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THOMAS HOPKINS
EXECUTIVE DIRECTOR

Public Hearing
Proposed Changes to 521 CMR
1 Ashburton Place
21st Floor, Rooms 2 & 3
Boston MA
April 5, 2018 12:30 – 4:30

Present Board Members:

- Walter White, Chairperson (WW)
- David D'Arcangelo, Massachusetts Office on Disability (DA)
- Raymond Glazier
- Jane Hardin
- Patricia Mendez, (PM)
- Andrew Bedar (AB)

Also in Attendance:

- Thomas Hopkins, Executive Director (TH)
- Karen Brann, Program Coordinator/Clerk for the Board (KB)

Board Members not in Attendance:

- Dawn Guarriello (DG)
- David Johnson (DJ)
- Harold Rhodes (HR)

- Meeting began approximately 12:45 p.m.

4/5/2018

WW – PM, AB, DD, JH, RG

Director Hopkins gave opening remarks regarding the process of updating the code and how the work was done by a voluntary committee on their own time and expense. The proposed code is made to be more aligned with the ADA. Some areas AAB is more stringent, we can't be less stringent than ADA. Intent of 521 CMR is to serve people with disabilities. Public comments will be taken until June 1, 2018.

Members of the public who signed in:

- Laura Brailsford, MBTA
- Bob Giers, Town of North Attleborough
- Michael Muele, Boston Center for Independent Living
- Michelle Dickson, National MS Society
- Joanne DiAmizostone, MS Society member
- Emmanuel Andrade
- Paul Spooner, MetroWest Center for Independent Living
- Kristen McCosh, City of Boston
- Luis Loya, Cambridge Commission
- Ann Schiro, Mass Trial Court
- Carol Steinberg
- Wendall Kalsow, Architect, McGinley, Kalsow
- Josh Safdie, BSA Access Committee
- Debbie Ryan, DRyan Associates
- Chris Hart
- Jini Fairley, Newton City Hall
- Gary Kane, The Architectural Team
- Donald Lang, Architect
- Sandra Libby, Playground Advocate
- Michael McGuffie
- Jennifer Sapochetti, Principal, JS Consulting Engineering
- Sandra Libby
- Don Mills, Architect

The Chair opened the meeting and introduced the members.

We are having a listening session to receive comments to the new regulations and will have 6 meetings across the state.

Laura Brailsford – Gen Manager, MBTA representing the T.

Thanked the board and the committee that put together the changes.

This is an exciting opportunity to see improvements to the regulations. Happy to see lots of good changes. The T will submit formal comments in writing.

With respect to jurisdiction, this is an area where the MBTA has struggled. The T does not pay taxes on property. Assessed values are low. Applying the 30% rule is challenging.

Regulations were based around large buildings, our stations are a platform with a strip of track. What we are proposing is a protocol for assessing T property that is in line with jurisdiction but will allow for clarity in assessing value and in respect to what is considered an exception adding to the dollar value. The T is working hard to make repairs to keep system safe and running.

In addition we will have comments on the transportation section. A lot of the regulations are internal MBTA standards but specific regulations it has the potential to hurt our progress of accessibility. Elevators – settlement agreements – if we were forced to do that when we hit trigger it might pull resources from higher priorities, accessibility access.

Bob Giers - Town of North Attleborough, COD

Thanked the board for having the hearings. We developed standards for curb ramps. I have been involved with my job because of my disabilities. Glad to see there are going to be updates. I am not here to represent North Attleborough COD. I am here on my own. My experience has

been that 521 CMR, ADA have been around quite a while. People are not familiar. Playground built in North Attleborough. We felt like we were being ignored. We filed a complaint with AAB. And another situation that has happened. The attitude is that no one has been pushing the envelope over the years, they are not up to speed with this. Had a training last year no one showed up. Our town didn't know ADA self-evaluation plan. They seem to be willing to work with us now.

People are getting away from understanding. Over the years they got away with responsibilities. They haven't implemented it. An attitude needs to be encouraged. They look at me as the bad guy. In the 70's Deb Ryan got us together. I am glad we have a law. Encourage elected officials to do what is right.

Emmanuel Andrade

I am here on my own today not DCAM.

I have comments in written format. My top 6 comments.

Clarification on definitions. 2.3 violations – no compliance is considered gross negligence.

Architects can have licenses revoked.

New construction – new provisions abandoned for 5 years when they come back they are considered new. When does the clock start rolling? I don't know how to start the clock.

3.3 existing buildings- not sure of the cost of work, what is included? Clarification of what cost of work means. \$100,000 threshold, inflation? In 1982 version threshold is \$50,000 then increased. Now we are keeping the \$100,000 20 years later. \$63,000 now.

Exempt work clarification \$500,000 threshold. Architects are confused.

16.4 – handrails, anti-skateboard devices. Where does the board stand?

18.1 – bathrooms single user toilet rooms – we now have a new law – transgender individuals.

Should make determinations – on a benefit for all individuals more privacy.

Recreation facilities - I didn't see, perhaps some guidance. My last project was an ice rink. Can a Zamboni entrance be used as accessible entrance?

Michael Muehe, Boston Center of Independent Living

Thank you for the opportunity to speak today. In general CIL supports the access board in maintaining their own regulation.

We support the regulations as an example of that. We support having reach ranges under section 6 48" important to reflect current wisdom.

Section 7 pavers – some big complaints have involved brick sidewalks. Provide guidance to cities and municipalities.

Section 10 –strongly support these changes. Great step forward to require auto doors.

Tactile warnings. Durability of accessible warning panels has proven to be difficult. We support the access board. Need robust requirements.

Doors- mention in regulations allowing for screen doors and hinges, need to clarify although they are appropriate in homes, not appropriate in retail stores. Reserve the right to submit additional comments.

Michelle Dickson – National MS Society

We worked to propose an amendment that is part of section 10. Auto or power door. Grateful it has been included. We support the entire CMR. We represent many with MS. We heard from members with frustration that they can't get into stores. We recognized some businesses were installing auto or power doors. People felt they were not welcome. Assistance dog is trained to

hit the button. Some businesses have been in support. Need to make a formal request for businesses to comply. I think in every day it will make a quality of life difference.

Section 37 criteria for medical facilities is important it includes reviews, examination tables. We have looked at equipment standards. We still recognize there are barriers in treatment. Heart breaking when I get a call at a Boston based hospital. We continue to look forward to continued work with AAB.

TH the subcommittee was made up of 14 volunteers. We met 1 a month for 8 years.

Joanne DiAmizo Stone, MS Society

I am representing myself on auto door buttons and openers. I am frustrated that I cannot get into places on my own. I am proposing this for all buildings. It is not a big expense. The ADA was signed by Bush. This is not equal access...ADA opened for housing and employment. Many of us still cannot enter a building on our own. People have many different issues. The answer is the auto button. The door swings can cause dangerous problems. People may not see a disabled person when they are opening doors. Double doors and a major problem. Many people do not realize the problems of disabled people.

Paul Spooner – Metro West Independent Center. Current director.

Thank you for the opportunity to speak. I have been involved with disabilities for way too long. I have been filing complaints since the late 70's.

My first comment is thank god I live in ma. Without AAB we would not have the right to go out and file a complaint and get resolution in a timely manner. I would challenge someone to find another state that does what the AAB does. This is a statement of accolades for current, past, and future staff. I don't want to see the AAB taken away.

Having said that I read the proposed regulations. It was a challenge. It is a reflection of very hard work. Issues have grown throughout the process. Can't assume one set will cure everything. Things have evolved around access. It is a complex thing. Physical access can look to be straight forward. An example regarding auto door openers. For many years the code talks about 18" clearance opener is no required. This is designed for someone in a manual wheelchair. We are not all the same. As we evolve through the process auto doors are the best answer to the people need the assistance. Part of a move in our office involved doors openers on our doors. It was not a financial hardship. I will be submitting more comments.

Two issues I run across – housing, currently in Framingham there is a housing boom of apartments, condos so forth. We are excited it will increase housing stock. But living under archaic perception of needs. Accessible unit requirements are too low. Minimum standards we are not going to benefit that much. All of us need to start to get a better sense of the need for housing. Accessible units, adaptable unit. When someone moves into an apartment they should still have 36" doors regulations should require commonsense building practices that will be usable for all.

Second issue – bathrooms. Specifically in medical facilities. Regulations insure public access restrooms in med facilities re accessible. Hospitals, nursing homes, when it comes to patients rooms the chance of me getting an accessible bathroom is next to zero. It is not considered a requirement. More than 50 % of patient bathrooms need to be fully accessible. I wish there was some methodology to be incorporated into the code, many times in medical facilities, emergency rooms the accessible bathroom is used as storage. The bathroom needs to be accessible. Provide the possibility of taking a expedited complaint process system for situation where access has

been provided but there is a barrier based on lack of education, training. I am looking forward to the final process.

Louis Loya, Cambridge Commission

The work that has been done is great work. I represent the commission as well as myself. I have questions from designers they wonder why the state has standards that don't speak to other states.

Align the requirements to ADA as opposed to matching up both. The date for the adoption, designers wonder if they should use new or the current standards. It would be good to know. There are diagrams illustrating requirements, in some cases some dimensions are shown some aren't. Not consistent. I will be submitting specific comments.

TH - As we have done in past.. Once promulgated there will be a 6 month... and 6 months down the road there will be a deadline.

Ann Schiro – Mass Trial Court

Previously with DCAM for 30 years. I worked on the subcommittee. It was an honor. Here to support proposed regulations. The intent is to align AAB with ADA, also support house bill that would make this happen. Have AAB the authority as the building code. Is there an opportunity to add language of maintaining accessible elements? Continue to have something to point to.

TH - It is in 2.6 maintenance of accessible features.

Carol Steinberg - Former member of the board

I was on the board for 9 years. The work of the subcommittee was fabulous. I am speaking to those who oppose the regulations. It is a thoughtful variance process. They consider all variances. I want to echo Paul Spooner I am so lucky to live in ma and have this board. Getting around in ma is so much easier than other places.

I want to echo automatic door opener, I am also on the MS society. Door openers, doors are a huge problem. The accessible exit is a heavy door and then there is a step. Court houses so many that don't have door openers. People say isn't this supposed to have a door opener and I say it is not required yet.

Medical equipment – I think new regulations have a new section that extends the needs to day services, less than 24 hours. The daily requirements.

I think there is a dispute to playground accessible route. Has to be packed down so kids with accessibilities can get around.

The Board took a short recess.

Wendall Kalsow – McGinley, Kalsow Architect

I have general comments, I have been an architect for 40 years. Dealing with renovations of historic buildings, the AAB process is important is establishing thresholds. Comparing the ADA and AAB. Accessibility in the commonwealth is better than other cities. The AAB is the key difference. The variance process is important to maintain. To have a MA unique code.

The other general comment, it is important that the amendments to code be enacted. This has been a long process, it is an improvement over the current regulations. It maintains a balance

that is hard to achieve. It gives a process that is so important. Historic buildings have unique issues the variance process is critical. I am a strong advocate.

I have a comment - 5 x 5 ft square the travel in both directions by the inside corner I am not seeing that the 1 ft by 1 ft has any practical value. It is a slight increase in cost, less user convenient. That is one small modification. I want to encourage the proposed be enacted soon. They are well thought out. It is the right balance. Wrong direction to abandon the AAB.

Josh Safdie – BSA Access Committee
Architect Society

I am an architect and principal at KMA

Emmanuel Andrade and I have been co-chairs of Boston Architect.

I thought it would be worth for the board to know where the access committees stands.

Committee took up conversation in March 2016, the redline version was posted. We had members asking to reach out to the design community for comments. We worked with BSA to create a survey for members the survey allowed to submit enormously. We had a wide range of comments. I believe the survey is archived. We organized it and put into a power point and had another member of the committee. At the meeting we walked through the comments. DG and AB attended and Ab answered questions. We have PDF and shared with tom Hopkins. In 2016, 11

Asked to collect concerns gov. 562. Our member had already been provided a time to participate and we declined. Since then we haven't discussed it. The members haven't asked us to do anything about it. I regret that some architects are not more willing to reach out to the board and participate in this process. We only had 10 people respond (2nd) we are interested in being involved and would like to work with the access board.

Debbie Ryan – DRyan Associates

I was with the board 26 years and involved in three rewrites. We didn't have national guidelines until 96. I am an accessibility consultant. I am on the US access board. Feds process isn't any faster. When I sat with the state if felt don't pay attention to ADA guidelines but that time has kind of past. The board is the best it can be but technical provisions has seen its day. The task was enormous. There are some issues with it as well. Will send some in writing.

Having work for people being sued with ADA isn't a good place to be.

Control location in bathroom – on the long will violates ADA. In new changed in bathroom section but not transient or housing. You will not be equal with ADA. As a standard by its self it is a violation of ADA.

I would like to see you format the document similar to ADA, IBC, etc. Section 3-10 you are trying to cover and put together. Difficult to go from ADA standards under 521 have to go to different sections.

Put scoping up front. Scoping is scattered difficult to find. Format is confusing. I review projects with out of states architect. I will provide written comments. I offer any assistance you need.

June 1 is deadline for comments.

Chris Hart –

I want to echo comments. We understand the amount of work and it feels like it is taking forever. I want to emphasize the scoping is throughout the entire draft. It is problematic. The more you align with IBD, ANCY, ADA the easier it will be. The scope is too interwoven.

Example Instead of taking things like and require high-rise and only apply control

panels to transportation facilities. Two doors on an elevator.....that is not how it is scoped. We can help you get to.....and Laura Brailsford said she will supply written college. I will provide feedback. I also want to acknowledge the all the work that Kate Sutton did with the Committee and the Board.

1 concrete issue – in draft standards the language requires concrete.....at regular intervals. For all intensive purposes it is impracticable. The board needs to rethink.....I would like to add that you look at.....bathrooms that will begin to clear up housing mess. Shower and /tub...why do we not require a fixed shower.....fixed head as well. Having it moved into the state code put us on ...level. Will send in detailed written comments.

Jinni Farley – Newton City Hall

I am here as a representative on Commission on Disability Alliance. CODA. I had difficulty reading with my screen reader. In last rendition there was something on accessible signals. Stop me if you have something on signals. I am submitting comments in writing.

We did a survey with mass organizations. All of them want more accessible signals for pedestrians. New and those that are renovated and upon request. We drafted these regulations for you. Curb cuts – I do hope you will consider them. It is a true in every community. They need regulations. It has saved me and helped me to cross streets. Many folks want this in regulations.

In general I am in charge with enforcing the ADA. It is difficult having two regulations. I applaud you for incorporating many ADA regulations. I want to have more teeth to enforce standards. Can't have lose wood fiber. Auto door openers..... more than 15 lbs. I get many complaints in Newton with new construction never mind renovations. Is there a Microsoft version?

WJ - Yes I will send to you.

Gary Kane, The Architectural Team Gary

CMR34.2 multiple dwellings. We have many renovations in our portfolio. High percentage involve renovations removes type b exemption for adaptive reuse or gut renovation. Suggest reducing 50 unit threshold. Concerned about the financial burden on renovations of existing affordable units. Affordable housing has low assessment values. 30% rules disproportioned. Low scope of work can trigger full compliance.

Old houses developed under restrictions. Greatly increasing cost. Small units if you move 1 wall you are moving many. Many renovations occur when occupied. Window replacements, etc. Type B lay out will require moving residents. Anticipate cost to convert non accessible to type b not much more tan type A. Once you move walls the cost are closely the same.

Recommend section 34.2 make distinction

Existing residential properties be exempt from group b

Hope the board takes this into consideration. Two different housing types. It would act as a deterrent to affordable accessible housing. We commend the board's dedication. We are happy to assist.

Donald Lang, DLA Architect

Architect for 39 years former Chair of the Architectural Access Board. Here today out of respect to the board. I have no detailed comments. We are getting regulations that are in line with Federal regulations.

Kristen MCCosh – Boston Mayor's commission.

Disability Commissioner for Boston.

Expression support for regulations. The rewrite took several years to complete. I was part of the subcommittee. Went over word by word. I gained an understanding that changes were needed. Create equivalency with ADA. Will mean only 1 code book. Elements of regs. Will require all employee areas to be compliant. They are required under ADA. This is a huge gap. Will create more jobs for people with disability. Housing is a big challenge, close the loop hole. There must be at least 1 accessible parking space. I hope the board will consider my comments.

Sandra Libby, Playground Advocate

I am a mother and an aunt of a child with disabilities. I have 20 years of experience as playground inspector. Advocate of playgrounds. I have more questions about surfacing. Not here to make a statement. I question if CMMR could state how it is going to impact existing playgrounds. Wonder how it is going to impact...I know getting people involved and how it will impact a community to build a playground. Without the necessary use of design services. How is it going to impact the ability to maintain playgrounds?

WW- Our triggers are all financial. It would not trigger unless changes or a new one to be built.

It will require new to come up to standards.

WW- It is in the juristically section.

SL - What about the playgrounds that have been effected? They have had to redo the playgrounds because there have been complaints.

WJ – We have received complaints. Since 96 have not been in compliance. 2009 advisory opinion wood fiber.

We don't require entire playground, we require area around the equipment. Haven't been including building inspector. The complaints are moving quickly. The main change in new code we are starting to cover equipment, use area.

SL - Since 1996 people have been required to comply.

WJ - Yes. This is our first full rewrite since 96.

SL – The only way to do safe route is poured in place?

WJ – there are a couple products out there.....We are willing to look at other materials.

Because of intersection regs and fall safety standards.

Deb Ryan, DRyan Associates

I have another comment on scoping issues. If it was up front it would help people. Amusement parks now. Outdoor recreational facilities scoping would be important.

Michael McGuffie – Have been in the wood fiber business for over 20 years.....

The point I will bring up I will do a detailed recommendation. I am going to the meetings and collecting information and will have in by June 1.

The National Safety Board has been working for two decades. Need to have a performance material. 1 in 12 ramp takes so much work. We spent two decades to come up with accessibility. North Andover case. Come up with a product. I suggest there be a performance

spec in the accessibility of the playground. We developed a national program. Performance wise less than an acceptable ramp?? My materials tested, engineered wood fiber, tested significantly it requires less effortI suggest a performance spec. When you come out with products that are good and some that are not I disagree with that.

WW - Our standards are firm stable and slip resistant.

Firm stable slip resistant has always been part of our guide lines. 1 in 12 ramp.

Jennifer Sapochetti, Principal J S Consulting Engineering – Building and accessibility code consultant. I deal with all CMRs in MA, I have to put them all together. It is great that the updated version is moving forward. I would like to see it needs to be coordinated with 780CMR. There is a lot of cross reference. Should be the same definition in 521 CMR. Dwelling unit vs sleeping unit. Coordination in terminology in state as well as ADA consistent terminology. In front of 521 CMR the text overrules the figures. Still relying on figures that there is not back up. Playground surfaces, I was looking at is as fire alarm perception, should not be requirements in 521 that limits what is available today. The time it took to get here, you don't want to miss the latest technology. Less rigid alliance on old technology. Phone jacks, lot of wireless. New technology can serve people better.

To require existing building to convert to type b would be a project killer. It won't happen so you won't get type A units. Type b do align with fair housing units. If it is a gut renovation of vacant mill, maybe a tiered level of requirement. Will submit in writing.

Recess

Reconvened

Don Mills Architect - Existing buildings of community use, historic buildings. Have a deep appreciation for thresholds. 521 CMR has done more than ADA has. Dovetailing 521 with 780 gives it teeth. Appreciate the variance process for historic buildings. Helps maintain historical. Variance and hearing process is fair and helpful. Most done without a hearing. Other examples that have surprised me because they weren't included are now.

Recess 3:35

Adjourned 4:30