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# BBS MEMO

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## ACCESSIBILITY AND THE OBBC

We have been receiving a significant increase in calls related to the accessibility provisions in the OBBC and the building departments' responsibility for enforcement. It is our intention to develop a comprehensive question/answer packet or in-depth seminar to help clarify the responsibilities of each member of the certified building department team. We hope to have this material available within the next 60 days. In the meantime, the following may help resolve at least some of the pending issues:

- **Building departments do not enforce provisions of the federal laws** (Americans with Disabilities Act or the Fair Housing Amendments Act). If your building department allows a structure to be constructed without full required accessibility, the Ohio Civil Rights Commission, HUD or the U.S. Department of Justice cannot and will not bring suit against you; however, someone could file a complaint with the BBS which could result in an investigation and action if it were determined the OBBC was not properly enforced. Your responsibilities are limited to review of plans and inspections required by the OBBC. This includes using the adopted standards we reference in Chapter 35: ADAAG and FHAG. These two documents are a small part of what was developed in Washington related to these laws but are the only specification oriented provisions and are the only portions from those laws you use in enforcement. **These standards are only used within the context of the provisions stated in Chapter 11 of the OBBC.**
- There are some building departments that are doing as good a job as possible considering the limited education available and peculiar language in the two standards. However, some building departments appear to be ignoring the provisions entirely and others have been applying criteria beyond what the code requires. Although this area of the code is unique, it should not be treated differently than other required provisions of Ohio law or code. **We must assure that the construction documents adequately represent the intended construction details and that they are in conformance with the applicable provisions.** Notes on drawings indicating that "...construction must be in accordance with ADA" or "...FHAG" alone are inadequate. Inspectors are responsible for determining if construction is built in accordance with the approved documents. It is not their responsibility to come up with the requirements in the field. Comprehensive plan review is essential.
- Supplemental materials (such as the Fair Housing Design Manual) should never be used as the basis for enforcement; but rather as general information to help expand your background knowledge. It should be noted that much of the *Manual's* content contains "shoulds, coulds and recommendations", references to the ANSI standard and assumptions that are irrelevant to the OBBC and our authority and responsibilities. However, the manual should prove extremely useful to designers, who, with owners and contractors are liable for compliance with the federal law and may want to protect themselves from complaints.

Question: *There are conflicting provisions between ADAAG and the OBBC, what applies?*

OBBC §1001.4 is the only section where the code specifies that where a conflict occurs, the provisions of the standard “..shall apply”.

Question: *If we have a reasonably level site with condos or townhouse apartments, what kind of dwelling unit is “covered”?*

In structures with more than 3 dwellings, when some of the units have **all** the living space located on one floor, at least one floor level (story) must be accessible and the units on that level must comply. (A firewall does not create separate structures.)

Question: *What diameter of handrail is acceptable?*

Although §4.26.2 of ADAAG indicates that the diameter shall be between 1-1/4" to 1-1/2", HUD and the U.S. Dept. of Justice have confirmed to our office that outside diameters for pipe of up to and including 2" are considered “equivalent gripping surfaces” and meet the requirements.

Question: *We missed some areas of accessibility compliance when we did our plan examination and approved the plans. Can we write an order indicating that the owner must change the building six months after we issued the C of O?*

Most areas related to accessibility would not qualify as “serious hazards” and, as such, work constructed in accordance with the approved plans is in compliance with Ohio law (see the last sentence in §3791.04[D]ORC). This is why it is essential to be comprehensive with the plan exam. Although the building official could not require re-inspections or issue orders for these “approved” existing conditions, the CBO could provide courtesy information by notifying the owner directly or through the inspector that it would be prudent to fix the problem so the owner, contractor and designer may be less vulnerable to complaints, lawsuits, etc.

Question: *On a site with “covered multi-family dwellings”, a bank of garages (separated from the dwellings) is offered for the use of some residents. Do the interior spaces need 5' turning spaces? Are man-doors required? Is the vertical clearance for the garage door intended for an adaptable unit different?*

No to each question. Although garages made available to the residents would also have to be offered to residents with disabilities, there are no specific requirements for these issues. However, if a man-door were provided, it would have to comply with the provisions required for other common or public use doors. If the adaptable dwelling unit had a private garage attached, an accessible path must be provided from the door of the garage to the unit entrance (or if each unit had a man door, access to and through the “useable” door must be provided.

Question: *What size door is acceptable for “covered units”?*

Each unit entry door must be 36" and within the interior of the dwelling, the minimum door leaf size is 34" (for doors that are intended to be passed-through).