

The Local Agency's Survivor's Guide to the ADA

Once again, our headline reaches for the stars, but let's see what we can do to make the Americans with Disabilities Act a little more workable in the short term.

If your streets and sidewalks are in full compliance with the Americans with Disabilities Act (ADA), you are some kind of superhero and your agency must be housed in the Halls of Justice! Chance are, though, you're not there yet and there's work to do. The good news is that a deliberate approach over time, with a plan, can mean progressive improvement towards the goal. Let's map out a sensible approach that reflects the reality of a local agency's funding, work force, and priorities.

We'll do just a little bit of background first. The Equal Opportunity for Individuals with Disabilities Act is better known as the [Americans with Disabilities Act](#) or ADA, and it was signed into law July 26, 1990. It is a federal civil rights law...and it is not optional. We could go into a whole diatribe about the many ways it is not optional – DOJ enforcement, plaintiff's lawsuits, loss of federal funding opportunities and so on – but let's just stick to the fact that it's good for you economically when your municipality is open all visitors and everything you do to make your streets and sidewalks accessible helps all pedestrians. Your residents and visitors expect a barrier-free environment and it is achievable over time.



While we will focus here on your rights-of-way (sidewalks, pedestrian ramps, crosswalks), ADA requirements cover your entire Program (all of the things you do involving public access – buildings, parking lots, parks, trails, websites, other communications, etc.) and since some of that is outside our wheel house, we'll stick to our knitting and talk about the streets and sidewalks.

Not to make excuses for anyone, but one of the reasons many jurisdictions (yes, you are in good company...or bad company depending upon how you want to look at it) have not made greater progress with ADA compliance in the right-of-way is the massive confusion over just exactly what you are supposed to do. Granted, funding is a challenge, but for many local agencies, the regulations and standards are nothing short of byzantine.

The U.S. Access Board is the central agency responsible for [standards and guidelines](#) associated with ADA. In 1982, the Access Board established minimum guidelines for accessible design and in 1990, ADA expanded the Access Board's role to develop accessibility guidelines, provide training, and conduct research to support and maintain guidelines. In 1991, the ADA Accessibility Guidelines was published. ADAAG has been the central guideline since that time, but it was developed with buildings in mind. The Public Rights of Way Access Advisory Committee was established in 1999 by the Access Board and guidelines were published for comment in 2002. Then they were revised in 2005, but none of these have been finalized. The draft Public Right-of Way Accessibility Guidelines, PROWAG, remains a promising but

unfinished solution. Along the way, the Department of Justice [established](#) the 1991 ADA Standards for Accessible Design and then the 2010 ADA Standards for Accessible Design. Some of these things are 300-400 pages long.

Along the way, there have been changes, interpretations, clarifications, court rulings, and interpretations intended to instruct agencies but these sometimes caused more confusion and conflicting direction. For example, detectable warning surfaces (sometimes referred to as truncated domes) were initially required on the full width and length of curb ramps and then they were [suspended](#) altogether between May 1994 and July 1998 and then again between December 1998 and July 2001. They are now required for the full width of curb ramps and a length of 24" from the bottom of the ramp.

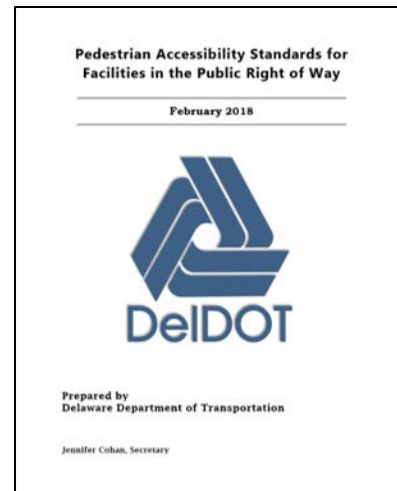
It is understandable (not to be confused with excusably) if local agencies have been frustrated. Nonetheless, public agencies must adopt a standard to follow (and only one – you don't get to cherry pick from multiple standards). They say you can even adopt the draft PROWAG, even though it has not been promulgated as a regulation and adopted as a formal standard, because the Federal Highway Administration views it as a best standard. It is messy, to be sure, but local agencies simply cannot continue without adopting a standard and following it.

There is good news in Delaware. The Delaware Department of Transportation developed the Pedestrian Accessibility Standards (PAS) for Facilities in the Public Right-of-Way and the latest version is [available](#) as a more manageable alternative should you choose to adopt it as your standard. Necessity, it is said, is the mother of invention, and the PAS was developed in response to the chaos and confusion of ADA requirements in the public right of way, to move the ball forward, to remove some of the conflicting information, to provide greater accommodation in the public right of way, and to put all the design standards in a single document for all to use.

The PAS establishes that the “*standards contained in this document are to be used to design, construct, and maintain pedestrian facilities within and along streets and highways under DelDOT's jurisdiction. These standards do not cover recreational trails.*” That is, if DelDOT is involved in the public right of way, the PAS is the standard that will apply henceforth (Outside the public right of way, the 2010 ADA Standards will apply). Does it apply to your local street projects that do not include DelDOT right of way or funding? That is for you to decide, but it can simplify your life and you should have a look.

We won't explore it in depth here. It is a very manageable 80 pages (currently) and it's really 71 pages when you take away the TOC, etc., so give it a scan. Regardless, adopt a standard.

After you do, what are your next steps? Well, ultimately, you need to remove all



pedestrian and information barriers, and the regulations for [Self-Evaluations](#) and [Transition Plans](#) envisioned that your right-of-way would be barrier free in as little as two years after the 1990 adoption of ADA. Giggle at that all you like, but it means we're all behind (except for the aforementioned superheroes). Someone said (widely quoted, origin unknown), "The best time to plant an oak tree was 25 years ago - the second best time is today." So, you have to have a Transition Plan that recognizes the progress you've likely made and how you are going to progressively remove barriers going forward. The Delaware T²/LTAP Center can help you put together such a plan.



A Self-Evaluation is an inventory of your sidewalks (Pedestrian Accessible Route), crosswalks, and pedestrian ramps. When you review the PAS, you will see that there are many requirements for full compliance and your tendency might be to measure everything you have down to the last detail. There is nothing wrong with that, but chances are, you have some obvious priorities and a more cursory inventory will suffice for now.

If you have intersections with no curb ramp (pedestrian connection is the fancy new term) at the sidewalk or mid-block crosswalks at the public library with no curb ramp, those may be your most pressing issues and an inventory of those may be your first year or two of work in the schedule. Absolutely, you need a schedule that addresses narrow sidewalks, pinch points, and vertical discontinuities, curb ramps without detectable warning surfaces, ramps that are too steep, lack of turning spaces and clear spaces, drainage issues, counter slope concerns, and on-street parking deficiencies, but your more obvious, high-traffic areas may be self-evident and a Self-Evaluation can initially be easily completed. A Transition Plan then identifies short term (next couple of years) projects and long-term plans.

With your Transition Plan complete and an adopted standard, you can turn your attention to your immediate barriers and the key is to reconstruct in full compliance with your standard so that you can remove it from your list with the exception of maintenance that may be needed from time to time. As you move through the obvious priorities, it will be time for a more in-depth Self-Evaluation and at that time, you will probably need to get a little more in the weeds, but taking things in phases will help you manage the process.

If you haven't been neck deep in ADA in the past, this might still be overwhelming. Don't let it be. The Delaware T²/LTAP Center can help you sort through it, so call on us and we will setup a visit. Inaction is your worst enemy and right behind it is leaving yourself exposed without a Transition Plan if one of the aforementioned parties come to visit with enforcement action. Again, we can help you put that together.

If you take care of all the items we have discussed above, you will be on your way and in time, you will be in need of something more than just the Survivor's Guide. With a plan, you can tackle the most pressing barriers in the right-of-way in a few years. The Delaware T²/LTAP Center's Municipal Engineering Circuit Rider is intended to provide technical assistance and training to local agencies and so if you have ADA questions or other transportation issues, contact Matt Carter at matheu@udel.edu or (302) 831-7236.