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EXECUTIVE DIRECTOR

Public Hearing
Proposed Changes to 521 CMR
Worcester State University, May Street Auditorium
280 May Street, Worcester
April 12, 2018 8:30 a.m. – 12:30 p.m.

Present Board Members:

- Walter White, Chairperson (WW)
- David D'Arcangelo, Massachusetts Office on Disability (DA)
- Patricia Mendez, (PM)
- Harold Rhodes (HR)
- Andrew Bedar (AB)
- Dawn Guarriello (DG)

Also in Attendance:

- Jeff Dougan, Massachusetts Office on Disability (JD)
- Thomas Hopkins, Executive Director (TH)
- Karen Brann, Program Coordinator/Clerk for the Board (KB)

Board Members not in Attendance:

- Jane Hardin (JH)
- Ray Glazier (RG)
- David Johnson (DJ)

Members of the public who signed in:

- Scott Ricker, Reli-Abilities
- Lyn Haggerty, Advocate
- Mike Parod, Ult. Play
- Meyner O'Brien, O'Brien and Sons
- Angela Snell, Town of Shrewsbury
- Fred Lonardo, Town of Westborough
- Michael McGuffie, Northern Playground
- Joe Bellil, Easter Seals, MA
- Mike Kennedy, Center for Living and Working

- Meeting began approximately 8:45 a.m.

The Chair opened the meeting.

Director Hopkins gave opening remarks and told the audience that CART will be transcribing the meeting today. He described the process of updating the code book and how the work was done by a voluntary committee that made up the changes of the code. Making it in align with the ADA. Some areas we are more stringent, we can't be less stringent than ADA.

The voluntary committee did this on their own time and expense.

Intent of 521 CMR is to serve people with disabilities. It was vetted through the building code coordinating council. We submitted the new language to administration and finance in 2016. Once the comments are promulgated we will reconvene the sub committee

Scott Ricker – Mr. Ricker started with saying it has been a pleasure to watch the tremendous changes Mr. Hopkins has made. It is important to go forward with the code. Interaction with the staff is always nice. Thank you for serving those with disabilities. Two suggestions and concerns.

1) Chapter 26 bathrooms – toilet stall door hardware. I found at certain locations, I could not close the stall door. Please look at this and rewrite it to make usable to everyone.

2) Flare side curb cuts. Purpose was to allow access. Found it is a conflicting issue over the years. I attended this meet in last week. I support the two people from the MS society regarding automatic door openers. Power door openers being installed in public entrances. Medical equipment – access to the equipment to get onto or near the equipment.

Lynn Haggerty

I don't have any comments. I signed in for attendance

Angela Snell – Town of Shrewsbury. Playground and engineered wood fiber for pathways. Concerned on how much it cost to install. I will send in written comments.

WW- We are trying to clarify the language. It applies to new playground.

Mike Parod – Public playgrounds in general. Looking for more clarification on types of surface available, pathways, each is unique what the perimeter is. Implementation and how it effects playgrounds done in the past. Moving forward what we are using for surfaces is it considered combination of surfaces. All groups throughout the commonwealth find that funding has an impact. Looking for more clarification and details on pathways

TH – Triggers occur – playgrounds that were done a year ago may be in violations. Going for upgrades that would be the time accessible routes. We see playgrounds with combination surfaces. Others use stone dust. It is a matter of maintenance. We had a case in Oak Bluffs the proposal was to use wood fiber. The wood fiber company came to us with something they mixed into it to make it firm, slip resistant, could be tinted with different colors. My chair weight pushes against the material. It was the Patten School. Initially it was all wood fiber. We investigated, the principal shut the playground down for fear of retribution from the state. We said use the playground and gave a year to comply. Case closed. They met our regulations.

Meg O'Brien, O'Brien and Sons - Sometimes you have playground that is fenced in or up against parking lots. I would like to get clarification on perimeter.

Fred Lonardo- commissioner building Westborough– trails or outside class rooms. They have to have an accessible pathway would like clarification.

TH – perimeter – if you are up against a fence, you want to modify the plan you can apply for a variance. The board turns variances in about three week. \$50.00 filing fee.

WW- definition of routes.

TH – we are going to take written comments.

Outside pathways – 3.10 temp structures. Lots of schools trailers for classrooms, they are required to comply, construction

Fred Lonardo, Westborough Building Commissioner - Outside class room. PTA wants to design for access outside, benches, classes outside. Trail ways. Communities are developing walking paths outside. Had to redesign the bridge.

TH - 20, 21, 22 developing pathways, communities are creating paths. Work performed you are creating, slope, cross slope. People have come to us for relief. It is a combination of working with us. There are different types of trails. I might not be able to do all trails maybe a certain type of trail.

Fred Lonardo – In generally we have good compliance but no enforcement, not tied to a permit.

TH – your responsibility runs to all 521 CMR. For example restriping a parking lot. You don't issue a permit but could issue a violation.

DG - I design schools and become norm to include in the design – does the whole space need to be firm slip resistant?

TH – If students are called up – routes need to comply. Route to venue that students may be called up and accessible seating. Schools want to set up a tent on grass fields. Grass fields are not an acceptable surface.

DG - Something that is permanent that is clear you can make entire surface firm that just becomes part of the landscape it needs to be managed.

WW - Building permits - I am an inspector. 521 is part of 780 CMR the state of building code. Anything and everything is eligible for a building permit. The only issue now is the route to the equipment and around.

Angela Snell, Town of Shrewsbury – What is the process after July 1? What is the time line?

TH - Public hearings are completed and written is closed. We will bring back subcommittee and board will make recommendation of change. Then have an obligation to post code in central registry. Hoping in January. There will be a 6 month period that the old regs will still be in effect if project already started. New projects after 6 months of promulgation new code.

Michael McGuffie – Wood Fiber

The issue I have people and lots of playgrounds, you have put the fear of death into the playground people. They don't care to do anything. Financial trouble. Engineered wood fiber. In Amherst they said the same thing, financially troubling. I have had equipment people have trouble. We spent two decades working on wood fiber coming up with installations. Keying working we talk about accessibility firm stable, slip resistant, We tried to combine with bonding agent not an acceptable outcome. We worry about the entire country. Saved a lot of kids. ASTM –

One paragraph talking about using this product or that product. We looked at that and looked at product and performance. The basis of ASTM 1951 test. Performance needs to meet ASTM

1951 1 in 12 ramp. You guys have the folks scared. You would put my company out of business.

WW - I grew up on old playgrounds. I appreciate how far we have come. 27 years ago we did manufactured playground we are redoing them. The technology has changed. I am familiar with all the issues. Our main concern is the ability of children with disabilities and parent and friends, to do the same things as abled bodied people do. Every other Monday we weigh the cost. We are not trying to put anyone out of business, trying to get as much access for kids with disability.

M. McGuffie – Since the early 90 we have been working. All the guild lines cover to make playgrounds work. We spend a lot of time putting engineered wood fiber together. 1 in 12 ramp. The effort should be no more than an acceptable ramp.

TH - What does that mean? The effort to push a flat surface is equal to you have decided that 1 in 12 is ok for people with disabilities.

MM- I did not decide anything. Legislature decided a 1 in 12 ramp is a max. The effort to go up is the max effort. ASTM test takes a known person and wheelchair weight. The first thing the person does is take three rides up ramp 1 in 12 ramp. They go on the surface and do circles, then straight away run. Information is documented. At the end of the test they do the ramp again. Nothing can require more than going up 1` in 12 ramp. I will submit test with my written comments.

DG – Is this on freshly laid material?

MM - On fresh material.

DG – My 3 year old creates obstacles at the playground.

M – Maintenance is always an issue. Third part independent group that handles everything to make sure equipment meets ASTM.

DG - Is there a maintenance plan?

MM - They talk about the first problem they have. A lot of time it is the surfacing. They subcontract the surface installers.

Maintenance side, you have to work on maintaining the surface. Maintenance is much less cost than putting in rubber surface. If you are up against a fence, there are a lot of requirements playgrounds have. It should be a performance criteria. Lumped wood fiber with stone, woodchips, bark mulch. I would not let someone put mulch in a playground. We have a safety factor of 3 to 1.

We are worried about accessibility and safety.

DG - We appreciate your comments. From where I sit maintenance is a huge problem. Playgrounds are the last thing to be maintained. The accessible route needs to be firm, stable and slip resistant.

MM – How do you quantify firm, stable, and slip resistant?

Joe Bellil – VP Public Affairs Easter Seals. The mission of Easter Seals is to help children and adults with disabilities expand their independence. We are a state wide non-profit organization serving people of all ages and disabilities since 1944.

AAB is a very important piece of independent living in MA Easter seals supports the changes and two bills S.1327 and H. 2498.

I want to comment – I grew up in Worcester, got polio when I was 8 months old. I appreciate accessibility. It means a lot to a lot more people, it is an important resource. Trying to get people into accessible housing. Need more accessible housing. Businesses are seeing access,

transportation, sidewalks. Want people to be engaged. It is important, plan ahead. The complaint process is a great civil right piece in MA. Better than ADA. It makes a difference. It can help move the process forward quicker. Process moves fast. Need more resources out there for AAB. The state is trying to attract more businesses. I am not just thinking about myself. A former member called me and told me broke his leg. Needs a temp placard. Nice to know he can do that. Now I am worried about my parents. It is harder for someone who is older. Think about it as an assurance policy on the side. I have written testimony.

Michael Kennedy – ADA center for living and working. We work with people with disabilities. Our main focus is to help people live independently. My role is advocacy, ADA, access. I have spent time working with constituents. I do advocacy on systems level. Passage of AAB bill 2498 and Senate bill. That in conjunction with proposed regulations will make a huge difference.

Two areas are dear to me. First, AAB jurisdiction to employee areas. It is insane that AAB that does such a good job, can't go into employee areas. At one time that wasn't the case. I am concerned because people seeking employment are more likely to be unemployed. AAB lack of jurisdiction to employee area.

Housing – for people with disabilities, their number one issue is affordable and accessible housing. Prior to 1996 what gets converted to housing is not required to make the other 95% of the units adaptable. Lost opportunities, old mills, schools being converted. While the building gets gutted it is an opportunity to make them accessible. People acquire disabilities later in life would be able to stay where they are. Housing is a huge challenge. My wife and I found a ranch house, all it took was a shower chair and ramp to front door but not the case for everyone. I believe these proposed regulations and bill would make a substantial difference.

Why I love AAB, I have been in a wheelchair since 1974, live in MA all my life, great work of AAB and passage of ADA, I have seen tremendous improvements. I have also had the pleasure of working with some of you folks. Many discussions on playground surfaces, auto door openers, why the AAB is great it has always been an inclusive process. When a variance is requested, ILC and commission know. Gives an opportunity to weigh in. All correspondence from AAB comes to me. If there is something I think is ridiculous I will send in a letter. The process is inclusive.

AAB with three people cover the entire state of MA. All this great work is done with just three people....you need more staff. Need an additional compliance officer. Made the quality of my life better and a great impact.

WW – Recognized Jeff Dougan and the Subcommittee. Andy Bedar was recognized as a member of the subcommittee.

The Board took a break.

10:35 The Board resumed.

Scott Ricker, Reli-Abilities

How will this impact our building inspectors? Will there be more or less regulations, more complex? This would create possible benefits for the building department, fees, generate more income. I understand over feeling people is stressful. It kind of protects everybody. Playground issue – engineered wood fiber is a complex thing, requirements, and cost vs. poured in place. A child in Worcester fell on poured in place and broke his arm. Issue to resolve a safe fall zone.

WW- This is a change in 521 similar to the building code. The building code changes every three years. Tom Hopkins has been doing trainings with the building inspectors.

TH – Training - we have had a busy spring. I have been to three locations doing trainings for building inspectors. 521 CMR, when promulgated we are going to offer trainings on jurisdiction, training, etc. in the Inspector General training room. Please spread the word.

Recess 10:41

11:00 WW left

Reconvened 12:15

DD sitting as Chair

DG motioned to extend the timeframe for comments to the end of business day July 2, 2018. HR seconded, passed unanimously.

Board recessed 12:15.

*The board motioned to
HR motioned to adjourn. AB seconded, passed unanimous*

The Board adjourned 12:30.