SIDEWALK COMPLIANCE FOR THE DISABLED

IMLA 2018

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So, you thought this was a legal speech?

- Not talking much about legal statutes
- Not talking about legal tips and tricks
- ARE going to talk about practical options

Meet Dewy Suem



Physical Conditions

- Dewy missing his right leg
- Sometimes uses prosthetic/sometimes wheelchair
- Doesn't like the City

City of Deep Pockets



Mayor Hi In Mitey



Dewy filed a complaint with DOT

- Cannot access sidewalks in front of City's shooting range
- Mayor Mitey = avid shooter
- Dewy = does not like guns





Several Laws – All (practically) Mean the Same Thing

- Title II of the ADA
- Section 504 of the Rehabilitation Act 1973
- The Architectural Barriers Act

DOT Role

- Obtain Compliance
- Seek Enforcement
- Mechanism for Complaints

City Attorney –Hardely Lis Tenin



What NOT to do

- Tell Feds to Go Away
- Tell Feds Dewy Doesn't Shoot
- Tell Feds the City Cannot Afford to Fix the Area. (qualified)



Practically What to Do

- Evaluate the Area
- Pull the Transition Plan
- Review for Inaccessibility
- Determine Requirements for Correction
- If possible, make correction now

Ima Gona Suem



Files Multiple Complaints (on behalf of brother)

- 132 intersections
- 6 facilities
- No ramps within shooting club

Check the Regs

- 28 C.F.R. § 35.149, .150, & .151.
- What's Required
- What's the Fix

$$$$$$$$$$$$$$$$$$$$





City Did Not Adopt Transition Plan

- §35.150(d) dealing with existing facilities
- City was required to adopt a transition plan within six months of the January 26, 1999
- Transition existing facilities to compliant standards

No Plan – Now What!

- Five Rules to Help City Attorney Response
- Doesn't matter why no plan
- TxDOT compiling City list

1. Don’t Panic



2. Determine Current Policy for New Facilities

- Yes – NEW facilities
- Cycle out mentality
- Determine if current policy has been followed

3. Determine Logistics of Creating Plan

- Inventory – Big Cost
- Repair Schedule – Planned Cost
- Schedule for Inventory and Transition Plan

4. Out-of-Box Thinking

- On Temporary Basis – increase accessibility where possible
  - Alternative routes
  - Shuttling from compliant location
- Problem Specific Solutions

5. DOT Training



TxDOT Headquarters
Riverside Campus – Auditorium 1A.1
200 E. Riverside Drive, Austin, TX 78704

Designing Pedestrian Facilities for Accessibility (DPFA) Course

Modules

Presented by Patrick Gomez, J.D., FHWA Resource Center, and Ted Green, P.E., New Jersey LTAP.

Module 1 – Laws, Regulations, and Pedestrian Characteristics
Module 2 – Pedestrian Access Routes (PAR)
Module 3 – Curb Ramps and Blended Transitions
Module 4 – Detectable Warning Surfaces
Module 5 – Pedestrian Street Crossings (Crosswalks)
Module 6 – Accessible Pedestrian Signals (APS)
Module 7 – Street Furniture and On-Street Parking
Module 8 – Maintenance of Pedestrian Facilities and Alternate Pedestrian Access Routes in Work Zones

Key Points

- Forward Movement
- Good Faith Corrections
- Allowed to Plan Out Decades

Private Causes of Action

- Private Cause of Action (including attorney's fees) for no compliance
- NO private cause of action for transition plan
  - DOT enforcement only

Conclusion

