

**Commission for Accessibility
Meeting Minutes
Monday, Sept. 20, 5:00PM**

Via Zoom

In Attendance: Kate White, Tony Phillips, Maureen Culhane, Dave Choplinski, Carol Juter, Don Ciota

Call to Order: 5:10 PM

Public Comment.

Maureen asked a question about school PTA's soliciting funding for playgrounds with a concern about the official policy and responsibility for Americans with Disabilities Act (ADA) compliance. Tony said Dr. DaSilva, Superintendent of Schools has been requesting more information about such projects. He said some schools are able to raise more funds than others, which can create disparities in the facilities of the schools. The schools should be obtaining building permits for such projects, which could help them be more conscious about accessibility. Dave, a newer member of the commission, suggested the building permit application should have a check box for ADA compliance, a longtime objective of the commission. Kate reported the Barlow school using mulch, a non-compliant material, on the ground in its playground. Tony stated playgrounds can use engineered wood-fiber provided it is regularly maintained. Tony has had these discussions with Dennis Depinto of Parks & Rec, who maintains the school playgrounds. Kate related about a visit to the beer garden in town that uses loose gravel on the ground surface, another non-compliant material. The ADA requires a soft, but firm surface to insure safe access to persons using wheelchairs. Both mulch and loose gravel present barriers to their use.

Update on Town Wide Assessment.

Tony has been in contact with IHCD, the organization performing the survey. Over the summer they sent two field workers, who reviewed the town and school playgrounds. They have also been in contact with the town IT personnel about our website compliance. We are expecting the final report shortly. Upon arrival the report will form the basis of a *transition list* to be distributed to the stakeholders, those who are responsible for facilities maintenance and program accessibility. Their first responsibility will be to establish priorities for bringing accessibility shortcomings up to ADA compliance, and providing a timeline for that work.

Fair Housing Act referral and discussions of response.

Carol Juter is a member of our town, who resides in a condo apartment. Her mother, who spends a great deal of time with her, has difficulty walking. Carol submitted requests with the board of directors of her condo to install an alternate access to her property by installing a gate, at her expense, from a common sidewalk to her deck. Such an installation would eliminate two sets of steps, 5 and 7 respectfully, from the pathway to her apartment. Her requests were refused.

The following was a discussion of a letter sent to the condo association board which with the intent of prompting the board to consider the implications of their refusal, and to use as a learning tool for the Commission. It can also serve as a guide for the initiative Tony has promoted of establishing the equivalent of a form letter to be sent when circumstances present themselves in the future.

The Fair Housing Act (FHA) is a civil rights law prohibiting discrimination in housing for a variety of reasons, including for those with disabilities. The letter encouraged them to seek their own counsel of the significance of the Act and offered the assistance of the Commission upon their request. It stated the Commission has no authority to declare what is or is not an appropriate decision under the law and has no enforcement authority. It stated an application, if denied, can be the subject of a complaint to the United States Department of Justice (DOJ), the agency that enforces this federal law.

Civil Rights Acts, such as FHA and ADA are complaint-based laws. There are no inspections; enforcement is triggered upon receipt of a complaint. When I first became a member of this Commission, I was introduced to the

conceptual intent of these laws by my predecessor as chairman, Emma Lou Benedict, who told us these were laws meant to encourage community conversation, the aim of which was to seek reasonable accommodation through local discussion. Such an outcome is possible if all parties are aware of what these laws require. This was the reason the letter suggested seeking counsel.

Our town has been fortunate in that the majority of those entities subject to these laws strive to be completely compliant, complaints are rare, and to my knowledge, have never been made to the DOJ. But, due to lack of complaints, there may be a belief this is not a strong law. A visit to the websites of the ADA and FHA will demonstrate the opposite. A consent decree is an agreement between involved parties submitted in writing to a court. Once approved by the judge, it becomes legally binding. I encourage you to look for a list of *consent decrees* published on these sites. A consent decree is an agreement between involved parties submitted in writing to a court. Once approved by the judge, it becomes legally binding. What is most interesting about these decrees is how ordinary the original complaint may have been. And, it is apparent when a complaint is confirmed as a violation, the responsible entity chooses to accept the decree rather than to attempt to contest it with the DOJ in federal court. The decree typically will dictate what must be done to remediate the violation and give a time frame for completion. Investigations of a complaint are not limited by the complaint as filed, there are cases where, in the case of towns, or covered residential properties, for example, some or all facilities are inspected if it appears non-compliance is systemic.

Letters and contacts with the public should be informative, neutral in nature and include an offer to assist in providing information helpful for problem resolution. They offer the opportunity to educate, promote, encourage accessibility and non-discrimination. A positive tone in the letter should inform the recipient the Commission is here to assist upon request.

Adjourn

Minutes prepared by Don Ciota

Upcoming Meetings:

October 18

November 8

December 13