January 3, 2001

You’ve asked about the city hall facility, in which most meetings are held, and its compliance with the Americans With Disabilities Act (ADA). Let me tell you a little bit about the ADA and what it means in this case.

The ADA was signed into law in 1990. Basically the law prohibits discrimination against the disabled in employment and mandates their full participation in publicly offered programs or services. Thus the Act has two “titles.” Title I deals with employment and Title II deals with programs. It’s Title II that we need to look at because “public meetings” are “programs” within the context of ADA.

The basic rule of Title II is that “no person shall be excluded from participation in... the programs, services, or activities of a local government on the basis of a disability.” All local government programs are covered, even those carried out by a contractor (see 56 Fed. Reg. 35719). The law directly addresses facilities and says, “No qualified disabled person shall be excluded from participation in or be denied the benefits of a public entity's programs because a local government's facilities are inaccessible or unusable” (56 Fed. Reg. 35719).

But please notice, the emphasis is on “programs” and not facilities. The law does not require alteration to facilities, but instead requires access to programs, including meetings. But the law does require that you give “public notice” regarding barriers to accessibility. Once notice is given it’s incumbent upon the disabled person to request the needed accommodation, which in your case would probably require that the meeting be moved to an accessible location.

One problem you may encounter is when someone repeatedly requests the moving of a meeting. For all practical purposes then, you end up never meeting in city hall anyway, and thus feel eventually compelled to either permanently change the meeting place or provide structural alterations to city hall.

But in any event, moving your meetings to an accessible location should bring you into compliance with the law. Also, I would suggest that if you intend to hold any meetings at the present, non-accessible location, that you notify the public of this non-accessibility when you advertise the meeting itself. By the way, you can impose a “reasonable advance notice” requirement on persons who request accessibility, and thus a change of the meeting location.

I believe you mentioned that city hall is not owned by the Town but instead is owned by TVA. This makes no difference. The law states that buildings leased by a local government are subject to the accessibility standards (56 Fed. Reg. 35711).

If you want to continue holding meetings upstairs in the current facility you must make it accessible, which in your case appears to require the installation of an elevator, which carries
with it certain standards itself. I am aware, however, of an elevator type which can be installed on the exterior of a building and which complies with the law. This was done on a facility in Bristol.

We briefly talked about ADA exemptions based on the “undue financial and administrative burdens” which compliance may require (such as the installation of an elevator). There are three components used by the law to determine this “burden” and I don’t believe an elevator at city hall would qualify. That’s because the law says the decision regarding financial burden must be made “after considering all public entity resources available to fund and operate the program.” Given the size of the budget I don’t think the expenditure for an elevator would thus qualify.

I hope this answers your questions. If not please feel free to call me back. MTAS publishes an excellent ADA compliance manual and if need be I can have a copy sent to you.

Sincerely,

Patrick Hardy
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