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**Subcommittee on Regulations Meeting Minutes -February 26, 2025**  
**Teams Meeting**

This meeting was open to the public and began approximately at 10:04 AM.

Subcommittee member attendance:

Jeff Dougan (JD)- Chairperson  
Carol Steinberg (CS)- Vice Chair  
Ana Julian (AJ)  
Mike Kennedy (MK)  
Patricia Mendez (PM)  
Elizabeth Myska (EM)

Division of Professional Licensure Employees attendance:

William Joyce – AAB Executive Director (WJ)  
Jamie Dalton- Board Counsel (JaD)  
Molly Griffin – Program Coordinator (MG)

JD opened the meeting for Roll Call:

CS, AJ, MK, PM, EM

JD makes opening remarks regarding today's meeting: Makes clear that this is a subcommittee meeting, not a listening session. JD notes some issues he would like to touch on today as well as some ideas including but not limited to, an increase from 30% to 35% acknowledging rising costs, expanding the categories of work, establishing a higher threshold specifically for exempted work before full compliance is triggered- maybe 50%, this appears to be the biggest hurdle, maintaining the current 3 year compliance period, and the last two: enhancing awareness and understanding of the variance process which can also give timed relief, and encouraging all the partnerships they heard from to develop targeted grants that not only help with accessibility codes but other codes that are costly to comply with.

- DR: Is everything you just said MOD's position or just a personal position?
- JD: That was my own personal position as Chair of the subcommittee with my knowledge and expertise. It was to give us a starting point for discussion.

- WJ: JD is sitting here as a volunteer not a designee, so my assumption is that these are all personal opinions as no one is a designee
- CS: Thank you, JD, for those comments. I set up a meeting with Joe Creesberg from Mass Inc. and met with Andre from Gateway Cities and advocates for more information-gathering. Can I report back what I learned from that meeting?
- JD: Yes, please provide your comments
- CS: I asked about replacement value and why it would be better. They said it would be more equitable across the state as compared to than assessed values. I then inquired whether replacement value can be looked up as easily as assessed value.
- JD: On the assessor's property cards, I am not usually finding assessed values on those
- WJ: I can tell you just from the fact that I have had to look these up, it varies from municipality to municipality; in theory; they should have all of this info. And assessed value should be based off of replacement cost- that is, including depreciation. More complete property cards have all of this information; unfortunately, in my experience, less than half of property cards list this information.
- CS: I know assessed value does not include the land; does replacement value include the value of land?
- WJ: No.
- CS: If you went by replacement value, it would mean less accessibility, as it would be harder to reach the 30%. We also talked a lot about variances, and how it would help if some common variances were codified.
- WJ: If it's helpful, I can respond. All of the commonly granted variances that can easily be codified have been dealt with by the subcommittee performing regulation revisions already. Regulations regarding sinks are getting fixed, as are regulations regarding refrigerators and signage.
- CS: What I heard from the group is that the variance process is very intimidating and people don't want to go through it. I think this is worth discussing. Could the standard be broadened from what it is now, or could we change the language to encompass whether compliance considers affordability?
- DR: It's statutory, though, CS
- JD: Did you also discuss exempted work?
- CS: Yes, they said if we dealt with exempted work, that could take care of their concerns. We wouldn't need to change anything else. We don't want to make it so that all of these other things take precedence over accessibility. But, it was a really good meeting, with three advocates, Sadie, Ben, and Sam.
- DR: There's one other piece of work that we may want to exempt from the 30% and that is accessibility work. I have had people that want to put an elevator in, and the elevator work would cost more than 30% of the building value, which triggers the requirement to make the entire building accessible, which is way more expensive.
- JD: That's a great point, but I don't want the AAB to lessen so much that it becomes ineffective
- DR: I think we may want to look at other codes and look at the thresholds, like building codes.
- JD: I do think there needs to be a threshold in the exempted work
- DR: It's the full compliance that is causing the problem, treating 30% as if you are a brand new building, that is causing the problem in my opinion.
- JD: Do they allow piece meal work for sprinklers?
- DR: With sprinklers, you're not touching the whole building though, while accessibility does. When you have an existing building, I think it's looking at what is 30% is required
- JD: I think the exempted work, if triggered at a certain threshold, should trigger full compliance, but maybe that threshold is much higher, like 50 or 60%. If we get away

with piece meal work then people would be able to get into a building but not get around inside it.

- DR: But if we can get it to the point where if you spend a certain amount, but just because you are adding windows or a heating system then you have to fully comply- those were exempt in the past
- WJ: Perhaps it would be better to set up a speaker list to get through everyone
- CS: That's interesting what DR was saying, I hear that, but I haven't heard that from everybody. I think exempted work and the variance process is what we have to focus on. But I like the idea of going through the list of exempted work and deciding what we can have apply to the 30%.
- JD: I am going to go around the room, and then we can go from there
- AJ: I think I would agree with DR, it's not just the renovations that are the problem, but I think work like a new roof or windows, and it's why so many buildings have deferred accessibility. I think many people are not aware that the Board can grant time variances. And, yes I think clarification for exempted work, I don't know maybe clarify that work is work that will not affect accessibility.
- MK: I like some of the ideas that DR and JD came up with. There are a lot more legislators that have now signed on. Including legislators that CLW has a high deal of regard for. So something has to be done with this, and I don't know what the best solution is, but I like that we are getting a lot of options. Has any legislation been made to change the 30% rule?
- WJ: Not to the best of my knowledge
- MK: The act relative to MAAB is not going anywhere until this is addressed, and maybe that could be an incentive we can provide for changes in the 30% rule
- WJ: Just noting for the record that this subcommittee cannot tell the legislature what to do.
- MK: I am willing to listen and support the will of the folks on this subcommittee on what to do to appease everybody and continue to make Massachusetts the most accessible state
- JD: I would ask the subcommittee to remember that we are not the bystanders here, we are tasked with figuring this out. Some of the suggestions here are hitting home and are things we have to consider.
- PM: I am very open to listening and to having an opinion and working things out on the details of the 30% rule, and I agree 100% with the exemption of accessibility work that DR brought up and should be incentivized. I think the time variance is a huge one, because when I bring those up related to projects around the city, people seem surprised that it exists, so education and awareness of the time variances I would make a priority. I cannot remember one time that we denied a timed variance, unless it was something outrageous; we really look at it and work with folks who request those. This for me is the first thing and a priority. The consistency on the replacement, in theory is not there, but in practice is not something we should push to be there. Lastly, the roof replacement, every time someone came in with a leaky roof situation, the Board works with it and gives timed relief for what needs to be done, so I think the roof replacement is a good candidate to make some changes.
- EM: I don't have the depth and experience of fellow board members. But, JD you said at the beginning about balance of these competing interests. So, I am intently listening, but I am finding this discourse very informative for me, so that ultimately here's my position. I'm impressed by the discourse and I am encouraging everyone to keep those cards and letters coming because it is helping me.
- DR: If any members of the public that are listening, that this is not the end-all be-all. There's many more opportunities and we are all struggling to do the right thing.
- JD: I think we should probably consider some of the exemption language

- WJ: If you're looking to structure the debate, I have identified three primary topics of discussion: the scope of the 30% rule, the exemptions of said rule, and the value you are measuring against.
- CS: Even if work does not address accessibility, it makes accessibility drop lower on the priority list. Even if all windows and roofs are exempted, it makes accessibility drop lower.
- JD: I think what I'm hearing is, you don't want to see blanket exemptions without a threshold,
- CS: I think that's one thing yes, I wouldn't want to exempt everything, maybe we could exempt one of these things, not windows and roofs, choose one. It makes accessibility drop further down the more things that are exempt. I would add to the list is variances, WJ, the word has to get out to the public
- WJ: So I just wanted to address the variance process piece, it is a worthwhile discussion but just not for today. Unless you are planning to write it into the scoping section, then I don't think we should have it today.
- JD: I want to quickly go around the Board with is the work performed anything we're worried about or considering changing? Is that something we should debate today?
- WJ: We are looking at exemptions to the \$100,000 rule that these exemptions only apply if you are doing exempted work if you are doing work and exempted work you go back to the \$100,000 rule not the \$500,000 work
- DR: Some historical perspective as to why this is written this way. This came in after the 30% rule and it was all exempt and it lasted less than a year. A local housing authority that was doing a complete gut renovation and trying to argue if they took out all of this stuff the cost of their renovation was \$90,000 and they only wanted to put in the kitchen and baths. So that's where this came and then the Title 5 regulations came in, but there was a period of time where all of this was exempt from the 30% and it was not that long.
- JD: So, what we have today has been built off of some things that were viewed as misguided.
- CS: That was very helpful DR. It can be misused if all of these exemptions apply to the 30% rule. Where it says either alone or in combination with each other, would it be helpful if it just says alone? If only one of these is performed.
- WJ: I think the "in combination with each other" is meant to cover if you're doing plumbing and electrical
- CS: But if you're doing a, b, and c
- WJ: Yes, that is what it's trying to cover
- CS: So if you were doing b and c
- WJ: If they do not have the "in combination with each other," they don't have the exemption
- DR: But, if they're doing the work combined and hitting the 30% then they have to do the 30% rule
- CS: I would be against if they are doing all of this work together all of that being exempted from the 30%
- JD: The idea is right now, that exempted work is triggered at 30%
- CS: I don't want the result to be that a big project like DR said she has seen does not have to be accessible
- WJ: Currently this is structured as a threshold approach, it changes the threshold from \$100,000 to \$500,000, if you applied this to the full compliance rule. I think if you want to exempt accessibility work, it should be exempted separately.
- DR: You have to get the minimum accessibility needed, the stuff we are talking about is all of the other things that go along with it. I don't agree with exempting all kinds of stuff

to get around accessibility. I wouldn't support anything that reduces minimum accessibility.

- JD: I struggle because these other things are needed for accessibility
- DR: If you're not doing any work on areas right now, there has to be a step where you don't have to do that work right now. There are fine lines. It's not working for everyone.
- DR: The ADA makes every building in the state have minimum accessibility
- JD: The ADA is not good, if developers had their way, they would gut 521 to make it like the ADA
- DR: I disagree that people are trying to do that
- JD: Thoughts on starting from 3.3.1?
- CS: It was interesting that DR said that even if these things are exempted, we need basic accessibility. Are there other things that are really important?
- WJ: I have two concerns about starting from the top, the way this meeting was noticed, states the 30% rule
- JD: Okay, for the fourth time today, we will start at 3.3.2
- DR: I would just take out "including the exempted work" from that sentence
- PM: I have a question, would it be helpful to add a cushion of time to make a building fully accessible?
- DR: I don't think it would help. If you are doing this exempted work that's triggering the 30%, that's the problem.
- PM: What JD suggested with the higher threshold, would that help?
- DR: I am not sure. I think if we take the language out and work backwards it might help, but I am not sure.
- WJ: From reviewing information, I think there are fewer changes that need to be made. Staying at the 30% number and the assessed number is fine if we look at the exemption points. However, I would suggest a minimum number.
- JD: Is that kind of mirroring what they were doing where you had to spend 5%?
- DR: Sort of
- CS: I can't vote yes to excluding the "including exempted work" until we discuss everything else. Or we should say the exempted work as set forth below
- JD: Do people have thoughts on where this threshold should be?
- MK: Just considering all the testimony that we've heard, I definitely want to continue exploring that and I would be against raising the threshold above 30%, but would love to hear what others say
- CS: I am echoing MK, I didn't realize that the replacement value is not on every card, I would rather deal with the exemptions. If the replacement values were on every card I would feel differently
- WJ: I think the difference between these two values is less than people might think at first jump. People are importing how they think assessments work, and they are correct but because of DOR's rules, they are based on the assessed values, if anything it is based on more expensive labor costs. The main difference between assessed and replacement cost for land is based on the market, but for buildings is based on the condition. If the primary area of concern are the cards, it could be a situation where you can use the replacement cost if it is available. It should not be a huge lift for towns to display this information publicly.
- JD: Are you saying there is not a significant difference between assessed value and replacement value?
- WJ: It will vary more depending on how well-kept the building is; it depends on if the building is in disrepair.

- PM: We should look into that replacement cost value, because a lot of the letters we received repeated that concern, so I wanted to focus on that.
- JD: The advocates that have responded don't want this rule to change. I hear the struggle that designers, developers, and small businesses are facing, but to remember this as well- we got significant comments from both sides
- WJ: I more or less agree that I think the correct way to correct this is through carefully tailored exemptions
- JD: I think raising the 30% to 35% would be in line with other boards
- CS: I would be against raising the 30% and dealing with exemptions; I think dealing with the exemptions could take care of it. WJ, are you saying even with exemptions, you have to provide the bathroom and entrance?
- WJ: That is something the subcommittee can address in the lesser jurisdictions. JD, on your point of raising the number it was raised from 25-30% because we went from 2 years to 3 years, we wouldn't be breaking with past usage if we didn't alter the percentage count.
- WJ: Rather than a percentage raise, it may be better to include a minimum to spend, to address the concerns of small businesses with very small buildings
- JD: Let's talk about the minimum threshold, then
- WJ: My initial recommendation would be starting it at \$100,000 and I think the intermediate jurisdiction number should go up to deal with inflation
- DR: Are you saying you're putting a dollar value on spending?
- WJ: The opposite - where if you're at the 30% and not spending that minimum objective amount.
- DR: I think starting to put a limit on things gives people a number to aim for as a maximum. I think we need to look at this differently. I'd rather not see a dollar value there.
- JD: DR you said moving the exempted work under section 3.3.2, so you're suggesting exempted work
- DR: Yes
- MK: It makes sense to take inflation into consideration, but DR is right at looking at this as a whole, rather than piece-meal
- CS: I think it's all in the exemptions, I appreciate WJ's idea but until we figure out the exemptions, I can't figure out what that threshold would be. I think we should talk about the exemptions first.
- WJ: The minimum number was just something to throw out there. I do have concerns about not having a threshold regarding the example you gave earlier with the housing authority. The exemptions should not be unbounded.
- CS: I agree with the threshold on the exemptions
- JD: But it has to be part of the conversation
- CS: I also think the language in the exemptions has to be worked on; it's too broad
- JD: I have to agree with that; there has to be a threshold on the exemptions, or else we are just like the ADA, I think the 30% threshold is too low
- WJ: I have quickly thrown together a draft if it would be helpful to share. \*WJ shares draft\*
- WJ: This is more of a discussion piece, because it seems we keep circling around this
- AJ: Can you clarify the 30% and the 75%
- WJ: Normal work would be subject to the 30% threshold, but exempted work would be subject to 75%
- CS: This can be voluntary, people can do all of this work before they address accessibility, it leaves it all in their hands. I would like to see some kind of emergency

thing, for example, if you have to do your roof over. I would rather have 50% (as the threshold)

- JD: We haven't gotten to all of the exempted work yet
- DR: I think I would be okay with that 75%; it sounds like you're eliminating things but you're really not. If you're doing a gut rehab, these exemptions don't apply.
- PM: I agree with CS, I would be more comfortable with 50%
- WJ: So, the reason I picked 75% was to capture what I've seen on some applications, I wanted to have a generous threshold, I would be fine with it up to 100%. There is a number at which even if you're doing only exempted work, that you have to comply. I would strongly oppose emergency language for enforceability reasons. I like bright-line rules that don't allow a lot of interpretations. I think we avoid malfeasance with a threshold. I would be careful about setting it too low
- JD: Rather than being the \$100,000 rule, would we have a lower threshold that gets us the entrance?
- CS: Isn't it already in the \$100,000?
- DR: This is only exempting the exempted work from the 30%
- WJ: If you want a baseline threshold place, the place to put that is 3.3.1
- CS: I don't see how if you do all of this exempted work, we could permit not requiring it to be accessible
- DR: The difference is that where it says whether performed alone or in combination – from the example, they wanted to take out the work from their baseline cost, you cannot do that the way this is written
- CS: If you perform any work along with these exempted works you do not meet this exemption
- JD: WJ can you put 50-100% as a placeholder in this draft
- MK: I like this as a placeholder for now
- WJ: Might I suggest we take the last 15 minutes for public comment and ask for specific exemption suggestions or thoughts for next month?
- PM: WJ can you email this draft to us separately?

#### **Public Comment:**

Andre Leroux (Gateway Cities/MassINC.): I feel like this last proposal is a step forward, I do want to highlight one big concern that my constituency has, which is the question of regional fairness. The challenge is that anything tied to a percentage with property values is going to really vary across the state. It's not even a question of accessibility, but we really would like a solution that is fair among all communities, because this affects those low-value communities more than others. One option to consider, to the 30% rule, would be to adopt the IBC categorization of renovations (levels), and I just wanted to throw that out there, instead of the percentage basis. We certainly agree with the concept of having a certain amount of work being done triggering a certain amount of accessibility work being done.

Sam Larue (Southeast Center for Independent Living): The whole point of the MAAB is to ensure accessibility within architectural operations in MA and I want to reaffirm (me and my colleagues at ILC Centers across the state) in maintaining the 30% rule as the norm across the state. Disabled people do exist in all of these communities, so I don't want us to get lost in these complex situations.

- MK: Great job JD today, I'm just suggesting we vote on the Jan. 22 minutes

Motion to Approve the Jan. 22, 2025 minutes by MK

2<sup>nd</sup> by CS  
Roll Call Vote  
DR- abstain  
EM- yes  
PM- yes  
MK- yes  
AJ- yes  
CS- yes  
JD- yes  
6 yes, 0 no, 1 abstention- Motion Passes

Motion to Adjourn by CS  
2<sup>nd</sup> by MK  
Roll Call Vote  
DR- yes  
EM- yes  
PM- yes  
MK- yes  
AJ- yes  
CS- yes  
JD- yes  
7 yes, 0 no, 0 abstention- Motion Passes