

# CITY OF CAMBRIDGE COMMISSION FOR PERSONS WITH DISABILITIES

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Robert W. Healy, City Manager  
Cambridge City Hall  
795 Massachusetts Avenue  
Cambridge, MA 02139

Dear Mr. Healy,

October 15, 1992

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OFFICE OF THE CITY MANAGER

In response to Council Order #25, dated 10/5/92, regarding plans to respond to the Americans with Disabilities Act (ADA), I have prepared a summary of accomplishments to date, ongoing activities, and future plans. Although the City Council Order focuses on physical access and barriers removal, I have included other areas covered by the ADA in order to provide an overview of the breadth of the ADA's nondiscrimination mandates. Title II of the ADA sets forth the requirements for state and local governments, which I have broken down into five major categories for the purpose of this analysis: employment, physical accessibility, programmatic accessibility, telecommunications, and enforcement.

## **EMPLOYMENT**

The Americans with Disabilities Act is intended to reverse the trend of employment discrimination on the basis of disability and to provide equal opportunity to employment options for persons with disabilities who are unemployed at a higher rate (sixty-eight percent) than any other minority group. Preliminary efforts have been made to develop and institutionalize employment policies and practices which are consistent with ADA nondiscrimination guidelines in the areas of job descriptions, interview protocols, job offers, medical inquiries and examinations, self-identification, confidentiality, and reasonable accommodations. Since it is important that employment policies and practices be uniformly applied citywide, I have begun a series of meetings with the City's affirmative action officers, the Law Department, and the Human Rights Commission to insure that the required nondiscrimination provisions that are established in Cambridge are compatible with the intent of the law and applicable citywide. Collective bargaining agreements and union contracts must also be

brought into compliance with ADA requirements, particularly in the areas of return to work and fitness for duty.

A massive training and education campaign must be undertaken to inform city employees of their rights under the ADA, their responsibilities as managers of other city employees, and their obligations to the general public, including job applicants. For the past year I have discussed these issues in weekly two-hour training sessions with police officers as part of their in-service training program. I have held additional employment trainings for Hospital and School Department administrators, Community Development personnel, and Block Grant recipients, and have scheduled a training session in early November for Human Service division heads. Eventually, every City employee will receive relevant information about rights and responsibilities under the ADA, although the appropriate format for that outreach effort has yet to be determined.

### **PHYSICAL ACCESSIBILITY**

The ADA does not require that every state and local government building be accessible to persons with physical disabilities. However, there are stringent ADA requirements for all new construction and alterations. Since ADA accessibility guidelines are not part of the state building code but a separate code altogether, they are neither administered nor enforced by the Inspectional Services Department. To the extent possible, I have provided technical assistance regarding ADA compliance for new construction and alterations, such as the golf course clubhouse, City Hall, Danahy Park, and the Senior Center.

Additionally, it is the obligation of state and local governments to make reasonable accommodations, including access alterations, for physically disabled employees and program participants. Therefore, baseline information about the current status of accessibility within each municipal building is needed in order to establish priorities for future capital expenditures. A survey instrument that meets the Department of Justice requirements is now available for existing facilities, but the methodology of acquiring the required information must be finalized. Preliminary discussion with the Public Works Department indicates that a cost-effective approach would be to hire Northeastern Coop student(s) to gather the information in early 1993.

Priorities for data collection are buildings which have a high volume of public use, particularly schools and hospital and clinic settings. Recommendations for immediate, short term and long range accessibility modifications will be made in conjunction with representatives from the departments in question. For example, the School Department is currently identifying for me those schools where students and teachers with physical disabilities are enrolled/teaching and those schools where students with parents with physical disabilities are enrolled, so that immediate attention can focus on restroom and vertical access/ change of level needs and requirements. Recommendations will then be made to the City Manager for access modifications in those buildings.

Another major requirement of Title II is curb ramp accessibility citywide. In conjunction with the Department of Public Works, a survey has been commissioned to identify locations where curb ramps exist, where they are lacking, and where they are in noncompliance and/or need repair or replacement. Those data will be used to develop recommendations to the City Manager for the installation of curb ramps citywide, according to the priority schedule established by the Department of Justice.

The preamble to the Americans with Disabilities Act, and the legislation itself, place the responsibility of compliance with the ADA physical accessibility requirements upon the Chief Executive Officer (CEO) of the state or local government. If recommendations are made and compliance is determined to constitute undue financial or administrative burden, the decision not to comply must be documented in writing, and accountability for the decision rests exclusively with the CEO. The legislation also suggests that only under extraordinary circumstances would the undue financial or administrative burden standard hold up as defensible, since it is the resources of the entity as a whole, not a particular unit or department, which must be taken into consideration in making decisions about accessibility modifications. The legislation also indicates that it is important for state and local governments to work with the disability community and document a good faith effort to achieve compliance within a timetable that reflects the fiscal realities of that entity, not necessarily the timetables imposed by the legislation.

### **PROGRAMMATIC ACCESSIBILITY**

A self-evaluation of every City department, and each of its activities, policies, practices, and services must be undertaken in order to determine whether or not the general public, including persons with physical and mental disabilities, have an equal opportunity to participate and are not inadvertently excluded or restricted to separate programming. The ADA requires that every City department make reasonable accommodations in each of its programs in order to include persons with disabilities in as integrated a manner as possible. Even if a particular building is inaccessible, the program as a whole, when viewed in its entirety, must be accessible to persons with disabilities. The self-evaluation process will identify areas where reasonable accommodations are required in order to achieve programmatic accessibility.

To date, a self-evaluation instrument is in draft form, and procedures for obtaining the data are under discussion. The Commission for Persons with Disabilities will review the information provided by departmental representatives during the self-evaluation process and will make relevant policy and procedural recommendations for programmatic accessibility for persons with disabilities.

### **TELECOMMUNICATIONS**

The ADA requires that state and local governments employ equally effective means of communications for persons with disabilities, including persons with visual and hearing disabilities. This requirement extends from open-captioned cable television

programming to alternative media signage in city buildings. The upcoming renovation at City Hall provides an opportunity to fulfill the telecommunications and signage requirements of the ADA at a highly visible and well-utilized setting. I have been in frequent contact with the City architect as well as the architect for the City Hall project to insure compliance with the ADA's telecommunications requirements. Signage needs at other public buildings will be identified in the process of the municipal building survey mentioned earlier.

Other aspects of compliance will require longer term attention. For example, public telephones at all City buildings will need to be made accessible in terms of location, height and volume control availability. In addition, information issued routinely to members of the public by City departments must be made available upon request in alternative formats. Major training efforts need to be undertaken in conjunction with the self-evaluation process in order to inform those City employees in positions of responsibility for communications to the public of the ADA's communications access requirements.

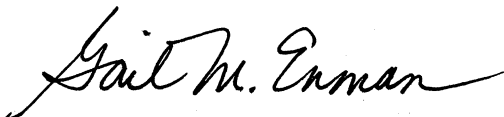
### **ENFORCEMENT**

Although the enforcing authorities for the ADA are federal agencies, the legislation explicitly encourages informal complaint resolution. Underway, in conjunction with the Law Department and the Human Rights Commission, are efforts to establish equitable and administratively viable complaint resolution mechanisms. It is likely that the complaint procedures will differ depending on whether or not the complainant is a City employee or a member of the general public. Once the complaint processes are established, they will be publicized in various media as required by law.

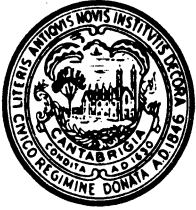
ADA compliance is new territory for us all, although we have case law under Section 504 of the Rehabilitation Act of 1973 to inform and guide our compliance effort, and commitment and leadership at the highest echelons of City government to support the process. Nonetheless, the Americans with Disabilities Act presents special challenges for a community as responsive to civil rights issues as Cambridge. Education for every member of each City department is fundamental to the success of our compliance effort and represents a daunting undertaking which will require a high level of inter- and intra-departmental cooperation. It is a personal and professional honor to have been chosen as Cambridge's ADA Coordinator, and in that capacity I have been asked repeatedly to speak at local, state and national conferences about our approach to the implementation of the Americans with Disabilities Act in Cambridge. Only time will attest to the success of such a monumental undertaking.

If you have other questions or information needs, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Gail M. Enman". The signature is written in dark ink and is positioned above the typed name.

Gail M. Enman, Executive Director/ADA Coordinator  
Cambridge Commission for Persons with Disabilities



CITY OF CAMBRIDGE

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EXECUTIVE DEPARTMENT

ROBERT W. HEALY

City Manager

RICHARD C. ROSSI

Deputy City Manager

October 19, 1992

To The Honorable, The City Council:

With reference to Awaiting Report Item No. 31, regarding plans to respond to the American Disabilities Act, please find attached a response from Gail Enman, Executive Director, Commission for Persons with Disabilities, relative to this issue.

Very truly yours,

Robert W. Healy  
City Manager

RWH/mev  
attachment

Consent Agenda # 22 S-841

Awaiting Report Item Number 31  
regarding plans to respond to  
the American Disabilities Act.

In City Council,

Oct. 19, 1992

*Placed on file*