

THE ADA SUGGESTIONS SMART PRACTICES MANDATE

*Or...How to Comply with the ADA
and Optimize Your Resources and
Serve The Glencoe Park District
Community*

**Presented at the Glencoe Park
District Board of Commissioners
Meeting on February 20, 2018**

OUR CONTENT TONIGHT...

- **The Basic Requirements**
- **The New Administration**
- **Enforcement Trends and Compliance Activity**
- **Special Emphasis: Trails and Websites**
- **Conclusion and Resources**



THE BASICS

Administrative Requirements

- **Access audit of existing sites and facilities (35.105)**
- **Access audit of public-facing policies (35.105)**
- **Access audit of programs (35.105)**
- **Appoint an employee as the ADA Coordinator (35.107)**
- **Create and use an access and inclusion public complaint process (35.107)**

More Admin Requirements

- **Support inclusive participation by people with disabilities alongside people without disabilities (35.130(d))**
- **Compel contractors and volunteers to comply (35.130(b)(3))**
- **Permit service animals to go where the public can go (35.136)**
- **Permit other power driven mobility devices to go anywhere the public can go (35.137)**
- **Create a transition plan that phases retrofits at existing sites and facilities (35.150(d))**

More Requirements

- **Assure that all new design and construction of sites is accessible (35.151)**
- **Adhere to the 2010 Standards for Accessible Design and where more stringent, the Illinois Accessibility Code (35.151)**
- **As a smart practice, adhere to the guidelines in development for trails and outdoor recreation areas (beaches, campsites, picnic areas, viewing areas)**
- **As a smart practice, adhere to WCAG 2.0 for website access**

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GOVERNANCE REALITY

Recognize this man?

Donald J. Trump is the current leader of the free world and the undisputed President of the United States of America. He is our President.



He believes regulation hurts businesses.

He believes that regulations are unfunded mandates for local governments.

He believes that if businesses, governments, and markets are simply left alone to operate with less regulation, they will “do the right thing.”

KEY US DOJ ROLES...

- Interpretation of ADA requirements
- Technical assistance hotline (202-514-0301)
- Technical assistance papers on website (www.ada.gov)
- Controlling designated federal agency civil rights staffs
- Speaking at ADA conferences nationwide

What's really at risk in the world of the ADA?

- **Public right-of-way guidelines, shared use paths**
- **Adaptive golf cars and accessible fitness machines**
- **Clarifying requirements for trails, campsites, picnic areas, beaches, viewing areas, and other outdoor developed areas guidance for title II entities**
- **Website access**



ENFORCEMENT METHODS AND TRENDS, AND COMPLIANCE ACTIVITY

ENFORCEMENT METHODS...

- ***Internal complaint process***
- **Prompt and effective**
- **No fees**
- **50 or more employees**

ENFORCEMENT METHODS...

- ***Administrative Complaint with US DOI***
- **Injunctive relief, no dollar award, but pay legal fees of complainant**
- **Any size, and addresses everything from programs to policies to parks to facilities**
- **What is defined as a “win”?**

ENFORCEMENT METHODS...

- ***Federal District Court***
- **Injunctive relief, no dollar award, but pay legal fees of complainant**
- **Any size, and addresses everything from programs to policies to parks to facilities**
- **What is defined as a “win”?**

ENFORCEMENT METHODS...

- ***Project Civic Access at US DOJ***
- **Selection not random, but not complaint-based – it is all about demographics**
- **Comprehensive...policies, shelters, new sites, existing sites, programs, sidewalks, curb ramps, service animals...**
- **Early days, 12 years, through 2016, 3 years, and today...3 years!**

ENFORCEMENT TRENDS IN THIS ADMINISTRATION...

- **Cut civil rights enforcement staffs**
- **New settlement agreements do not always note that agreements are enforceable in court**
- **US DOJ is slow to file, and limits its scope**
- **But...three recent decisions give guidance...**

City and County of Denver...

- **Issued January 8, 2018**
- **Compels retrofits at sites newly constructed since 1992 but noncompliant with standards**
- **Compels review of all other existing sites and identification of barriers and retrofit schedule**
- **Specifically addresses polling places and shelters, as well as parks and recreation**
- **Gives three years for review and retrofit...2018 to 2021**

BAR T Year Round Programs for Kids DOJ settlement (10/5/17)

- **BAR T is a nfp subject to title III, using 30 public schools as sites for summer and afterschool programs**
- **BAR T terminates boy from programs because of disability related behavior, without ever considering and implementing reasonable modifications**
- **“Ensuring that childcare providers do not discriminate on the basis of disability is an issue of general public importance.”**

H.R. 620: Representative Poe

- **ADA Education and Reform Act of 2017 establishes US DOJ “education” program for title II and III entities**
- **Requires specific notice to title III business owner, identifying access issue...owner has 60 days to respond, 120 more to act**
- **Shifts burden for identification of deficits *from* the owner *to* the person with a disability**
- **Gives owner 26 years, 60 days, and 120 days to act...**
- **STATUS: passed House of Representatives, next stop is the Senate**



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REGULATORY ACTIVITY

Current Regulatory Plan and the Unified Agenda of Regulatory and Deregulatory Actions

Yes Ma'am, I know there was a regulation being developed for trails. But it has been withdrawn.

No Ma'am I did not make that up.

*Yes, I said withdrawn.
DOJ says it is unnecessary and burdensome.*



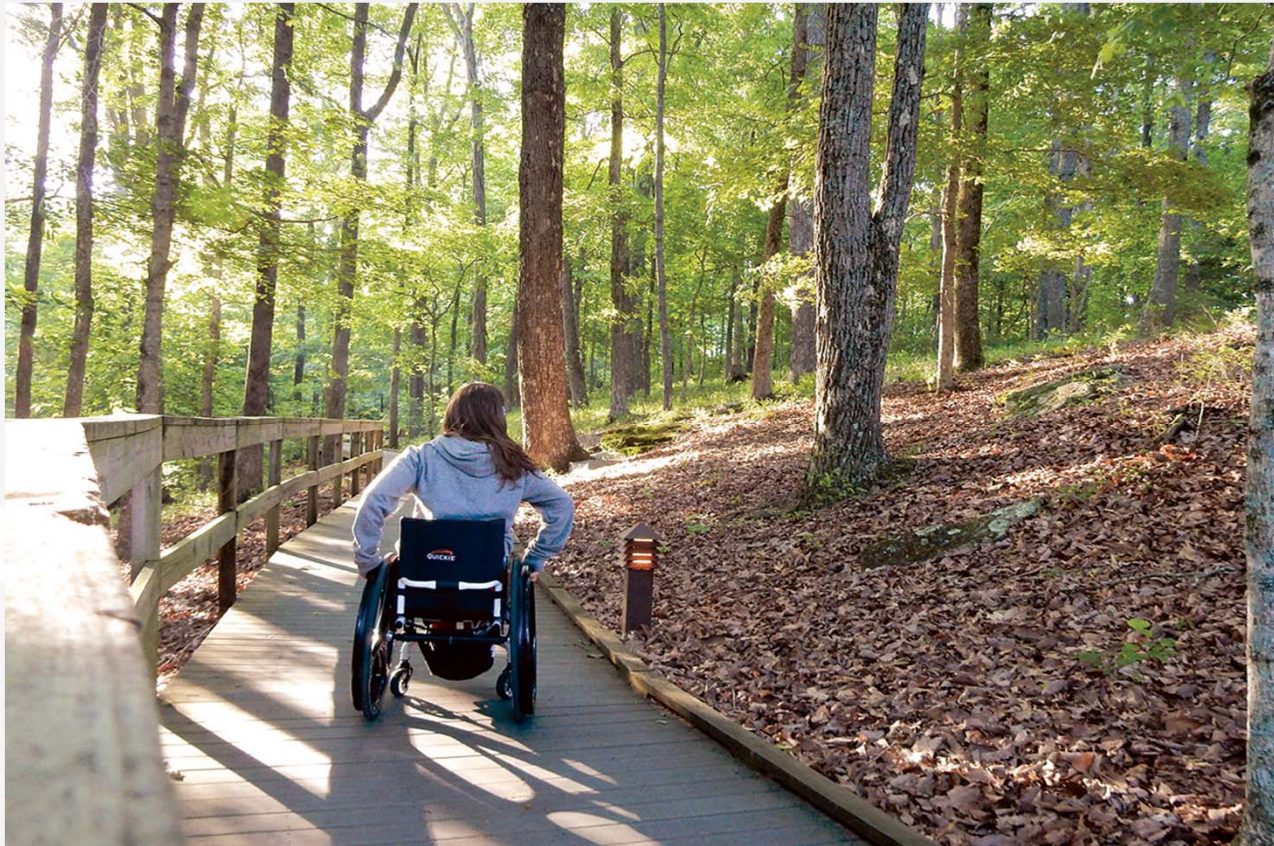
Real (*not Fake*) News

- 1,579 withdrawn or delayed regulatory developments
- 635 withdrawn
- 244 made inactive
- 700 added to the long-term list
- “Eliminates regulations that are ineffective, duplicative, or obsolete, thereby enabling economic growth, innovation, and the protection of individual liberty.”

Outdoor Developed Areas for Title II and III Entities

- Trails, campsites, picnic areas, viewing areas, outdoor recreation accessible routes, outdoor constructed amenities, beaches
- **PLAN:** first federal sites ([done in 2013](#)), then federally funded sites (inactive), then title II and title III (inactive)
- **PROBLEM:** the title II requirement that the “program” of trails still exists, so the lack of clear guidance makes it hard to be certain of compliance
- **HUGE** risk management problem

Must every trail look like this?



The earlier answer is no.



That said, every trail cannot look like these.



Public Right-of-Way Accessibility Guidelines

- Finished by US Access Board in 2011, [addresses pedestrian infrastructure](#)
- Applied to all federal agencies, including US DOT
- **PROBLEM:** US DOT is telling state DOTs that no federal road money can flow through to cities and counties unless...city and county have a full access audit and transition plan
- **HUGE** risk management problem...PROWAG is not final and enforceable

Websites

- US DOJ ANPRM in 2010 regarding website access
- Received comments, working towards a final regulation, and technology changed more quickly and DOJ restarted the process in 2016
- **PROBLEM:** title II and title III entities still have to make communications accessible, including website communications
- **HUGE risk management problem...follow [Web Content Accessibility Guideline](#) 2.0 (WCAG)**

What was Withdrawn?

- **Common ADA Problems at Lodging Facilities**
- **Title III highlights**
- **Title II Highlights**
- **ADA Technical Assistance Update: Design Details and Van Accessible Parking**
- **Commonly Asked Service Animal Questions**



More?

- **ADA Business Brief: Service Animals**
- **Common ADA Errors in New Construction**
- **ADA Q and A Regarding Employment**
- **US DOJ Statement Regarding the Application of Olmstead v. L. C. and the Most Integrated Setting Requirement**
- **Myths and Facts About the ADA**

Problems Ahead per Title II

- **The absence of technical assistance has one outcome...confusion**
- **Confusion yields wasted resources, unhappy residents, and unhappy electeds**
- **The title II requirements regarding new construction, service animals, websites, and the most integrated setting still remain**
- **Does the need still exist?**

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SMART PRACTICES AND LESSONS LEARNED



- **Lean towards yes**
- **To the greatest extent possible adhere to guidance in development**
- **Exceed the minimum**
- **Participate in the development of state and federal guidance**

- **Seek and listen to public feedback on access priorities and preferences**
- **Mandate annual training for contractors and professionals**
- **Adopt an OPDMD and a service animal policy**
- **Provide annual training for employees**
- **Fund and implement the transition plan**

RESOURCES...

- US DOJ is an excellent source at 202-514-0301 or www.ada.gov for program and policy advice
- US Access Board is best for interpretation of the 2010 Standards for Accessible Design at 202-272-0080 or www.access-board.gov
- DBTACs great second or third opinion at 800-949-4232

The WT Group, LLC Accessibility Practice

- **Two Certified ADA Coordinators**
- **One RAS and one CASp**
- **One attorney licensed in IL**
- **John McGovern at 224-293-6451 or john.mcgovern@rac-llc.com**

Conclusion...

- **Access and inclusion is everyone's job**
- **As disability and treatments become more complex, expect more unusual requests for reasonable modification**
- **With static status of guidance in Washington, you must solve the problem without authoritative federal guidance**
- **Invite, ask, and listen before doing...**



Chris Leiner
Director of Parks and Maintenance
Glencoe Park District
999 Green Bay Road
Glencoe, IL 60022

Dear Chris:

Please accept this letter as the introduction to our final report to the Glencoe Park District, in regards to our access audit of District buildings and sites. We have included the reports from the 2011 audits and combined the overall data in this report.

Authority

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

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

Title II requirements that come into play for the District include:

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

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

Final and Enforceable Regulations...and Final Guidelines

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

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

We cite to the 2010 Standards in our work.

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

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

Approach and Analysis

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

For unique sites, such as Watts Ice, or the Beach, or Takiff Community Center, the District has virtually no choice with regard to which site it will make accessible, as there is only one such site. In planning the phases in which work will occur, the District may incorporate this work within those other plans, so long as it is clear that access work is of the highest priority.

In an access audit, it is critical to measure each feature of each element of each site, as we have done here at selected sites. Where we found a variance from access requirements or a smart practice variance, we have digital images so that the District will better understand the variance. Another issue is whether a building has been altered since 1992 (or 1985 under Illinois law). If so, there is little flexibility in how access requirements are applied to that site.

Glencoe Park District Site Access Audit
Final Report
page 3

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

Report Format

Our audit included an examination of 30 facilities or parks. Each facility or park has its own section in our final report. Our Conclusion section is found at the end of the site reports.

Here is an order of the reports:

1. This cover letter
2. 30 site reports
3. Conclusion report with summarized recommendations

The District is receiving one hard copy in 2 binders. The first binder includes the final site reports, which summarize the access deficits at the sites, the transition plan, program access documents and the sample service animal policy. The second binder has all of checklists used at the sites.

Finally, you'll receive a user name and password to our FTP site, where all reports, checklists, and images are available for District employees and contractors. Once downloaded, on your screen, the text in the reports section includes a hyperlink to the checklist and also to the photo being referenced. The checklists also have a hyperlink to the same access deficit images

Title II Program Access

As mentioned above, the title II program access test in 35.150(b) gives the District flexibility in making existing facilities and sites ***that have similar features*** accessible. In the transition plan, we spread these corrections out over several phases.

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

There are 13 play areas for 5 to 12 year olds. Three are currently accessible with minor correction. The District can make two more accessible with minor corrections leaving the remaining sites “as is” and inaccessible, until renovated due to age or for other purposes.

This exceeds the ratio we recommend of 1 of every 3 recurring sites. We have applied this concept to ballfields, athletic fields, basketball courts, tennis courts, shelters, and other duplicated environments. In that way, a workplan will evolve that truly makes District “programs” at playgrounds, ballfields, athletic fields, basketball, and other activities accessible to residents.

How to Use this Information

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

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

Third, read the 30 site reports. Use your computer and you will have instant access to the report for that site, the images of access deficits, and the checklists. Resist the urge to visit these first...do so at the risk of being buried in detail.

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

Conclusion

The final reports identify, we believe, every access deficit at the sites, as required by section 35.105 of title II.

The District has for more than 40 years shown its commitment to recreation for people with disabilities. Addressing our recommendations will assure that the benefits of recreation remain available to Park District residents, including those with disabilities.

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

Sincerely,

John N. McGovern, J.D.
President

JNM/GLENCOE COVER LETTER 201601

FINAL REPORT TO THE Glencoe Park District

Conclusions and Recommendations

2017

All Site Conclusions and Recommendations

Background

As a follow up to our 2011 audits at five sites, we conducted access audits of the remaining 25 sites. The purpose of this Conclusion report is to identify a course of action for the District, and to note some of the common deficits we saw.

A Guide to this Section

There are 1,302 access deficits identified in the 30 site reports. That is the ADA requirement, the identification of every access deficit at every site and facility. In addition, for every deficit, a solution must be identified.

However, this section is all about the big picture. As discussed in the cover letter with this report, the District does ***not necessarily have to make every site accessible.*** It ***does*** have to make every program it conducts within its sites accessible.

We have attempted to identify some broad solutions, such as the refreshing of all accessible parking, as a way to address issues identified in the earlier 30 site reports, and as a way for the District to better manage compliance. This approach also gives the District flexibility within its compliance efforts to move resources so that they are applied with optimal impact.

However, the scope of our work does not include the design of a solution. Rather, it is performance based. For example, if a facility restroom needs to be made accessible we will make that recommendation. We will not design a solution that includes walls to be removed or plumbing solutions. Those are tasks for District staff or contractors.

This is also about accountability. The adjustments to door closers, eliminating changes in level, and other recommended actions are ineffective if not maintained over time by District employees.

Common Issues

In our evaluation, some common issues arose. These included the way maintenance affects accessibility to playground surfaces used. The common issues are also “big picture” items for the District and incorporate many of the specific site recommendations.

Maintenance

The District uses a conscientious staff to maintain its facilities and sites. However, over time, every facility and site yields to wear and tear. The recommendations below describe ways in which attention to maintenance can specifically address some access deficits.

1. ***Provide training*** to maintenance staffs regarding the features of an accessible route and how to ensure that it remains unobstructed and that park amenities (such as garbage cans or signs) are placed adjacent to the accessible route.

2. **Provide training** to recreation staffs regarding the features of an accessible route and how to ensure that it remains unobstructed.
3. **Purchase some new tools.** The District should have enough battery-powered digital levels, and tools to measure pounds of force for doors, to equip some staff for occasional spot-checks. A great website for gauges is:

<http://www.technologylk.com/crl-door-pressure-gauge-lk-HMC035.htm?src=froogle>.

Changes in Level and Gaps

The routes and sidewalks that make up the District's network of accessible routes are in fair condition. Wear and tear, settling, weather, and other factors combine to cause changes in level and gaps along portions of those accessible routes, making that portion noncompliant and a barrier to many customers with physical and sensory disabilities.

Removing changes in level and gaps has a significant universal design benefit too, as more people with all types of conditions can more easily use District routes...staff pushing carts of supplies, parents with kids in strollers, and people using an assistive device such as a wheelchair, Segway, or walker.

4. **Eliminate changes in level** in 2018 or 2019. Using the rationale that the most severe changes in level are the greatest barriers to access, make changes in level of greater than .75" the highest priority.

Make changes in level of between .5" and .75" the second priority. Make beveling of changes in level of .25" to .5" the third priority.

5. **Add** change in level of more than .25", and gap checks of greater than .5", **to park maintenance safety checklists** in 2017. This will help identify and correct these problems before they expand. Make or buy pre-measured shims and distribute to employees for their use and ease of measurement.
6. **Add inspections for gaps** of greater than .5" **to park maintenance safety checklists**. Identify and fill these gaps before they expand. **In the alternative, consider a resurfacing of segments of asphalt route**, which have deteriorated.
7. **Adopt** a policy about the use of other Other Power Driven Mobility Devices in District facilities and at District sites, and promote that policy to the general public. Every day, more people with limited physical mobility start to use a Segway or similar machines.

Pursuant to the new ADA title II regulation published September 14, 2010, this policy was to have been in place by March 15, 2011.

These assistive devices provide great benefits to people with disabilities and the sooner the District has a policy in regard to their use the better. The policy could, at a minimum, address times of allowed use (dawn to dusk), speed limits, off-limits areas, status of the user as a person with a disability, and minimum age.

It is important to note that a power driven mobility device is not a wheelchair. That device has a separate definition and is already allowed in facilities and parks. The components of a policy are noted below. ***The District is welcome to use some, all, or none of this, but a policy must be in place. We recommend at least the following statements:***

Other Power-Drive Mobility Device

Definition: *Other power-driven mobility device* (OPDMD) means any mobility device powered by batteries, fuel, or other engines—whether or not designed primarily for use by individuals with mobility disabilities—that is used by individuals with mobility disabilities for the purpose of locomotion, including golf cars, electronic personal assistance mobility devices (EPAMDs), such as the Segway® PT, or any mobility device designed to operate in areas without defined pedestrian routes, but that is not a wheelchair within the meaning of this policy.

Definition: *An electronic personal assistive mobility device* (EPAMD) is a device used by a person with mobility impairment for ambulation. This definition does **not** include gasoline powered devices, golf cars, or riding lawn mowers.

Permission: The Glencoe Park District authorizes persons with mobility impairments to use OPDMDs and EPAMDs in District facilities and sites subject to the following restrictions:

1. The operator of the device must be a person with a mobility impairment, and upon request by District officials, shall produce proof of such within 72 hours;
2. The device, if used in a facility or in a park, is allowed in any area of the facility or park in which the general public is allowed, with the exception of employee only spaces, stairways, and identified hazardous areas;
3. The device, if used in a facility, must be controlled by the operator. It:
 - A. may not exceed 4 mph;
 - B. shall be driven on the right side of the circulation route;
 - C. is prohibited from carrying another person on the frame, or any object on the frame that may make the device less stable; and
 - D. must not be operated in a dangerous or reckless manner that jeopardizes the safety of the operator, District employees, or District participants.
4. The device, if used in a park or outside, must be controlled by the operator. It:
 - A. may not be operated between dusk and dawn unless equipped with headlights that are visible at 300'

- B. may not exceed 6 mph;
 - C. shall not be driven into wet or ecologically sensitive areas which are posted as such;
 - D. shall be driven on the right side of the circulation route;
 - E. is prohibited from carrying another person on the frame, or any object on the frame that may make the device less stable;
 - F. must not be operated in a dangerous or reckless manner that jeopardizes operator safety, District employees, or District participants.
- 5. The District accepts no responsibility for storage of the device.
 - 6. The District accepts no liability for damage to the device, or injury to the operator, whether caused by the operator, another visitor to a District facility or site, or any other circumstance.
 - 7. The District accepts no liability for damage caused by the operator of the device, or injury to others caused by the operator of the device.
 - 8. The District reserves the right to suspend the use of facilities or sites by the operator if doing so is in the best interests of the District and its participants.
 - 9. The District reserves the right to change, modify, or amend this policy at any time, as it would any other policy.

Obstructed Accessible Routes

Employees **may** see an accessible route as an empty 36" wide space in which a potted plant or garbage can is a perfect fit. However, that blocks or obstructs the accessible route

- 8. ***Provide training to park maintenance, recreation, and administration staffs*** regarding maintenance of accessible routes in parks and in recreation facilities.

Employee Work Areas

The District employs many well-qualified and skilled people on a full time basis, making parks and recreation services available to Glencoe Park District residents. It also employs many more on a part-time or seasonal basis.

The District likely already has employees with disabilities and in the future, will have **more** employees with disabilities, in all categories...full time, seasonal, and regular part time.

It is important to address access to work areas, and both the title II regulation and the work of the Access Board do so. In section 203.9 of the 2010 Standards for Accessible Design, the treatment of employee areas is made clear.

Glencoe Park District Access Audit Conclusion 2017 page 6

Generally, a person with a disability should be able to **approach**, **enter**, and **exit** the work area. This is addressed by requirements for accessible routes and accessible means of egress. Other factors are door width, and threshold changes in level.

Excluded from this exception are several types of common spaces in employee areas. Spaces such as the ones below must meet the access guidelines as they are excluded from the definition of employee-only areas:

- corridors
- toilet rooms
- kitchenettes for employee dining use, and
- break rooms

In short, the key issues are the accessible route, changes in level, doors and entries, and maneuvering space once within the work area. This approach is effective so long as when the District hires an employee with disabilities, or a current employee acquires a disability, it will remove architectural barriers in work areas or make other accommodations.

The two recommendations below are important for all employees at all District sites.

9. **Address accessibility in the District personnel policies**, and note that, upon request by an employee, the District will make reasonable accommodations, which **may** include the removal of architectural barriers in workspaces.
10. **Require new construction, and alterations or additions** that include employee work areas to be designed and constructed so they are compliant with the 2010 Standards for Accessible Design and the Illinois Accessibility Code.

Accessible Parking

At the sites we saw, the District maintains approximately 260 standard parking spaces at facilities, and 16 more that are designated as accessible stalls. Illinois requirements here are more stringent than federal requirements. In correcting or refreshing its accessible stalls, the District should address all of them at once to eliminate inconsistencies and come into compliance.

11. **Create a parking stall template**. A suggested template is below.

Parking Stall Dimensions

Stalls are a minimum of 8' wide. An adjacent access aisle must also be a minimum of 8' wide. An acceptable **alternative** design is an 11' stall with an adjacent 5' access aisle. The access aisle must be diagonally striped with high quality yellow paint.

Signs must be mounted on posts not farther than 5' from the head of the stall. The collection of signs must include the US Department of Transportation R7-8 standard sign (the blue icon in a wheelchair). Below that must be the fine sign. The statewide

fine is \$250. Unless the Village of Glencoe has adopted a higher fine by ordinance, the sign must note the \$250 fine.

Federal settlement agreements in Illinois require a third sign, on at least one stall, that says VAN ACCESSIBLE. The Illinois Accessibility Code does not include this requirement but we believe it is required. This belief was reinforced by a US Department of Justice settlement with St. Clair County in Illinois. The settlement required the addition of “van accessible” signs.

Finally, the bottom edge of the lowest sign is a minimum of 48” above the finished grade. We recommend 60” so it cannot be obstructed by a parked auto.

We suggest that the signpost be located at the head of the accessible stall and that the curb cut and detectable warning run the distance of the access aisle.

The most common error we see in accessible parking stalls and access aisles is the slope. The Illinois Accessibility Code limits the slope to ***not more than 2% in any direction. This challenging requirement can take considerable effort to meet.***

Connection to the Accessible Route

The access aisles should connect to an accessible route. The maximum running slope for the accessible route is 5%, and to account for heaving and settling, we recommend 4%. The maximum cross slope is 2%. Do be certain to use compliant detectable warnings, now available in a template with a colored background and raised, truncated domes.

Passenger Loading Zone

The loading zone must have an access aisle adjacent and parallel to vehicle pull-up space. The loading zone access aisle must be a minimum of 60” wide and 20’ long.

Confirm this template with the Village of Glencoe, and the Illinois Attorney General’s Office, to ensure that stalls will be compliant.

12. In 2013, 2014, or 2015 ***implement a plan to correct or refresh every accessible stall*** at every District facility. Incorporate this task into other plans that require parking lot restriping or resurfacing.

Running Slope and Cross Slope

We saw running slopes steeper than permitted. At some sites this was a minimal issue, but at other sites it was a significant variance. This condition naturally occurs when concrete settles, or when connections between new and old routes are off by fractions of an inch. Cross slope is equally important, as it serves drainage as well as access purposes.

13. ***Adopt a policy*** that in new construction and alterations the running slope shall not exceed 4.5%, and ramp slope shall not exceed 1:13, or 7.7%, as opposed to 1:12, or

8.33%. This allows room for error in the field. It also makes ramps easier to use for everyone, not just people with disabilities. This universal design approach is also a risk management tool.

14. **Adopt a policy** that in new construction or alterations the cross slope shall be an integral part of the project and shall not exceed 2% or 1:50.

Detectable Warnings

The US Access Board suspended the detectable warning requirement in the late 90's, for a period of several years. It was restored in 2002 though, and is now included in the 2010 Standards. It is typical to see noncompliant detectable warnings in every community. And, the detectable warning requirement was removed from the 2010 Standards, **but is still required by IAC.**

The detectable warnings at curbs **that are not compliant** are often a cross-cut of concrete, or a grid laid on wet concrete to create a diamond-shaped indentation. Over time these should be replaced.

15. As with parking, **develop a template for detectable warnings.** Confirm the template with the Village of Glencoe and the Illinois Attorney General's Office.
16. In the same year that parking is refreshed, **implement a plan to correct or refresh every detectable warning** at every curb or crossing at District facilities. If necessary, phase this out over a two or three-year period.

Door Opening Force Requirements

In District buildings, there are approximately 240 doors. Many have closer mechanisms. Some of these need adjustment to bring the pounds of force (lbf) necessary into compliance (5 lbf for interior doors and 8.5 lbf for exterior doors). However, some of the closers are just old. The wear and tear of 20 or more years erodes the closer effectiveness.

17. **Evaluate and determine the age of door closers.**
18. **Add door closer maintenance checks** to safety checklists for employees and for closers with 10 years of service or less, aggressively maintain them for effectiveness.
19. **Purchase and install new door closers** for all exterior doors (with closers 20 years old or more) and 50% of interior doors in 2018 or as soon as is possible.
20. **Purchase and install** new door closers for all remaining interior doors (with closers 20 years old or more) in 2018 or as soon as is possible.

Signage

District signs serve several valuable purposes. First, signs assist wayfinding in buildings, such as at Takiff Community Center. Second, signs identify important permanent elements of

facilities, such as restrooms. Third, signs facilitate access by people with vision and physical limitations. Aside from consistent use of the District logo, we did not note a signage template.

The Access Board requires different treatment for 2 types of signs. Signs for permanent spaces, such as a bathroom, must be in both Grade 2 Braille and raised lettering. For directional or informational signage though, only raised lettering is required. Be certain to incorporate these approaches into signs in buildings and sites operated by the District.

21. **Develop a sign template** in 2017 that describes where and in what facilities signs will be used. The template could include size of sign, mounting height, mounting location, size of characters, space between characters, contrast between characters and background, icons or symbols used in the signs, District information in the signs (name of facility? phone number? main office number?), and more.
22. **Implement signage template and correct or refresh** District facility and site signage in 2017 or 2018.

Bathrooms

Bathrooms are an essential part of a visit to a Glencoe Park District facility. Exercise, food and beverage, social activities, and more all rely on one of the oldest designs known to us. Making those facilities accessible is tremendously important. Additionally, **portable toilets** placed temporarily at sports fields and event venues **must** be accessible and **must be served by an accessible route**.

23. **Develop a bathroom template in 2017.** Confirm it with the Village of Glencoe and the Illinois Attorney General. Be sure to include temporary facilities such as portable toilets in the template. The template should address the toilet itself, grab bars, items in the stall such as toilet paper and hooks, the stall itself, operating mechanisms, mirrors, sinks, hand towels, hand dryers, and more.
24. **Include bathroom renovations** at facilities in the District's Capital Acquisition and Replacement Plan.
25. **Consider the use of automatic flush controls.** These have environmental benefits and are also a great way to eliminate some accessibility problems.
26. **In the interim, implement non-structural modifications recommended in each section of this report,** such as lowering mirrors, remounting grab bars, changing the height of toilets and urinals, installing compliant stall hardware, and so forth. These less costly changes on a site-by-site basis will serve your customers well until resources are available to renovate restrooms on a comprehensive scale.
27. **Make one portable toilet,** if one is provided at a site, accessible. This includes a portable toilet placed at a picnic shelter or adjacent to sports fields. These must be accessible and must be served by **an accessible route**.

If the District has sites with portable toilets this is critical to address. Seasonal deployment of portable toilets is considered new construction. Use the single-user toilet specifications in our site checklists, and require accessible toilets from District vendors.

Alarms

In existing facilities where an aural or audible fire alarm system is provided, a visual alarm is not required unless the building was constructed after January 26, 1992. A compliant system is also required if the system has been replaced or upgraded since that same date. If an alarm in an existing facility is audible only, it need not be modified to include a visual alarm unless it is replaced or upgraded in the future.

28. ***Determine in 2017*** if systems have been upgraded or replaced since 1992.
29. ***Develop a plan in 2017*** for the installation of aural and visual alarms in renovations.
30. ***Retrofit construction that has occurred since 1992*** to include aural and visual alarms by the end of 2019.

Brochures

The park grid in the District brochures is an important tool for Park District residents and can now be used to communicate about accessibility. Revise it to incorporate the access work District staff completes and indicate in your grid where, for example, the accessible picnic areas are, or where the accessible playgrounds are.

31. ***Update parks and facilities grid*** to reflect decisions made by the District regarding our recommendations, and your own audits, and note which sites are accessible or will be made accessible.

Website

The title II regulation requires that all types of public communication used by the District be available to people with disabilities. Many people with vision impairments use websites every day with the aid of technical equipment.

The District is required to evaluate its website and make necessary changes so that the website can be read by that type of equipment. A link at the US Department of Justice website offers guidance on this. The District IT staff should become familiar with this issue.

Go to <http://www.ada.gov/websites2.htm>. The District can check website compliance at a free service. Link to Cynthia Says at http://www.icdri.org/test_your_site_now.htm and test your website.

32. ***Evaluate the District website*** and make changes so that the information on the site is accessible to people with disabilities.

2 to 5 Playgrounds

The **minimum required** of the District by title II of the ADA is that the “program” of playgrounds be accessible to residents. This is measured by the “program access test” described in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing playgrounds should be made accessible. A good practice is to treat this as a planning exercise and aim for 1 of 3 playgrounds being made accessible.

Our evaluation included three 2 to 5 playgrounds. Of these, one is accessible. We recommend access to two more. Any new playgrounds to be replaced at any time in the future must comply with the 2010 Standards and will therefore be accessible.

The Program Access Chart, along with Glencoe Park District Playground Map at the end of this section, illustrates the areas where work is recommended so that every resident of the District is close to an accessible 2 to 5 playground. [[Glencoe Park District 2 to 5 Playground Map](#)]

33. **Make the corrections** so the 2 to 5 playground at the site below **remains** accessible:

- **Glencoe Beach**

34. **Make the corrections** so the 2 to 5 playground at the sites below **becomes** accessible:

- **Lakefront Park**
- **Shelton Park**

35. **Advertise accessible 2 to 5 playgrounds** in the District website and publications.

5 to 12 Playgrounds

The **minimum required** of the District by title II of the ADA is that the “program” of playgrounds be accessible to residents. This is measured by the “program access test” described in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing playgrounds should be made accessible. Again, a good practice is to treat this as a planning exercise and aim for 1 of 3 playgrounds being made accessible.

Our evaluation included 12 five to twelve playgrounds. Of these, four are accessible. We recommend access to one more. Any new playgrounds to be replaced at any time in the future must comply with the 2010 Standards and will therefore be accessible.

The Program Access Chart, along with Glencoe Park District Playground Map at the end of this section, illustrates the areas where work is recommended so that every District resident is close to an accessible 2 to 5 playground. [[Glencoe Park District 5 to 12 Playground Map](#)]

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36. **Make corrections** cited in the reports so the 5 to 12 playgrounds below **remain** accessible:

- **Friends Park (2)**
- **Glencoe Beach**
- **Shelton Park**

37. **Make the corrections** so the 5 to 12 playground at the site below **becomes** accessible:

- **Grove & Dundee Park**

38. **Leave as is** the playgrounds at the parks named below, and if future alterations or renovations occur at those sites, make them accessible.

- **Astor Place**
- **Green Bay & South Park**
- **Lincoln & Old Green Bay Park**
- **Old Elm & Park Place**
- **Park 19S**
- **Vernon & Jefferson Park**
- **Woodlawn Park**
- **Watts Park**

39. **Advertise accessible 5 to 12 playgrounds** in the District website and publications.

Trails

The **minimum required** of the District by title II of the ADA is that the “program” of trails be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35). For similar multiple sites, no guidance is given as to how many existing volleyball courts should be accessible. We recommend that a minimum of one area of every three be accessible. We saw three trails and none are accessible. **We recommend access to one trail.**

The Program Access Chart at the end of this section, along with the Glencoe Park District Trail Map, illustrates the areas where work is recommended so that every resident is close to an accessible trail. [[Glencoe Park District Trail Map](#)]

40. **Make corrections** cited in the reports so the trail below **becomes** accessible:

- **Clara Deitz Bird Sanctuary**

41. **Leave as is** the trails at the following sites:

- **Park 14N (2)**

42. **Advertise the accessible trails** in District website and publications.

Tennis

The **minimum required** of the District by title II of the ADA is that the “program” of tennis be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing tennis courts should be accessible. We recommend that at least one of every three be accessible. There are 14 courts and 8 are accessible. **We recommend access to the four at Melvin Berlin.**

The Program Access Chart at the end of this section, along with the Glencoe Park District Tennis Map, illustrates the areas where work is recommended so that every resident of the District is close to an accessible tennis court. [[Glencoe Park District Tennis Map](#)]

43. **Make corrections** cited in reports so the tennis courts below **remain** accessible:

- **Lakefront Park (3)**
- **Shelton Park (2)**
- **West Park (3)**

44. **Make corrections** cited in reports so the tennis courts below **become** accessible:

- **Melvin Berlin Park (4)**

45. **Leave as is** the courts at the following sites:

- **Watts Park (2)**

46. **Advertise the accessible tennis courts** in District website and publications.

Baseball Fields

The **minimum required** of the District by title II of the ADA is that the “program” of baseball be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing baseball fields should be accessible. We recommend that at least one of every three be accessible. There are 5 fields and one is accessible. **We recommend access to one more field.**

The Program Access Chart at the end of this section, along with the Glencoe Park District Ball Fields Map, illustrates accessible ball fields so that every resident of the District is close to an accessible ball field. [[Glencoe Park District Ball fields Map](#)]

47. **Maintain** baseball field below so it **remains** accessible:

- **Melvin Berlin Park**

48. **Make corrections** cited in reports so the ball field below **become** accessible:

- **Reinsdorf Field**

49. **Leave as is** the other baseball fields, and if future alterations or renovations occur at those sites, make them accessible.

- **West Park (2)**
- **Watts Park**

50. **Advertise accessible baseball** in the District website and publications.

Athletic Fields

The **minimum required** of the District by title II of the ADA is that the “program” of athletic fields be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing athletic fields should be accessible. We recommend that at least one of every three be accessible. There are six fields and none are accessible. **We recommend access to one.**

The Program Access Chart at the end of this section, along with the Glencoe Park District Athletic Fields Map, illustrates accessible athletic fields so that every resident of the District is close to an accessible athletic field. [[Glencoe Park District Athletic Fields Map](#)].

51. **Make corrections** cited in reports so the field below **becomes** accessible:

- **Melvin Berlin Park**

52. **Leave as is** the other athletic fields, and if future alterations or renovations occur at those sites, make them accessible.

- **Lincoln & Old Green Bay**
- **West Park**
- **Reinsdorf Field**
- **Watts Park (2)**

53. **Advertise the accessible athletic fields** in the District website and publications.

Swimming Beaches

The **minimum required** of the District by title II of the ADA is that the “program” of beaches be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35).

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For similar multiple sites, no guidance is given as to how many existing beaches should be accessible. We recommend that at least one of every three be accessible. There is one beach, therefore the District has no choice, it must be made accessible.

54. ***Make the corrections*** so Glencoe Beach becomes accessible.
55. ***Advertise beach access*** in the District website and publications.

Ice Rinks

The ***minimum required*** of the District by title II of the ADA is that the “program” of ice rinks be accessible to residents. This is measured by the “program access test” found in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing ice rinks should be accessible. The District has Watts Ice Center. There is one ice facility, therefore the District has no choice, it must be made accessible.

56. ***Make the corrections*** so one rink at Watts Ice Center ***becomes*** accessible.
57. ***Advertise the accessibility of Watts Ice Center*** in the District website and publications.

Picnic Shelters

The ***minimum required*** of the District by title II of the ADA is that the “program” of picnic shelters be accessible to residents. This is measured by the “program access test” described in section 35.150 of the title II regulation (see 28 CFR Part 35).

For similar multiple sites, no guidance is given as to how many existing picnic sites should be accessible. There 5 picnic areas and 4 are accessible.

We recommend access to one more. Many of these sites need tables or other minor corrections.

The issue of picnic area access is not yet settled as a final and enforceable standard. There is significant guidance from the US Access Board, and we have applied it here to District picnic areas.

However, the US Access Board does not have the authority to establish a Standard, which is the step above the ***final guideline*** that exists today. That said, we recommend District continue as a smart practice to adhere to the Access Board guidance on this matter.

The Program Access Chart at the end of this section, with the Glencoe Park District Picnic Areas Map, illustrates accessible picnic areas so that every resident of the District is close to an accessible picnic area. [[Glencoe Park District Picnic Areas Map](#)]

58. **Make corrections** needed to **maintain or create access**, including adding tables, to picnic areas at:
- **Glencoe Beach (3)**
 - **Shelton Park**
 - **Melvin Berlin Park**
59. **Leave as is** the other picnic areas, and if future alterations or renovations occur at those sites, make them accessible.
60. **Advertise the accessible picnic areas** in the District website and publications.

Public Feedback

An integral part of the self-evaluation of sites and facilities, and the development of a transition plan, is the involvement of the public. A public forum should be scheduled after the District has completed the access audit at other sites, and developed a plan of action.

We would be glad to work with the District and NSSRA on this project at no charge, and we would be glad to return to assist in this process.

Transition Plan

The District must have a transition plan per 35.150(d) of the DOJ title II regulation. The plan should identify the barrier, the corrective work, the date by which the work will occur (in our reports, the Phase), and the person responsible for barrier removal.

Barriers should be removed as soon as is possible. Phasing the work to be done allows for access to occur and makes the best use of the resources of the Glencoe Park District.

In the view of DOJ, the recreation design requirements were available to the District since 2004, if not earlier. Enforcement staff has said at meetings and in conversations that work should have already been underway to identify and remedy access deficits.

We recommend work in three phases. We also note the work we recommend need not occur in a category titled District Option. Should the District plans change, or should other resources become available, the corrective work needed at these sites is known. We acknowledge that each phase likely requires three or more fiscal years for completion.

We have made cost **references** for the corrective work recommended. We note that these are not estimates and should be used only for planning purposes. The final design, the year in which the work will occur, the relationship with the contractor, and many other factors must be considered before a cost estimate is made.

The total of corrective work we recommend is \$1,130,363.00, and we believe it can be implemented over a seven-year period.

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In Phase One, we recommend work in the amount of \$591,879.50. Generally, the work in this Phase falls into two categories: easy to do with existing staff and resources (low-hanging fruit), and old requirements (such as parking) at sites otherwise accessible. The District should decide how many years are required to complete a phase. ***Here we would suggest that Phase One is a three-year process.***

In Phase Two, we recommend work in the amount of \$241,042.50. Generally, the work in this Phase includes changes to recreation amenities, such as playground surfaces, ball fields and athletic fields. The District should decide how many years are required to complete a phase. ***Here we would suggest that Phase Two is a two-year process.***

In Phase Three, we recommend work in the amount of \$297,441.00. Generally, the work in this Phase falls into two categories: elements not yet addressed by a final Standard, such as trails, and elements where correction is complex or costly. The District should decide how many years are required to complete a phase. ***Here we would suggest that Phase Three is a two-year process.***

We identified work in the amount of \$238,038.75 in District Option. This is work at a site or element with access deficits where we believe the District already meets the program access test and need not make these sites accessible, until later altered for another purpose.

Funding Access Retrofits

We have developed this section to discuss some of the funding sources other park districts, counties, cities, and governmental entities have used for accessibility compliance. This is not intended as a comprehensive list, but is a good primer on this topic.

No Dedicated Federal Source

There is no dedicated source of federal funds for accessibility renovations to existing sites. This will not likely change in the future.

As an example of the unpredictability of federal funding, we look to the Land and Water Conservation Fund (LAWCON). The LAWCON stateside portion, even with a dedicated funding source, is typically underfunded by as much as 80%.

Earmarks

Some of our county and city clients have pursued Congressional earmarks for access work. Earmarks are increasingly unpopular, and difficult to obtain. However, the Congressional practice of adding grant earmarks to bills proceeding through the US Congress still exists.

We would suggest that this is a viable option for a community of influence such as Glencoe.

Community Development Block Grant Funds

Several of our clients have acquired federal Community Development Block Grant (CDBG) funds for accessibility renovations at existing sites. CDBG funds often have a scale of priority.

It would be important to establish accessibility as a priority for CDBG applications, which tend to be very competitive.

State Grants Programs

Several states, and several of our clients, have successfully pursued state legislation to set aside dedicated state funds that can be used for specific purposes, including access retrofits. To name a few, Illinois, New Jersey, Colorado, Ohio, Florida, and Texas all have sources of revenue funded in various ways, such as a real estate transfer tax.

While the various states have all at times not fully funded these grant programs, they remain an effective tool for counties regarding site acquisition and development.

State Discretionary Funds

Most state legislatures provide some type of discretionary funding for members of the legislature. In some states, these are relatively small grants of under \$50,000. In other states, it is common to see legislative grants of \$500,000 or more. As with Congressional earmarks these have become less popular in recent years, but still exist in most states.

Special Accessibility Legislation

Of course, Illinois has adopted legislation that allows park districts to levy a tax that can be used only for recreation for people with disabilities. The funds can be used for access retrofits at existing sites and facilities. Statewide, local entities in Illinois levy and expend an estimated \$50,000,000 annually on this purpose.

Private Giving

Some of our clients have successfully sought private gifts for accessibility purposes. The private giving area is subject to fluctuations depending on the economy, political issues, and related fiscal impacts. In our experience, private giving works best when an agency such as the Park District has an employee dedicated to this purpose. We know the Park District is no stranger to the world of private giving and expect you'll have continued success here.

Corporate Giving

Some of our clients have successfully sought grants from corporations. These may, for corporate purposes, come from marketing (such as naming rights to a County facility) or from community giving. Also, many corporations have a related foundation that manages corporate giving. A good example here is the Mitsubishi Foundation. In our experience, corporate giving works best when an agency such as the County has an employee dedicated to this purpose.

Community Foundations and Other Foundations

Community foundations, which operate on a regional basis, have also been involved in accessibility giving. Perhaps the greatest example here is the multi-million dollar Kellogg

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Foundation project that improved accessibility in Michigan, Ohio, Indiana, Illinois, and other states that bordered the Kellogg headquarters in Michigan.

Other Methods

There are other methods. Each works in that community and may not work in Glencoe. A New Jersey community takes 100% of accessible parking fines and applies those towards recreation for people with disabilities.

Several Illinois park districts have added a \$1 to \$10 surcharge to every registration, with the fees generated being earmarked for access and inclusion expenses.

Several communities have successfully sought budget increases to address accessibility backlogs, just as they have with maintenance backlogs. Those increases may be general fund allocations, proceeds from successful referenda, or reallocations of underexpended funds originally budgeted for other municipal purposes.

Risk Management

Investing in safety saves money for a park district by avoiding legal expenses related to injuries on Park District properties. The same concept applies here. Investing in accessibility retrofits saves the Glencoe Park District the cost of staff time and attorneys to defend against ADA lawsuits or administrative complaints. While we do not believe a decision about access should hinge solely on risk management factors, we do recommend that the Park District be aware of this factor going forward. ADA enforcement continues to grow and touch more and more communities.

Conclusion

The District has a variety of recreation facilities and sites. The skilled staff operates facilities and sites the community wants and enjoys. This report identifies some issues that are typical of a parks and recreation infrastructure.

The Board of Commissioners should review this report and determine to what extent it will act on our recommendations and the recommendations to be received from staff regarding the remaining sites. As staff develop a plan, it is important that access work occur every year during the transition plan.

The District should make access corrections as soon as is possible. While no one can say with certainty how long the District should feel comfortable in stretching these projects, we'd suggest it be not more than the recommended seven-year range above. ***Be certain to understand that the District could be forced to accelerate its pace. Making access work a high priority is very important.***

Your strategy should definitely address the common issues identified in this report.

In closing, thanks again to the staff at the Glencoe Park District for their cooperation. All of the team at our firm enjoyed working with them, and Chris Leiner was especially helpful.

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Call me at Recreation Accessibility Consultants at 224/293-6451 if there are any questions.
Thanks again for inviting us to work with the District.

Submitted by

**John N. McGovern, J.D., President
Recreation Accessibility Consultants LLC**

GLENCOE CONCLUSIONS