

History
Of the
Texas Architectural Barriers Program

TEXAS ARCHITECTURAL BARRIERS ACT

ORIGINAL ACT - Senate Bill 111, 61st Legislature, 1969

Application: All buildings and facilities that are constructed or that are substantially renovated with public funds. Included self-governing provision for the University of Texas System. Identified the State Building Commission as the enforcing agency.

Codified: Article 678g, Vernon's Texas Civil Statutes

Effective: January 1, 1970

STATUTORY CHANGE - House Bill 1319, 62nd Legislature, 1971

1. Added buildings and facilities leased by state agencies.
2. Added the requirement for plans and specifications to be submitted to the Commission for review and approval prior to bidding and award of construction contract.
3. Deleted the self-governing provision permitted for the University of Texas System.

Effective: September 1, 1971

STATUTORY CHANGE - 63rd Legislature, 1973

Added back the self-governing provision for the University of Texas System and gave the U.T. Board of Regents the same powers and responsibilities given the Commission for buildings and facilities under their jurisdiction.

STATUTORY CHANGE - Senate Bill 773, 65th Legislature, 1977

1. All administrative and enforcement powers and responsibilities of the State Building Commission were transferred to the State Board of Control.
2. Added the following building types constructed after January 1, 1978, with private funds in counties of 50,000 or more population:
 - shopping centers
 - transportation terminals
 - theaters and auditoriums
 - hospitals and related medical facilities
 - nursing homes
 - office buildings
 - funeral homes
 - commercial business and trade schools
3. Added that the Commission or any handicapped person desiring to seek District Court injunction to compel compliance must first notify and allow the building owner at least 90 days to bring the building into compliance.

Effective: September 1, 1977

STATUTORY CHANGE - House Bill 1673, 66th Legislature, 1979

1. Abolished the State Board of Control and created the State Purchasing and General Services Commission to administer the same general programs and activities including the Elimination of Architectural Barriers Program.
2. Removed the dimensional requirements from the statute and required the Commission to adopt accessibility standards and specifications that would be consistent in effect to those adopted by the American National Standards Institute, Inc. (ANSI).

Codified: Article 7, Article 601b, Vernon's Texas Civil Statutes.

Effective: September 1, 1979

CHANGE IN STANDARDS - Revised standards were adopted by the Commission on emergency basis in October, 1980. Formal adoption occurred on April 1, 1981.

Effective: April 1, 1981

STATUTORY CHANGE - Senate Bill 5, 67th Legislature, 1981

1. Reduced county population criteria to 45,000.
2. Granted the Commission the authority to modify or waive standards and specifications in privately owned buildings and facilities covered by the law.

Effective: September 1, 1981

CHANGE IN STANDARDS - Revised standards were adopted by the Commission on May 31, 1989;

Effective: June 21, 1989

STATUTORY CHANGE - House Bill 39, 72nd Legislature, Second Called Session, 1991

1. Transferred the Elimination of Architectural Barriers Program to Texas Department of Licensing and Regulation. *
2. Added provisions for fees.*
3. Changed the application to include facilities considered "Public Accommodation" as defined by the Americans with Disabilities Act.
4. Places responsibilities for submitting construction documents on architects, engineers, or building owners.
5. Added provision for inspections.
6. Added penalties as provided by Article 9100, T.C.S.
7. Added provision for the creation of an advisory committee.
8. Added provisions for contracting for services.
9. Stipulates state standards shall be consistent with Federal Law.
10. Removed the self governing provision for University of Texas System.

Effective: January 1, 1992

* Effective: September 1, 1991

STATUTORY CHANGE - Senate Bill 540, 73rd Legislature, 1993

1. Changed the application to include privately funded buildings and facilities defined as "Commercial Facilities" by the Americans with Disabilities Act.
2. Requires that plans and specifications be submitted for review and inspections be performed on facilities when the estimated construction cost are \$50,000 or more.
3. Places responsibility for submitting construction documents on interior designers who have over all responsibility for the design.
4. Requires the Commissioner to contract with municipalities for review and inspection functions for privately financed facilities.

Effective: September 1, 1993

CHANGE IN STANDARDS - The Texas Commission of Licensing and Regulation adopted the Texas Accessibility Standards (TAS) on December 17, 1993. TAS applies to subject buildings and facilities constructed on or after April 1, 1994.

Effective: April 1, 1994

CHANGE IN ADMINISTRATIVE RULES - The Texas Commission of Licensing and Regulation approved new administrative rules for adoption on April 22, 1994.

Notice of adoption appeared in the May 6, 1994 issue of the Texas Register.

Effective: June 1, 1994

STATUTORY CHANGE - House Bill 1612, 74th Legislature, 1995

Exempts places used primarily for religious rituals within either a building or facility of a religious organization.

Effective: June 14, 1995

CHANGE IN ADMINISTRATIVE RULES - The Texas Commission of Licensing and Regulation approved a new fee schedule for adoption on September 7, 1995. Notice of the proposed adoption appeared in the August 11, 1995 issue of the Texas Register.

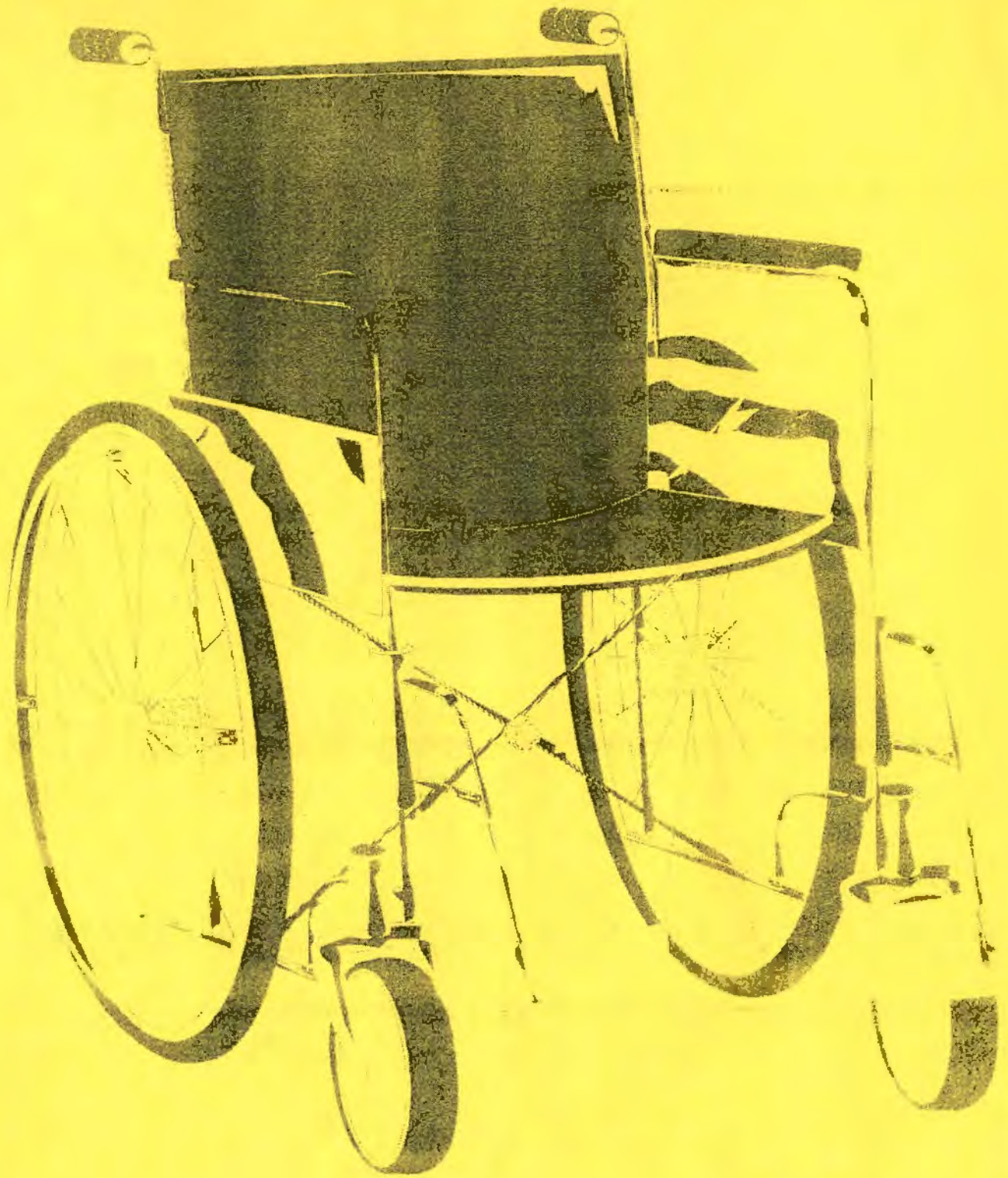
Effective: October 1, 1995

CHANGE IN ADMINISTRATIVE RULES - The Texas Commission of Licensing and Regulation took action to repeal Rule 68.91 pertaining to the provisions for 90 days final notification.

Effective: September 11, 1996

EQUIVALENCY CERTIFICATION BY DOJ - On September 23, 1996 the US Department of Justice issued certification that the Texas Accessibility Standards, the Texas Architectural Barriers Act and the Architectural Barriers Administrative Rules, meet or exceed the new construction and alterations requirements of Title III of the ~~Americans~~ Americans with Disabilities Act.

STATUTORY CHANGE - House Bills 580 and 2493, 75th Legislature, 1997
Expanded parking requirements for state occupied facilities, including state leases and requires that state leases be inspected prior to occupancy.



Texas Architectural Barriers Act
Article 9102
Texas Civil Statutes

ARCHITECTURAL BARRIERS

Texas Civil Statutes, Article 9102

Administered by the Texas Department of Licensing and Regulation

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ARCHITECTURAL BARRIERS

Texas Civil Statutes, Article 9102

Section 1. POLICY.

The provisions of this article are to further the policy of the State of Texas to encourage and promote the rehabilitation of persons with disabilities and to eliminate, insofar as possible, unnecessary barriers encountered by persons with disabilities, whose ability to engage in gainful occupations or to achieve maximum personal independence is needlessly restricted when such persons cannot readily use public buildings.

Section 2. APPLICATION. *(Amended effective September 1, 1993 by Acts of the 73rd Legislature; paragraph (g) effective June 14, 1995 by Acts of the 74th Legislature)*

(a) --- The standards adopted under this article apply to:

- (1) a building or facility used by the public that is constructed, or substantially renovated, modified, or altered, in whole or in part on or after January 1, 1970, through the use of state, county, or municipal funds, or the funds of any political subdivision of the state;
- (2) the temporary or emergency construction of a building or facility described by this subsection or Subsection (b) of this section;
- (3) a building leased or occupied in whole or in part for use by the state under any lease or rental agreement entered into on or after January 1, 1972;
- (4) a privately funded building or facility defined as a "public accommodation" by Section 301(7) of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12181), that is constructed or substantially renovated, modified, or altered on or after January 1, 1992; and
- (5) a privately funded building or facility defined as a "commercial facility" by Section 301, Americans with Disabilities Act of 1990 (42 U.S.C. Section 12181), that is constructed or substantially renovated, modified, or altered on or after September 1, 1993.

(b) To the extent there is no conflict with federal law and it is not beyond the state's power of regulation, the standards adopted under this article also apply to a building or facility constructed in this state, or a building or facility leased or rented for use by the state, through the use of federal funds.

(c) The commissioner may waive or modify accessibility standards adopted under this article when:

- (1) the application of the standards is considered by the commissioner to be irrelevant to the nature, use, or function of a building or facility covered by this article; or
- (2) the owner of a building or facility that is the subject of a request for a waiver or

modification of a standard under this subsection, or the owner's designated agent, presents proof to the commissioner that compliance with the particular standard is impracticable.

- (d) An owner of a building described by Subsection (a)(3) of this section or of a building or facility leased or rented for use by the state through the use of federal funds, or the owner's designated agent, must present to the commissioner the proof required by Subsection (c)(2) of this section before the date the owner:
 - (1) submits a bid proposal in relation to the award of a contract for the lease or rental of the building or facility; or
 - (2) is awarded the contract for the lease or rental of the building or facility if the state does not advertise for bids.
- (e) The commissioner may not waive or modify any standard or specification when:
 - (1) waiving or modifying a standard or specification would result in a significant impairment of the acquisition of goods and services by persons with disabilities or substantially reduce the potential for employment of persons with disabilities; or
 - (2) the proof presented to the commissioner under Subsection (c)(2) of this section is not adequate.
- (f) All evidence supporting waiver or modification determinations made by the commissioner shall be made a matter of record and become part of the file system maintained by the department.
- (g) The standards adopted under this article do not apply to a place used primarily for religious rituals within either a building or facility of a religious organization.

Section 3. SCOPE.

- (a) This article is concerned with nonambulatory disabilities, semiambulatory disabilities, sight disabilities, hearing disabilities, disabilities of coordination, and aging.
- (b) It is intended to make all buildings and facilities covered by this article accessible to, and functional for, persons with disabilities to, through, and within their doors, without loss of function, space, or facilities where the general public is concerned.

Section 4. DEFINITIONS.

For the purpose of this article the following terms have the meanings as herein set forth:

- (1) "Disability" means with respect to an individual a physical or mental impairment that substantially limits one or more of the major life activities of such individual.
- (2) "Commission" means the Texas Commission of Licensing and Regulation.

- (3) "Commissioner" means the commissioner of licensing and regulation.
- (4) "Department" means the Texas Department of Licensing and Regulation.
- (5) "Architect" means a person registered as an architect under Chapter 478, Acts of the 45th Legislature, Regular Session, 1937 (Article 249a, Vernon's Texas Civil Statutes).
- (6) "Engineer" means a person registered as an engineer under The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil statutes).

Section 5. RESPONSIBILITIES FOR ENFORCEMENT. *(Amended effective September 1, 1993 by Acts of the 73rd Legislature; amended effective September 1, 1997 by Acts of the 75th Legislature)*

- (a) In the administration and enforcement of this article, the commissioner shall have the assistance of appropriate state rehabilitation agencies and of the Governor's Committee on People with Disabilities in carrying out commissioner responsibilities. State agencies involved in extending direct services to persons with disabilities are authorized to enter into interagency contracts with the department to provide such additional funding as might be required to insure that service objectives and responsibilities of such agencies are achieved through the administration of this article. In enforcing this article the commissioner shall also receive the assistance of all appropriate elective or appointive state officials. The commissioner may contract with other state agencies, political subdivisions, nonprofit organizations, and private independent contractors to perform the commissioner's review and inspection functions for privately financed buildings that are not leased by the state or a political subdivision and may terminate those contracts for cause. The department shall from time to time inform professional organizations and others, including persons with disabilities, architects, engineers, and other building professionals, of this law and its application. Information disseminated by the department about the program shall include the types of buildings and leases covered by this article, the procedures for submitting plans and specifications for review, complaint procedures, and the address and phone number of the department's program. The department may enter into cooperative agreements to integrate information about the program with information produced or distributed by other public entities or by private entities.
- (b) The commissioner has all necessary powers to require compliance with the department's rules and regulations and modifications thereof and substitutions therefor. The commission may also impose an administrative penalty under Section 17, Article 9100, Revised Statutes, on a building owner for a violation of this article or a rule adopted under this article. Each day that the violation is not corrected constitutes a separate violation. The commissioner, when the commission considers imposing an administrative penalty under this section, shall first notify a person responsible for the building and allow that person 90 days to bring the building into compliance. The commissioner shall have the authority to extend the 90-day period when circumstances justify such extension.
- (c) The standards and specifications to be adopted by the commissioner under this article shall be consistent in effect to those adopted by the American National Standards Institute, Inc. (or its federally recognized successor in function), and the department shall publish the standards and specifications in a readily accessible form for the use of interested parties.

The standards, specifications, and other rules to be adopted by the commissioner under this article shall also be consistent with those adopted under federal law.

- (d) All plans and specifications for construction or for the substantial renovation, modification, or alteration of a building or facility that has an estimated construction cost of \$50,000 or more and that is subject to the provisions of this article shall be submitted to the department for review and approval prior to the time that construction or that substantial renovation, modification, or alteration on the building or facility begins in accordance with rules and regulations adopted by the commissioner. Plans and specifications related to the building or facility shall be submitted to the department by the architect, interior designer, or engineer who has overall responsibility for the design of the constructed or reconstructed building or facility. The owner shall submit the plans and specifications to the department if there is no architect, interior designer, or engineer with that responsibility. Likewise, any substantial modification of approved plans shall be resubmitted to the department for review and approval. The plans and specifications that are not approved or disapproved by the department within 30 days from the receipt of the plans and specifications are automatically approved. If an architect, interior designer, or engineer required to submit or resubmit plans and specifications to the department fails to do so in a timely manner, the commissioner shall report the fact to the Texas Board of Architectural Examiners or the State Board of Registration for Professional Engineers, as appropriate.
- (e) The commissioner may review plans and specifications, make inspections, and issue certifications that structures not otherwise covered by this article are free of architectural barriers and in compliance with the provisions of this article. The department shall inspect each building and facility that has an estimated construction cost of \$50,000 or more and that is subject to this article not later than the first anniversary of the date that construction or substantial renovation, modification, or alteration of the building or facility is completed.
- (f)
 - (1) The commissioner shall contract with a municipality to perform the commissioner's review and inspection functions for privately financed buildings that are not leased by the state or a political subdivision if:
 - (A) the municipality requests permission to perform such duties;
 - (B) the municipality is staffed with a sufficient number of qualified personnel to perform such duties in the judgment of the commissioner; and
 - (C) the municipality agrees to contract terms required by the commissioner.
 - (2) The commissioner shall require municipal personnel who perform such duties to comply with qualification or certification requirements adopted or approved by the commissioner. The commissioner, not later than April 1, 1994, shall adopt qualification requirements or implement certification programs under this subsection and shall commence entering into contracts with municipalities qualifying under this subsection.
- (g) The standards and specifications adopted by the commissioner under this article that apply

specifically to a building or facility occupied by a state agency involved in extending direct services to persons with mobility impairments also apply to a building or facility that is occupied by the Texas Rehabilitation Commission.

- (h) Notwithstanding other provisions of this article, the commissioner shall require complete compliance with the standards and specifications prescribed or referenced by Subsection (g) of this section. The department and the General Services Commission shall ensure that all buildings and facilities leased or built by or for the state to which those standards apply comply with those standards. Notwithstanding other provisions of this article, the department shall perform an on-site inspection of all buildings and facilities to be leased by the state before the building or facility is occupied by the state for compliance with all accessibility standards and specifications adopted under this article. The leasing agency or the General Services Commission, as applicable, shall cancel the lease unless the lessor brings into compliance any condition that the inspection finds not to be in compliance with all applicable standards and specifications not later than:
- (1) the 60th day after the date the department delivers the results of the inspection to the lessor or the lessor's agent; or
 - (2) a later date established by the commissioner if circumstances justify a later date.

Section 6. FEES.

The commission shall set and charge, in accordance with Section 12, Article 9100, Revised Statutes, fees for performing its functions under this article. The fees shall be paid by the owner of a building when the department performs a function related to the building under this article. The fees must include a fee for:

- (1) reviewing the plans or specifications of a building;
- (2) inspecting a building; and
- (3) processing a request to waive or modify accessibility standards for a building.

Section 7. ADVISORY COMMITTEE.

- (a) The commission shall appoint an advisory committee for the architectural barriers program. The committee shall be composed of building professionals and persons with disabilities who are familiar with architectural barrier problems and solutions. The committee shall be composed of at least eight members. Persons with disabilities must make up a majority of the membership.
- (b) A committee member serves at the will of the commission. A member may not receive compensation for service on the committee but is entitled to reimbursement for actual and necessary expenses incurred in performing functions as a member.
- (c) The committee shall elect a member of the committee as chair. The committee shall meet at least twice each calendar year at the call of the committee chair or at the call of the commissioner.

- (d) The committee periodically shall review the rules relating to the architectural barriers program and recommend changes in the rules to the commission and the commissioner. The commissioner shall submit all proposed changes to rules and procedures that relate to the architectural barriers program to the committee for review and comment before adoption or implementation of the new or amended rule or procedure.

Section 8. FORMER STATUTE REFERENCE.

All references in law to the former architectural barriers statute, Article 7, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes), mean this article.



Administrative Rules
16 Texas Administrative Code
Chapter 68

ARCHITECTURAL BARRIERS

Administrative Rules of the Texas Department of Licensing and Regulation
16 Texas Administrative Code, Chapter 68

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68.1. Authority. *(Effective June 1, 1994, 19 TexReg 3485)*

These rules are promulgated under the authority of the Architectural Barriers Act, Texas Civil Statutes, Article 9102 and Texas Civil Statutes, Article 9100.

68.10. Definitions. *(Effective June 1, 1994, 19 TexReg 3485)*

The following words and terms, when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise.

Act - Texas Civil Statutes, Article 9102.

Building - Any structure used and intended for supporting or sheltering any use or occupancy.

Completion of Construction - That phase of a construction project which results in occupancy or the issuance of a certificate of occupancy.

Construction Documents - Working drawings and specifications used for construction of a building or facility.

Contract Provider - The individual, company, or authority under contract with the department to perform plan reviews, inspections, or both.

Determination of Impracticability - The formal process by which the governmental department, agency or unit concerned petitions the department to rule on the impracticability of applying one or more of the standards or specifications to a building or facility referred to in the Act

Facility - All or any portion of buildings, structures, site improvements, complexes, equipment, roads, walks, passageways, parking lots, or other real or personal property located on a site.

Lessee - with respect to state leased or occupied space, the state agency which enters into a contract with a building owner. In instances of free space or where a written contract is non-existent, reference to the lessee shall mean the occupying state agency.

Limited Application - Any modification or alteration that would permit the inclusion of any one or more accessibility standards set forth in department rules but which would not constitute substantial renovations.

Owner - The person or persons, company, corporation, authority, commission, board, governmental entity, institution, or any other unit that holds title to subject building or facility.

- (3) buildings or facilities are constructed with private funds with the intent of donating or deeding to a public entity; or
 - (4) tax abatements or other incentives are provided by a public authority.
- (b) Buildings or facilities that are leased or rented to the state:
- (1) include space provided at no cost to a state agency for conducting state business with or without a written contract;
 - (2) may be exempted from compliance if it is determined by the state agency that the space will not be used by the public and that the occasion for employment for persons with disabilities is improbable because of the essential job functions. The agency shall, prior to advertisement for bid, submit to the department for a determination a completed Lease Evaluation Form obtained from the department. If a Lease Evaluation Form is not submitted, full compliance with all applicable standards shall be required.
- (c) The following private entities are considered public accommodations and subject to the Act:
- (1) an inn, hotel, motel, or other place of lodging except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;
 - (2) a restaurant, bar, or other establishment serving food or drinks;
 - (3) a motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;
 - (4) an auditorium, convention center, lecture hall, or other place of public gathering;
 - (5) a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;
 - (6) a laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;
 - (7) a terminal, depot, or other station used for specified public transportation;
 - (8) a park, zoo, amusement park, or other place of recreation;

and distribution structures, electric substations and transformer vaults, environmental treatment structures, and highway and tunnel utility facilities.

- (6) **Single Occupant Structures.** Single occupant structures accessed only by passageways below grade or elevated above grade, including but not limited to, toll booths that are accessed only by underground tunnels.
- (7) **Restricted Occupancy Spaces.** Vertical access (elevators and platform lifts) is not required for the second floor of two-story control buildings located within a chemical manufacturing facility where the second floor is restricted to employees and does not contain common areas or employment opportunities not otherwise available in accessible locations within the same building.

68.31. Variance Application. *(Effective June 1, 1994, 19 TexReg 3485; amended effective May 6, 1998, 23 TexReg 4263)*

If the owner or the designated agent believes that application of the standards is irrelevant to the nature, use, or function of the building or facility or that compliance with any particular standard or specification is impracticable, a separate variance application shall be submitted for each building, facility or condition for determination prior to commencement of construction.

- (1) If a variance application is not submitted prior to construction and the building or facility owner or the designated agent believes a request is justified, such request shall be submitted as soon as possible following commencement of construction.
- (2) Variance requests received after construction has commenced shall be decided based on preconstruction conditions and circumstances.
- (3) Variance requests will not be accepted after completion of construction (based on recorded estimated completion date). Deficiencies noted after completion will be addressed as an enforcement issue.
- (4) Requests to waive or modify a standard shall be submitted on a Variance Application, obtained from the department. Written cost estimates as well as drawings justifying the cost of compliance shall be attached.
- (5) Variance applications must be submitted by the owner or the designated agent.
- (6) Variance applications shall be accompanied by the applicable fee.
- (7) After receiving the application the department shall decide whether such standards or specifications are impracticable and shall determine the extent of compliance required.
- (8) The department may consult with others including state agencies having

- (a) After review, the person making the submission will be advised in writing of the results. Construction documents will be approved only when the documents reflect full compliance with applicable accessibility standards. Conditional approval may be issued when it is determined that resubmittals are not warranted. Conditional approvals will refer to all items noted during the review which must be included in the design and construction of the building or facility.
- (b) Construction documents received by the department that contain prepaid return postage or instructions to return the documents C.O.D. will be returned immediately after review, unless required for future reference by the department. Construction documents received for review which do not have prepaid return postage or other instructions may be destroyed 30 days after the date of the department's review reply.

68.61. Responsibilities of the Department - Resubmittals. *(Effective June 1, 1994, 19 TexReg 3485)*

When the department or contract provider requires verification of design revisions, such verifications may be made by submission of revised construction documents, change orders, addenda, and letters specifically addressing each revision.

- (1) Resubmittals will be reviewed and the person making the resubmittal will be advised of the results. Resubmittals will be approved only when the resubmittal reflects full compliance with applicable accessibility standards. Conditional approval may be issued when it is determined that additional submittals are not warranted.
- (2) When unsolicited verification of design revisions are submitted, they will be reviewed as time permits.
- (3) Resubmittals received after completion of construction (based on the record of estimated completion date) may not be reviewed but will become a matter of record.

68.62. Responsibilities of the Department - Inspections. *(Effective June 1, 1994, 19 TexReg 3485)*

- (a) Inspections will be performed during the normal working hours of the owner, authority, or unit concerned. Any deviation from normal working hours shall be at the convenience of the owner, authority, or unit concerned.
- (b) The owner or designated agent must be present during the inspection.
- (c) During each inspection, the inspector will make field notes which will become part of the file maintained on each project and will be a source document in support of any subsequent reports, notifications or other actions.
- (d) The owner or designated agent will be advised of the results of each inspection.

the committee members appointed to the subcommittee or requested by the chair to assist or appear before the subcommittee.

- (f) Expenses paid to committee members shall be limited to those allowed by the State of Texas Travel Allowance Guide and the Texas Department of Licensing and Regulation policies governing travel allowances for employees.
- (g) The committee shall consist of eight members, four of which will be building professionals and four of which will be consumers, comprised of persons with disabilities. Committee members will serve staggered three year terms. Two building professional positions and two consumer positions will expire every three years and one building professional and one consumer position will expire in other years.
- (h) Terms will expire August 31 of each year. Initial terms will be established so that one building professional position and one consumer position will expire on August 31 of the years 1994, 1995, 1996, and 1997.

68.66. Responsibilities of the Department - Contract Providers. *(Effective June 1, 1994, 19 TexReg 3485)*

- (a) The purpose of the contract providers program is to assist the department in performing review and inspection services.
- (b) Contract providers for plan reviews shall utilize individuals in their employ who meet the following qualifications:
 - (1) Certification as a building plans examiner or accessibility specialist granted by a model building code organization and either of the following:
 - (A) degree in architecture, architectural engineering, interior design or equivalent and a minimum of one year experience related to building planning, accessibility design or review, or equivalent; or
 - (B) eight years experience related to building planning, accessibility design or review, or equivalent.
 - (2) Satisfactory completion of Contractor Provider Application and department training and certification program.
- (c) Contract providers for inspections shall utilize individuals in their employ who meet the following qualifications:
 - (1) minimum of a high school diploma or equivalent;
 - (2) certification as a building inspector or accessibility specialist as granted by a model

location.

- (e) Cost of submitting and returning construction documents must be paid by the sender.
- (f) If construction documents were not submitted prior to commencement of construction, they shall be submitted for review as soon as possible following commencement of construction. Construction documents submitted after completion of construction may not be submitted to a contract provider. The Act shall be adhered to regardless of the time the construction documents were submitted for review.
- (g) Construction documents that are automatically approved after 30 days as provided by the Act are still required to comply with applicable standards. Any noncomplying item detected, even though 30 days has elapsed, must comply upon completion of the project.

68.71. Responsibilities of the Registrant - Resubmittals. *(Effective June 1, 1994, 19 TexReg 3485)*

Verification of design revisions shall be submitted upon request.

68.72. Responsibilities of the Registrant - Corrective Modifications. *(Effective June 1, 1994, 19 TexReg 3485)*

Verification of corrective modifications shall be submitted as directed.

68.80. Fees. *(Effective June 1, 1994, 19 TexReg 3485; amended effective October 1, 1995, 20 TexReg 7279; amended effective May 6, 1998, 23 TexReg 4263)*

- (a) Plan review and inspection fees collected by the department shall be determined by the estimated project cost, not including site acquisition, furnishings, or equipment, and assessed according to the fee schedule. In instances involving multiple facilities with identical drawings, but site adapted, and designed by the same individual or firm and bid as one package, the plan review fee shall be based on the total construction cost. However, separate inspection fees shall be required. The plan review fee must accompany the registration form and be submitted with the construction documents. The inspection fee must be paid and the department notified of point of contact within 30 days of completion of construction.
- (b) Fee Schedule:

<u>Construction Cost</u>	<u>Review Fee</u>	<u>Late Review Fee</u>	<u>Inspection Fee</u>
\$ 50,000 - \$ 200,000	\$ 175	\$ 350	\$ 215
200,001 - 500,000	240	480	240
500,001 - 1,000,000	305	610	265
1,000,001 - 5,000,000	370	740	290
5,000,001 - 10,000,000	500	1,000	315
10,000,001 - 15,000,000	545	1,090	340
15,000,001 - 25,000,000	710	1,420	440

Architects, engineers, and interior designers who fail to comply with Section 5 (d) of the Act shall be reported to the Texas Board of Architectural Examiners or the State Board of Registration for Professional Engineers, as appropriate and a copy of the report shall be furnished to the architect, engineer, or interior designer affected.

68.93. Complaints and Investigations. *(Effective June 1, 1994, 19 TexReg 3485)*

Any person who suspects that any building or facility is not in compliance may submit a complaint in accordance with Texas Civil Statutes, Article 9100.

68.100. Technical Standards. *(Effective April 1, 1994, 19 TexReg 167)*

The Texas Department of Licensing and Regulation adopts by reference the Texas Accessibility Standards (TAS), April 1, 1994 edition. Copies may be obtained from the Office of the Secretary of State, Texas Register Division, P.O. Box 13824, Austin, Texas 78711-3824; 1019 Brazos, Room 245, Austin, Texas 78701; (512) 463-5561, TDD (800) 735-2989, FAX (512) 463-5569. Cost is \$10 per copy. Check, Visa and MasterCard accepted.

ACCESSIBILITY RESOURCES AND WEB SITES

SPORTS FACILITIES

US Access Board's Recreation Access Advisory Committee Report 1994;
Sports Facilities Sub-Committee Reports Out of Print Publications National
Technical Information Service

<http://www.fedworld.gov/ntis/ntishome.html>

(Technical Assistance Centers may have copies available)

Department of Justice - four page document on Stadium and Arena
Design

<http://www.usdoj.gov/crt/ada/stadium.txt>

Recommendations for a New ADAAG - ADAAG Review Advisory
Committee, Final Report, September 30, 1996 (sections on wheelchair
dispursement)

<http://www.access-board.gov/pubs/adaagcom.htm>

US Access Board's Assembly Document
Out of Print Publications National Technical Information Service

<http://www.fedworld.gov/ntis/ntishome.html>

Settlement Agreement Concerning the Olympic Tennis Center

<http://www.usdoj.gov/crt/ada/tennis.htm>

Settlement Agreement Concerning the Olympic Aquatic Center

<http://www.usdoj.gov/crt/ada/aquatic.htm>

Settlement Agreement Concerning the Olympic Stadium

<http://www.usdoj.gov/crt/ada/stadiumo.htm>

GENERAL ASSEMBLIES AND THEATERS

US Access Board's Recreation Access Advisory Committee Report 1994;
Sports Facilities and Places of Amusement Sub-Committee Reports; Out of
Print Publications National Technical Information Service

<http://www.fedworld.gov/ntis/ntishome.html>

US Access Board's ADAAG Review Federal Advisory Committee Report
(Sections on wheelchair dispursement)

<http://www.access-board.gov/pubs/adaagcom.html>

UFAS Retrofit Manual, Barrier Free Environments (for explanation of 5%
sight lines exception of 4.33.3 Exception) US Access Board

<http://www.access-board.gov/pubs/checklist.html> item S-07

Department of Justice; Cineplex Odeon Corporation and Plitt Theatres,
Inc. Settlement Agreement

<http://www.usdoj.gov/crt/ada/cineplex.html>

Other articles on complaints against United Artists Theaters (DOJ press
release dated April 16, 1996 and Feildier v. American Multi-Cinema, Inc.
Complaint #94-0091

SWIMMING POOLS AND WATER ATTRACTIONS (RESORTS)

Swimming Pools - Swimming Pool Accessibility Project, Funded by the
U.S Access Board: QA95007001

<http://www.indiana.edu/~nca/poolhome.html>

US Access Board's Recreation Access Advisory Committee Report 1994;
Sports Facilities and Places of Amusement Sub-Committee Reports; Out of
Print Publications National Technical Information Service

<http://www.fedworld.gov/ntis/ntishome.html>

PLAYGROUNDS (SCHOOLS, AMUSEMENTS, RESORTS)

US Access Board's Recreation Access Advisory Committee Report 1994;
Play Settings and Places of Amusement Sub-Committee Reports; Out of
Print Publications National Technical Information Service

<http://www.fedworld.gov/ntis/ntishome.html>

US Access Board's Play Facilities Regulatory Negotiation Committee;
Meeting Notes;

<http://www.accessboard.gov/notices/playmin.html>,

and by contacting Peggy Greenwell to be placed on a mailing list at
greenwell@access-board.gov

ASTM- Standard F-14-87 Playground Equipment for Public Use,

<http://www.astm.org>

keyword "playground", and developing work

ASTM F-8.63 Committee on Sports Equipment and Facilities for
provisional standard on Playground Surfacing Systems, Standard
Specification for Accessibility Surfaces Under and Around Playground
Equipment, Feb 1997;

<http://www.astm.org>

Children's Standards - US Access Board's Americans with Disabilities Act
Accessibility Guidelines for Buildings and Facilities; Children's Facilities

<http://www.access-board.gov/rules/child.htm>

<http://www.usdoj.gov/crt/ada/newregs/kid-nprm.txt>

ATTRACTIONS AND AMUSEMENTS

US Access Board's Recreation Access Advisory Committee Report 1994;
Places of Amusement Sub -Committee Report and Play Area Settings
Report; Out of Print Publications National Technical Information Service

<http://www.fedworld.gov/ntis/ntishome.html>

US Access Board, ADA Title 11 Transportation Regulations Trams,
monorails etc. [basis of design for access up to amusement rides, and
wheelchair access onto amusement rides]

<http://www.access-board.gov/pubs/transman.html>

HOTELS, MOTELS AND RESORTS (ACCESSIBLE TRANSIENT LODGING)

Courtyard by Marriott Settlement Agreement
<http://www.usdoj.gov/crt/ada/marriott.html>

General news articles and Department of Justice enforcing the AADA -
Status Reports on Days Inn
<http://www.usdoj.gov/crt/ada/enforce.htm#anchor201570>

CHILDREN ORIENTED FACILITIES

US Access Board, recommendations for Accessibility Standards for
children's Environments; Executive Summary October 1995
<http://www.usdoj.gov/crt/ada/newregs/kid-nprm.txt>

PRIMARY ACCESSIBILITY INFORMATION SITES

Access Board - General
<http://www.access-board.gov>

Department of Justice ADA Home Page
<http://www.usdoj.gov/crt/ada/adahom1.htm>
and documents at
<http://www.usdoj.gov/crt/ada/index.html>

Accessology, Inc. - General Information
<http://www.accessology.com>

SOURCES FOR FAQ AND AIRPLANE READING

US Access Board - ADA ACCESSIBILITY GUIDELINES FAQ
<http://www.access-board.gov/bfdg/adaagfaq.htm>

Department of Justice, Americans with Disabilities Act Information on the
WEB: (FAQ documents and technical assistance manuals)
<http://www.usdoj.gov/crt/ada/>

Department of Justice Enforcing the ADA - Status Reports from April 1994
<http://www.usdoj.gov/crt/ada/enforce.htm#anchor201570>

Department of Justice, Press Releases [search with keyword "ADA"]
<http://www.usdoj.gov/opa/pr/ghindex.html>

TO FIND DOCUMENTS

US Access Board's Publication Checklist
<http://www.access-board.gov/pubs/checklst.htm>
and out of print lists
<http://www.access-board.gov/pubs/outprint.htm>

Department of Justice, Americans with Disabilities Act Information on the
WEB: (FAQ documents and technical assistance manuals)
<http://www.doj.gov/crt/ada/>

Pacific Disability and Business Technical Assistance center 510848-2980
(voice); 510 848-1840 (TDD)L 510 848-1981 (fax), voice & TDD 800-949-4232
Erica Jones, Director [with nominal cost and shipping charges]
<http://www.pacbtac.org>

Job Accommodation Network JAN - ADA Document Center
<http://janweb.icdi.wvu.edu/kinder/>

Famous Fixture's American's with Disabilities Act, Document Center
<http://www.famous-fixtures.com/ada3.html>

National Rehabilitation Information Center
<http://www.cais.net/naric/pubs.html>

Accessology, Inc. - General Information
<http://www.accessology.com>

MONTHLY/QUARTERLY NEWS, REPORTS & SUBSCRIPTIONS

Access Board's Access Currents, E-mail name and address to:
news@access-board.gov
and current issue is at
<http://www.access-board.gov/pubs/acurrent.htm>

Department of Justice's Enforcing the ADA - A Status Report from the
Department of Justice, (quarterly)
<http://www.usdoj.gov/crt/ada/statrpt.htm>

Thompson Publishing Group, ADA Compliance Guide, Monthly Bulletins,
annual subscription rate 800-424-2959
<http://www.thompson.com/tpg/person/able/able.html>
also see:
http://www.thompson.com/able_archive/find.html
to search for articles

Universal DesignNewsletter,
annual subscription, 301-770-7890 (V/TTY) 301-770-4338

Evan Terry Associates, The Current Most Common Design Errors under
The ADA Standards;
<http://www.evanterry.com>

American's with Disabilities Newsletter (Counterpoint Publishing),
<http://cfr.counterpoint.com/grams/awdgram/awdtop.html>

American Bar Association, Mental and Physical Disability Law Reporter,
directory of cases. 202-662-1570 (voice) 202-662-1012

Access By Design
<http://www.access-by-design.com/index.html>

Accessology, Inc. - Quarterly newsletter, free. To be added to the mailing
List call 972-434-0068 or visit
<http://www.accessology.com>
and e-mail a request.

OTHER INTERESTING SITES

ADA Small Business Information Answer Center,
http://www.usa.net/ada_infonet/info.htm
 (has diagrams and some unusual connections)

DOJ quarterly status reports for claims and agreement
<http://www.usdoj.gov/crtlada/enforce.htm#anchor201570> information
<http://www.usdoj.gov/crVada/statrpt.htm>

DOJ New or Proposed ADA Regulations
<http://www.usdoj.gov/crt/ada/newregs.htm>

Department of Justice ADA Settlements and Consent Agreements
<http://www.usdoj.gov/crt/ada/settlemt.htm>

Hunt DOJ Press Releases
<http://www.usdoj.gov/opa/pr/>

"Friendly's to make restaurants accessible to customers with disabilities under settlement with the justice department"

"Walt Disney World company agrees to provide services to deaf and hard-of hearing guests"

"Festival to become more accessible to people with disabilities under justice department agreement"

Use search function and type in Key work ADA and Title III

Children's Standards - US Access Board's Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities; Children's Facilities
<http://www.access-board.gov/rules/child.htm>

US Access Board, Recommendations for a New ADAAG - ADAAG Review Advisory Committee, Final Report, September 30, 1996
<http://www.access-board.gov/pubs/adaagcom.htm>

Schmeltzer, Aptaker & Shepard, P.C.,
<http://www.saspc.com/art13ada.htm>
 Site of 13 tips for negotiating with the Department of Justice

CABO ANSI Standards:
<http://www.cabo.org/standards>
 and for ANSI:
<http://www.cabo.org/a117.html>

BOMA
<http://www.boma.org/adaup.html>

ICBO
<http://www.icbo.org>

SBCCI

<http://www.sbcci.org>

California Building Standards Commission - Title 24 News Letter

<http://www.bsc.ca.gov/bsc/newslet/mar/toc.html>

National Rehabilitation Information Center

<http://www.cais.net/naric/>

ADA INFORMATION SERVICES

<http://www.usdoj.gov/crt/ada/infoline.htm>

Accessology, Inc. - General Information

<http://www.accessology.com>

Evan Terry Associates

<http://www.evanterry.com/websites.html>

Thompson Publishing Group - ADA Compliance Guide

<http://www.thompson.com/tpg/person/able/ablelink.html>

Other Web sites concerning People With Disabilities

<http://www.public.iastate.edu/~sbilling/ada.html>

Job Accommodation Network JAN - ADA Document Center

<http://janweb.icdi.wvu.edu/kinder/>

Mark A. Tauscher's Home Page

<http://www.primenet.comrtauscher/index.html> go to index

TEXAS DEPARTMENT OF LICENSING AND REGULATION



Code Review and Inspections
ARCHITECTURAL BARRIERS

P.O. Box 12157 Austin, Texas 78711 (512)463-3211 FAX (512)475-2886

January 7, 1994

IMPORTANT NOTICE

The Texas Commission on Licensing and Regulation, at its December 17, 1993 meeting, adopted the Texas Accessibility Standards (TAS) for purposes of administering the state Architectural Barriers Act, Article 9102, Texas Civil Statutes.

TAS is based on the Americans with Disabilities Act Accessibility Guidelines (ADAAG) and applies to subject buildings and facilities constructed on or after April 1, 1994. Subject buildings and facilities where commencement of construction occurs prior to April 1, 1994 are covered by the current state accessibility standards.

The expressed purpose of TAS is to satisfy legislative intent requiring the department to adopt accessibility standards consistent with federal standards.

Building owners and design professionals who have become accustomed to using ADAAG will find that TAS has merged the federal and state standards while maintaining the federal numbering system. In actuality, all of the requirements necessary for complying with ADAAG are included in TAS. Therefore, the department believes utilizing TAS will also satisfy ADAAG and therefore intends to pursue equivalency certification from the United States Department of Justice.

Copies of TAS can be purchased from:

Office of the Secretary of State
Texas Register Division
P.O. Box 13824
Austin, Texas 78711-3824

(512) 463-5561 FAX (512) 463-5569
TDD (800) 735-2989

Cost per copy: \$10.00
Check, Visa, and Mastercard are accepted

TEXAS DEPARTMENT OF LICENSING AND REGULATION
ARCHITECTURAL BARRIERS

APPLICATION FOR VARIANCE

In accordance with Rule 68.31, I hereby apply for a variance or waiver of a standard or specification required for compliance with the Architectural Barriers Act, Article 9102, T.C.S. as they apply to the facility described on the attached Project Registration Form on the grounds that literal compliance with the Department's regulations is impracticable in this case.

FORM MUST BE COMPLETED IN FULL

PLEASE PRINT OR TYPE

1. Project Name		
Building/Facility Name		
Location/Address	City/Zip	Tel.
2. Owner		
Mailing Address	City/Zip	Tel.
3. Is building/facility being considered for a state lease? <input type="checkbox"/> yes <input type="checkbox"/> no If yes, identify the state agency and include the name and address of the contact person:		
		Tel.
3a. Has bidding or award of contract occurred? <input type="checkbox"/> yes <input type="checkbox"/> no		
4. Total square footage of building/facility _____ Per Floor _____		
5. Check the work performed or to be performed: <input type="checkbox"/> New Construction, <input type="checkbox"/> Addition, <input type="checkbox"/> Renovation, Modification, Alteration, <input type="checkbox"/> Change in Occupancy		
6. State the section of the Department of Licensing and Regulation, Texas Accessibility Standards for which a variance is being requested: (applications shall be submitted for each element/section)		
Section #	Location & Description of Nonconforming Condition	
_____	_____	
_____	_____	
7. Is the building historically significant? If no, go to #8.		
7a. If yes, identify designation and indicate date of listing:		

7b. If you checked any of the above, you must provide a determination of effect letter from the Texas Historical Commission, 1511 N. Colorado St., Austin, Texas 78701.		
8. State in detail the reasons why compliance with the standard is impracticable. Include the cost necessary to achieve compliance with the regulations. Use additional sheets if necessary.		

9. Is a building permit required for this work? yes no. If no, go to # 13.
9a. Has a building permit been applied for? yes no.
9b. Has building permit been issued? yes no.
9c. If a building permit has been issued, what date was it issued? _____

10. State the estimated cost of construction as stated on the building permit. _____

11. Have any other building permits been issued for this building within the past 24 months?
 yes no.
11a. If yes, state the dates that permits were issued and the estimated cost of construction for each permit:

12. Has a certificate of occupancy been issued for the facility? yes no.
If yes, state the date: _____

13. To the best of your knowledge, has a complaint ever been filed on this building relative to accessibility?
 yes no. If yes, state circumstances: _____

13a. Was the complaint resolved? yes no.
Explain: _____

14. State the phase of design or construction of the facility as of the date of this application:

PLEASE NOTE: The Department shall decide your application based on information submitted. You should therefore include all relevant information with your application. Drawings and photographs are extremely important.

Date	Name
	Company-Firm
<input type="checkbox"/> Owner	Address
<input type="checkbox"/> Agent	City State Zip Code
	Signature Telephone

IMPORTANT

A \$100.00 PAYMENT MUST ACCOMPANY EACH APPLICATION. MAKE CHECK PAYABLE TO THE TEXAS DEPT. OF LICENSING AND REGULATION AND MAIL TO TDLR, P.O. BOX 12157, AUSTIN, TX. 78711. APPLICATIONS RECEIVED WITHOUT PAYMENT WILL NOT BE PROCESSED.

TEXAS DEPARTMENT OF LICENSING AND REGULATION
ARCHITECTURAL BARRIERS

APPLICATION FOR VARIANCE

In accordance with Rule 68.31, I hereby apply for a variance or waiver of a standard or specification required for compliance with the Architectural Barriers Act, Article 9102, T.C.S. as they apply to the facility described on the attached Project Registration Form on the grounds that literal compliance with the Department's regulations is impracticable in this case.

FORM MUST BE COMPLETED IN FULL

PLEASE PRINT OR TYPE

1. Project Name		
Building/Facility Name		
Location/Address	City/Zip	Tel.
2. Owner		
Mailing Address	City/Zip	Tel.
3. Is building/facility being considered for a state lease? <input type="checkbox"/> yes <input type="checkbox"/> no If yes, identify the state agency and include the name and address of the contact person:		
		Tel.
3a. Has bidding or award of contract occurred? <input type="checkbox"/> yes <input type="checkbox"/> no		
4. Total square footage of building/facility _____ Per Floor _____		
5. Check the work performed or to be performed: <input type="checkbox"/> New Construction, <input type="checkbox"/> Addition, <input type="checkbox"/> Renovation, Modification, Alteration, <input type="checkbox"/> Change in Occupancy		
6. State the section of the Department of Licensing and Regulation, Texas Accessibility Standards for which a variance is being requested: (applications shall be submitted for each element/section)		
Section #	Location & Description of Nonconforming Condition	
_____	_____	
_____	_____	
7. Is the building historically significant? If no, go to #8.		
7a. If yes, identify designation and indicate date of listing:		

7b. If you checked any of the above, you must provide a determination of effect letter from the Texas Historical Commission, 1511 N. Colorado St., Austin, Texas 78701.		
8. State in detail the reasons why compliance with the standard is impracticable. Include the cost necessary to achieve compliance with the regulations. Use additional sheets if necessary.		

9. Is a building permit required for this work? yes no. If no, go to # 13.
9a. Has a building permit been applied for? yes no.
9b. Has building permit been issued? yes no.
9c. If a building permit has been issued, what date was it issued? _____

10. State the estimated cost of construction as stated on the building permit. _____

11. Have any other building permits been issued for this building within the past 24 months?
 yes no.
11a. If yes, state the dates that permits were issued and the estimated cost of construction for each permit: _____

12. Has a certificate of occupancy been issued for the facility? yes no.
If yes, state the date: _____

13. To the best of your knowledge, has a complaint ever been filed on this building relative to accessibility?
 yes no. If yes, state circumstances: _____

13a. Was the complaint resolved? yes no.
Explain: _____

14. State the phase of design or construction of the facility as of the date of this application: _____

PLEASE NOTE: The Department shall decide your application based on information submitted. You should therefore include all relevant information with your application. Drawings and photographs are extremely important.

Date	Name
<input type="checkbox"/> Owner	Company-Firm
<input type="checkbox"/> Agent	Address
	City State Zip Code
	Signature Telephone

IMPORTANT

A \$100.00 PAYMENT MUST ACCOMPANY EACH APPLICATION. MAKE CHECK PAYABLE TO THE TEXAS DEPT. OF LICENSING AND REGULATION AND MAIL TO TDLR, P.O. BOX 12157, AUSTIN, TX. 78711. APPLICATIONS RECEIVED WITHOUT PAYMENT WILL NOT BE PROCESSED.

TDLR DEPARTMENT OF LICENSING AND REGULATION ARCHITECTURAL BARRIERS PROJECT REGISTRATION

Please Type or Print

See Reverse Side For Instructions

1. Project Name			
2. Building/Facility Name			
3. Location/Address	City	Zip Code	County
4. Tenant (if other than owner)		Telephone Number ()	
5. Mailing Address	City	State	Zip Code
6. Contact		Telephone Number ()	
7. Mailing Address	City	State	Zip Code
8. Building/Facility Owner (not tenant)		Telephone Number ()	
9. Mailing Address	City	State	Zip Code
10. Contact		Telephone Number ()	
11. Mailing Address	City	State	Zip Code
12. Architectural/Engineering/Interior Design/Building Design Firm		Telephone ()	
13. Mailing Address	City	State	Zip Code
14. Project Architect/Engineer/Designer <input type="checkbox"/> Architect <input type="checkbox"/> Engineer <input type="checkbox"/> Interior Designer <input type="checkbox"/> Other		License Number (if applicable)	
15. Scheduled Start Date (mm/yy)	16. Scheduled Completion Date (mm/yy)	17. Project Cost	
Project Description: Indicate scope of project and describe below: <input type="checkbox"/> New Construction <input type="checkbox"/> Renovation/Alteration <input type="checkbox"/> Addition/Renovation <input type="checkbox"/> Addition to Existing Building <input type="checkbox"/> New Construction/Renovation <input type="checkbox"/> Historic Preservation			
19. <input type="checkbox"/> This Project involves Public Funds, Public Land, State Lease or Tax Abatement. <input type="checkbox"/> This Project is Privately Funded, on Private Land for Private Use.		20. State Lease Number (if applicable)	

Having examined Article 9102, Texas Civil Statutes, and being familiar with the provisions thereof, I hereby notify the Texas Department of Licensing and Regulation of the described project and of my intent to perform, or cause to be performed, all services necessary to design said project in accordance with the provisions of the statute.

Project Architect/Engineer/Interior Designer Signature Date

Having examined Article 9102, Texas Civil Statutes, and being familiar with the provisions thereof, I do hereby notify the Texas Department of Licensing and Regulation of my intent to comply with the provisions of the statute.

Owner/Agent Signature Date

ICP/MCP #: PLAN REVIEW	Date Plans Received By ICP/MCP	ICP/MCP #: INSPECTION	Date Received
------------------------	--------------------------------	-----------------------	---------------

DEPARTMENT USE ONLY		
AB#	COMPLAINT #	RECEIVED BY TDLR

INSTRUCTIONS FOR COMPLETING PROJECT REGISTRATION FORM

Note: A completed registration form and review fee payment must accompany construction documents (sealed) submitted for review. Failure to submit either or both will delay processing.

Note: If return of construction documents is desired, prepaid postage or instructions to return the documents COD must be provided. Documents are subject to destruction 30 days after the review.

Note: If no construction activity is involved in a state lease submittal, an Architectural Barriers State Lease Registration (TDLR Form 012EAB 6/94) shall be used.

1. **Project Name** - Enter the actual name of the project (examples: Classroom Addition, Pediatric Floor Renovation, Card Shop, Dr. Smith's Office, etc.). If named for a person, use the last name only (example: Washington High School).
2. **Building/Facility Name** - If the "Project" is part of another building or facility, enter the name of the building or facility (examples: Project: CLASSROOM ADDITION; Building/Facility: WASHINGTON HIGH SCHOOL; Project: JONES & SMITH, INC. OFFICE RENOVATION; Building/Facility: AMERICAN OFFICE PLAZA; Project: CARD SHOP; Building/Facility: MAIN STREET MALL; Project: DR. SMITH'S OFFICE; Building/Facility: MEDICAL OFFICE TOWER. For facilities named after a person, use only the last name (WASHINGTON HIGH SCHOOL).
3. **Location** - Enter the physical location, including the street address if available and the suite number, if applicable. Post Office Box numbers are not acceptable.
4. **Tenant** - Enter the name and telephone number of the person or person's, company, corporation, authority, commission, board, governmental entity, institution or any other unit that intends to occupy project.
5. **Mailing Address** - Enter the complete mailing address of the tenant listed in #4.
6. **Contact** - Enter the name and telephone number of the person representing the tenant (as listed in #4) who is to receive all correspondence pertaining to this project, including post-construction reports.
7. **Mailing Address** - Enter the mailing address of the person named in #6, if different than the address entered in #5.
8. **Building/Facility Owner** - Enter the name and telephone number of the person or persons, company, corporation, authority, commission, board, governmental entity, institution or any other unit that holds title to subject building or facility.
9. **Mailing Address** - Enter the complete mailing address of the owner listed in #8.
10. **Contact** - Enter the name and telephone number of the person representing the owner (as listed in #8) who is to receive all correspondence pertaining to the project, including post-construction reports.
11. **Mailing Address** - Enter the mailing address of the person named in #10, if different than the address entered in #9.
12. **Architectural/Engineering/Interior Design/Building Design Firm** - Enter the name and telephone number of the firm responsible for the design of the project.
13. **Mailing Address** - Enter the mailing address of the firm named in #12.
14. **Project Architect/Engineer/Interior Designer/Building Designer** - Enter the name of the architect, engineer, interior designer or building designer having overall responsibility for the design of the project and whose seal is affixed to the drawings. Include type of license and license number, if applicable.
15. **Start Date** - Enter the date construction is scheduled to begin (month and year). NOTE: This date will be the basis for any referral made to the applicable registration board in accordance with Article 9102, TCS.
16. **Completion Date** - Enter the scheduled completion date (month and year).
17. **Project Cost** - Enter the estimated cost of construction.
18. **Project Description** - Furnish a brief description of the project. Include square footage, floor levels, special features, etc.
19. Indicate the method of funding. Refer to Administrative Rule 68.21 if necessary.
20. Enter the state lease number if construction project is for purposes of a state agency lease contract and/or occupancy by a state agency.
Signature of Project Architect/Engineer/Interior Designer - Signature of registered design professional who has overall responsibility for the design of the project and whose seal is affixed to the drawings.
Signature of Owner/Agent - Signature and title of the owner or owner agent named in #10. In the absence of a registered design professional, building designer may sign as owner's agent.
Note: The Contract Provider Number (ICP/MCP#) is to be completed by the authorized contract provider, if applicable.

WHAT TO SUBMIT

1. One complete set of construction documents (plans and specifications) for all disciplines. All documents applicable to the project should be submitted as one package to ensure inclusion in the review.
2. A fully completed and signed Architectural Barriers Project Registration Form for each site/address or State Lease Registration Form if applicable.
3. For TDLR services, submit check or money order payable to "Texas Department of Licensing and Regulation" at P.O. Box 12157, Austin, Texas 78711. Note: If inspection fee is not paid with review fee, owner will be invoiced for the inspection fee at time of completion (based on date in #16.).
4. When construction documents are submitted after completion, the late review fee shall apply.
5. For Contract Provider (ICP/MCP) services, contact the respective ICP/MCP.

TEXAS DEPARTMENT OF LICENSING AND REGULATION



Code Review and Inspections
ARCHITECTURAL BARRIERS

P.O. Box 12157 Austin, Texas 78711 (512)463-3211 FAX (512)475-2886

NOTICE

To: Whom it may concern

Date: June 21, 1996

Re: Section 2(g), Article 9102, Texas Civil Statutes
(Places used primarily for religious ritual)

Section 2(g) reads:

The standards adopted under this article do not apply to a place used primarily for religious ritual within either a building or facility of a religious organization.

Effective May 10, 1996, the appropriate interpretation of this law is as follows:

- For facilities which were built primarily for religious purposes (i.e., church, synagogue, etc.), the entire building in which a religious ritual is held (i.e., baptism, etc.) is exempt. All rooms attached directly to the building (i.e., entered through a doorway or hall that does not require going outside) are included.

If there are buildings which are unattached to the building in which a religious ritual is held (i.e., cannot be entered without going outside), they are not exempt if they fall under the public accommodation definition even if a portion of the facility may on occasion be used for religious rituals.

- In facilities or buildings which were not built primarily for religious purposes (i.e., hospitals, colleges, shopping centers, private schools, fellowship halls, activity buildings, places of gathering, etc.), only that portion of a building used primarily for religious purposes (i.e., chapel, etc.) is exempt.

ARCHITECTURAL BARRIERS COMPLAINT FORM

MAIL TO:
TEXAS DEPARTMENT OF LICENSING & REGULATION
INSPECTIONS AND INVESTIGATIONS DIVISION
P. O. BOX 12157 AUSTIN, TEXAS 78711
800-252-8026, 512-463-2906 FAX 512-475-2872

NOTICE

Under the Open Records Act, the complaining party's
identity is subject to being revealed.
(The department cannot report the outcome of the case
if the complaining party files anonymously.)

A. You, as the complaining party: (Type or print legibly)

Name: _____
Address: _____
City/State/Zip: _____
Telephone: (Work) _____ (Home) _____
Fax: (Work) _____ (Home) _____

B. The person or building/facility you are complaining about: (Must have complete address)

Name: _____
Facility Name: _____
Physical Address: _____
City/State/Zip: _____
Mailing Address: _____
City/State/Zip: _____
Telephone: (Office) _____ (Fax) _____

C. Please answer the following questions.

1. Have you contacted the business directly? Yes No Date: _____
2. Have you contacted another agency? If yes, which? _____
3. Have you retained an attorney or initiated any civil action? _____

D. EXPLANATION SECTION: Describe your complaint in detail and the type of resolution you are seeking. Signatures and date are required in the signature section at the bottom of this page (excluding anonymously filed complaints). If the space provided below is not adequate, you may attach additional pages.

COMPLAINT FORM

MAIL TO:

TEXAS DEPARTMENT OF LICENSING & REGULATION
INVESTIGATIONS AND ENFORCEMENT DIVISION
P. O. BOX 13137 AUSTIN TEXAS 78713
800-252-8006 512-463-2906 FAX 512-475-2875

NOTICE

Under the Open Records Act, the complaining party's identity is subject to being revealed. The department cannot report the outcome of the case if the complaining party files anonymously.

1. You are the complaining party? (Type or print legibly)

Name:

Address:

City/State/Zip:

Telephone: (Work)

(Home)

Fax: (Work)

(Home)

2. You are not the complaining party? (Type or print legibly)

Name:

Facility Name:

Physical Address:

City/State/Zip:

Mail Address:

City/State/Zip:

Telephone: (Office)

(Fax)

SIGNATURE SECTION

The above information is true and correct to the best of my knowledge.

Signature: _____

Date: _____



Accessology, Inc.

www.accessology.com

Tax Provisions for Barrier Removal

The federal government has taken steps encourage American businesses to increase accessibility. The Internal Revenue Code now contains sections that provide tax incentives to comply with the law. On November 5, 1990, a new section, §44, was added to the Internal Revenue Code that grants eligible small businesses an annual tax credit of up to \$5,000 for expenditures incurred "to comply with applicable requirements under the Americans with Disabilities Act of 1990." Any qualified expenditures made after November 5, 1990, are eligible for the §44 credit.

Section 190 of the Internal Revenue Code permits any business, regardless of size, to take a business deduction of \$15,000 for qualified architectural and transportation barrier removal expenses. This document provide basic information on the tax incentives found in both sections.

Provisions of Section 44

Under § 44, an eligible small business may elect to take a general business credit up of up to \$5,000 annually for eligible access expenditures to comply with the requirements of the Americans with Disabilities Act. The amount that may be taken as a credit is 50% of the eligible access expenditures incurred that exceed \$250 but do not exceed \$10,250 per tax year. For instance, if a business spends \$7,500 to provide an interpreter, the credit would be in the amount of \$3,625 (\$7,500 minus \$250, divided by 2). The credit can be carried forward up to 15 years and carried back for three years, through there is no carry back to a year before 1991. A business may take this credit each year that it makes an accessibility expenditure, be it purchase of equipment, provision of communication assistance, or removal of an architectural barrier. This tax credit should be claimed on IRS Form 8826, Disabled Access Credit.

Definitions of Major Terms for Section 44

Eligible Small Business

A business with gross receipts (for the year preceding the taxable year) of no more than \$1 million or 30 or fewer full-time (30 hours a week for 20 or more weeks a year) employees.

Eligible Access Expenditures

Reasonable expenditure to comply with the ADA. Included are amount related to removing architectural, communication, physical, or transportation barriers; providing qualified interpreters, readers or similar services; and modifying or acquiring equipment and materials. Expenditures must be reasonable and must meet standards set out in regulations issued by the IRS; however, these regulations have not yet been published, Expenses for new construction or those that are not necessary to accomplish ADA accessibility are not eligible.

Provisions of Section 190

All businesses may elect to treat qualified architectural and transportation barrier-removal expenses that are paid or incurred during each taxable year as expenses that are not chargeable to a capital account. Such expenditures are fully deductible up to a maximum of \$15,000 for each taxable year. Qualified expenses include only those expenses specifically attributable to the removal of existing barriers such as steps, narrow doors, inaccessible parking spaces, inaccessible toilet facilities, or transportation vehicles. For instance, if a restaurant spends \$12,000 installing ramps, re-stripping the parking lot and widening passageways, the full \$12,000 is deductible. Modifications must meet the requirements of standards established under §190 of the

of the Internal Revenue Code (26CFR§1.190). Expenses incurred in the construction or comprehensive renovation of a facility or vehicle or in the normal replacement of depreciable property are not included.

Availability

The tax incentives provided in both §44 and §190 may be claimed on an annual basis. A business that cannot remove all barriers in one year or provides accommodations on a continuing basis may use these incentives each year an expenditure is made.

In addition, eligible small businesses may take advantage of both incentives in years in which they make qualified expenditures. For instance, if a small business makes expenditures of \$24,000 that qualify under both sections, it may take the \$5,000 credit for the initial \$10,250. It may then calculate the proper amount (up to \$15,000) for a §190 deduction by subtracting the amount of **credit received** from the total expenditure. In this example, the business would subtract \$5,000 from \$24,000 for a resulting \$19,000. Section 190 allows a maximum deduction of \$15,000; therefore, the business may take a \$15,000 deduction in addition to the \$5,000 tax credit.

Total expenditures by eligible small business	\$24,000
§44 credit =	\$10,250
	- 250
	<u>\$10,000</u>
	x .50
	<u>\$ 5,000</u>
§ 190 deduction =	\$24,000
	- 5,000
	<u>\$19,000</u>
§ 190 maximum deduction	\$15,000

Expenditures that exceed the amount of credit taken, as demonstrated above, can be deducted if they qualify under another section. For instance, an expenditure of \$10,000 by an eligible small business to renovate bathrooms would be handled in this manner. The business could take a disabled-access credit of \$4,875 [(\$10,000 – 250) x .50], then deduct \$5,125 (\$10,000 - 4,875) as a § 190 expense. A business may not receive a double benefit for the amount of the credit, i.e., the business may not deduct the entire \$10,000 as a § 190 expense after having claimed the \$4,875 disabled-access credit.

NOTE: Three distinctions between §44 and §190 must be noted.

- *First, §44 is available only to small businesses as defined above.*
- *Second, §44 provides for a tax credit, §190 for a tax deduction. A tax credit is applied directly to the amount of tax owed, while a deduction is applied to the adjusted gross income.*
- *Third, §44 is tied to compliance with the ADA. Section 190 may be used for any barrier removal that meets the standards in the applicable regulations.*

Individuals seeking to use either of these tax incentives should check with their local building department to ensure compliance with all local building regulations, including local and state standards for access renovations.

For further assistance, contact either the local IRS office or Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., N.W. Washington, DC 20224; (202)622-3110. Toll free assistance is available for all federal tax questions at (800)829-1040; forms and publications may be ordered at (800)829-3576. IRS Publication 907 contains tax information for people with disabilities, including a thorough discussion of both these sections.

Accessology News

Volume 2, Issue 3

December, 1998

HUGE CHANGES AT TDLR!!!

Inside this issue:

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The Texas Department of Licensing and Regulation (TDLR) has gone through some major changes this year, both with their procedures and with their personnel.

You may have received letters from Rachelle Martin, Director of Code Review and Inspections. Rachelle was promoted to Executive Director of the Agency. We offer her our sincere congratulations for her promotion.

Many of you know George Ferrie, Manager of Enforcement, or will at least recognize his name. (If you attended our conference in March, you had the chance to meet him.)

Well, George was promoted to Rachelle's old job as Director of Code Review and Inspections.

Jim Boyce, Manager of Plan Reviews, (who you also met at the conference) also made a change, but his was more drastic. Jim retired from TDLR after 15

years to work in the private sector (as an employee of Accessology, Inc., see story below).

Rick Baudoin, Program Administrator, (also at the conference) remains in the department. With the two other people who have worked in this department gone, Rick has his work cut out for him.

Rick will move over and handle George's old responsibilities. It's quite a workload for Rick, but he's certainly the best man for the job. He knows every aspect of these regulations and will help make this transition as smooth as possible for all involved.



See Story on page 3 regarding rule changes at TDLR

Jim's replacement is a wonderful man named Brian Haecker, you will enjoy working with him.

TDLR has made some rule changes this year as well. Some of the changes may significantly impact your business. Take a look at the story on page three for more information about TDLR's rule changes. ☺

NEWSFLASH!

- * Effective Immediately, TDLR will only accept project registration forms with a revision date of 6/98.
- * Accessology, Inc. is proud to announce the addition of Jim Boyce to our staff.
- * Ms. Kim Goss is the proud mother of Amelia Claire Goss, Born December 30, 1998.

Even Bigger Changes at Accessology!!

Accessology, Inc. continues to grow. With this edition we announce three new employees. **Wallace Rains** joined our team in February as our in house Accountant, I don't need to explain how much we appreciate the work he does!

Jimmy Bell graduated from TDLR's Academy and is joining

our team of project inspectors. Before long you will begin seeing him on site when we do the final inspection of your projects.

As noted in the above article, Accessology, Inc. is excited to announce that **Jim Boyce** has joined our team as the Manager of Training

and Technical Information. This brings new opportunities to you, as well as to Accessology.

For instance, often clients have had to wait for answers while we contacted TDLR. The person we were trying to

(Continued on page 2)

PRESIDENT'S CORNER,

Building Owners, Property Managers BEWARE!

BY, Kristi J Thomas

A big part of what we do at Accessology, Inc. is help businesses and building owners comply with state and federal accessibility standards.

Lawsuits are becoming more frequent (see story on page 6) and the courts are defining areas originally left rather gray.

Many advocacy groups are designed to force compliance with Federal standards through legal action, if compliance is not voluntarily achieved.

As an expert witness for ADA cases, I would like to offer some simple advice to keep your exposure to a minimum.

Most importantly, have a complete assessment of your building(s) done to determine all of the areas in and out of compliance. Then set up and follow a transition plan to bring the building into compliance.

The assessment may cost a few thousand dollars, but it can save hundreds of thousands in the long run.

Both the disability community and the courts are usually looking for evidence of willingness to comply. If a

violation is filed against your building and you can show that an assessment has been done and every item out of compliance is scheduled to be brought into compliance at some point, in most cases the disability community will accept the plan with no further action and so will their attorneys.

Obviously, if the plan was done in 1992 and nothing has been implemented, it's a problem. But even if you make a transition plan that takes several years to complete, as long as there is evidence that you will follow it through to completion you should have no problem.

Be careful who you hire to provide an **assessment** for you.

There is a lot of misinformation out there and the last thing you want to do is spend a bunch of money on bad, or inaccurate, information. Make sure they are looking out for all of the accessibility laws, not just the state or just the federal laws or you can end up making some very



Does your building comply with state and federal accessibility standards?

The last thing you want to do is spend a bunch of money on bad, or inaccurate, information.

expensive mistakes.

We believe there are three, and sometimes four, phases to ADA/TAS compliance. Phase one is the actual assessment of the building. Upon its completion, we discuss what we found during the assessment and help develop a plan of action (the actual plan is phase two).

Sometimes we find issues that need to be discussed with the Texas Department of Licensing and Regulation (such as topographical issues) before a plan should be put into action. If full compliance is not possible, or unlikely, because of existing conditions, you need some type of protection from the state (there is no way to get protection through the federal laws) stating why a specific element can not be brought into full compliance.

This would happen through the state's variance process once construction plans are detailed. This process becomes the third phase. The final phase is to put the plan into action.

Accessology completed 42 assessments in 1998 and believe we have gotten it down to a science to help provide the protection you need.

The one thing you **DO NOT** want to do is ignore the fact that your building has an access problem. With the rights the laws provide the disability community, it could be an expensive mistake. ☹

Bigger Changes at Accessology (continued)

contact was Jim. With Jim on board, we will be able to supply many answers immediately. Obviously we will maintain our close relationship with TDLR. Judgement calls will still go through them, and they have the final say. Jim will no longer be able to answer on their behalf, but he can provide the technical guidance we may need.

Since the conference dozen of requests have come in for Accessology to provide training classes for architects, general contractors, building

owners and/or property managers similar to the individual workshops provided at the conference. You ask, we listen. Accessology, Inc. is pleased to announce a new service; **Accessibility Training Sessions.**

Beginning in January, Accessology, Inc. will provide training sessions specific to TAS/ADA compliance. You will be able to bring specific problems or questions and get on the spot answers.

We offer everything from brown bag lunches and one day training sessions,

to three day training session depending upon the audience and the depth of detail needed. The size of the classes will be limited to ensure we have time to get questions answered.

These training sessions will be conducted by Jim Boyce, and since he's the one who has taught every Independent Contract Provider until the last two academies, you'll know you are getting accurate information. See page 8 for additional information regarding our new training classes. ☹

Texas Department of Licensing and Regulation Make Rule Changes That May Effect Design

Effective May 6, 1998 the Texas Department of Licensing and Regulation (TDLR) made some changes to the administrative rules that accompany Article 9102 of the Texas Civil Statutes and the design guidelines (Texas Accessibility Standards or TAS).

Some of the areas that have been changed will not effect design, but some are rather significant, especially for new construction, and could have great impact on the design of a building. The following information represents all sections of the rules where changes have taken place. The sentences that are in bolded italics indicate differences from the previous version of these rules.

Section 68.20 Registration - Submittal:

(a) Construction documents covering each subject building or facility with an estimated construction cost of \$50,000 or more shall be submitted to the department or contract provider prior to commencement of construction. ***If construction documents are not submitted prior to the commencement of construction, they shall be submitted to the department and may not be submitted to a contract provider.***

68.30 - Exemptions

The following buildings, facilities or spaces are exempted from the Act:

(1) Buildings or facilities owned and operated by the federal government;

(2) Construction Sites. Structures, sites, and equipment directly associated with the actual processes of construction, including , but not limited to, scaffolding, bridging, materials hosts, materials storage, construction trailers, portable toilet units provided for use exclusively by construction personnel on a construction site;

(3) Raised Security Areas. Raised areas used primarily for purposes of security, life safety, or fire safety, including by not limited to, observation galleries, prison guard towers, fire towers, or life guard stands;

(4) Limited Access Spaces. Spaces accessed only by ladders, catwalks, crawl spaces, very narrow passageways, or tunnels;

(5) Equipment Spaces. Spaces frequented primarily by personnel for maintenance, repair or periodic monitoring of equipment. Such spaces, include but are not limited to, elevator pits, elevator penthouses, mechanical, electrical, or communications equipment rooms, piping or equipment catwalks, petroleum and chemical processing and distribution structures, electric substations and transformer vaults, environmental treatment structures, and highway and tunnel utility facilities.

(6) Single Occupant Structures. Single occupant structures accessed only by passageways below grade or elevated above grade, including but not limited to, toll booths that are accessed only by underground tunnels.

(7) Restricted Occupancy Spaces. Vertical access (elevators and platform lifts) is not required for the second floor of two-story control buildings located within a chemical manufacturing facility where the second floor is restricted to employees and does not contain common areas or employment opportunities not otherwise available in accessible locations within the same building.

68.70 Responsibilities of the Registrant - Construction Document

Submittals.

(c) A completed Architectural Barriers Project Registration form and review fee shall accompany documents. ***Registrants must include on the Project Registration form the name of the building owner, as defined by these rules, and current address of the owner.***

(f) If construction documents were not submitted prior to commencement of construction, they shall be submitted for review as soon as possible following commencement of construction. ***Construction documents submitted after completion of construction may not be submitted to a contract provider.*** The Act shall be adhered to regardless of the time the construction documents were submitted for review.

Additionally, TDLR has raised several of their fees noted in section 68.80 - Fees. Since most of you operate off our fee schedule instead of the state's I am not specifically listing the fees.

However, it is important to note that TDLR has inserted another column into their fee schedule that is labeled "late review fee" and is exactly double the normal review fees.

They also inserted paragraph (g) which says, ***"When construction documents are submitted after completion of a subject project, the late review fee shall apply"***.

The intent is to get the responsible parties to follow the rules as written in Article 9102 which requires plans to be submitted prior to the beginning of construction.

This covers most of the sections changed in the rules. There are some semantic changes which effect the

(Continued on page 4)

Landlords vs. Tenants - Who's responsible for compliance?

One of the most controversial issues of the ADA deals with responsibility. We are often asked who's responsible for what part of a building. Recent court cases have clarified certain aspects of this issue.

Section 36.201(b) of the Title III (federal) regulations clarifies that both a landlord that owns a building that houses a place of public accommodation and the tenant that owns or operates the public accommodations are subject to ADA's requirements. Allocating responsibility for complying with the various provisions of the act will depend on the terms of the lease or other contractual relationship between the two parties.

In Texas, when an alteration is made to an area that contains a primary function the parking that serves the altered area, the path of travel from the parking to the altered area and the restrooms, telephones and drinking fountains that serve the altered area are required to be brought into compliance as part of the project.

Determining who is responsible for ADA compliance (the landlord or the tenant) was one of the most difficult issues to address when this piece of legislation was created. The Department of Justice proposed that landlords be responsible for common areas, and the tenants be responsible for the space they lease. Many who commented on the proposed rule objected because they thought lease agreements are often too complicated to al-

low such a simple division of responsibility so the decision was left to the lease-negotiation process. If appropriate, however, the common space/leased space arrangement can be a viable approach and is often used. Therefore, a landlord would generally be responsible for making "readily achievable" changes and modifying policies and practices in common areas (i.e. entrances and concourses in shopping malls), while the tenant would be obligated to remove barriers and accommodate customers within it's space, under federal law.

Remember that in Texas this will vary slightly. Texas laws do not use the "readily achievable" clause. In Texas

when an alteration is made to an area that contains a primary function (such as the stores of a shopping mall) then the parking that serves the altered area, the path of travel from the parking to the altered area and the restrooms, telephones and drinking fountains that serve the altered area are all required to be brought into compliance **as part of the project.**

When plans are reviewed by the state or an authorized independent contract provider (ICP) they will expect full compliance unless there is an approved variance from the Texas

Department of Licensing and Regulation in the file. Variances can only be approved before the construction is complete, so if you have a structural or technical reason why full compliance can not be achieved, or the cost of compliance would be disproportionate to the overall cost and scope of the work to be done, apply for the variance ahead of time. Variance applications can be downloaded from our website but must be sent directly to TDLR for processing.

According to the Department of Justice, landlords should not be held responsible for the practices of a tenant. For example, a restaurant tenant that refuses to seat a patron with a disability would be liable for a violation of the ADA, **NOT** the landlord. However, if the tenant refused to allow a person with a service dog into the restaurant because the landlord mandated a "no pets" policy, both the tenant and the landlord would be liable for discrimination.

In all circumstances full compliance is the best bet. If full compliance can not be achieved for some **valid** reason, the state may offer protection through the variance process as long as it is **proven** to TDLR there is a good reason for non-compliance. Neither the building owner, the tenant or the architect/designer assigned to the project should try to make that determination. A variance should always be sought. &

TDLR Rule Changes (con't)

(Continued from page 3)

words used, but not the content of the text and some changes simply omitted redundancy but does not alter the meaning of the text.

Obviously the most significant change occurs in section 68.30 which now clearly indicates you no longer have to make mechanical rooms

(including electrical and telephone equipment rooms) accessible. This has been a source of controversy for a long time and may impact many projects. However, it is certainly good news for the design industry.

If you have an older copy of the Administrative Rules and need an updated version (updated May 6, 1998) feel free to contact our office or you

can call TDLR directly. It will also be available for downloading from our web site (www.accessology.com) by the end of February.

IMPORTANT NOTE: - TDLR has recently announced they will only accept Project Registration Forms with a June, 1998 (6/98) revision date. If you have any other version contact our office or download it from our web site. &

What's New?

In previous issues of our newsletter (and every training session we provide) Accessology, Inc. has committed to keeping you updated on all issues coming out of Washington that will effect access and/or design. The information contained in this article is the most updated information as of the printing of this article. The information is provided by

the United States Architectural Transportation Barriers Compliance Board, more commonly known as the "Access Board." Their publication "Access Currents" is the source of the following information:

1. New Access Board Duties: On November 13, 1998, President Clinton signed into law the Assistive Technology Act of 1998. In one section of the law congress gives the Access Board responsibility to provide training to Federal and State employees on electronic and information technology access. For more information about this new law, contact our office directly at 972-434-0068.

2. Access Board has Extended the Detectable Warning Suspension: Periodically we get a lot of questions regarding TAS/ADA sections 4.7.7, 4.9.5 and more specifically section 4.29 which were suspended shortly after the regulation was published. Originally they were suspended until July, 1996, then July, 1998. On November 23, 1998 the Access Board published a final rule in the *Federal Register* that suspends the requirement for detectable warnings until July 26, 2001. This pertains to detectable warnings at curb ramps, hazardous vehicular areas, and reflecting pools. The requirement for detectable warnings along the edge of boarding platforms in transit stations remains in effect. Both the Department of Justice and the Department of Transportation have agreed to this delay.

3. Rule Making Agenda: In 1998 the Access Board issued final guidelines on state and local government facilities, building elements designed for children's use, telecommunications equipment, and over-the-road busses. Various guidelines and standards are scheduled for publication in 1999 and 2000. Most involve publication of proposed guidelines, including the update of the Americans with Disabilities Act Accessibility Guidelines (ADAAG), which will be available for public comment, usually for a period of at least 90 days. Guidelines are republished in final form after this comment process. We will notify you via our newsletter and our website (www.accessology.com) when any rule goes into a comment phase. The areas that currently have legislative work being done are:

- ⇒ **Play Areas:** Proposed guidelines were published and available for public comment until July 29, 1998. Based on it's review of comments, the Access Board will revise the guidelines as necessary and publish them in final form.
- ⇒ **ADAAG Review/Federal Facilities/Housing:** At a January, 1999 meeting the Access Board plans to finish work on this "3-in-1" rule (ADAAG revision, the update of guidelines for federally-funded facilities, and housing guidelines) and publish it for public comment. Again, watch our newsletters and website for the comment periods.
- ⇒ **Recreation Facilities:** The Access Board has completed work on proposed guidelines for recreation facilities (i.e. sports facilities, places of amusement, golf, and boating and fishing facilities) and will publish them for public comment.
- ⇒ **Outdoor Developed Areas:** Regulatory negotiation is underway to develop proposed guidelines for nature trails, picnic and camping areas, and beaches. The "reg-neg" committee will submit a report to the Access Board which will be the basis for a proposed rule that will be published for public comment in late 1999 or early 2000.
- ⇒ **Passenger Vessels:** An advisory committee has been established to develop recommendations on accessibility guidelines for passenger vessels. Proposed guidelines will eventually be published based upon the committee's comments.
- ⇒ **Electronic and Information Technology:** The Access Board will propose standards for electronic and information technology acquired by Federal agencies. These standards will be based on recommendations from an advisory committee earlier established.

An explanation of the work the Access Board does and information regarding additional work being done by the Access Board is highlighted on page 8. Although several Federal agencies may be involved in the creation of the text of accessibility laws, the Access Board is the agency responsible for the development of all accessibility guidelines. We recommend all interested parties participate in the comment process for future guidelines. ♿

DECISIONS, DECISIONS



Another commitment we made is to keep our customers updated on the latest information coming out of the courtrooms. Below is a list of cases, and the courts decisions, that effect design. Please be aware that the majority of ADA related cases filed are for Title I (employment) issues. Due to the nature of the industry, we have not included Title I cases or decisions. Information provided in this section was obtained from a variety of resources.

It is important to know that the Department of Justice may file lawsuits in Federal court to enforce the ADA and may obtain court orders, including compensatory damages and back pay, to remedy discrimination. Under Title III (public accommodations) the Department of Justice may also obtain civil penalties of up to \$50,000 for the first violation and \$100,000 for any subsequent violation.

DECISIONS:

1. Hotel Franchisor May Be Held Responsible for New Construction Violations by Franchisee: The U.S. Court of Appeals for the Eighth Circuit ruled that a franchisor may be held liable for a franchisee's failure to design and construct a hotel to meet the accessibility requirements of the ADA in *the United States vs. Days Inns of America*.

2. "Stadium-style" Movie Theatres Must Provide Comparable Sight Lines: The U.S. District Court for the Western District of Texas ruled that seating for wheelchair users in newly constructed, "stadium-style" movie theaters must provide lines of sight that are at least similar to those of the average patron and cannot be limited to the worst seats in the house (i.e. front row and back row only) in *Lara vs. Cinemark, USA, Inc.*



Let's take a look at the decisions coming out of federal, state and local courts.

Litigation may be resolved at the time the suit is filed or afterwards by means of a negotiated consent decree. The Federal court that issues the consent decree also monitors and enforces the agreement. In *United States vs. A.B. C. Nursery, Inc.* the U.S. Attorney for the Western District of Wisconsin entered into a consent decree resolving a lawsuit filed against the nursery for refusing to admit a child with HIV.

The Department of Justice may also file documents known as briefs in cases where they are not a party in order to provide guidance to the courts in interpreting the ADA. This process is called "Amicus Briefs". An Amicus Brief was filed by the Department of Justice in the following cases:

- ⇒ **Martin vs. PGA Tour** – A case in the U.S. Court of Appeals for the Ninth Circuit. The brief was filed in support of Casey Martin, a professional golfer with a rare disability, who requested the use of a golf cart during a professional game. The PGA has had a long standing "no-carts" rule which was overturned in this historical case. Martin prevailed and is allowed to use a cart during PGA games.
- ⇒ **Harnois vs. Christy's Market** – The brief provided by the Department of Justice argued that 30 days prior notice was NOT required before a Title III lawsuit may be filed. In this case the plaintiff alleged that several Christy's Market locations in Maine are not accessible.

The Department of Justice may also resolve cases without filing a lawsuit by entering into a formal written settlement agreement. This was done in a number of cases listed below:

- ⇒ **McDowell County, West Virginia** – The Department of Justice received a complaint that the county's facilities, including it's courthouse, were not accessible to individuals with mobility impairments. The county agreed to complete structural changes necessary to make the commissioner's office, sheriff's department, courthouse annex, and first floor of the main courthouse accessible by September 1, 1998. Policies were also changed to provide services currently located in inaccessible area in accessible locations upon request.
- ⇒ **Bogalusa, Louisiana** – The city of Bogalusa agreed to complete it's self evaluation and transition plan.
- ⇒ **Thousand Oaks, California** – The complaint was that the Civic Arts Plaza was built in violation of the ADA's requirement for new construction. Under the agreement the Civic Arts Plaza has added and relocated

(Continued on page 7)



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- ⇒ **Play Areas:** Proposed guidelines were published and available for public comment until July 29, 1998. Based on it's review of comments, the Access Board will revise the guidelines as necessary and publish them in final form.
- ⇒ **ADAAG Review/Federal Facilities/Housing:** At a January, 1999 meeting the Access Board plans to finish work on this "3-in-1" rule (ADAAG revision, the update of guidelines for federally-funded facilities, and housing guidelines) and publish it for public comment. Again, watch our newsletters and website for the comment periods.
- ⇒ **Recreation Facilities:** The Access Board has completed work on proposed guidelines for recreation facilities (i.e. sports facilities, places of amusement, golf, and boating and fishing facilities) and will publish them for public comment.
- ⇒ **Outdoor Developed Areas:** Regulatory negotiation is underway to develop proposed guidelines for nature trails, picnic and camping areas, and beaches. The "reg-neg" committee will submit a report to the Access Board which will be the basis for a proposed rule that will be published for public comment in late 1999 or early 2000.
- ⇒ **Passenger Vessels:** An advisory committee has been established to develop recommendations on accessibility guidelines for passenger vessels. Proposed guidelines will eventually be published based upon the committee's comments.
- ⇒ **Electronic and Information Technology:** The Access Board will propose standards for electronic and information technology acquired by Federal agencies. These standards will be based on recommendations from an advisory committee earlier established.

An explanation of the work the Access Board does and information regarding additional work being done by the Access Board is highlighted on page 8. Although several Federal agencies may be involved in the creation of the text of accessibility laws, the Access Board is the agency responsible for the development of all accessibility guidelines. We recommend all interested parties participate in the comment process for future guidelines. ☺

DECISIONS, DECISIONS

Another commitment we made is to keep our customers updated on the latest information coming out of the court-

rooms. Below is a list of cases, and the courts decisions, that effect design. Please be aware that the majority of ADA related cases filed are for Title I (employment) issues. Due to the nature of the industry, we have not included Title I cases or decisions. Information provided in this section was obtained from a variety of resources.

It is important to know that the Department of Justice may file lawsuits in Federal court to enforce the ADA and may obtain court orders, including compensatory damages and back pay, to remedy discrimination. Under Title III (public accommodations) the Department of Justice may also obtain civil penalties of up to \$50,000 for the first violation and \$100,000 for any subsequent violation.

DECISIONS:

1. Hotel Franchisor May Be Held Responsible for New Construction Violations by Franchisee: The U.S. Court of Appeals for the Eighth Circuit ruled that a franchisor may be held liable for a franchisee's failure to design and construct a hotel to meet the accessibility requirements of the ADA in *the United States vs. Days Inns of America*.

2. "Stadium-style" Movie Theatres Must Provide Comparable Sight Lines: The U.S. District Court for the Western District of Texas ruled that seating for wheelchair users in newly constructed, "stadium-style" movie theaters must provide lines of sight that are at least similar to those of the average patron and cannot be limited to the worst seats in the house (i.e. front row and back row only) in *Lara vs. Cinemark, USA, Inc.*



Let's take a look at the decisions coming out of federal, state and local courts.

Litigation may be resolved at the time the suit is filed or afterwards by means of a negotiated consent decree. The Federal court that issues the consent decree also monitors and enforces the agreement. In *United States vs. A.B. C. Nursery, Inc.* the U.S. Attorney for the Western District of Wisconsin entered into a consent decree resolving a lawsuit filed against the nursery for refusing to admit a child with HIV.

The Department of Justice may also file documents known as briefs in cases where they are not a party in order to provide guidance to the courts in interpreting the ADA. This process is called "Amicus Briefs". An Amicus Brief was filed by the Department of Justice in the following cases:

- ⇒ **Martin vs. PGA Tour** – A case in the U.S. Court of Appeals for the Ninth Circuit. The brief was filed in support of Casey Martin, a professional golfer with a rare disability, who requested the use of a golf cart during a professional game. The PGA has had a long standing "no-carts" rule which was overturned in this historical case. Martin prevailed and is allowed to use a cart during PGA games.
- ⇒ **Harnois vs. Christy's Market** – The brief provided by the Department of Justice argued that 30 days prior notice was NOT required before a Title III lawsuit may be filed. In this case the plaintiff alleged that several Christy's Market locations in Maine are not accessible.

The Department of Justice may also resolve cases without filing a lawsuit by entering into a formal written settlement agreement. This was done in a number of cases listed below:

- ⇒ **McDowell County, West Virginia** – The Department of Justice received a complaint that the county's facilities, including it's courthouse, were not accessible to individuals with mobility impairments. The county agreed to complete structural changes necessary to make the commissioner's office, sheriff's department, courthouse annex, and first floor of the main courthouse accessible by September 1, 1998. Policies were also changed to provide services currently located in inaccessible area in accessible locations upon request.
- ⇒ **Bogalusa, Louisiana** – The city of Bogalusa agreed to complete it's self evaluation and transition plan.
- ⇒ **Thousand Oaks, California** – The complaint was that the Civic Arts Plaza was built in violation of the ADA's requirement for new construction. Under the agreement the Civic Arts Plaza has added and relocated

(Continued on page 7)

Decisions, (con't)

(Continued from page 6)

accessible seating, ensured there is an accessible route to the stage, constructed an accessible entrance into the control room, provided a public text telephone, installed accessible signage, installed required visual strobe alarms and provided accessible benches in the dressing rooms. They will also renovate the shower stalls and the toilet rooms to make them accessible.

- ⇒ **Mendocino County, California** – A complaint was filed that the county courthouse was not accessible to individuals with mobility impairments on the mezzanine levels where several courtrooms are located. It also stated that no accessible restrooms are located in the building and no accessible parking is provided for the building. The agreement requires the county to undertake modifications, including working with city officials, to install accessible parking, and accessible path of travel, accessible entrances, upgrading the elevator for compliance, installing accessible signage and modifying at least one set of restrooms to fully comply with ADA design guidelines.
- ⇒ **Johnson County, Tennessee** – The county also agreed to make it's courthouse accessible. It also agreed that county personnel will meet individuals with disabilities at accessible locations when services, programs and activities are not provided in accessible locations.
- ⇒ **Airlie Conference Center, Warrenton, Virginia** – The Airlie Foundation agreed to make it's conference and retreat center more accessible. It is currently spread out on 100 hilly acres with several historical buildings, all of which make access difficult at best. Airlie agreed to construct an addition that will house an elevator, completely accessible toilet facilities, an office, and other amenities. Upon completion of this addition, visitors will have access to all major facilities in the building, including the main dining room and the largest conference room both of which were completely inaccessible.
- ⇒ **Indiana Beach Water Park, Monticello, Indiana** – The complainant who uses a motorized scooter alleged that she and her family found that the previously existing accessible walkway had been removed and there was no other access to the beach provided. She waited in the car while her family enjoyed a day at the beach. The Water Park officials agreed to provide at least one accessible entrance and keep it available at all times.
- ⇒ **Nearly 1,700 Wendy's Restaurants**– Waiting lines will be accessible at nearly 1,700 Wendy's Restaurants due to an agreement made with the Department of Justice. Under this agreement, the Ohio based company has agreed to:
 - Remove or widen customer queues.– Modify prototypical architectural plans for future restaurants – Notify all franchisees of the agreement and ADA obligations – Allow a task force to conduct spot checks of restaurants covered by the agreement – remove various barriers found at 17 newly constructed restaurants – pay the task force \$50,000 and – pay a total of \$12,000 to 5 complaining parties.
- ⇒ **Best Western Marina Park Hotel, Miami** – The U.S. Attorney for the Southern District of Florida reached an agreement to improve accessibility at the Best Western Marina Park Hotel. The Marina Park agreed to hold accessible rooms open for people with disabilities until all other rooms are rented; remove barriers to access including the hotel entrance, parking, guest rooms, restaurant, lobby areas and restrooms and provide auxiliary aids. They will have six fully accessible guest rooms, two with roll-in showers.
- ⇒ **Southern District of Mississippi** – An annual outdoor air show and exhibition agreed to provide at least 50 accessible parking spaces plus 8-10 van accessible spaces, accessible toilet stalls (one per cluster), and a sign language interpreter for one entire day of the event. Training materials regarding disability awareness are being distributed to the staff and all volunteers.
- ⇒ **Indiana Food Store** – Was required to relocate it's accessible parking so it is the closest to the entrance.
- ⇒ **Indiana County Board of Commissioners** – Agreed to develop and follow a transition plan to make alterations to it's city-county building, board of health office, and county welfare building to provide accessibility.

In addition to this small sampling of cases, there are numerous cases reaching agreements through mediation, 18 of which were ordered by the Department of Justice and detailed in this month's bulletin from the Department of Justice. Cases are filed daily, mostly in Federal courts because the attorney's fees are built into the ADA and are not built into most state laws. As always, the best possible protection for you, your building and/or your clients is full compliance to all applicable accessibility laws. ♿

More Access Board Info.....

We believe the only way you can make good decisions for your company, your clients, and/or your building is to have all of the information possible about access issues, future legislation and most importantly, opportunities to participate in solutions. This information is intended to provide you with what you need to proceed with whatever course of action you choose.

As noted earlier, we recommend you stay involved in the process either by attending meetings or participating in the public comment periods. We will keep all public comment periods recorded on our web site.

ADVISORY COMMITTEE'S ACTION:

Most laws created in Washington have a process that can involve the entire nation. It has become standard practice for the Access Board to establish advisory or regulatory negotiation committees to help develop or update standards. These committees allow interested groups, including designers, industry, associations and people with disabilities to play a role in the Access Boards development of guide-

lines, which are then proposed for public comment.

Currently, three committees established by the Access Board are at work developing information and recommendations that the Access Board will use to propose guidelines and standards. Committee meetings are open to the public and minutes are published in the Access Board's web site (www.access-board.gov). The following lists committees currently underway and a list of the dates they are meeting.

OUTDOOR DEVELOPED AREAS REGULATORY NEGOTIATING COMMITTEE: This committee was established in June, 1997 and is charged with developing proposed accessibility guidelines for trails, picnic and camping areas, and beaches. The committee has met seven times with the most recent meeting in October, 1998 in Empire Colorado. The January 19-22, 1999 meeting will be held in Miami Beach and will cover trails and beach access. The two following meetings will be April 27-30, 1999 and July 13-14, 1999 both of which will be in Washington, D.C. At it's last meeting in July the committee will present it's report to the Access Board.

PASSENGER VESSEL ACCESS ADVISORY COMMITTEE: This committee is exploring ways to provide access to passenger vessels in view of various design considerations and will make recommendations that the Access Board will use in developing guidelines. It was established in July, 1998 and expects to provide it's recommendations to the Access Board in March of 2000. The committee met in September and November of 1998 and will meet again on the following dates: February 4-6, 1999, April 22-24, 1999, July 22-24, 1999, October 21-23, 1999 and February 3-5, 2000. This committee is using the proposed new ADAAG for guidance.

ELECTRONIC AND INFORMATION TECHNOLOGY ACCESS ADVISORY COMMITTEE: This was established in September 1998 to help the Access Board develop standards under section 508 of the Rehabilitation Act Amendments which requires access to electronic and information technology purchased or operated by Federal agencies. They met in October and December of 1998 and will meet again January 5-6, 1999, February 8-9, 1999, March 29-30, 1999, and May 11-12, 1999. It is expected to provide it's recommendations to the Access Board after it's May meeting. ♣

Stricter Architectural Standards for Federal Buildings

At a meeting held in Washington, DC to commemorate the Architectural Barriers Act's 30th anniversary, David Capozzi, Director of the U.S. Access Board's Office of Technical and Information Services, advised the federal government will soon have to comply with accessibility standards that are at least as stringent as the standards for the private sector.

Currently architects must design buildings in accordance with the ADA Accessibility Guidelines (ADAAG) for private facilities and the Uniform Federal Accessibility Standards (UFAS) for federal buildings covered by the Architectural Barriers Act (ABA).

Under the ADAAG, "The general public is held to a high standard," he as-

serted. "The 1984 UFAS that the federal government holds itself to is not as high. The federal government should be held to the highest standard possible." Capozzi agreed, "More needs to be done."

As the Access Board drafts it's new Accessibility Guidelines, currently referred to as the new ADAAG, it will combine the requirements for both ADA and ABA and become the first design standard to combine both laws.

The proposed accessibility guidelines will be available for public comment early in 1999 and are expected to become a final rule in early to mid 2000.

The Texas Department of Licensing and Regulation (TDLR) is expected to follow the lead of the federal govern-

ment and revise the state standards accordingly.

The proposed "New ADAAG" won't alter the current design guidelines much, but it will make them a lot clearer. Some of the grey areas will be better defined and some of the "unreasonable" issues will be addressed.

The best part about the new design guidelines is they are expected to be more user friendly. Instead of looking like a document written by lawyers, it will be a readable, usable document with clear information organized in a logical manner. That will be good news to the people who have to interpret and implement the design standards the document represents. ♣



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"Proudly serving our state and the nation with disability regulatory compliance".

Nation's Bank - Dallas Parkway + Arapahoe

We're on the Web!
Come visit us at
www.accessology.com

New ANSI Standard Published

The 1998 edition of the American National Standards Institute's (ANSI) A117 Standard for Accessible and Usable Buildings and Facilities was finally published in October, 1998.

This standard was developed in close coordination with the Access Board's update of ADAAG. The Council of American Building Officials, now part of the International Codes Council (ICC), served as Secretariat for the A117 Committee and was a member of the Access Board's ADAAG Review Advisory Committee.

Both entities were committed to reconciling differences between ADAAG and the A117 standard.

The Access Board's Advisory Committee's recommendations for the new ADAAG technical requirements are similar to those of the A117 standard.

Figures used in the new A117 standard were developed by Access Board staff for the new ADAAG, which will

be published for public comment in early 1999.

In Texas you are still better off designing and constructing buildings in accordance with the Texas Accessibility Standards (TAS) published by the Texas Department of Licensing and Regulation (TDLR). All construction projects are required to comply with state standards and projects over \$50,000 in construction costs are required to be submitted to the state or a state authorized Independent Contract Provider for review of the plans and subsequent final inspection. Using the state standards will increase the likelihood of plans and final inspections receiving an approval.

Copies of the ICC/ANSI A117.1-1998 standard are available for purchase through model code organizations:

BOCA (708)799-2300 - ICBO (562) 699-0541 - SBCCI (205)591-1853

Questions, Questions, Questions:

We specialize in answering your questions regarding access. Below are a few that have been repeated and we thought they were worth mentioning. Questions can be taken over the phone, or via our web site.

Q1. Can we do a side approach to a sink in a breakroom?

A1. No. Both state and federal guidelines require sinks to have a forward approach.

Q2. Can we use an existing alternate rather than completely re-doing our restrooms as part of an alteration?

A2. No. The general rule of thumb is that if there is an alteration to an area containing a primary function, (such as a tenant space in an office building) then the restrooms are required to be brought into full compliance including the installation of a five foot stall. If there is some valid reason not to add a five foot wide stall, such as a structural infeasibility, then you should apply for a variance from TDLR. Variance applications are on our web site.

Understanding Accessibility Training Sessions

Accessology, Inc. proudly announces another new service designed to provide architects, building owners, property managers, engineers, designers, contractors and commercial realtors with the information necessary to accurately implement accessibility requirements into each project or building.

Beginning in January, 1999 Accessology, Inc. will provide training sessions on the Texas Accessibility Standards (TAS) and the Americans with Disabilities Act Accessibility Guidelines (ADAAG). Each session will be tailored to the audience and we will answer any, and all, questions from specific to general.

One day training classes are approved for 18 Health, Safety and Welfare continuing education learning units. Additional accreditation has been applied for as well as additional learning units for the two and three day classes.

Below is a list of scheduled training dates and cities. Locations are still being negotiated. If interested in attending any training contact our office at 972-434-0068 and we will place you on the list and contact you with the exact location as it becomes confirmed. We are also willing to design training sessions specifically for companies, organizations or groups of 15 or more.

All of the training sessions currently scheduled are one day sessions and will cost \$110 per person, lunch included.

Classes will be facilitated by Mr. Jim Boyce who originated and co-facilitated the training currently provided by the Texas Department of Licensing and Regulation and Kristi J. Thomas, President of Accessology, Inc. The material will cover all sections of TAS and ADAAG concentrating on areas most often overlooked or misinterpreted. We will detail the responsibility each profession has under these requirements and help figure out the procedural gray areas that get most people into trouble.

Current training dates and cities are:

Session Number	Date	Location City
I	January 14th	Arlington Texas (UTA)*
II	February 10th	San Antonio
III	February 11th	Austin
IV	February 24th	Dallas
V	February 25th	Ft. Worth
VI	March 11th	Lubbock
VII	March 25th	Tyler
VIII	April 8th	San Angelo
IX	April 22nd	Amarillo

**Note: The January 14th training is part of a week long conference at UTA sponsored by the Building Professional Institute and BOAT. This conference will have a variety of topics throughout the week and registration is open to the public fees for our session may be different than above as registration is being handled through BOAT/BPI.*

To register for any of the above classes (other than January 14th), fill out the information below and fax it to 972-353-2798. Mail checks to Understanding Accessibility, 302 E. Church St., Lewisville, TX 75057-4006. Checks should be made payable to: "Understanding Accessibility," a Texas Non-Profit Corporation, and are tax deductible. Registration is not complete until payment is received.

Company Name _____ Session Number _____

Contact Name _____ No. in Party _____ @ \$110 ea.

Address _____

Phone _____ FAX _____ E-mail _____

If you would like to have a training developed specifically for your group or organization please contact us with the possible dates and location. We can tailor the training to any audience and can help your organization use this training as a fund raising opportunity. Contact the training department at 972-434-0068 for more information. ♿



Texas Department of
Licensing & Regulation

Architectural Barriers



Legal Requirements

The state statute and the standards mandate accessibility in publicly and privately financed buildings and facilities, as well as facilities leased or occupied by state agencies. It applies to temporary or emergency construction in addition to permanent construction. Current application requires compliance at:

Did You Know?

According to the U.S. Census, 38 million Texans (19.4%) have one or more physical or mental disabilities; this number is growing as the population ages.

- Buildings and facilities constructed, or substantially renovated, modified, or altered, in whole or in part on or after January 1, 1970, through the use of state, county, or municipal funds, or the funds of any political subdivision of the state.

- Buildings leased or occupied in whole or in part for use by the state under any lease or rental agreement entered into on or after January 1, 1972.

- Privately funded buildings and facilities defined as public accommodations by the Americans with Disabilities Act of 1990, that are constructed or substantially renovated, modified, or altered on or after January 1, 1992.

- Privately funded buildings and facilities defined as commercial facilities by the Americans with Disabilities Act of 1990, that are constructed or substantially renovated, modified, or altered on or after September 1, 1993.

The statute requires that construction documents covering subject facilities be submitted for review prior to commencement of construction if the estimated construction costs are \$50,000 or more.

Responsibility for submitting construction documents lies with architects, engineers and interior designers. In the absence of a registered design professional, the owner is responsible.

Failure on the part of a design professional to submit construction documents prior to commencement of construction will result in that fact being reported to the respective registration board.

Buildings and facilities required to comply are subject to an on-site inspection after construction is complete.

Failure on the part of a building owner to comply may result in administrative penalties not to exceed \$1,000 for each violation, per day.



Equivalency Certification from the U.S. Department of Justice

On September 23, 1996, the U.S. Department of Justice certified that the Texas Accessibility Standards meet or exceed the new construction and alterations requirements of Title III of the Americans with Disabilities Act.



For Further Assistance

For more information, to file a complaint, obtain information on the department's educational programs, including the Texas Accessibility Academy or to request information in alternative formats, contact:

Consider That:

People of all ages and abilities stand to benefit from environments that are supportive and enabling.

A curb cut serves a wheelchair user and a parent pushing a stroller.

Volume control helps the hearing impaired and anyone trying to use a pay phone in a noisy room.

A 'hi-lo' drinking fountain provides access to those in wheelchairs and helps those who have difficulty bending.

Texas Department of Licensing & Regulation
Architectural Barriers Section
P.O. Box 12157
Austin, Texas 78711
(800) 803-9202
(512) 463-3211 (Austin)
(512) 475-2886 (Fax)
(800) 735-2989 (Relay Texas)

Copies of TAS can be purchased from the:

Office of the Secretary of State
Texas Register Division
P.O. Box 13824
Austin, Texas 78711-3824
(512) 463-5561
(512) 463-5569 (Fax)
(800) 735-2989 (TDD)

For information on the ADA, call the **U.S. Department of Justice** at (800) 514-0301 or (800) 514-0383 (TDD).

For information relating to the Federal Fair Housing Act, contact the **Department of Housing and Urban Development** at (202) 708-0836 or (800) 669-9777, or the **Texas Commission on Human Rights** at (512) 437-3450.



Historical Background

Texas law includes an Architectural Barriers Act, first adopted by the state legislature in 1969.

The Texas Accessibility Standards (TAS) are standards adopted in 1993 by the Texas Department of Licensing & Regulation (TDLR) as a result of the amendments to the Act in 1991.

Compliance with the Texas Architectural Barriers Act and TAS is separate from compliance with the Americans with Disabilities Act (ADA) and the ADA Accessibility Guidelines (ADAAG).

The federal government enforces ADA and the Rehabilitation Act of 1973. TDLR enforces the Texas Architectural Barriers Act.

TDLR's Responsibilities

Prior to the start of construction, TDLR plan reviews construction documents for compliance with accessibility standards. Upon completion, TDLR inspects the facility to ensure that it was built as planned. TDLR investigates consumer accessibility complaints and enforces the standards through administrative hearings.

The Texas Accessibility Standards

make getting around easier for everyone, but consider what they make possible for people with disabilities. Shopping, going to a movie, working and attending school are all activities that most people take for granted. But when stores, theaters, offices and schools are not accessible, an everyday activity can become an everyday chore.

**Texas Department of
Licensing and Regulation**

PO Box 12157
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