St. Johnsbury, VT are still working to fulfill requirements of the ADA. Union Bank officials are conferring with town officials over how to provide access to the historic 1880s landmark. Calling the entrance to the bank "dangerous" even for people without mobility problems, bank officials submitted blueprints for an ADA-compliant exterior ramp during a recent selectmen's meeting.

Union Bank officials are among hundreds of building owners in the state struggling to complete construction projects, according to Peter Youngbaer, former executive director for the Vermont Coalition for Disability Rights. Complete compliance with ADA requirements is slow, Youngbaer said, because "Vermont has a lot of challenges to do with the age of its buildings." Vermont's inventory of buildings is second in age to Massachusetts.

Recent renovations at the St. Johnsbury Athenaeum, built in 1872, are an example of an ADA success story. Before renovations began in 2003, some people voiced concerns that an interior elevator would compromise the building's historic integrity. The elevator was tucked away behind a wall that blends with the décor, providing complete accessibility without compromising the historic feel of the building.

At the Fairbanks Museum and Planetarium, Charles Brown, executive director, calls the 1896 building, "partly" in compliance. A sheltered temporary ramp at the rear of the building provides access to first-floor exhibits, a bathroom and gift shop, but the second floor, upstairs planetarium and downstairs weather exhibit are not accessible to those with mobility impairments.

Source: "Historic Buildings Struggle to Comply with Disability Law," Carla Occaso, Times Argus, June 25, 2005.

Access and Historical Preservation in NH

New Hampshire is often referred to as "The Granite State" and indeed, many of its buildings are made of granite. Working with historic societies and preservation officers, providing simple and low-cost solutions are the best method to increasing access to this state's historic buildings. Sometimes access is provided because the decision-makers realize it is the right thing to do.

For example, the Historical Society of Cheshire County in Keene renovated their building in 1995. An addition to the rear of the building provides easy access for all without affecting the historic Main Street

façade. An elevator provides access to all levels, there is an accessible restroom, and even the coatroom has lower hanger rods.

In Concord, many state offices are housed in historic granite buildings, including the State House, the NH Senate and House of Representatives, the NH State Library, and the NH Historical Society. Door openers, ramps, elevators and lifts have been installed, and all the restrooms have been renovated in order to provide access.

Small businesses located in historic districts have come up with simple and inexpensive solutions to providing access. Green Mountain Coffee in Concord did not have enough sidewalk space for access so they made a sign, installed a doorbell, and purchased a portable ramp.

In August 2004, the state experienced a tough lesson in how to best provide access. The Walker Building, part of the old campus of the State Hospital, in Concord, now houses the Administrative offices of Vocational-Rehabilitation, the Social Security Administration office, the Developmental Disabilities Council, the Nursing Board, Plumbers Board, NH Insurance Commission, and the Public Utilities Commission. When the building was inspected by the NH Governor's Commission on Disability, prior to occupancy, it was revealed that access for the main entrance was via an exterior key-operated platform lift with no overhead protection and then through a set of heavy doors. On the day of the inspection, and frequently thereafter, the lift malfunctioned, and was not usable by many. Given the high number of individuals with mobility disabilities who use the main entrance, the lift was not the appropriate method to enter this building.

Increased Access in Two Massachusetts Performing Arts Centers



The Boston Opera House restored to its former glory.

Currently, there are two significant historical performing arts centers in Massachusetts that are restoring the historic beauty of their property while incorporating access for patrons with disabilities. The Boston Opera House opened its doors in 1928. This historic building has gone through some significant changes throughout its history. The most extreme change was to the Stage House which, in the early 70's, was transformed to apartments and then later reconverted back to dressing rooms. Throughout the years the building had deteriorated; water leaks ruined parts of the stage and memorabilia, as well

as intricate detailing on the inside and outside of the building.

This restoration project looked to return the building to its original awe-inspiring beauty and, if one was to look hard enough, incorporate access for persons with disabilities seamlessly without changing the original character of the building. For example, the entrance used to include stairs, but through creative design, ramps and walkways were installed that have the look like they were always part of the building. Seating locations have been made accessible, allowing enough space for wheelchair users to see the stage from all viewing areas. An elevator has been installed near the grand staircase. Ticket booths have been lowered to the appropriate height while still maintaining their original 1928 ambiance. Lastly, the restrooms have been renovated to allow access to patrons with disabilities.

The Pittsfield Colonial Theatre is in the process of undergoing an extensive restoration as well. The Theatre opened its doors in 1903 and, like the Opera House, went through some drastic changes. A renovation project started in 1912, included staging with some of the country's best acoustics. In the early 30's the theatre closed and remained vacant until it reopened in 1937 as a movie theatre. It is now planned to undergo a restoration to reincorporate the original theatre. Through communication with the Massachusetts Office on Disability, the local Commission on Disabilities and the designers, not only will the historic character of the building be restored, but access for persons with disabilities will be provided.

DOJ Update

Justice Department Obtains \$1 Million Fair Housing Act Settlement

The Justice Department has announced a settlement agreement with a developer and several architectural firms in Michigan, Indiana, Illinois, Ohio, Wisconsin, Virginia, and Nebraska, resolving two lawsuits that alleged disability related housing discrimination. Under the agreement, the developer and architectural firms have agreed to retrofit 49 apartment complexes and pay \$1,060,000.

"Following this agreement, the Justice Department will have facilitated - in 2005 alone - the availability of more than 10,000 newly-accessible housing units to persons with disabilities," said Bradley Schlozman, Acting Assistant Attorney General for the Justice Department's Civil Rights Division. "While it is less expensive to make housing accessible in the first place, we are pleased with the defendants' cooperation with the government to reach this agreement, which retrofits nearly 50 apartment complexes."

After conducting an initial investigation, the Justice Department filed suit in 2001 in South Bend, Indiana and later filed a related suit in Detroit, Michigan in 2002. The government's complaints alleged that the defendants discriminated against persons with disabilities in the design and construction of the complexes, in violation of the Fair

Housing Act. The lawsuits also alleged that the rental offices at a number of the properties were designed and constructed in violation of the Americans with Disabilities Act, which prohibits disability discrimination in public accommodations, including rental offices.

Under the settlement agreement, which was approved by the US District Court for the Eastern District of Michigan, the defendants will: retrofit 5,400 ground-floor apartments to make them more accessible; pay up to \$950,000 to individuals harmed by the lack of accessible features at the properties; and pay a \$110,000 civil penalty.

"This agreement underscores how federal law ensures that housing must be made available on a non-discriminatory basis to all people, including those with disabilities. We hope that this settlement encourages the housing industry in my district to comply with the accessible design and construction requirements of the Fair Housing Act," said Stephen Murphy, US Attorney for the Eastern District of Michigan.

The Civil Rights Division is committed to providing greater access for Americans with disabilities. Since January 20, 2001, the Division has filed 174 lawsuits under the Fair Housing Act, including 36 based on the Act's design and construction provisions.

Access Board Update

Report on Indoor Environmental Quality Released

A growing number of people experience a range of debilitating physical reactions from exposures to everyday materials and chemicals found in building products, floor coverings, cleaning products, and fragrances, among others. There are those who have developed an acute sensitivity to various types of chemicals, a condition known as Multiple Chemical Sensitivity (MCS). The range and severity of reactions are as varied as the potential triggering agents. In addition, there are others who report reactions from exposures to electrical devices and frequencies, a condition referred to as Electro-Magnetic Sensitivity (EMS).

In response to these concerns, the Access Board has sponsored a study on ways to improve indoor environmental quality for people with MCS and EMS, as well as for the population generally. Conducted for the Board by the National Institute of Building Sciences (NIBS), this project brought together various stakeholders to explore issues and to develop an action plan. A copy of the resulting report is now available on the NIBS website at <http://ieq.nibs.org>. While the project focused on commercial and public buildings, many of the issues addressed and recommendations

offered are applicable in residential settings. The report includes recommendations on improving indoor environmental quality that address building products, materials, ventilation, and maintenance.

Classroom Acoustics Standard Available Free from ASA

The Acoustical Society of America (ASA), in partnership with several industry supporters, is making design standards for classroom acoustics available free through its website. *The American National Standard Acoustical Performance Criteria, Design Requirements, and Guidelines for Schools (ANSI S12.60-2002)* provide criteria that benefit all classroom users, including students with hearing loss. ASA developed the standard through a working group with input and sponsorship from the Access Board. Several states have adopted the standard which is voluntary unless referenced by a code, ordinance, or regulation. Previously published for sale, the standard can now be downloaded free through ASA's online store at <http://asastore.aip.org/>.

Source: Access Currents, Volume 11, No. 4, July/August 2005.

Employment Update

Inappropriate Behavior not Grounds for Accommodation

The ADA does not give a stressed worker a license to misbehave. The 1st US Circuit Court of Appeals reiterated this point in its decision of Calef v. The Gillette Co. In this case, the court agreed with the Massachusetts federal trial court in dismissing Calef's claim.

Fred Calef was a production mechanic at Gillette when he was involved in an altercation that left his supervisor and co-workers fearing for their safety. Calef was fired from his job following the incident after previous warnings. He brought suit, alleging, among other things, Gillette violated the ADA by failing to reasonably accommodate him, then firing him.

The court agreed that the trial court made the correct decision by dismissing the disability discrimination case, since Calef failed to show that he was disabled under the act. The court also found that even if he was disabled, he was otherwise a qualified individual to do his essential job functions. Calef had a history at Gillette of losing control of his anger, yelling and threatening co-workers. After he was referred to the Employee Assistance Program, he began therapy and was diagnosed as having attention deficit hyperactivity disorder (ADHD).

Calef acknowledged that his ADHD did not cause him to become angry, but there was evidence that individuals with ADHD deal with anger more impulsively. In highly stressful situations, individuals with ADHD may not focus as well as others. Calef's position was that the behavior, which resulted in his job termination, was caused by ADHD and that the reactions of Gillette employees were unreasonable and motivated by bias against people with disabilities. In his case, he claimed to be disabled because of learning and speech impairments due to his ADHD.

Many people do not think well in stressful situations and find it hard to speak well. The court noted that very few people find handling stress to be easy. The court specifically also stated that even if Calef was disabled, the act did not require a worker whose unacceptable behavior threatens the safety of others to be retained. The court found that to be true even if the behavior stems from a mental disability.

Source: "Court: Disabilities Don't Include Endangering Others," J. Daniel Marr, Nashua Telegraph, April 15, 2005.

Disability Advocates Delighted with Efforts on Broadband Reform

Disability organizations are delighted with efforts of House of Representatives legislators to address the needs of people with disabilities in the public release of a discussion draft of federal broadband reform legislation by staff of the Energy & Commerce Committee.

Advocates pointed to language proposed in section 404 in the staff draft entitled Access by Persons with Disabilities. The section calls for broadband, voice over Internet protocol (VoIP), and other IP-based communications equipment manufacturers and service providers to make sure that their products and services are accessible to and usable by persons with disabilities. Companies making products or offering services do not have to provide access if they can prove that doing so would cause their business an undue burden. In the event an undue burden is claimed, manufacturers and providers still must find alternative ways to make products and services compatible with adaptive equipment and software that is specifically designed for use by people with disabilities.

Advocates also hailed section 208. Entitled Provision of Relay Service, this section calls for VoIP service providers to offer relay services for individuals with hearing, speech, or other communication-related disabilities. Current relay provisions, contained in Section 225 of the

Communications Act of 1934, do not require VoIP service providers to do so. Relay services enable individuals who cannot speak or hear to engage in text, voice or video communication with other individuals through a third party called a communications assistant (CA).

What Accommodations Are Required for Online Learning?

A former student at Capella University has filed a federal lawsuit against the online institution, asserting that it violated the ADA by using technology that does not accommodate his learning disabilities. The student's disabilities include short-term memory loss. When Capella switched to a new software system, the plaintiff (Jeffry La Marca) asserts that his grades dropped. He asked Capella to switch back to the old software, which they said they could not do, or to give him more time to complete assignments, which he also asserts did not occur. La Marca was ultimately suspended from Capella prompting him to file a complaint with the US Department of Education's Office of Civil Rights. After several months of investigation, the department found that Capella had done nothing wrong.

Whatever the merits of the Capella case, some experts say that there are few clear guidelines dictating what assistive and information technologies colleges are supposed to provide to students with learning disabilities.

Assistive and information technologies have evolved for students with disabilities including blindness and deafness. Such tools include:

- Screen magnifiers
- Textual description of graphics
- Audible text readers
- Closed-caption text

However, for students with such disabilities as dyslexia and attention-deficit disorder there are few guidelines and hence many fewer accommodations.

Judy Brewer, director of the "Web Accessibility Initiative" at the World Wide Web Consortium, based at the Massachusetts Institute of Technology, suggests that navigation controls on Web sites should remain consistent on different parts of the sites. Greg Gay, a transfer technology coordinator at the University of Toronto's Adaptive Technology Resource Center, a research group that helps governments around the world set Web standards for accommodating people with disabilities, said that although guidelines are not yet in place to support such a lawsuit, it raises interesting issues. Steven Mendelsohn, a consultant on information-access and disability issues, cautions that if a college or company has neglected to use assistant technology that is available and affordable, it could be held liable.

Source: "Lawsuit Raises Issue of Accommodating Learning-Disabled Students Online," Dan Carnavale, The Chronicle of Higher Education, August 4, 2005.

National Park Service Preservation Briefs

The National Park Service's Technical Preservation Services has helped home owners, preservation professionals, organizations, and government agencies by publishing easy-to read guidance on preserving, rehabilitating and restoring historic buildings. Over 40 preservation briefs are available including "Making Historic Places Accessible" through the Government Printing Office by calling (866) 512-1800 or by going online at: www.cr.nps.gov/hps/tps/briefs/presbhom.htm.

Also available through the National Park Service: an Adobe PDF file entitled "Preserving the Past and Making It Accessible to Everyone: How Easy a Task?," <http://crm.cr.nps.gov/archive/14-3/14-3sall.pdf>.

Available from Donhead Publishing

Access to the Historic Environment by Lisa Foster.

This book examines flexible and pragmatic solutions to improve circulation in buildings by overcoming level changes, addition of handrails and other facilities which achieve the basic goal of dignified access, and which protect a building's special architectural character. It features practical guidelines and illustrated case study material, with examples of how to improve access in different types of historic buildings including Georgian, and neoclassical buildings, historic monuments, country houses, gardens and landscapes. See Donhead Publishing at: www.donhead.com/Access.htm.

Available from Amazon.com

The Secretary of the Interior's Standards for the Treatment of Historic Properties: With Guidelines for Preserving, Rehabilitation, Restoring & Reconstructing Historic Buildings
(Paperback) by Kay Weeks and Anne Grimmer. \$35.

Available from Historic Windsor, Inc.

Entrances to the Past: A Video on Accessibility.

Plain talk from wheelchair users, architects, and historians about the importance of enabling all people to enjoy our architectural heritage while protecting historic materials and features that convey significance. Easy to understand graphic explanations of ADA and how it is applied to making accessibility and preservation decisions.

Guidance on how to assemble an effective committee to review accessibility needs and their impact on historic buildings. A comprehensive look at accessibility products on the market today, with design "ideas" including ramps, lifts, paths, stair tower additions, and even a stair climber.

A four-step planning process for successfully integrating accessibility for people with disabilities into historic structures. "Real life" case studies of successful accessibility solutions for buildings similar to those found in your community. Order through: www.preservationworks.org/video.htm.

\$18.85 postpaid each.

Available from the ADA Center

Title III Regulations for Public Accommodations and Commercial Facilities and ADA Standards for Accessible Design (306)

Section 4.1.7 of the standards of deals specifically with alterations to historic properties. 176 pp.

Existing Facilities Survey Checklist 2.1 (307)

Survey to identify accessibility problems and solutions for meeting Title III barrier removal obligations. 15 pp., \$1

ADA & Historic Preservation Standards for Accessible Design (403)

Access solutions to historic buildings and landscapes. 14 pp., \$2

i All publications are available from our Center by calling (800) 949-4232 (voice/tty) or by ordering online using our shopping cart at: www.adaptiveenvironments.org/neada/site/publications. Many publications can be downloaded.

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