



recreation accessibility consultants, llc

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Groton (CT) Retains RAC for System-Wide Access Audits

The Town of Groton (CT) has retained RAC for system wide access audits of sites it identified as priority one sites. "We are excited," said Mark Berry, Director of Parks and Recreation. "We have been addressing access in new sites, and as we alter sites. But we know our entire system needs a thorough review. RAC looked great in our RFP process and we enjoy receiving the 5% NRPA discount too," added Berry.

We'll start our work in Groton after Independence Day. We are thrilled to have the chance to work in such an historic community.

Detectable Warnings in Illinois

The federal 2010 Standards for Accessible Design do not require detectable warnings as often as the now-defunct 1991 Standards. But...the Illinois Accessibility Code (IAC) still does. Complicating the issue, we hear that the Chicago Accessibility Code does not require detectable warnings, and that some, not many, but some suburbs have followed suit. We caution our Illinois clients not to follow this tack. The IAC still, in black and white, requires detectable warnings. Might that change? Yes. Has it changed? No.

Here...this is important. The Illinois Accessibility Code requires detectable warnings where an accessible route hits a vehicular way. The definition of vehicular way includes...a parking lot.

We urge park districts, cities, and counties to adhere to our recommendations on this subject. IAC is clearly more stringent and as such must be followed.

Remember the Article Last Month?

We wrote last month about a court award of \$7,500,000 *each*

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ABOUT US

Recreation Accessibility Consultants, LLC has the skill to aid park districts, park and recreation agencies, forest preserve and conservation districts, and special recreation agencies in their endeavors to

to 32 men with cognitive disabilities. In the interest of following the story, we write to note that on appeal, the award was reduced significantly to back pay only, averaging \$50,000 per man. Federal requirements cap awards in a case of this nature.

Our expertise does not include labor law so we'll refrain from an opinion on this. Do you have an opinion?

Kane County Forest Preserve District Retains RAC

The Kane County Forest Preserve District in Illinois has retained RAC for general consulting and plan review projects. "We enjoyed working with RAC to audit our sites and develop a transition plan," said Tracey Smith, ADA Coordinator for this large, land management agency. She added, "We have some questions as we enter the implementation phase and want expert advice on the right way to do this."

The District used RAC in 2011 and 2012 for site access audits and training. We are happy to return to a progressive agency!

National Public Radio Looks at Playgrounds

RAC President John McGovern was interviewed this week by National Public Radio. Appropriately enough, the subject was accessible playgrounds and how local governments are responding to the new requirements. The interview came about as NPR was discussing the issue of playground access with the National Recreation and Park Association (NRPA). Lauren Hoffmann at NRPA says, "John chaired the first federal advisory committee on recreation issues, and served on behalf of NRPA members on the playground regulation negotiation committee. He is a trusted resource and known expert on ADA making him well suited to be interviewed by NPR!"

The discussion highlighted the ways parks and recreation agencies are complying. Want to hear the interview? Look here next month, or go to www.npr.org/ for news.

Does Your Design Professional Know the ADA Requirements?

In a conversation some time ago, a client shared some remarks made by the design professional retained by the agency for a new facility. The facility was near completion before we caught some errors...grab bars too high in accessible toilet stalls, mirrors too high above accessible sinks, no accessible benches serving the properly designated accessible lockers, and a variety of other

provide recreation to people.

[More About RAC...](#)

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problems, in and out of the facility. The design professional, amongst other things, claimed it was too hard to meet the “many conflicting codes” such as the state access code, the 2010 Standards, ANSI, and other local codes. **That** is an unfortunate statement.

When interviewing design professionals, we urge you not to focus solely on aesthetics, similar experience, and creativity. Ask hard questions about the designers’ knowledge of accessibility requirements. Ask him or her to discuss where your state code differs from the federal requirements and how they will address that variance. Ask about his or her understanding of construction tolerance and how he or she will address variances that exceed tolerance. Have an access expert either on the interview team, or providing questions for the interview team.

We know, and you know too, that too many things can go wrong on a parks and recreation project already. We urge you to make sure access deficits in new construction, because of flawed design, aren’t one of them. As some of you (unfortunately) know, there is nothing worse than a “re-do” or “tear out” at a new pool, community center, arboretum, senior center, or sports complex.

Autism and Diabetes

From a western state we received an inquiry the other day about a camper with both autism and diabetes. What do you think...are part time parks and recreation staff, supporting a registrant with autism and diabetes in an inclusive setting, the right people to monitor consumption and decide whether blood sugar is low? We think that a staff person can fill that role, but we absolutely know a nurse could do it too.

Some parks and recreation agencies, yes we know, a minority, do hire nurses as a smart practice.

What do you do when you face this? As the obesity incidence rises, and the autism incidence rises, expect to be discussing this issue in a staff meeting in the not too distant future.

Want another view? Reach John at john.mcgovern@rac-llc.com.

New DOJ ADA Website

The US Department of Justice has renovated the ADA website. Find it at the same place (www.ada.gov) and review it for your favorites. The site does still prominently list new settlement

agreements for communities that have not mastered compliance. In fact, see the settlement agreement in South Carolina for a reminder of parks and recreation obligations.

North Dakota Trails Conference

RAC President John McGovern goes to Bismarck mid-June for the North Dakota Trails Conference. He'll do two sessions...one in a room, reviewing guidance (remember there is no final and enforceable standard yet), and a second session on a trail or two, showing attendees how to apply the access concepts learned earlier.

Need a speaker for your state conference? Reach John at john.mcgovern@rac-llc.com.

Shelley Says...

This month, Senior Project Manager Shelley Zuniga writes about the ways in which ADA complaints can be filed.

ACCESSIBILITY COMPLAINTS: HOW THEY WORK

Parks and Recreation providers, counties, cities, park districts, or states, strive to make parks and facilities accessible for all patrons. But what happens when someone has an access or inclusion complaint? Will the agency automatically get in trouble with the very important people at DOJ, or are options available? Below are some steps to keep patrons and staff aware of the processes available.

First, a person who feels that they have been treated unfairly because of disability can file a complaint internally within the agency. Agencies with 50 or more employees (yes that includes part time staff) must have an internal complaint system in place as well as a designated ADA compliance officer. This cost saving route gives staff the opportunity to work directly with the patron to resolve the complaint, saving literally thousands of dollars and offering an opportunity for a great customer service interaction.

A patron can also file as an administrative complaint with the US Department of Interior (DOI). These situations, if the complainant wins, result in payment of the complainant's legal fees as well as the agency's own. The definition of a win by the complainant is when the agency has to stop doing something it was doing, or start doing something it was not doing.

A complainant also has the option to sue the agency in Federal District Court about rules and policies, playgrounds, softball fields, golf courses, facility access and more. These lawsuits, if

resolved against the Department, can also result in payment of the complainant legal fees as well as, of course, incurring the cost of the legal representation for the agency. It is not unusual to see these costs top \$400,000.

Finally, the US Department of Justice (DOJ) can "visit" an agency through its Project Civic Access (PCA) initiative. A PCA visit is comprehensive and looks at Department policies, construction since 1992 (when the ADA became effective), plans for new sites, and the existence of supports to allow people with disabilities to use agency sites, facilities, opportunities, and programs. These visits end in a settlement with the DOJ deciding for the department what sites will be retrofitted and by what dates. In most cases any capital plans for the following years will have to be modified to allow for the access retrofits.

All parks and recreation agencies would like to avoid complaints regarding their sites and programs. However, having a better understanding of the options beforehand will give the agency opportunities to train and prepare staff for potential scenarios. The first and greatest barrier to access in any agency can be the staff attitudes. Training staff to provide excellent customer service with a "can do" attitude can prevent a disgruntled customer from taking a complaint to a higher level.

Disclaimer

Nothing in this newsletter is legal advice. It is instead a relaying of decisions and information about the application of the Americans with Disabilities Act to public parks and recreation. Readers interested in legal advice should seek an attorney licensed in your state that knows the ADA and can apply it to parks and recreation.



THE W-T FAMILY OF COMPANIES

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