



Engineering • Design • Consulting

June 15, 2020

Steve Hutton
Director of Recreation
Charleston County Parks & Recreation Commission
861 Riverland Dr.
Charleston, SC 29412

Dear Steve:

Please accept this letter as the introduction to our final report to the Charleston County Parks & Recreation Commission, in regard to our access audit of Commission sites.

Authority

Title II of the Americans with Disabilities Act (42 USC 12131) prohibits more than 89,000 units of state and local government, such as the Commission, from discrimination on the basis of disability in the delivery of programs and services. The definition of programs and services is broad and includes parks, trails, playgrounds, sport fields and courts, recreation programs, and the many opportunities made available to your residents by the Commission.

The Department of Justice (DOJ) issued an amended implementing regulation for title II, which became effective on March 15, 2011. This supplemented the regulation issued January 26, 1992. The DOJ regulation is integral to this audit and can be found at 28 CFR Part 35. Title II requirements that come into play in our work for the Commission include:

- section 35.105 self-evaluation;
- the section 35.133 maintenance requirement;
- the section 35.150 program access test regarding existing sites;
- the section 35.151 requirements for new facilities and alterations to old facilities, and
- the section 35.163 requirements regarding building signage.

Final and Enforceable Regulations...and Final Guidelines

Regarding parks and recreation sites, two sets of federal guidelines were applied to the Commission access audit. One is the Americans with Disabilities Act Accessibility Guidelines, also known as ADAAG. Published by the US Department of Justice (DOJ) on July 26, 1991 as Appendix A to 28 CFR Part 36, this final and enforceable regulation is now known as the 1991 Standards. This older Standard adequately addresses entries, showers, curb cuts, doors, service counters, ramps, decks, and other typical building elements.

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On September 14, 2010 the DOJ published the 2010 Standards for Accessible Design. The US Access Board developed the 2010 Standards, which include requirements for playgrounds, golf courses, fishing areas, boating areas, and more.

It is important to know that there is ***not yet a final standard*** for some Commission assets. Still pending are standards for trails, picnic areas, campsites, viewing areas, and outdoor elements such as grills. Where we encountered those assets we used the most recent work of the US Access Board to guide our evaluation. The Access Board, a federal agency, develops ***all*** access guidelines.

Our site reports cite to all three: ADAAG, the 2010 Standards, and the Outdoor Developed Areas Guideline. Where South Carolina access standards are more stringent, we cite to those.

Approach and Analysis

Section 35.150 of the DOJ regulation implementing the ADA makes it clear that not necessarily every facility or site of the same type must be made accessible. We interpret this requirement to mean that with similar sites, such as play areas, the Commission has some flexibility in determining which site it will make accessible.

However, for unique sites, such as the Caw Caw Interpretive Center, the Commission has no choice with regard to which site it will make accessible, as there is only one such site. Where we know the Commission plans work at certain sites, we have incorporated that into our work.

In an access audit, it is critical to measure each feature of each element of each site, as we have done here. Where we found a variance from access requirements or a smart practice variance, we have digital images so that the Commission will better understand the variance.

An additional issue is whether a building has been altered since 1992. If so, there is little flexibility in how access requirements are applied to that site. That site or building should have fully complied with the 1991 Standards.

Settlement agreements by federal agencies (Justice, Interior, and Education) adhere to what are now the 2010 Standards. While these were effective for new construction on March 15, 2012, ***the 2010 Standards are to be used in evaluating recreation sites now in existence.***

Report Format

Our audit included an examination of 51 facilities or parks. Each facility or park has its own section in our final report. Our Conclusion section is found at the end of the site reports. Here is an order of the reports:

1. This cover letter;
2. 51 site reports;
3. Conclusion report with summarized recommendations and transition plan; and
4. Program access grid and maps for playgrounds, sport fields, and picnic areas.

Finally, you will receive a user name and password to our FTP site, where all reports, checklists, and images are available for use by the Commission. Once downloaded, on your screen, the text in the reports section includes a hyperlink to the checklist and the photo being referenced.

The checklists also have a hyperlink to the same access deficit images

Title II Program Access

As mentioned above, the title II program access test in 35.150(b) gives the Department great flexibility in making existing facilities and sites **that have similar features** accessible. For example, we counted eight playgrounds. Not all of those sites must be accessible.

The program access test requires the Department to make the “program of playgrounds” accessible to all Department residents. Our goal was then to have at least one of every three playgrounds accessible, or able to be made accessible. Here is a summary of the results.

There are eight playgrounds. Four are currently accessible. We recommend no new changes. The Department could leave the remaining four play areas “as is” and inaccessible, until those are renovated due to age or for other purposes. This exceeds the ratio we recommend of one of every three recurring sites.

Where we believe a site should be made accessible to comply with the program access test, leading into the recommended corrective work our reports will use language like that below:

"Recommendations (Palmetto Island County Park is designated with an accessible playground so 1.4.1 through 1.4.6 is integral to compliance with title II program access test):"

Conversely, where we believe a site need not be made accessible, leading into the recommended corrective work our reports will use language like that below:

"Recommendations (in the alternative to 1.3.1, leave as is and designate other Commission playgrounds as accessible):"

We applied this concept to the duplicated elements of tennis, baseball, trails, playgrounds, picnic areas, and other assets. We believe our recommendations make these “programs” accessible to Charleston County residents.

How to Use this Information

First, read this final report cover letter. It describes the concepts and requirements invoked throughout the reports.

Second, read the Conclusion section. This is a big picture review of the issues and solutions.
Third, read the 51 site reports. Use your computer and you'll have instant access to the report for that site, the images of access deficits, and the checklists. Resist the urge to visit these first...do so at the risk of being buried in detail.

Fourth, use your knowledge of the sites and of your staffs' expertise. You know Commission sites better than we do, and you certainly know the staff better than we do. Blend in what you know with what we recommend in the report. There is always another way to solve an access problem...perhaps you'll be the one to see that solution.

Community Engagement

The Commission conducted three community engagement meetings. One was held during the day at Roper Hospital. A second was held in the afternoon at the headquarters office and the third was held in the evening at the RL Jones Center in Mount Pleasant. In addition, three focus groups were conducted on February 13. All were conducted in an effort to determine the access preferences and priorities of Charleston County residents. Overall, including the public feedback sessions and focus groups, we heard from more than 20 people.

Community members had good comments and those are reflected in the Transition Plan. In setting a retrofit schedule, it makes sense to seek the access preferences and priorities of the community. While the decisions to make are the responsibility of the Commission, a better decision is made with participation by community members.

The Coronavirus and Covid-19

As this project was in its final stage, the coronavirus pandemic and Covid-19 arose and had an impact on our completion and also on the work of the Commission. We remained in regular contact with Commission staff, and continued the completion of our work.

We do acknowledge that the effects of the pandemic remain unknown. Will beachgoers at Commission sites turn out in usual numbers? Will people wear masks to slow the transmission of the virus? Will people feel comfortable coming to Reggae Night and the other Commission programs and events? Will the summer of 2020 look like every other summer in the records of the Commission, or will this be the most unusual summer in the history of the Commission?

We do not know the answers to those and many other questions. We do anticipate that the Capital Improvement Plan for the Commission will be slowed as other priorities related to Covid-19 assume a higher priority. We urge the Commission to continue to make the Transition Plan work a priority, even if it is slowed along with other work, so the Commission can properly address the coronavirus.

Conclusion

The final reports identify, we believe, every access deficit at Commission assets, as required by section 35.105 of title II. We have, in our approach to program access, made recommendations so that not every access deficit needs to be corrected. The plan is flexible enough that later modifications, should your own plans change, can occur. We worked well with all Commission staff, but we owe a special thanks to you, Steve for your assistance.

The Commission has shown its commitment to making parks and recreation available for all in the community, including people with disabilities. Addressing our recommendations will assure that those services are available to Commission residents, including those with disabilities.

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If there are any questions, call me at 224-293-6451 or email me at john.mcgovern@rac-llc.com. Thank you for trusting us to work alongside you to make Charleston County Parks & Recreation Commission sites accessible to all.

Sincerely,



John N. McGovern, J.D.
Partner, Principal in Charge
WT Group Accessibility Practice

JNM/CHARLESTON COUNTY PARKS & RECREATION COMMISSION COVER LETTER 2020