



August 1, 2012

Bill Clevenger
Executive Director
Decatur Park District
620 E Riverside Avenue
Decatur, IL 62521

Dear Bill:

Please accept this letter as the introduction to our final report to the Decatur Park District, in regard to our access audit of the District buildings and sites.

Authority

Title II of the Americans with Disabilities Act (42 USC 12131) prohibits the more than 89,000 units of state and local government, such as the Decatur Park District, from discrimination on the basis of disability in the delivery of programs and services. The definition of programs and services is broad and includes public parks and recreation operations, such as the many opportunities made available for the enjoyment of your residents and registrants by the District.

The Department of Justice (DOJ) issued an amended implementing regulation for title II, effective on March 15, 2011. This supplements the regulation issued January 26, 1992. The DOJ regulation is integral to this audit and can be found at 28 CFR Part 35. The amended regulation did **not** change our approach and were anticipated for quite a few years.

Title II requirements that come into play in our work for the District 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.

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Additionally, we have incorporated Illinois Accessibility Code requirements where they are more stringent than the ADA requirements.

Final and Enforceable Regulations...and Final Guidelines

Regarding recreation facility design, two sets of federal guidelines were applied to the Decatur Park District 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. It adequately addresses entries, showers, curb cuts, doors, service counters, ramps, decks, and other typical building elements.

On September 14, 2010 the DOJ published the 2010 Standards for Accessible Design. As these Standards were already available as a final guideline, we used this as our guide in our access audit. It addresses many recreation environments. The US Access Board developed the 2010 Standards, which include requirements for playgrounds, fishing areas, boating areas, swimming pools, fitness centers, golf courses, and sports courts and fields.

The Access Board, a federal agency, develops *all* access guidelines. ***We cite to the 2010 Standards in our work.***

As mentioned above, the Illinois Accessibility Code (IAC) imposes some requirements that are more stringent than the 2010 Standards, for example, in the area of accessible parking and service counter height. The recommendations in this report incorporate IAC requirements.

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 playgrounds, the District has some flexibility in determining which site it will make accessible.

However, for unique sites, such as the Fairview Family Aquatic Center, DISC, Poage Arts Center and the Scovill Zoo, the District has virtually no choice with regard to which site it will make accessible, as there is only one such site. Where we know the District plans work at certain sites, we have tried to incorporate that as well.

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 District will better understand the variance. An additional issue is whether a building has been altered since 1992 (or 1985 under Illinois law). If so, there is little flexibility in how access requirements are applied to that site.

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Settlement agreements by federal agencies (Justice, Interior, and Education) adhere to what are now the 2010 Standards. While these are 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 56 facilities or parks. Each facility or park has its own section in our final report. Our Conclusion section 57 is found at the end of the site reports. Here is an order of the reports:

1. This cover letter;
2. 56 site reports from the Administration Building to Torrence Park;
3. Conclusion report with summarized recommendations; and
4. Program access grid and maps for playgrounds, baseball, basketball, athletic fields, picnic areas, shelters, and more.

The District is receiving one hard copy in 6 binders. The first and second binders will have all the final site reports, the program access grid and maps, and the transition plan grid. The third, fourth, fifth and sixth binders will have all the checklists.

You are also receiving one storage device with all text, checklists, and digital photos. 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 District great flexibility in making existing facilities and sites ***that have similar features*** accessible. For example, we counted 34 playgrounds. Not all of those sites must be accessible.

The program access test requires the District to make the “program of playgrounds” accessible to all District residents. Our goal was then to have at least 1 of every 3 playgrounds or tot lots accessible, or able to be made accessible. Here is a summary of the results.

There are 34 playgrounds. We believe 3 are accessible. In addition, we believe 9 more could be made accessible. The District could leave the remaining 22 sites “as is” and inaccessible. This is close to the ratio we recommend of 1 of every 3 similar 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 (not all playgrounds are accessible such as the large one at East Mound Park, so 1.2.1 through 1.2.8 is integral to compliance by the District with the 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 District playgrounds as accessible):”

We applied this concept to ballfields, athletic fields, basketball courts, shelters, and other duplicated environments. We believe our recommendations to you make the “programs” at playgrounds, ballfields, athletic fields, basketball, and other activities accessible to residents.

How to Use this Information

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

Second, read the Conclusion section 57. This is a big picture review of the issues and solutions we recommend.

Third, read the 56 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 Decatur Park District 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.

Conclusion

The final reports identify, we believe, every access deficit at the sites, 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.

Our recommendations are flexible enough that later modifications, should your own plans change, can easily occur. We worked well with all of the District staff, but we owe a special thanks again to Ryan Raleigh and Phil Tapscott for their assistance.

The District has for decades shown its commitment to recreation for people with disabilities. Addressing our recommendations will assure that the benefits of recreation remain available to Park District residents, including those with disabilities.

If there are any questions please call me at 224/293-6451 or on my cell at 847/363-9384.

Sincerely,

John N. McGovern, J.D.
President

JNM/DPD COVER LETTER 201201