



MONTGOMERY COUNTY DEPARTMENT OF PARKS

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MEMORANDUM

To: MONTGOMERY COUNTY PLANNING BOARD

Via: Mary Bradford, Executive Director *M*
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Park Development Division

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Subject: ADA Initiatives and Implementation

Background

The Americans with Disabilities Act (ADA) is a civil rights law that is administered by the Department of Justice (DOJ) who has oversight and enforcement authority over it. The ADA covers a wide range of organizations, and as a governmental agency, Parks is subject to Title II of the ADA. It is an unfunded mandate that requires organizations such as Parks to incur the cost of compliance. The ADA became effective in 1992 and DOJ issued the 1991 Standards for Accessible Design to guide its implementation.

In the 90's, Montgomery Parks prepared a "Transition Plan" which identified corrective actions for Parks facilities and spaces, such as parking lots and buildings, needed to comply with the initial ADA regulations. While the 1991 Standards did not address recreation environments such as sports fields, courts, playgrounds, trails, and boating and fishing areas, etc., Montgomery Parks has diligently worked to design and construct facilities to provide accessibility to the standards and guidance available at the time.

Why ADA Now?

Since the initial adoption of the ADA Standards, the DOJ, designers, and advocates have continued working to improve accessibility and inclusion of all people in public facilities. There have been two major activities in recent years that have brought access into the forefront. First, the DOJ developed its Project Civic Access program to study how communities were achieving accessibility. As part of this program, DOJ audited a number of public facilities in Montgomery County in 2006 including 19 parks in our system, which identified numerous remaining “barriers” to accessibility. Second, the DOJ issued new Title II regulations which became effective March 11, 2011 along with the 2010 Standards for Accessible Design, which became effective in March 2012. What is new and important about these Standards is that for the first time, they included many recreational and sports environments. These include playgrounds, soccer fields, softball fields, dog parks, community gardens, and other outdoor activities, which are now subject to the 2010 ADA Standards.

In an effort to move forward with addressing the barriers identified in the DOJ audits and to create a framework for achieving system-wide accessibility, M-NCPPC Montgomery Parks joined with Montgomery County in signing a Settlement Agreement (dated August 16, 2011) with the DOJ that sets forth requirements and a timeframe for implementation, including:

- Performing upgrades to those Parks audited by DOJ with established due dates;
- Performing self-assessment audits of all Parks sites not audited by DOJ;
- Performing policy reviews and employee training;
- Conducting public outreach and upgrading communications;
- Providing ADA signage throughout Parks; and
- Submitting annual progress reports and a final Transition Plan by August 16, 2016 that includes a summary of all access barriers, a prioritization of corrective repairs, and a phasing for making those corrections which are deemed to be necessary.

Impacts on Parks

The combination of the Settlement Agreement and the new ADA standards has dramatically increased the focus and attention on accessibility throughout our Parks system. The attention includes construction alterations to meet new design standards, as well as support for the inclusion of people with disabilities alongside people without disabilities in Parks programs, policies that comply with ADA Title II, compliant communications and more. Please note that neither Title II nor the Settlement Agreement requires every element at every existing facility to be made accessible, however, DOJ does require that the programs and amenities of our Park

system be accessible (program accessibility). Program accessibility refers to all programs offered by Parks whether it be soccer fields, playgrounds, nature camps, or tennis classes. ADA is more than just a design or construction standard; it's a civil right, and its impact reaches every Division in the Department.

Examples of this involvement would include:

- Facilities Management Division staff must know the standards for repairs and maintenance.
- Park Development Division staff must know the standards for design of new facilities and renovations.
- Region staff must know the standards for bathroom supplies, trash receptacles, and portable restroom facilities.
- Horticultural, Forestry, and Environmental Education Division (HFFE) Division staff must know the requirements for operating community gardens, nature center programs, and other programs or events as required by Title II.
- Public Affairs and Community Partnerships Division staff must understand and incorporate various requirements and standards for our website, publications, and public inquiries.
- Park Planning and Stewardship must know the ADA Standards and Title II requirements for long-term facility planning.
- Enterprise Division must know the Title II requirements for running programs such as ice skating lessons, rides on the carousel, camps, etc.
- Park Police must know the standards for how to work with park users with special needs.
- Management Services must assimilate and coordinate procedures for grievance policies, sign language interpreters, and operational standards.

All of these issues, and many more, affect every Division on a daily basis as we work together to provide all Park users the best experience possible.

Progress to Date

- Parks has taken a number of steps towards achieving accessibility in accordance with the Settlement Agreement and the 2010 Standards: An ADA Project Manager position was created within Park Development Division; a Department-wide ADA Transition Team was created with representatives from all Divisions;
- Two level-of-effort Capital Improvement Program projects were created to fund various ADA related activities;

- Consultants have been retained to prepare audits and help develop strategies for prioritizing repairs;
- Improvements were completed to several parks previously audited by DOJ in August 2012; additional improvements to other parks will be completed prior to August 2013;
- Ongoing targeted employee trainings have been conducted including modifying design standards, shadowing of audit teams, ensuring construction compliance;
- Coordination with Prince George's County Parks and Recreation and Montgomery County DGS has been expanded;
- Department wide training sessions for 600+ employees was conducted in January of 2013;
- Consultation on plan reviews for design projects, initiate policy reviews, and public outreach has been initiated and is ongoing; and
- A database was created to manage information and integrate it into our SmartParks management system.

In June 2013, Parks in conjunction with Montgomery County, the Commission on Peoples with Disabilities and the Countywide Recreation Advisory Board held a public outreach meeting to solicit public input on the strategies and direction of ADA implementation. Recently, a PDD/Facilities Management liaison has been created to facilitate and coordinate ongoing and future ADA repair-related and maintenance efforts. We have also initiated programs to ensure our recent park renovations, new construction, and maintenance operations are incorporating ADA requirements into each activity.

Audits and the Transition Plan

In 2012, Parks retained Recreation Accessibility Consultants (RAC) to complete the first phase of audits (for Wheaton and Cabin John management areas) and develop our initial Transition Plan for submission to DOJ. These audits are field surveys to identify and locate any and all barriers to accessibility; the initial Transition Plan identified many of the complex issues an organization like Montgomery Parks has to consider to achieve accessibility. In 2013, Parks retained EMG Consultants to continue the audits throughout the Park system and further develop the Transition Plan to more fully understand the required changes and approximate costs associated. The Settlement Agreement and funding limitations requires Parks to conduct the audits over multiple years and the Transition Plan development will continue as more information is gathered and strategies are formed and tested. The audits are being performed by Park Management Area, beginning with Wheaton and Cabin John, and are proceeding clockwise around the County. The barriers are placed in a database that will be linked to our Smart Parks software system to manage data, develop appropriate repairs, track repairs as they are completed, and generate reports for DOJ and stakeholders.

One of the largest tasks ahead is to determine an optimal means to manage the data and create an achievable strategy towards improving accessibility. In the Wheaton and Cabin John management areas, almost 10,000 barriers were found, and in the Shady Grove and Black Hill areas, over 4000 barriers have been found to date.

Again it is important to note that not necessarily every deficit must be made accessible. Prioritization for corrective action will be based on various factors such as park type, park usage, scheduled rehabilitations, amenity, proximity to public transportation, availability of restrooms, DOJ barrier priority rating scale, amenity conditions/age, geographic distribution and population density among other possible factors. Public feedback from public outreach meetings, internet surveys, etc. will also be utilized to assist in establishing priorities. The final Transition Plan due to DOJ in August 2016, will incorporate guidance from Vision 2030 and the PROS 2012 plan, and we will utilize the PROS Sector Areas to provide a basis for establishing geographic distribution data and population density.

Technology

Data collection for this program is an enormous task, but the management and utilization of that data requires significantly more resources in the long term. Once the tens of thousands of barriers are identified, they will need to be categorized, budgeted, prioritized, and assigned to appropriate staff.

This effort will need to be cross-referenced with other Parks programs including CIP projects, park rehabilitations, major maintenance projects, and other initiatives to ensure cost effective and coordinated resolutions. Furthermore, we are required to track and catalog repairs, in addition to updating the database as new renovations are completed, amenities added or removed, or new Parks acquired. All of this information will also need to be easily available to our public information staff and readily compiled into reports for the DOJ and other stakeholders.

For an organization as dynamic as Montgomery Parks, the Transition Plan should be viewed as a living document, that will require modification as conditions and priorities are changed, new ADA requirements are issued by DOJ, and/or unanticipated policy/fiscal needs shifts occur. To further complicate matters, the Parks system has long been intertwined with outside entities such as the Recreation Department, Public Schools, vendors, lessees and other partners, so that responsibilities for corrective actions on Park lands will extend beyond the Department.

The current data resides in AssetCalc, a web-based database software developed by EMG Consultants, as well as in SmartParks, and the systems will be linked to enable the transfer of data. Over time, all Park amenities will be - geo-referenced to our GIS system, and we are working towards linking the current conditions, barriers identified, and corrective actions (and hence accessibility) to the GIS system, so that information concerning accessible elements and amenities can be provided to the public.

The Future

Completion of the audits is only one facet of the effort required to achieve accessibility. While DOJ does not set a hard deadline for making corrections, nor do they establish a concrete threshold for providing universal access, they do require the Transition Plan to spell out how this work will be carried out. Based on past coordination with DOJ and other agencies subject to Title II, we anticipate that DOJ will require a significant effort, over the next decade or longer, to remove barriers and provide programmatic access.

Although we are not aware of a specified timeframe during which all remedial work must be completed, it is not unreasonable to assume DOJ will push towards a shorter timeframe. Furthermore, based on our work to date, it is apparent that additional operational and capital resources will be needed to meet the current mandates and meet the terms of the Settlement Agreement. Unfortunately, at this point there does not seem to be federal funding forthcoming to match the challenge placed before us.

As mentioned before, the ADA does not require all facilities to be accessible; it also does not provide a ratio or formula for determining how many sites must be accessible. Our consultants have advised us that many parks and recreation organizations have sought to establish a goal of making one-in-three (1:3) duplicated assets, such as playgrounds, sports fields, sports courts, and so forth, accessible. This approach was proposed in our initial Transition Plan submission to DOJ in 2012, but we have not received feedback as to the acceptability of this approach. For unique sites, such as Brookside Gardens or the South Germantown Splash Playground, this approach would not be appropriate because there is no alternative accessible site that can be provided.

The primary focus of our efforts to date has been the physical impacts on Parks and park operations. However, ADA requires programmatic access; accordingly, much of our future efforts will also need to address programming, inclusion policies, policy development and guidelines, and information outreach.

Furthermore, the US Access Board is continuing to develop and adopt formal access guidelines for additional recreational assets such as trails, benches, campsites, shared use paths, and picnic areas. The likelihood is that some, if not most, of these guidelines will be published in the next few years thus further increasing the amount of Park infrastructure subject to Title II, and associated capital expenditure requirements for compliance. To meet these challenges going forward, additional coordination, training, management oversight, and staffing will be needed.

As Montgomery Parks plans for the future, access will be the major focus in all we do. Resources, employees, plans, contractors, facilities, policies, and communications must all work consistently to meet our Title II requirements.