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Subcommittee on Regulations Meeting Minutes -March 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 in attendance:

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

JD opened the meeting for Roll Call:

CS, AJ, MK, PL, PM, EM, DR (arrives at 11:00 AM)

JD offers a thought exercise related to the 30% rule, and notes that the purpose of this subcommittee is to protect people with disabilities, but adds that wants to come to a middle ground to address other concerns that have been raised. JD shares a document with his ideas, in order to get the conversation started. He outlines a 2-tier system similar to what is currently used, but with different requirements and value caps. He provides a detailed overview and then allows conversation among subcommittee members.

- PL: I think your list is a jumping off point, and I have also looked at DOR, but this is a great list, some I agree with and some I don't, but a great list
- PM: I think having a DOR representative come and give us information is a good idea. Wow, and thank you for all of your hard work on this
- CS: Thank you for putting all that together. My thought going into this meeting was, the advocates I've spoken to like the 30% rule as it is, and I think we have heard enough

testimony that it should be changed. I did not have time to look at it the proposal received from the public last night..

- WJ: Their primary argument was adjusting 3.3.1 for inflation, and contemplating the tier 2 and tier 3 from IEBC
- CS: Can you send your document to us? In favor of a process that allows for conversation between the two sides.
- JD: That's why I mentioned DOR and their expertise
- CS: So you're saying, invite them to explain where assessed values come from?
- JD: And how they achieve equity
- CS: Gateway Cities- where does that term come from? I think it is a mistake to have different percentages for different areas
- CS: I thought you proposed different standards for Gateway Cities
- JD: a 5% bonus, because they are something the Commonwealth recognizes
- WJ: I can explain all of the acronyms for the audience, the Gateway Cities are recognized by the legislature, the IEBC is the existing international building code, inside of that there are different types of alterations, there are 3 levels (WJ explains each level)
- JD: My only concern with the IEBC tier system is the 20% rule
- WJ: The ADA has what is commonly known as the 20% rule, where if the alteration costs 20% or more of the value you do not have to perform accessibility upgrades, and the DOR is the Department of Revenue
- AJ: I just want a clarification of the 20% rule of the ADA, is anything you are doing 20% of that amount has to go to accessible features, so I think we should consider that. From experience, I have to do the cross-work between ADA and 521 CMR, so I think we should consider the rule, and the ADA has that rule that anything that can be accessible must be made accessible so that is something that we should consider and thank you for putting together this document.
- JD: Are there any other questions? Do we need a motion?
- WJ: A motion to instruct the staff to reach out to the DOR for the correct person to discuss their process by which assessments are done

Motion to Instruct MAAB Staff to reach out to DOR by PM
2nd by PL

CS: So I know that they are going to explain, what is EQV?

WJ: EQV is Equalized Valuation is a ratio put up by DOR, most properties fall between a 90%-200% range

CS: So, they are going to come and explain how they are done

JD: and how they achieve equity, I just want insight on it

Roll Call Vote

CS- yes

AJ- yes

MK- yes

PL- yes

PM- yes

EM- yes

JD- yes

7 yes, 0 no, 0 abstentions- Motion Passes

- JD: Explains tier system from document he made and explains IEBC tiers
- CS: Am I right that this is what NAIOP wanted?
- JD: It is in line with this, but they may be suggesting using the IEBC as is
- CS: Did AJ voice support for this?

- JD: AJ was suggesting the 20% disproportionate rule from the ADA is not as bad as I may think it is in her experience
- AJ: I was just going to ask about IEBC because is it 50% of the total building or 50% of the area being renovated?
- WJ: If the area being renovated results in 50% or more of the building area you trigger a level 3 renovation.
- AJ: I like those three levels, because it has everything to do with accessibility. I think the level 3 we should discuss more, because it is closer to what Massachusetts has already
- JD: AJ, you did mention that when you are comparing ADA and MAAB regulations, how would the 50% compare to the 30% - do we have any correlation there?
- AJ: No, because 20% of work has to be for accessible features, period
- JD: How would the MAAB validate the 20% accessibility? Unless it is clearly written on the permit?
- WJ: From a boring perspective, that is the biggest problem with the disproportionality rule; it could be impossible for us to validate something a building did not have done at a time in the past. As a state agency, it would be impossible to get an in-depth look at past cases. It would increase the amount of soft costs for people doing construction as well. It's built for a different environment than we are in.

DR arrives at 11:00 AM

- WJ: Gives DR a summary of what has been discussed so far
- JD: These are just thought exercises and my ideas. We did vote to request DOR come in and give insight.
- JD: So, we've got comments that came in yesterday, my thoughts, do any other members have any ideas that they want to discuss? Do we want to pause on the 3.3 review? I don't want to be the only one suggesting things to discuss
- DR: I just have one thought, I know there was a lot of talk about replacement value. I think there should be a mechanism for allowing replacement value, not by variance, but they can ask the Board to substitute the value- I don't know how that would work, but something to look at.
- JD: We've got low assessed and high assessed values
- CS: I think it's important to know that the proposal of replacement value has been abandoned by MassINC. They realized that replacement value would reduce accessibility across the state
- JD: I think it is something we should consider for super low-value buildings
- CS: There is difficulty of using the replacement value. I'm curious if anyone has had experience with the Tier system. I'm not sure if it is workable with our set of regulations- it would affect everything. I don't see why it is better.
- WJ: A large difference between the assessed value and replacement cost- it could be because the building is under-assessed, or because it is in poor condition, and we would need a way to determine why there is depreciation. To CS' point, the level system outlines things that should be captured on the building permits already.
- JD: We may want to have a local building inspector come in also and discuss how they enforce and monitor these things
- JD: Subcommittee, how do you feel about a 10-minute break and then coming back for a public comment period?

Motion to Instruct MAAB staff to liaise with BBRS to get a representative, ideally a former building commissioner, to speak about IEBC levels and enforcement by CS
2nd by PL

Roll Call Vote
CS- yes
AJ- yes
MK- yes
PL- yes
PM- yes
EM- yes
DR- yes
JD- yes
8 yes, 0 no, 0 abstentions- Motion Passes

Public Comment:

Edward Adelman (Architect): There are a lot of tax exempt and state-owned buildings that do not have assessed values, I would like to endorse the idea that without a variance, the owner of a building should be able to request the replacement value in lieu of the assessed value.

John Nunnari (AIA): 1) the letter that's referred to is from a group that I am a part of, and I will offer myself as the point of contact for that group if you have any questions. I think our group would certainly be supportive of what DR mentioned as an option or a tool, though we did not mention it in the letter. Offers clarification on IEBC. I would support having DOR help with the conversation surrounding the values, but I would also encourage this group to reach out to the MA Association of Building Assessors, who represent the local building assessors on the ground, who run into the situations that Edward was talking about.

JD: Between the 2018 and 2021 IEBC, did they change those definitions much?

John Nunnari: I would have to go back and check. I also wanted to say I am working with the BBRS on a subcommittee for their 11th edition of the Building Code, and one of the recommendations we are making regards whether they should adopt the 2024 document, or skip ahead to 2025- just as an FYI.

CS: I have a follow-up for John Nunnari. Is there a particular person at the Mass. Association of Assessing Officers and what would you want to ask them?

John Nunnari: I guess I would start with Ashley Brown, their current president, and I think they bring to the table perspective about where DOR's limitations lie.

Michael Muehe (BCIL): There's a lot to digest here, but the main thing I want to say is that the benefit of the 30% rule is that it is simple, direct, and one sentence. It is easy for laypeople and advocates to understand. The language in some of these drafts is much more complex and it will naturally inhibit people who may not have a lot of training. Simplicity is the keyword here, and any changes that are made should include as much simplicity as they can.

- JD: For other subcommittee members, what do you want to do next? In reality, I think we need to digest all of this stuff.
- PL: I am in favor of moving forward, as we have to digest this. We do want to make sure it is not too complex so it drives the full Board crazy with requests for exemptions. This is the one shot we get at it.
- CS: I think all of the IBEC talk is making it very complex. It sounds very complex. I think we should keep our eyes on proposals discussing exempted work. I am in favor of moving on, too
- WJ: I think before moving on, are you moving to the level 2 and level 3 system, I think we need to talk about exemptions.

1107.5.1.1

- WJ: Okay, we are back to section 200, so this is a little bit different because ADAAG is much narrower, so the section numbers do not correspond; the 1100 sections are from the state code that we were looking at
- WJ: Okay, I will start at a higher level about dispersion, and Group info because these sections will mention those groups a lot
- JD: Let's start with Minnesota Code
- WJ: Just remember Type A is Group 2, and Type B is Group 1 (old)
- WJ: In institutional type 1 buildings where people can respond to emergencies without assistance- 4% of sleeping rooms are accessible, and for Condition 2, 10% of sleeping rooms shall be accessible
- DR: Are we not limited to 5%, but we can require up to 10%?
- WJ: In healthcare facilities?
- CS: I don't think the statute says anything about healthcare, does it?
- WJ: This is breaking up what our current regs have into Condition 1 and Condition 2- which asks: do people need assistance leaving when there is an emergency?
- CS: I feel like we dealt with this, we raised the percentage in hospitals
- WJ: I don't think so, we are not at hospitals yet, these are, for example, drug rehab facilities and group homes, for Condition 1
- CS: Why are they any less in need of accessible units in these places?
- WJ: Because Condition 1 is where the population can exit without assistance,
- DR: I think we should change the 4 to 5%

Motion to Change 4% to 5% consistent with our regs by DR
2nd by PL

WJ: I think we should adopt the I use-types, they are very useful and will make enforcing the regulations simpler

Roll Call Vote

CS- yes

AJ- yes

MK- yes

PL- yes

PM- yes

EM- yes

DR- yes

JD- yes

8 yes, 0 no, 0 abstentions- Motion Passes

1107.5.1.2 Type B Units

- WJ: This just requires every unit to be Type B unless they meet certain exceptions, which I will show you now in 1107.7
- WJ: We'll get to June's comments when we get to the R uses, we are still in I for institutional
- JD: WJ, can I take a poll of the subcommittee members, because my mind is on Section 3, so are people digesting this?
- PL: I am still awake
- DR: I am awake, but this has become extremely complicated
- WJ: Do we want to put this on the agenda for next time, and then just strongly as possible encourage people to review the 1100 language and read the corresponding language?

- JD: Do we want to put another section that's easier?
- WJ: I'm afraid it does not get any easier from here, unless you want to look at trails, and then we have to write code from scratch
- JD: With that, I would suggest adding some trail stuff for next time
- WJ: Once people have a chance to read through this (1107) and understand it, it is not as complicated as it seems
- WJ: To answer Michael's question in the chat, 521 CMR uses Group 1, Group 2a, and Group 2b. In the new nomenclature for the draft with your revisions, we will adopting ANSI nomenclature which is Type A (Group 2a), Type B (Group 1), and Fully Accessible (Group 2b)
- CS: On the issue of new things, I have something that I want to raise on that, bike lanes, and I think we should discuss that,
- WJ: Send me an email, and we may have to tread carefully, because our jurisdiction over vehicular paths of travel is weaker
- CS: It's how they affect us
- WJ: We, generally speaking, do not have jurisdiction over the street itself
- JD: With that, I think we will pause here for today, again opening this for public comment:

Public Comment:

John Nunnari, AIA: Just a simple comment. There is not a consensus in the design and building world as to whether a triple decker is under the jurisdiction of the MAAB or not; the public building says multiple dwellings of 3 or more, and so I encourage you to clarify this question when you have an opportunity to discuss it.

Motion to Approve the Feb. 26, 2025, minutes by PL

2nd by PM

Roll Call Vote

CS- yes

AJ- yes

MK- yes

PL- abstain

PM- yes

EM- yes

DR- yes

JD- yes

7 yes, 0 no, 1 abstention- Motion Passes

Motion to Adjourn by PL

2nd by DR

Roll Call Vote

CS- yes

AJ- yes

MK- yes

PL- yes

PM- yes

EM- yes

DR- yes

JD- yes

8 yes, 0 no, 0 abstentions- Motion Passes