

BBS MEMO

Ohio Board of Building Standards

July 17, 1992

2323 West Fifth Ave., Box 825, Columbus, Ohio 43216

**ORC §3781.111 REVISED
OBBC to refer to the
Americans with Disabilities Act
& Fair Housing Amendments Act**

HB 321, signed recently into law, revises ORC §3781.111 (regulations for building and parking accessibility) by eliminating the Ohio exemptions pertaining to: multi-family dwellings (R-2 and R-3 Uses); commercial establishments under 10,000 sq. ft.; and places of employment. The law now charges the board with adopting rules in conformance with the Americans with Disabilities Act and the Fair Housing Amendments Act.

The new version of §3781.111 ORC retains a significant parameter from the old text. It continues to limit the scope of the rules to construction requiring plan approval; therefore existing buildings would not be covered unless repairs, alterations or additions were to occur which required plan submittal. The Ohio law also differs from the Federal statutes because there is no retroactive application. Plans approved prior to the effective date of the relevant OBBC changes are considered in compliance with Ohio's requirements (proposed rules planned for public hearing Nov. 1992, effective date possibly 1/1/93).

It should be clearly understood that the Ohio law and the changes in the OBBC that will follow, do not supersede the application of the ADA or the FHAA. An apartment building, municipal offices or strip shopping center under construction today may be in compliance with the applicable Ohio requirements but they could be found in violation of the Federal laws if they weren't built to comply

with the Federal criteria. County, municipal and township agencies, are required by Federal law, to comply with the ADA's Title II provisions. Since January 26, 1992, Title II has required public agencies to make their programs, services, etc., accessible for people with disabilities. Also, new construction and alterations to existing public facilities contracted after January 26, 1992 are required to comply with one of two choices of compliance criteria: the Uniform Federal Accessibility Standard (UFAS) or the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG). It should be noted that the elevator exemption indicated in ADAAG does not apply to governmental buildings.

As far as OBBC enforcement is concerned, building departments will not have authority or the responsibility to enforce provisions of the ADA or FHAA until the OBBC changes are made effective. However, it may be necessary for building departments to understand the regulations pertaining to ADA's Title II criteria if they provide design review support on behalf of the governmental entity (counties, townships, municipalities and state agencies generally assume they are in compliance with applicable design and construction requirements if they are in compliance with the building code).

The Ohio Department of Industrial Relations is an equal opportunity employer.

For information and copies of the regulations pertaining to the ADA, contact the U.S. Department of Justice (202) 514-0301

For information and copies of the regulations pertaining to the Fair Housing Amendments Act of 1988 contact the U.S. Department of Housing and Urban Development (202) 708-2618

Excepts from HB 321
Section 3781.111

- (A) In addition to the powers conferred by any other section of the Revised Code, the board of building standards shall adopt standards and rules to facilitate the reasonable access and use by all handicapped persons of all buildings and the facilities of buildings for which plans are submitted for approval under section 3791.04 of the Revised Code. No standard or rule shall be applied to any building the plans or drawings, specifications, and date of which have been approved prior to the time that the standard or rule takes effect.
- (B) Except as otherwise provided in this section, the standards and rules adopted by the board pursuant to this section shall be in accordance with "The Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C.A. 12101, as amended, and "The Fair Housing Amendments Act of 1988," 102 Stat. 1619, 42 U.S.C.A. 3601, as amended.
- (C) All signs posted to designate special parking locations for handicapped persons in accordance with division (E) of section 4511.69 of the Revised Code and the standards and rules adopted pursuant to this section shall be mounted on a fixed or movable post or otherwise affixed in a vertical position at a height so that the sign is clearly visible to the driver of a vehicle when parked in such a location.
- (D) As used in this section "Handicapped person" has the same meaning as in section 4112.01 of the Revised Code.
- (E) No owner of a building or facility where special parking locations for handicapped persons must be designated in accordance with the standards and rules adopted pursuant to this section shall fail to properly mark the special parking locations as required by those standards and rules or fail to maintain the markings of the special parking locations, including the erection and maintenance of the fixed or movable signs.

Sec. 3781.99

Whoever violates division (E) of section 3781.111 of the Revised Code shall be issued a warning for a first offense. On each subsequent offense the person shall be fined twenty-five dollars for each parking location that is not properly marked or whose markings are not properly maintained.