

## Tech Topic

# Why the Americans with Disabilities Act Matters to Transportation Design

The Equal Opportunity for Individuals with Disabilities (42 U.S.C., Chapter 136, Section 12101, et seq.), better known as the Americans with Disabilities Act (ADA), together with the standards and guidelines at the federal and state level and various tort liability case law, can be confusing and the standards of care even now are evolving to some degree, at least as it applies to transportation elements. It would not be unreasonable for a local agency, mired in any number of unfunded and other mandates, to wonder where accessible sidewalks should fall in their transportation priorities. With some reflection, however, most would find one or more reasons why it should figure prominently.

First, it is sometimes forgotten that ADA covers a number of different disabilities, despite that most of us naturally think of those in wheelchairs only. Other disabilities include, but are not limited to, persons with low vision, those who are legally blind, and other ambulatory and gait impairments (including walkers, canes, and crutches). Some disabilities are temporary (someone on crutches after an accident) and some are permanent. For that matter, those in wheelchairs may be in manually propelled versions, powerful electric wheelchairs, and anything in between and even these different situations provide different demands for accessibility.

Next, municipalities often have surprising concentrations of disabled persons and connectivity with necessary and attractive destinations is something that is usually consistent with the municipality's goals. Local officials want all residents to access government services, shopping, cultural activities, parks, and other attractions to the extent possible. Similarly, economic development often demands that these attractions be as accessible as possible.

Of course, at its most basic level, it should be understood that reasonable accommodation through accessible transportation routes is not a guideline, but rather a law. This should be reason enough, but local officials have many competing responsibilities and usually not enough resources to meet them all, so in the absence of some enforcement process, it is too easy for accessibility to fall by the wayside.

And that leads to tort liability. As can be seen in another Tech Topic, ADA case law has not exempted small communities and has not made allowances for inadequate funding. The courts have upheld ADA requirements for all owners of public facilities, including rights of way. As such, it is important for local governments to establish and implement transition plans that allow eventual consistency with the Access Board's guidelines.



The Delaware T<sup>2</sup> Center's full-time Engineer position was established with the primary mission of providing transportation advice and technical assistance to Delaware municipalities. Contact Matt Carter at [matheu@udel.edu](mailto:matheu@udel.edu) or at (302) 831-7236 for assistance.

This technical brief and/or its attachments may contain analyses or other technical information. These are prepared as an Information Service of the Delaware T<sup>2</sup> Center and are provided "as is" without warranty of any kind, either expressed or implied. The Delaware T<sup>2</sup> Center, and its funding agencies (e.g., DelDOT, FHWA, University of Delaware) shall not be responsible for the use of this information. The products and technologies discussed herein (some of which are proprietary) are not endorsed by the author or the Delaware T<sup>2</sup> Center.