

THE IMPACT OF THE AMERICANS WITH DISABILITIES ACT ON HISTORIC
BUILDINGS

by

JENNIFER LYNN LADENHEIM

(Under the direction of Mark E. Reinberger)

ABSTRACT

Nearly every building in the United States must conform to the requirements of the Americans with Disabilities Act (ADA). Applying these access requirements to historic buildings can often harm or destroy the building's historic integrity.

This thesis examines the requirements of the ADA, including the alternative minimum accessibility standards available for use by historic properties. The acceptable treatments of historic buildings, as set forth by the Secretary of the Interior are also explained. The problems with combining ADA requirements and the standards for historic properties are then examined. Accessibility features are profiled, including examples of historic buildings that utilize these features.

This thesis identifies several needs, including the need for exemptions from ADA requirements for historic buildings, for design assistance in applying accessibility features and for financial assistance in providing the best solution. The thesis concludes with recommendations for identifying the most appropriate access solutions for historic properties.

INDEX WORDS: Americans with Disabilities Act, Historic Buildings, Accessibility.

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B.A., The College of William and Mary, 1998

A Thesis Submitted to the Graduate Faculty of The University of Georgia in Partial
Fulfillment of the Requirements for the Degree

MASTER OF HISTORIC PRESERVATION

ATHENS, GEORGIA

2002

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INTRODUCTION

Lewis B. Puller, Jr., son of marine legend, “Chesty” Puller, returned from the Vietnam War with no legs and parts of both hands missing. In his 1991 autobiography Fortunate Son, Puller recounted his experiences before, during and after the war. One of the most powerful passages in this book is the moment when Puller ceases to be truly “like” the rest of us. His newfound disability fully strikes the reader when this intensely courageous man cannot independently enter a building.

When I arrived at law school the first day with a briefcase full of law books wedged between my chin and the seat of my wheelchair, I was uneasy about being able even to get into the classrooms; but several students hoisted me up the front steps of the building, and after that I rarely had trouble finding someone to help me in and out.¹

Puller had just recovered from his extensive injuries and related surgeries and was ready to take on new intellectual challenges. The architectural barriers he encountered shock the reader, although they do not seem to faze Puller. Puller entered law school in 1971, and no doubt the College of William and Mary, along with the rest of the nation, has since made accessibility provisions. Puller’s story is just one of millions that reminds us why this nationwide effort to change the way we build and alter existing structures is so important.

In 1994, on that same campus, a freshman seminar course was held on the second floor of the historic Wren Building, alleged to be the oldest academic building in

¹ Puller Jr., Lewis B. Fortunate Son: The Autobiography of Lewis B. Puller, Jr. New York: Bantam Books, 1993, 306.

continuous use in the United States.² During the course of the semester, a young man in the class had an accident which landed him in a wheelchair, albeit temporarily. Due in part to his determination, in part to the professor's insensitivity, and in part to the College's unwillingness to either alter the building or stop holding classes there - thereby giving up the dubious honor of "oldest in continuous use"- this student spent several weeks scooting up the necessary flights of stairs on his rear end. After protestations by fellow students, the professor did agree to hold class on the first floor, which sits above a raised basement, and only required climbing one set of stairs. By the time the injured student graduated, then fully recovered, the philosophy department had hired a professor in a wheelchair and moved out of the inaccessible Wren Building, and the College had installed a retractable lift, making the first floor wheelchair accessible without detracting from the building's integrity.

These two stories, from the same college campus, illustrate the two issues central to this paper. Lewis Puller's story reminds us that accessibility is not about ramps and lifts, it is about people. The events surrounding the Wren Building highlight the evolution of an accessibility philosophy for a historic building: from leaving students no recourse but to scoot up and down stairs, to relocating programs and services, and finally to the sensitive installation of accessibility equipment – with each step giving complete respect to the integrity of the building, and a steadily increasing level of respect for accessibility.

² There is an older building at Harvard, but it was not used for a number of years at some point in history, so the Wren Building claims the "honor".

In 1976, the Secretary of the Interior developed recommended standards and guidelines for the treatment of America's historic structures.³ These standards called for the protection and careful stewardship of our historic resources. The various standards and guidelines were generally aimed at preserving the architectural integrity of significant historic buildings nationwide. While the treatments often recognize the need for updating building systems and repairing missing and damaged features, one of the main concerns of the Secretary's Standards is the unaltered retention of significant historic buildings – particularly their primary facades and significant interior spaces.

The Secretary's Standards for rehabilitation are used as the guidelines for property owners who are seeking federal tax credits for rehabilitating historic buildings. Adherence with these guidelines ensures that rehabilitations are conducted sensitively and that consideration is given to the architectural integrity of historic properties. The Standards recognize that without protection, our historic resources are often extensively altered or completely lost.

In America today, every time a construction project is undertaken, there are multiple codes to meet and seemingly innumerable hoops to jump through. The project must pass the fire code, must conform with zoning requirements, must be approved by code officials, must provide the correct number of parking spaces, etc, etc. As of January 26, 1992, all construction projects also have had to meet the requirements of the Americans with Disabilities Act (ADA).⁴

In the decade since the ADA was implemented, we have become accustomed to changes in our built environment that may often seem small. When we enter the new

³ The Secretary's Standards for the treatment of historic buildings are found in 36 CFR 60.

⁴ The Americans with Disabilities Act: 42 USC 12101-12213 (Public Law 101-336) 42 USC 12101(b).

student center on our local college campus, we can lazily opt to walk through the automatic door. Or if we have a baby stroller with us in a public restroom, we can use the larger stall. For most Americans, the ADA has made certain simple tasks a little bit simpler. But for the 43,000,000 disabled Americans,⁵ the ADA means that simple tasks such as entering public buildings or using public restrooms are now possible.

In instances of new construction, complying with the ADA is often not extremely difficult, expensive, time-consuming, or disruptive to the progress of the project. Accessibility features, such as hallways wide enough for two wheelchairs to pass, elevators accessing all floors, wide doorways with no thresholds, accessible restrooms and accessible paths from parking spaces to buildings are all incorporated from the very beginning of the design process, and are becoming second nature to architects. When restoration or rehabilitation work is undertaken on a historic building however, complying with the ADA can in some cases, become an extremely involved process.

Many questions arise when trying to meet both the Secretary's Standards and the ADA requirements, and in some cases conflicts occur. The ADA does make special allowances for historic buildings, so when is accessibility required and when is it not? Why are some historic properties accessible, while others are not? When do accessibility features need to be added and when is it acceptable to simply remove accessibility barriers? What sorts of regulations oversee the installation of accessibility features to a historic building? This thesis seeks to find the answers to these and other relevant questions.

⁵ Tolbert, Ralph. "Historic Buildings & ADA Compliance: Preserving Historic Integrity While Providing Accessibility to Those with Disabilities." Technology and Conservation (Spring 1994): 20.

The ADA sets minimum accessibility standards that must be met nationwide. It recognizes that most states and many localities have their own standards for accessibility, many of which may be stricter than the ADA itself. Whenever more than one accessibility code applies, the most stringent standard must be followed. The ADA does not exempt property owners from meeting the standards set by their state and municipal governments.

Because different accessibility codes apply to historic resources located in different states, and even in different cities with the same state, it is difficult to definitively identify the specific standards that a given historic building must meet. This thesis recognizes this limitation and seeks to explore the minimum federal accessibility requirements set forth by the ADA, while asking the reader to keep in mind the additional impact that state and local legislation can have on our historic resources.

Historic preservation efforts seek to make our built heritage available for future generations to enjoy. The accurate portrayal of historic resources is vital to fostering clear understandings of the past. While it is important to afford all citizens, including those with disabilities, the opportunity to access architecturally significant historic buildings, it would be darkly ironic to destroy the very characteristics that make the buildings worth visiting in the process of expanding access. Physical access must be provided to a historic building whenever possible, but methods should be sought to provide access in ways that minimize harm to the architectural integrity of the subject building. This thesis explores the federal accessibility requirements of the ADA, the alternatives available for historic buildings, and the resulting impact of the ADA as it is applied to historic buildings.

CHAPTER 1

AN OVERVIEW OF THE AMERICANS WITH DISABILITIES ACT

The ADA as it relates to historic buildings is clearly about physical accessibility. However, the legislation also has strong roots in civil rights law. This chapter investigates the history of prior accessibility and civil rights laws in an effort to reach a fuller understanding of the forces that drove the creation of the Americans with Disabilities Act.

Accessibility Legislation

The **Architectural Barriers Act** of 1968 was one of the first pieces of legislation passed with the aim of providing access for all to our built environment. The Architectural Barriers Act requires that federally financed buildings be architecturally accessible to the disabled. This includes any building owned, leased or used by any federal government agency after 1969, as well as buildings that are altered, constructed or designed with the use of federal funds. The Access Board was established in 1973 to create guidelines for enforcing this act. These guidelines, the Uniform Federal Accessibility Standards (UFAS) became effective in 1982.⁶ These standards may also be used as guidelines for complying with Title II of the ADA, discussed below.

The Rehabilitation Act of 1973 (PL 93-112) requires recipients of federal funds to make all their programs and activities available to otherwise qualified people who have a disability. Particular sections of this act stipulate the following:

Section 501 requires that federal agencies of the executive branch enact employment policies that do not discriminate against people with disabilities. This section also requires that such agencies enact affirmative action policies.

Section 502 is responsible for the establishment of the Architectural and Transportation Barriers Compliance Board (now called the Access Board), which enforces the Architectural Barriers Act through investigation of complaints. This is the same Access Board that developed the Uniform Federal Accessibility Standards.

Section 503, as amended, extends the nondiscrimination and affirmative action policies of Section 501 to include private companies that act as federal contractors and sub-contractors with contracts of over \$10,000.⁷ This section may initially appear to have limited practical impact, however, there are over 75,000 companies holding contracts with various federal agencies, including most of the Fortune 500 companies.⁸

Section 504 is even more far-reaching, extending the nondiscrimination policy to all private and public entities receiving federal grants. This includes departments and/or agencies of state and local governments that receive any form of federal assistance, as well as public colleges and universities. The United States Postal Service is also covered under this section.

Section 508 of the Rehabilitation Act requires that the Federal government's information technology systems be accessible to people with disabilities.

⁶ West, Jane. "The Evolution of Disability Rights." Implementing the Americans with Disabilities Act: Rights and Responsibilities of All Americans. Ed. Lawrence O. Gostin and Henry A. Beyer. Baltimore: Paul H. Brookes Publishing Co. Inc, 1993. 11.

⁷ Originally, the contract amount only had to be \$2,500.

⁸ Bowe, Frank G. "Development of the ADA." Americans with Disabilities Act: Access and Accommodations: Guidelines for Human Resources, Rehabilitation, and Legal Professionals. Ed. Nancy Hablutzel and Brian T. McMahon. Orlando: Paul M. Deutsch Press, Inc, 1992. 4.

The Rehabilitation Act itself simply prohibits discrimination against the disabled, without defining specific actions that would constitute discrimination. Each federal agency is responsible for promulgating its own specific regulations and for submitting those regulations to Congress for approval. An agency's regulations cover its own programs and the programs of those entities to which the agency provides financial assistance. Each agency enforces its own regulations.⁹

Under the Rehabilitation Act, a building housing the headquarters of an organization need not be fully physically accessible (unless the building is federally financed, in which case it must be accessible under the Architectural Barriers Act), as long as the programs and activities of the organization are held in accessible locations. Therefore, the Rehabilitation Act ensures that *services and programs* are accessible to people with disabilities. This is an important distinction from the requirements of the Architectural Barriers Act, which ensures that specific *buildings* themselves are physically accessible.

The Fair Housing Amendments Act of 1988 (42 USC 3601 *et. seq.*) is aimed at prohibiting discrimination in real estate transactions. Anti-discrimination housing provisions were originally included in the ADA, but were dropped from that legislation and incorporated into the Fair Housing Amendments Act. This act was passed before the ADA and marked the first time that the scope of accessibility legislation was extended to include the private sector.¹⁰

The Fair Housing Amendments Act makes it unlawful to discriminate against any person based on race, color, religion, sex, familial status, national origin, or disability. In its entirety, the act is general civil rights legislation. However, section 804 deals

⁹ [A Guide to Disability Rights Laws](http://www.usdoj.gov/crt/ada/cguide.htm). 9 Nov 2001 <www.usdoj.gov/crt/ada/cguide.htm>.

¹⁰ West, 12-13.

specifically with discrimination against the disabled and addresses housing accessibility. This section not only makes it unlawful to discriminate against a disabled renter or buyer but also forbids discrimination against any disabled person planning to reside in the subject property, as well as any able-bodied buyer, renter, or resident who is in any way associated with a disabled person. This inclusive language will be seen again in the ADA.

The Fair Housing Amendments Act can directly affect historic properties, particularly historic apartment buildings, or large homes that have been divided into apartments. Any such building having at least four units is required to provide access for the disabled in ground floor units. The Fair Housing Amendments Act also requires a landlord to allow a disabled tenant (at the tenant's own expense) to retrofit the interior of her living space to maximize her enjoyment of the premises. The landlord is permitted to require the tenant to restore the space to its previous condition when moving out.¹¹

Other accessibility acts not affecting historic buildings but having an impact on the Americans with Disabilities Act include:

- **The Individuals with Disabilities Education Act** (formerly known as the Education for all Handicapped Children Act of 1975) requires public schools to educate disabled children with an appropriate individualized program.
- **The Voting Accessibility for the Elderly and Handicapped Act** of 1984 requires polling places to be accessible for the disabled for federal elections.
- **The Air Carrier Access Act** of 1986 forbids discrimination in air travel based on a disability.

¹¹ The Fair Housing Amendments Act of 1988: 42 USC 3604.

- **The Television Decoder Circuitry Act** of 1990 requires that nearly all new televisions made, or even sold, in the United States come equipped with built-in caption chips.

These legislative acts are each intended to provide people with disabilities access to the same programs, information and products that are available to the general population.

Most of the accessibility legislation leading up to the ADA addressed the responsibility of the federal government, and the programs that it funds, to provide access to its services for all Americans, including those with disabilities. Americans expect the federal government to provide “liberty and justice for all”. Particularly when taxpayer money is being used, Americans believe that programs should be fairly administered to all citizens. For example, state supported universities must admit both men and women, while private institutions are free to cater to one gender or the other. Similarly, the accessibility acts discussed above require that buildings and programs funded by the federal government be accessible to all Americans, regardless of their physical limitations. In the past, similar legislation has been passed to protect the rights of other groups of Americans, such as women, African-Americans, and to a varying degree, homosexuals.

Civil Rights Legislation

The major civil rights legislation leading up to the ADA includes the landmark **Civil Rights Act** of 1964 and the **Voting Rights Act** of 1965. These acts prohibit discrimination based on race, gender, religion, and national origin, and they helped set the political stage for anti-discrimination legislation for people with physical and mental disabilities. Much of the language in the ADA clearly echoes civil rights legislation. The

following passage, from Title II Section 201(a) of the Civil Rights Act of 1964, served as the template for the ADA's Sec. 302 Prohibition of Discrimination by Public

Accommodations:

All persons shall be entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation, as defined in this section, without discrimination or segregation on the ground of race, color, religion, or national origin.¹²

In hindsight, it is difficult to believe that it took almost thirty years after the passage of the Civil Rights Act for Congress to pass similar legislation protecting the rights of people with disabilities.

The Development of the ADA

When viewed together, the accessibility legislation and the civil rights legislation left a sizable gap when it came to protecting the rights of people with disabilities to equal access. This section of the population had been overlooked in previous civil rights legislation, and the existing accessibility laws failed to address discrimination in the private sector at all.¹³ By the late 1980s, it had become apparent that federal legislation was needed to ensure that people with disabilities would have physical access to the same buildings, programs and services as every other citizen.

The primary purpose of the ADA was to end discrimination against the disabled in the workplace and the public sphere by making facilities and programs physically accessible to people of various physical and mental ability levels.

¹² Sec. 302(a) of the ADA reads: "General Rule. No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation."

The ADA was phased in over the course of several years and today is completely active. The accessibility requirements have dramatically impacted the built environment. Newly constructed public buildings are all accessible and feature ramps, doors that sense approaching people and open automatically, power assisted doors, wheelchair lifts, etc. While these features are easily incorporated into new construction, and can be added to many existing buildings fairly easily, some serious problems can arise when the accessibility standards are applied to historic buildings.

The ADA requires that nearly all new construction be readily accessible to people with disabilities.¹⁴ When most existing buildings are altered, they must meet the same minimum accessibility standards as new construction.¹⁵ Rehabilitations and restorations qualify as alterations; therefore, when rehabilitation or restoration is undertaken, access for the disabled must be incorporated into the historic building.

Individual citizens enforce the ADA. Any private party who feels that his/her rights have been violated because of a disability may file a lawsuit. No monetary damages will be awarded,¹⁶ rather court orders will be granted to stop the discrimination where deemed appropriate. In a preservation context, this means that a disabled person who is unable to access a public historic building can file suit and obtain a court order requiring that the building be made accessible to someone of his ability level. Also, if a historic building is to be altered in an inaccessible way, a disabled person may seek a judicial remedy for what is called “anticipatory discrimination”. In cases of anticipatory discrimination,

¹³ The Fair Housing Amendments Act does address the private sector, however, this legislation and the ADA were drafted simultaneously as joint efforts to address this issue.

¹⁴ Accessibility is not required where unique terrain makes accessibility structurally impracticable, however, even where such terrain is an issue, the building must be made accessible to the greatest extent possible. See ADAAG 4.1.1(5)(a)

¹⁵ ADAAG 4.1.6(1)(b) and UFAS 4.1.6(1)(a).

¹⁶ Although reasonable attorneys fees may be awarded. See 42 USC 12205.

plans may be altered to comply with the ADA *before* construction begins. Clearly, it is in the interest of all involved parties to avoid potentially expensive legal battles and design alterations by addressing any accessibility concerns prior to commencing construction.

The Americans with Disabilities Act

The first President Bush signed the Americans with Disabilities Act, the product of decades of hard work by the disability community, into law on July 26, 1990, saying “it signals the end to the unjustified segregation and exclusion of persons with disabilities from the mainstream of American life.”¹⁷ The ADA itself is divided into five titles. Each title addresses a different aspect of potential discrimination faced by people with disabilities. The titles forbid discrimination in the different sectors in general terms. Specific implementation of the ADA is left up to regulations authorized and ordered under the different titles. In turn, the published regulations refer to the two sets of accessibility guidelines for physical implementation: the Uniform Federal Accessibility Standards (UFAS) and the Americans with Disabilities Act Accessibility Guidelines (ADAAG).

Title I: Employment

Title I addresses discrimination in the workplace and covers employers with a workforce of 15 or more employees. Section 102(b) defines discrimination in this context as: “limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee”¹⁸. Title I makes it illegal for an employer to discriminate against someone *because* of a disability. This applies to application

¹⁷Quoted in: Harrison, Maureen and Steve Gilbert, ed. The Americans with Disabilities Act Handbook. Beverly Hills: Excellent Books, 1992, iv.

procedures, hiring, promotion, pay, training, and other benefits of employment.

Employers must also make reasonable accommodations for the disabilities of their employees, unless such accommodations create an undue hardship.

Title I went into effect two years after enactment (1992) for employers with 25 or more employees and two additional years (1994) for those with 15 –24 employees. The Congressional view of the ADA as civil rights legislation is apparent in Section 107(a) of the ADA. This section deals with enforcement and reads: “The powers, remedies, and procedures set forth in sections 705, 706, 707, 709 and 710 of the Civil Rights Act of 1964 shall be the powers, remedies, and procedures this title provides.”¹⁹ The link could not be clearer.

Title II: Public Services

Title II of the ADA prohibits the exclusion of a qualified person with a disability from participation in, or enjoyment of, services, programs, or activities provided by a public entity. The term “public entity” includes state and local governments and their agencies, as well as the National Railroad Passenger Corporation and any commuter authorities.²⁰ Title II extends the programmatic accessibility focus of The Rehabilitation Act of 1973. Section 504 of that act forbids public entities that are receiving Federal funding from discriminating against people with disabilities. Under Title II of the ADA, it is unlawful for people with disabilities to be denied access to programs and activities of public entities, whether or not those entities are receiving Federal aid.

Subtitle B of Title II forbids discrimination in public transportation services. Under Subtitle B, it is discriminatory for a public entity to purchase new vehicles that are not

¹⁸ ADA, 42 USC 12112(b)(1).

¹⁹ ADA, 42 USC 12117(a).

accessible to the disabled for use on a fixed route system such as a bus or commuter rail route. Older vehicles that are inaccessible will be permitted to continue service until their replacement is necessary. Through this method, all vehicles on fixed route systems will soon be physically accessible to people with disabilities, and the costs of the upgrades will be amortized over a period of years.

Title III: Public Accommodations and Services Operated by Private Entities

Title III prohibits discrimination based on a disability in the realm of public accommodations. Owners, operators, and leasees of public accommodations are prohibited from denying a person with a disability the “full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation.”²¹ Three main types of discrimination are noted: denial of participation; participation in unequal benefit; and separate benefit. Title III stresses the importance of integrating facilities for people with disabilities with standard facilities to the greatest extent possible.

Title III lists twelve categories of public accommodations:

- A) an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;
- B) a restaurant, bar, or other establishment serving food or drink;
- C) a motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;
- D) an auditorium, convention center, lecture hall, or other place of public gathering;
- E) a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;
- F) a laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an

²⁰ADA, 42 USC 12115.1.

²¹ ADA, Section 302(a), 42 USC 12182(a).

- accountant or lawyer, pharmacy, insurance office, professional's office of a health care provider, hospital, or other service establishment;
- G) a terminal, depot, or other station used for specified public transportation;
- H) a museum, library, gallery, or other place of public display or collection;
- I) a park, zoo, amusement park, or other place of recreation;
- J) a nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;
- K) a day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and
- L) a gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.²²

Thus, Title III extends the focus of the Architectural Barriers Act by requiring that privately owned buildings be accessible regardless of any connection to federal funding.

Title III also requires the removal of any architectural or communication barrier in a public accommodation, where doing so is readily achievable.²³ If the property owner can demonstrate that barrier removal is not readily achievable, the services provided must be made available to those excluded by the barrier through an alternative method, where such method is readily achievable.²⁴

Title IV: Telecommunications

Title IV addresses the accessibility of two communication mediums: telephones and television. People with hearing and speech disabilities who use Telecommunications Devices for the Deaf (TDDs) rely on the availability of Telecommunication Relay Services (TRSs). Under Section 401 of the ADA, telephone companies are required to provide TRSs 24 hours a day, 7 days a week, at a cost no greater to the customer than the equivalent charges for voice communications. A commission was established and charged with the creation of regulations to implement this section.

²² ADA, Section 301(7), 42 USC 12181.7.

²³ ADA, Section 302(b)(2)(A)(iv), 42 USC 12182(b)(2)(A)(iv).

Section 402 requires that public service announcements, which are shown on television and are produced or funded by any federal governmental agency, must include closed captioning of the verbal content of the message.

Title V: Miscellaneous Provisions

Title V addresses some of the technicalities of the ADA. For example, Section 501 explains the relationship between the ADA and any state or local accessibility laws. When the ADA was passed, many state and local governments already had accessibility requirements in place. The ADA is not meant to preempt any such laws; it acts only as a nationwide minimum requirement for accessibility. Any more stringent state or local regulations must be complied with in full.²⁵

Title V also waives state immunity, making individual states subject to the ADA and to judicial action should they violate its requirements. The coverage of Congress and Congressional anti-discrimination policies are included in this title as well.

Title V notes that individuals “who are currently engaging in the illegal use of drugs”²⁶ and transvestites do not qualify as “individuals with disabilities” and are therefore not covered by the ADA.²⁷

Section 504 addresses historic buildings. Subsections (a) and (b) require the Architectural and Transportation Barriers Compliance Board to issue minimum guidelines to ensure that the design of buildings, facilities, rail passenger cars, and vehicles are accessible to people with disabilities. Subsection (c) is entitled “Qualified

²⁴ ADA, Section 302 (b)(2)(A)(v), 42 USC 12182(b)(2)(A)(v).

²⁵ Some states, such as Virginia, use the ADA as their state accessibility regulations.

²⁶ ADA, 42 USC 12210(a).

²⁷ An important distinction worth noting: alcoholics and people with a history of drug abuse ARE covered by the ADA as long as they can adequately perform the functions of their job. Someone who arrives to work intoxicated may be dismissed, but he may not be discriminated against simply because he is known to be an alcoholic if this condition has never impaired his performance in the workplace.

Historic Properties” and states that the guidelines established by the Architectural and Transportation Barriers Compliance Board “shall include procedures and requirements for alterations that will threaten or destroy the historic significance of qualified historic buildings and facilities.”²⁸ This subsection is the only direct mention made of historic buildings in the ADA.²⁹

ADAAG and UFAS and Historic Buildings

The mission of the ADA is to end discrimination against people with a wide range of disabilities. Many people with disabilities, such as deafness or diabetes, are not physically limited in their ability to access buildings. Other disabilities do dramatically impact an individual’s ability to physically access buildings. The ADA provides physical accessibility requirements to assist individuals who are, for example, wheelchair-bound, have poor mobility, or are blind, in gaining equal access to facilities and services. These requirements are set forth in the Americans with Disabilities Act Accessibility Guidelines (ADAAG)³⁰ and the Uniform Federal Accessibility Standards (UFAS). These regulations are intended to assist those with physical disabilities in gaining physical access to buildings and services, and thus are largely concerned with wheelchair mobility.

In keeping with Section 504 (c) of the ADA, The Architectural and Transportation Barriers Compliance Board issued the Americans with Disabilities Act Accessibility Guidelines (ADAAG). ADAAG sets forth the federal minimum accessibility requirements. ADAAG is the required standard for public accommodations and other buildings covered under Title III. Buildings covered under Title II may meet either

²⁸ ADA, Section 504(c)1, 42 USC 12204(c)(1).

²⁹ Section 222(c)2 discusses historic vehicles and Section 228(b)2 addresses historic trains.

³⁰ ADAAG was developed from both UFAS and *American National Standard for Buildings and Facilities – Providing Accessibility and Usability for Physically Handicapped People* (ANSI A117.1-1986.)

ADAAG standards or the Uniform Federal Accessibility Standards (UFAS). ADAAG and UFAS are generally very similar. Some of the basic accessibility requirements applied to new construction by both ADAAG and UFAS include:

- At least one accessible route will be provided from accessible entrances to all accessible interior spaces.
- All doors located along an accessible route will be accessible. They must provide openings at least 32 clear inches wide.
- Ramp slope in new construction will be no greater than 1:12.
- At least one accessible elevator will be provided for multi-story buildings. If more than one elevator is provided, each one must be accessible.³¹
- ADAAG requires 50 percent of all public entrances to be accessible. UFAS requires that at least one accessible entrance be provide at each grade floor level. Both standards prefer that all entrances be accessible, because they also serve as emergency exits.³²

ADAAG and UFAS are nearly identical in their treatment of historic buildings. Both standards define a qualified historic building or facility as one listed in, or eligible for listing in, the National Register of Historic Places, or designated historic under a state or local law.

Under ADAAG, alterations to historic buildings are subject to the same technical specifications as any other building alteration, unless compliance with these requirements “would threaten or destroy the historic significance of the building or facility in which

³¹ ADAAG 4.1.3(5) provides an elevator exemption for buildings that are less than three stories high or that have less than 3000 square feet per story, unless the building is a shopping center or doctors office.

³² These requirements are listed in ADAAG 4.1.3 and UFAS 4.1.2.

case the alternative requirements...may be used.”³³ When alterations to the historic building are subject to a Section 106 Review³⁴, this procedure causes the State Historic Preservation Officer and the Advisory Council on Historic Preservation to review the undertaking. If either entity determines that the project would indeed threaten or destroy the historic significance of the property, the alternative requirements may be used. When a project is not subject to Section 106 Review, the entity undertaking the alterations may consult with the State Historic Preservation Officer if it feels that compliance would threaten or destroy the historic significance of the property. Should the State Historic Preservation Officer agree, the alternative requirements may be used. Where Certified Local Government Historic Preservation Programs³⁵ exist, this determination may be made on the local level.

UFAS only allows use of the alternative requirements, found in 4.1.7(2) for projects that are subject to Section 106 Review. “The special application provisions listed under 4.1.7(2) may only be utilized following a written determination by the Advisory Council that application of a requirement...would threaten or destroy the historic integrity of a qualified building or facility.”³⁶

³³ United States. Architectural and Transportation Barriers Compliance Board. Americans with Disabilities Act Accessibility Guidelines. Washington DC: GPO, 1992. 13.

³⁴ Section 4.1.7(2)(a)(i) of ADAAG states: “Section 106 Process. Section 106 of the National Historic Preservation Act (16 U.S.C. 470 f) requires that a Federal agency with jurisdiction over a Federal, federally assisted, or federally licensed undertaking consider the effects of the agency’s undertaking on buildings and facilities listed in or eligible for listing in the National Register of Historic Places and give the Advisory Council on Historic Preservation a reasonable opportunity to comment on the undertaking prior to approval of the undertaking.”

³⁵ Section 4.1.7(2)(d) of ADAAG states: “Where the State Historic Preservation Officer has delegated the consultation responsibility for purposes of this section to a local government historic preservation program that has been certified in accordance with section 101(c) of the National Historic Preservation Act of 1966 (16 U.S.C. 470a (c)) and implementing regulations (36 CFR 61.5), the responsibility may be carried out by the appropriate local government body or official.”

³⁶ UFAS, Section 4.1.7(1)(c).

The alternative minimum accessibility requirements referred to in ADAAG and UFAS are identical. They require the following:

- At least one accessible outdoor route to an accessible entrance. A ramp with a slope no greater than 1:6 for a run not to exceed 2 ft. may be used as part of an accessible route.³⁷
- At least one public entrance shall be accessible. If this is impossible, an entrance not used by the public, but clearly marked and unlocked, must be made accessible.
- If restrooms are provided, at least one accessible toilet facility must be provided along an accessible route. The facility may be unisex.
- On the level of the accessible entrance, accessible routes from this entrance to all public spaces must be provided. Wherever practical, access should be provided on all levels of the building.
- Any displays/written information may be placed no higher than 44 inches from the floor, and should be visible to a seated person.

Relevance of Title II to Historic Buildings

All buildings that are owned or leased by public entities³⁸ are subject to the requirements of Title II. “Title II requires a public entity to make its programs accessible in all cases, except where to do so would result in a fundamental alteration in the nature

³⁷ The standard steepest slope allowed is 1:12. Under Section 4.1.6(3)(a)(ii), the steepest slope allowed when altering a building with space limitations is 1:8, thus the 1:6 slope is a special allowance for historic buildings.

³⁸ ADA, Section 201.1 (42 USC 12115.1) states “The term ‘public entity’ means (A) any State or local government (B) any department, agency, special purpose district, or other instrumentality of a State or States or local government; and (C) the National Railroad Passenger Corporation, and any commuter authority”

of the program or in undue financial and administrative burdens.”³⁹ Typically, compliance with Title II alone will not require that a historic building housing a public entity be altered. “The intent of this provision is not to mandate physical changes to all existing buildings to provide full accessibility, but rather, to ensure that all public programs are accessible to all people, including persons with disabilities.”⁴⁰

Thus, Title II, as it applies to historic buildings, requires that people with disabilities have access to services, activities and programs of public entities housed in such a building. This does not require that an existing building be altered to a state of accessibility. Although it is certainly preferable for all citizens to access services in an integrated way, Title II only requires that the programs be accessible, not the buildings themselves.

This program access requirement may be met in several ways. Obviously, the most desirable method of program accessibility is physical access. Where the building is not accessible, and making it so would alter the nature of the program, or cause an undue burden, other alternatives are available. The program may be moved to an accessible location, such as an accessible ground floor, or another building. Alternatively, an aide or employee may be appointed to assist disabled people in obtaining the service, or the service may be provided at an individual’s home.⁴¹ Lifting/carrying an individual with a disability is not considered an acceptable alternative to structural modifications except in very rare cases. Alternatives are available, and it is the responsibility of state and local

³⁹ United States. Equal Employment Opportunity Commission & Dept. of Justice. Americans with Disabilities Act Handbook. Washington DC: GPO, 1992, II-57.

⁴⁰ National Trust for Historic Preservation. Americans with Disabilities Act: A Self-Guided Training Course for Historic Preservation Commissions. Washington DC: 2000.

⁴¹ United States. Dept. of Justice. Disability Rights Section. The Americans with Disabilities Act: Title II Technical Assistance Manual: Covering State and Local Government Programs and Services. Washington DC: 1993, 23.

governments to ensure that some form of reasonable accommodation is provided where a building is physically inaccessible.⁴²

As an example, if a small local government's offices are housed in a three story historic building which has no elevator, all public meetings may be held on the ground floor, allowing access for all. If the voter registration office is located on the second floor, procedures could be developed allowing a disabled person to enter the building, contact the staff of the voter registration office from the first floor, and have someone from that office come down to assist.

The Department of Justice's Title II Technical Assistance Manual, published in 1993, specifically addresses the accessibility of historic preservation programs. This publication draws a distinction between programs located in historic properties and historic preservation programs, which are "programs conducted by a public entity that have preservation of historic properties as a primary purpose,"⁴³ where a historic property is one which is listed, or eligible for listing on the National Register. Historic preservation programs are required to give priority to providing physical access to people with disabilities, especially because the primary function of the program is the experience of the historic property itself. However,

a public entity is not required to take any action that would threaten or destroy the historic significance of an historic property. In cases where physical access cannot be provided because of either this special limitation, or because an undue financial burden

⁴² ADA, Section 101.9 (42 USC 12111.9) states "The term 'reasonable accommodation' may include (A) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and (B) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities."

⁴³ United States. Dept. of Justice. Disability Rights Section. The Americans with Disabilities Act: Title II Technical Assistance Manual: Covering State and Local Government Programs and Services. Washington DC: 1993, 25.

or fundamental alteration would result, alternative measures to achieve program accessibility must be undertaken.⁴⁴

Many historic preservation programs, such as that at Villa Vizcaya in Miami, Florida have second floors that are inaccessible to people with disabilities. Altering the property to provide an elevator to the second story would either be financially burdensome or would fundamentally alter the experience provided. Such programs are required to provide an alternative experience that can be enjoyed by the disabled. Villa Vizcaya has addressed this problem by creating a videotape of the second-story rooms which disabled, or even tired visitors can view after touring the first floor with non-disabled visitors.⁴⁵ This is not a perfect solution, but it does allow all visitors to experience the house without damaging or altering it.

Programs located in historic buildings that do not accommodate historic preservation programs, are not granted any special protection for their historic buildings. Like the example of the voter's registration office from above, such programs can and should provide nonstructural methods of program accessibility, or they may need to relocate into accessible facilities.

For non-historic buildings, all facilities constructed after January 26, 1992 must be readily accessible to people with disabilities. Facilities that are altered after the same date must also be accessible to the maximum extent feasible. As was explained above, if a program in an existing building can be made accessible through non-architectural

⁴⁴ Ibid.

⁴⁵ Personal visit. Summer 2000.

means, such methods are acceptable. However, “if program access cannot be provided without structural modification, such modifications must be made.”⁴⁶

The bulk of Title II addresses non-discrimination in public transportation, and does not effect historic buildings.

Relevance of Title III to Historic Buildings

Title III of the ADA affects nearly every facility and service in the built environment. “Indeed, other than residential housing, which is covered by the Fair Housing Amendments Act of 1988, commercial air travel, which is covered by the Air Carriers Access Act, and governmental services regulated by Title II of the ADA and/or the Rehabilitation Act, it is difficult to think of many facilities or services left uncovered.”⁴⁷

Title III of the ADA prohibits discrimination by commercial facilities;⁴⁸ by private entities offering examinations and courses such as legal bar courses, Scholastic Aptitude Tests, etc; and by public accommodations. Although Title III covers “public accommodations”, it is important to keep in mind that these are actually privately owned facilities and services, which cater to the public. The full list of public accommodations is presented above.

While the primary concern of Title II is to provide program access to government services, Title III addresses the need to provide *integrated* access to the public world for people with disabilities. Therefore, Title III is more concerned with the removal of structural barriers to allow physical access, and is less accommodating regarding alternate

⁴⁶ Kilb, Linda. “Title II- Public Services, Subtitle A: State and Local Governments’ Role.” Implementing the Americans with Disabilities Act: Rights and Responsibilities of All Americans. Ed. Lawrence O. Gostin and Henry A. Beyer. Baltimore: Paul H. Brookes Publishing Co. Inc, 1993. 87.

⁴⁷ Parmet, Wendy E. “Title III – Public Accommodations.” Implementing the Americans with Disabilities Act: Rights and Responsibilities of All Americans. Ed. Lawrence O. Gostin and Henry A. Beyer. Baltimore: Paul H. Brookes Publishing Co. Inc, 1993. 124.

forms of accessibility to services. Structural barriers to access must be removed under Title III even if programmatic access is available without removing the obstacles.⁴⁹ Barriers must be removed from public accommodations wherever doing so is “readily achievable”. The ADA defines “readily achievable” as “easily accomplishable and able to be carried out without much difficulty or expense.”⁵⁰ Exactly which actions are readily achievable is determined on a case-by-case basis. The ADA lists factors to be considered when determining whether an action is readily achievable. These include the cost of the action, the type of operation of the covered entity and number of persons employed at the facility, among other criteria.⁵¹ When barrier removal is not readily achievable, alternative measures, such as providing home or curbside delivery, must be provided.

The nature of many public accommodations limits their ability to provide program access outside of the primary facility, increasing the need to make those facilities physically accessible. If a wheelchair-bound woman cannot physically access a hotel, an amusement park, or a convention center for example, she cannot gain access to these services and programs at all. This helps to explain why Title III requires physical access to a greater extent than Title II, since most services provided by state and local governments are not strictly tied to a physical structure.

The Architectural and Transportation Barriers Compliance Board issued the Americans with Disabilities Act Accessibility Guidelines (ADAAG) under Title III of the

⁴⁸ ADA, Section 301.2 (42 USC 12181.2) states: “The term ‘commercial facilities’ means facilities (A) that are intended for nonresidential use; and (B) whose operations will affect commerce.”

⁴⁹ United States. Dept. of Justice. Disability Rights Section. The Americans with Disabilities Act: Title II Technical Assistance Manual: Covering State and Local Government Programs and Services. Washington: 1993, 24.

⁵⁰ ADA, Section 301.9, 42 USC 12181.9.

⁵¹ ADA, Section 301.9, 42 USC 12181.9.

ADA as the accessibility standards for the private sector. Existing facilities are not required to meet these guidelines unless the facility is altered. ADAAG defines an alteration as “a change to a building or facility made by, on behalf of, or for the use of a public accommodation or commercial facility, that affects or could affect the usability of the building or facility or part thereof.”⁵² However, existing facilities are required to remove barriers, as discussed above. Barrier removal can be as simple as installing grab bars in toilet stalls, adding Braille to elevator control panels, or rearranging furniture. Barrier removal will be discussed in greater detail in Chapter 3.

The accessibility requirements of the ADA apply to nearly every building in our built environment. While the ADA does make special allowances for historic buildings, it still maintains minimum accessibility requirements for these structures. Meeting even these requirements while simultaneously respecting the architectural integrity of historic buildings can be challenging. For a more thorough understanding of the issues involved in this process, Chapter 2 explores the various treatments of historic buildings.

⁵² ADAAG, Section 3.5.

CHAPTER 2

THE TREATMENTS OF HISTORIC BUILDINGS

To fully comprehend the impact that the ADA has on historic buildings, it is important to first understand the criteria for “historic” designation as well as the four acceptable treatments for a historic building.

On the federal level, a historic building is any building listed on, or eligible for listing on the National Register of Historic Places. Buildings may be listed on the National Register individually, or as contributing structures in a historic district.⁵³ For a building or a district to be listed on the National Register, a nomination must be completed detailing the historic and/or architectural significance of the building(s). Buildings listed on the National Register must traditionally be at least 50 years old⁵⁴, although younger resources may be listed if they are of “exceptional importance”.⁵⁵

Nominations to the National Register are submitted to and evaluated by the Department of the Interior, specifically, the National Park Service. The significance of each property is evaluated based on four main categories of significance. In general, properties may be listed on the National Register if any of the following criteria are met:

- The property is associated with a significant historic event.
- The property is associated with the lives of significant people.

⁵³ In addition to buildings and districts, sites, structures and objects may be listed on the National Register.

⁵⁴ 36 CFR 60.4

⁵⁵ For more information on evaluating resources younger than 50 years, see: United States. Dept. of the Interior. National Park Service. National Register Bulletin: Guidelines for Evaluating and Nominating Properties that Have Achieved Significance Within the Past Fifty Years. Washington DC: GPO, 1998.

- A) The property embodies the distinctive characteristics of a type, period, or method of construction.
- B) The property is the work of a master.
- C) The property possesses high artistic values.
- D) The property is part of a larger significant and distinguishable district, though when considered alone it may not qualify.
- The property has yielded, or is likely to yield, important archeological information.⁵⁶

The federal government recognizes that there are many properties throughout the country that meet the eligibility requirements for listing on the National Register, but are not listed simply because they have never been nominated. These buildings are often afforded the same limited protection and preferential treatment as listed buildings. The ADA, for example, provides alternative minimum requirements for buildings listed on, *or eligible for listing on* the National Register of Historic Places. The federal rehabilitation tax credit program, discussed in more detail below, also extends to properties that are listed on, or eligible for listing on the National Register.

ADAAG and UFAS define “qualified historic buildings” as buildings that are listed on, or eligible for the National Register, or are designated as historic under state or local law.⁵⁷ This definition recognizes that state and local governments often have different criteria for designating historic structures than the federal government, but ensures that the special ADA requirements apply to all. State and local governments often use essentially the same designation criteria as the National Park Service, although that

⁵⁶ The criteria for evaluation are found in 36 CFR 60.4.

⁵⁷ UFAS, 4.1.7(1); ADAAG, 4.1.7(1)(b).

criterion is sometimes modified to reflect specific issues relevant to the immediate jurisdiction.

The National Park Service recognizes four acceptable treatments for historic properties. The Secretary of the Interior has issued standards for each of the four treatments.⁵⁸ The four standards are: preservation, rehabilitation, restoration, and reconstruction. These terms, particularly preservation and restoration, are often, and erroneously, used interchangeably. Each treatment represents a unique goal for the historic property, and thus each treatment requires that different actions be taken. The four treatments for historic buildings serve as guidelines only; the National Park Service has no authority to enforce these recommendations, even when the subject property is listed on the National Register.

Preservation

Preservation as a treatment involves stabilizing a structure and preventing further deterioration. A strict preservation of a house respects the evolution of the structure over time and maximizes the retention of historic features. Damaged features are repaired rather than replaced wherever possible. Electricity, air conditioning or plumbing are not added if not already present, although “the limited and sensitive upgrading of mechanical, electrical and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.”⁵⁹ Preservation seeks to halt the deterioration of the subject property and to retain all the existing historic materials and features from various periods in the building’s history. Preservation is most often chosen for buildings with a superior retention of significant historic features, and for buildings

⁵⁸ The four treatments are defined in 36 CFR 68.2.

⁵⁹ 36 CFR 68.2(a).

that are not intended for common everyday use. Drayton Hall, a National Trust property located near Charleston, South Carolina, is a good example of a building that has been preserved. Drayton Hall, completed in 1742, is the oldest preserved plantation house in America that is open to the public. Drayton Hall is open as a museum and is unfurnished, drawing attention to the architecture and the physical evolution of the building.

The ADA was enacted in part because buildings were not constructed to accommodate people with disabilities in the past. Steps provide the only access to many historic buildings, and these are often very narrow or steep. Doorways and hallways in historic buildings are often not wide enough for wheelchairs to pass through, and historic buildings are rarely equipped with accessible elevators. Thus, most historic buildings have to be retrofitted if they are to conform to the requirements of the ADA. Where preservation has been chosen as the appropriate treatment for a historic building, the caretakers will likely be reluctant to make the kinds of permanent physical alterations that would allow access for people with disabilities.

Few buildings in the United States are actually kept in a state of preservation. Those that are could convincingly argue that meeting ADA requirements would threaten or destroy the historic integrity of the building. This argument allows the structures to meet the alternative minimum requirements rather than the standard requirements. However, as seen above, the alternative requirements still call for at least one accessible route to at least one accessible entrance, with accessible interior routes to all public areas and access to other floors where possible. In a significant historic building where physical changes are not permitted, this is a tall order. Essentially, the treatment of preservation is counter to the purpose of the ADA.

Although existing buildings must be made accessible when they are altered, preserving a building may not qualify as an alteration. The ADAAG definition of alteration includes “changes or rearrangement of the structural parts or elements, and changes or rearrangement in the plan configuration of walls and full-height partitions.”⁶⁰ Obviously, preserving a building does not involve changing any structural elements or interior walls. ADAAG also specifically notes that the term “alteration” does not include “normal maintenance, reroofing, painting, or wallpapering, or changes to mechanical and electrical systems.”⁶¹ Since these are precisely the types of activities involved in preserving a building, a strong case can be made that a historic building in a state of preservation is not required to meet the ADA standards for alterations. Nonetheless, in today’s inclusive political climate, nearly all public facilities provide accessibility when possible, whether strictly required to do so by law or not.

In the well-known example of Drayton Hall, preservation and the ADA have managed to peacefully co-exist. Although the main floor of the house is accessed by a long flight of stairs on either side, this level can be made accessible to people in wheelchairs. A wheelchair and lift are available to gain access to the main level of the house.⁶² Once inside, large entrance halls offer views, if not access, into each of the side rooms. The second story is accessed by a staircase, and is not possible to access in a wheelchair. The basement floor is dirt, and is reached by a few stairs, thus this area is also inaccessible to wheelchairs. However, the most significant portions of the house are located in the main, accessible level. Additionally, the restrooms and museum shop are

⁶⁰ ADAAG, Section 3.5. The UFAS definition is very similar.

⁶¹ ADAAG, Section 3.5. The UFAS definition excludes these same types of activities.

⁶² [Drayton Hall Homepage](http://www.draytonhall.org). 30 Oct 2001 <www.draytonhall.org>. The website requests that visitors with disabilities call ahead for the wheelchair lift.

located in modern, accessible outbuildings. A video tour is also available for those visitors who chose not to join the standard tour.⁶³ Considering Drayton Hall's mission of preservation, the building has been made accessible to the greatest extent possible without harming the historic integrity. No historic materials have been removed, concealed or harmed; yet access is provided to the most significant portions of the site.

Restoration

Restoration means the act or process of accurately depicting the form, features and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing feature from the restoration period.⁶⁴

When conducting a restoration, the period of interpretation must first be selected. According to the Secretary's Standards for Restoration, any work added to the building after the period of significance, which is to be removed, should first be documented. Where features that were present during the period of significance are missing, replacement of those features should be carefully undertaken, should utilize like materials wherever possible, and should be documented for future research.⁶⁵ Restorations are often undertaken on buildings that are highly significant because of their association with historic figures. A prominent example is the restoration of Monticello to the Jeffersonian period.

When addressing accessibility issues, undertaking a restoration presents some of the same problems as a preservation. Historic buildings were not designed to be accessible to people with disabilities. Therefore, when returning such a building to a previous state,

⁶³ Ibid.

⁶⁴ 36 CFR 68.2(c).

⁶⁵ 36 CFR 68.3(c).

the inclusion of accessibility features would not be ideologically correct. Nonetheless, under the ADA's definition given above, a restoration will almost always qualify as an "alteration," necessitating compliance with ADA requirements.

Restorations place strong emphasis on presenting the subject property as it was during a significant time in its history. Every effort is made to remove evidence of later time periods. However, because of modern fire and building codes, certain changes are necessary.⁶⁶ Fire codes must be met by the introduction of sprinklers, fire rated walls, etc; windows must meet hurricane codes in coastal areas; two means of egress must be provided, etc. Architects and contractors who are sensitive to historic materials and are experienced in restoration work can be crucial in meeting these codes while still preserving the unique historic character of the building. Like these codes, accessibility for people with disabilities must be considered when restoring a historic building, and like the other codes, the ADA requirements may be approached with creativity to minimize their impact on the historic fabric.

Buildings being restored may often qualify for the alternative minimum standards listed in ADAAG and UFAS. Thus only one accessible route to the building is required, which may often be provided with no negative impact on the historic building. One accessible entrance is required, and it may be located on a side or rear façade if this is more readily achievable than retrofitting the existing main entrance. Inside, one accessible route to all public areas should be available, including one to an accessible restroom, if restrooms are provided. In some cases, altering the public spaces to allow access to people with disabilities would destroy significant historic fabric. For example,

⁶⁶ The definition of 'restoration' recognizes this: "code-required work to make properties functional is appropriate within a restoration project." 36 CFR 68.2(c).

enlarging a doorway in a house museum to accommodate a wheelchair might require the removal of significant woodwork. In such situations, it is acceptable to provide views of the interior room from the doorway for visitors unable to enter.

Monticello meets all of the alternative minimum accessibility requirements. A shuttle bus with a wheelchair lift takes visitors from the parking lot, which contains accessible parking spaces, to the top of the hill. An accessible path runs from the shuttle stop to the house. Guided tours begin on the east front steps of the house. A wheelchair lift nearby provides access to the interior for visitors in wheelchairs. Once inside the house, there are no steps or stairs on the tour, so people in wheelchairs may enjoy the entire tour. The public is not permitted to visit the second story of the house, so providing access to this level is not a concern. Accessible restrooms are also available on the site.⁶⁷ Monticello's dual success at sensitive restoration and sensitive accessibility sets a high standard for other house museums throughout the nation.

Reconstruction

Reconstructions are undertaken when a historic resource has been lost. A reconstructed building should depict a specific period of time and should be constructed in the original location.⁶⁸ Reconstructions are encouraged only when necessary to foster public understanding of a particular time, site, or event. Reconstructions should be based on documentary and, where possible, photographic evidence. Prior to beginning a reconstruction, a thorough archeological investigation should be undertaken. Once completed, a reconstruction should be clearly marked as such and should not be

⁶⁷ [Monticello Homepage](http://www.monticello.org). 30 Oct 2001 <www.monticello.org>.

⁶⁸ 36 CFR 68.2(d).

misrepresented as historic. Reconstructions are not encouraged as a matter of course unless the lost resource was extremely significant and very well documented.⁶⁹

The Governor's Palace as it exists today in Colonial Williamsburg is an example of a reconstructed historic building. The original Governor's Palace burned in 1781. Colonial Williamsburg purchased the property in 1928 and opened the reconstructed Governor's Palace in 1934. Even though the reconstruction was undertaken well before the publication of the Secretary of the Interior's Standards it does a fairly good job of measuring up to the modern standards. The reconstruction was deemed vital to public understanding of the colonial town and extensive archaeological excavations were undertaken prior to the reconstruction. The new building followed the available documentation of the original, including artifacts, floor plans drawn by Thomas Jefferson while he resided there as governor of Virginia, General Assembly records, and a copperplate engraving discovered in a library in England. Colonial Williamsburg has never tried to "pass off" the Palace as original, and docents relate the story of the reconstruction to visitors.⁷⁰

Reconstructions of historic buildings for public use are treated like any other form of new construction under the ADA.⁷¹ Although the Secretary's Standards for Reconstruction specifically state that "(d)esigns that were never executed historically will not be constructed,"⁷² these buildings must be accessible to people with disabilities. Of course creating such access prevents a faithful representation of the historic building.

⁶⁹ 36 CFR 68.3(d).

⁷⁰ [Colonial Williamsburg Homepage](http://www.colonialwilliamsburg.com). 1 Feb 2002 <www.colonialwilliamsburg.com>.

⁷¹ Battaglia, 1172.

⁷² 36 CFR 68.3.

However, when reconstructing, the original historic fabric has already been lost, making it difficult to argue against alterations in favor of accessibility.

As in the case of preservation, there are not a large number of reconstructions undertaken in the United States. The Governor's Palace was reconstructed long before the creation of the ADA, and was not required to meet modern accessibility standards.⁷³ A study of how reconstructed historic properties deal with accessibility issues today is beyond the scope of this study, but would be an interesting topic for future research.

Rehabilitation

Rehabilitation means the act or process of making possible an efficient compatible use for a property through repair, alterations and additions while preserving those portions or features that convey its historical, cultural or architectural values.⁷⁴

Rehabilitation is the most common treatment to historic properties. Rehabilitating a building involves returning it to a state of utility. This often means updating the building systems, such as heating and cooling, electricity, plumbing, etc. Rehabilitation encourages the retention of historic material, but does permit new additions to historic structures.⁷⁵

In general, the Secretary of the Interior's Standards for Rehabilitation call for respecting the evolution of the building, gentle cleansing methods, preservation of distinctive features, and repairing rather than replacing damaged features wherever possible. Standards 9 and 10 are both relevant to the ADA. Standard 9 states that new additions to historic properties should not destroy any historic material and should be

⁷³ The reconstructed Palace was built more than 65 years ago, and is thus a rare and interesting case of both a reconstructed historic building and a historic building in its own right.

⁷⁴ 36 CFR 68.2(b).

⁷⁵ 36 CFR 68.3(b).

compatible with, but easily differentiated from, the historic structure. Standard 10 adds that new additions should be undertaken in such a manner that they may be removed in the future without harming the historic property. Accessibility features, such as ramps, new elevator towers, and lifts would all be considered new construction. Thus these features must be compatible with, yet differentiated from the historic building, and they must be constructed in such a way that they do not harm any features and could be removed at a later date.

Despite their strictly advisory nature, the Secretary's Standards are fairly widely followed. This is largely a result of the tax incentives offered by the federal government for the rehabilitation of historic structures. Owners of historic property are entitled to a federal income tax credit equal to 20% of the total cost of qualified expenditures of rehabilitation. To qualify for the tax credits, a property must meet three basic requirements. First, the building must be a "designated historic" structure, meaning that it is either listed on the National Register, or eligible for listing. Second, the property must undergo a "certified rehabilitation," meaning that the rehabilitation work must be completed in accordance with the Secretary of the Interior's Standards and be approved by the National Park Service. Third, a historic property must be income producing for the owner to utilize the tax credit. Income producing properties include any business, office, or commercial building. This program provides a significant incentive for property owners to abide by the Secretary's Standards when altering their historic properties.⁷⁶

⁷⁶ The Economic Recovery Tax Act of 1981 provided for a 25% tax credit for the rehabilitation of certified historic structures. The Tax Act of 1986 revised this policy and instated the current 20% credit.

Unlike restoring or preserving a building, buildings are very rarely rehabilitated to serve as a museum. Rehabilitations are undertaken when property owners want to utilize their building in ways that its current condition cannot support. The Secretary's Standards recognize this, and some alterations are anticipated. In 1976, when the Secretary's Standards were first written, accessibility was not federally regulated to the extent that it is today. However, because other types of retrofitting were anticipated to allow for building codes, the changes required by the ADA can often be integrated into existing policy.

As with a restoration, buildings being rehabilitated can often qualify for the alternative minimum accessibility standards. Because some alterations are anticipated in the Secretary's Standards for Rehabilitation, accessibility requirements may be met with less difficulty. The single accessible route to the building can often be provided with little or no harm to the building itself, although in some cases, significant landscape features may be compromised or destroyed. Because of the disproportionate significance of the primary elevation on most historic buildings, altering the entrance to allow for accessibility is often the most difficult change to undertake sensitively. Where the doorway is too narrow, or there are steps leading to it, people with disabilities are literally unable to enter. If changing this façade will destroy the architectural integrity of the building, an accessible entrance may be located on the side or rear of the building. Inside, hallways and doorways may need to be widened; such work should be done as sensitively as possible, but can usually be completed without too much harm to the building. If restrooms are provided, at least one accessible restroom must be located along the accessible route. The retrofitting of such spaces rarely destroys historic

materials unless the entire room needs to be expanded. Because rehabilitations can include modern additions, access to upper floors can usually be provided with the construction of a new elevator tower, if one does not already exist. Accessible restrooms are often included in the new portion of the building to avoid having to retrofit existing facilities. Sometimes, a new addition can also incorporate the accessible entrance to the building.

Even though most buildings undergoing one of the four treatments for historic buildings will qualify for the alternative minimum accessibility standards, difficulties remain. The alternative minimum standards do allow for more limited access than the general standards, but even meeting the alternative standards can easily threaten historic integrity. Depending on the treatment being undertaken, the amount of change allowed by the Secretary's Standards could make meeting even the alternative accessibility standards challenging, or even impossible. When faced with the choice of which standards to meet and which to compromise, federal law requires compliance with the ADA.

CHAPTER 3

PROBLEMS RECONCILING THE ADA AND HISTORIC PRESERVATION

Chapter 2 introduced the treatments of historic buildings and addressed the extent of their compatibility with ADA requirements. This chapter will address some of the problems encountered while working on a historic building in accordance with the Secretary's Standards, and simultaneously trying to meet ADA standards.

Barrier Removal

Many of the buildings previously discussed were preserved, restored, rehabilitated or reconstructed *before* the ADA went into effect in 1990. Accordingly, they are not required to meet the full ADAAG or UFAS guidelines unless they undergo any further alterations. However, they are required to remove barriers to access. "Some barriers can be removed by designating a path of travel that circumvents them; others may need to be physically removed."⁷⁷

Under Title III of the ADA, if an existing building is not being altered, as defined by UFAS or ADAAG, no new access provisions need to be added. Title III does not require the *introduction* of new accessibility features to existing buildings; it simply requires the *removal* of barriers to access, where such removal is deemed "readily achievable". In some instances, the removal of barriers will probably involve some level of new construction, but full ADA compliance is not required. "[F]or most facilities, the readily

⁷⁷ Park, Sharon C. and Thomas C. Jester. "Planning and Implementing Modifications for Accessibility in Historic Buildings." *Interiors Handbook for Historic Buildings: Volume II*. Ed. Michael J. Auer, Charles E. Fisher, Thomas C. Jester, and Marilyn E. Kaplan. Washington, D.C.: Historic Preservation Education Foundation, 1993. 1-82.

achievable standard only requires physical access that can be achieved without extensive restructuring or burdensome expense.”⁷⁸

Many historic restored and reconstructed buildings in Colonial Williamsburg have received nothing more than routine maintenance in many years. These buildings were reconstructed and restored in the 1930s to represent the colonial village as it appeared in the eighteenth century. As Colonial Williamsburg architectural historian Carl Lounsbury notes, “an accurate interpretation of life in the eighteenth century often results in barriers for persons who are disabled.”⁷⁹ Due to the mission of Colonial Williamsburg, it is unlikely that these buildings will ever be significantly altered. Therefore, full compliance with the ADA will never be triggered.

Colonial Williamsburg is a private foundation and is thus classified as a public accommodation under Title III, rather than a historic preservation program under Title II. Therefore, Colonial Williamsburg properties are required to remove barriers to access. The stairs leading up to the buildings could be viewed as architectural barriers that must be removed. However, the ramping of these stairs would threaten or destroy the historic significance of the primary elevations. Any action that fails the “threaten or destroy test” is not deemed readily achievable and is thus not required.⁸⁰

However if, for example, one of the buildings had an accessible entrance, but had an inch high threshold between two of the primary rooms, this threshold would be a structural barrier. The removal of such a barrier would probably not markedly alter the experience of the building or destroy its historic significance. However, if the threshold

⁷⁸ Battaglia, 1175.

⁷⁹ Lounsbury, Carl R. “Approaches to Improving Access in Historic Complexes.” Technology and Conservation Spring 1994: 31.

⁸⁰ Battaglia, 1175.

was historically significant or Colonial Williamsburg wished to retain it for any reason, a bevel could be added to each side to reduce the height.

According to Lounsbury, “the ADA has spurred [Colonial Williamsburg] to remove anachronistic barriers in the colonial town, such as the granite curbs that were only installed in the 1920s. These are now being replaced with walks laid in more appropriate eighteenth century materials which slope gently to the streets.”⁸¹ Chapter 4 deals more extensively with Colonial Williamsburg’s accessibility philosophy and discusses the actions the organization has taken to increase access for people with disabilities.

The removal or alteration of thresholds and the removal of curbs are examples of the types of simple, low-impact modifications that owners of historic buildings can and should make to increase accessibility. Other examples of simple barrier removal which increase accessibility with little or no harm to historic fabric include: rearranging interior furniture or fixtures, installing grab bars in restrooms, adding raised numbers on elevator control panels; repositioning telephones, water fountains, and paper towel dispensers; installing off-set hinges to widen doorways; and removing thick carpets which are difficult to maneuver wheelchairs over.

Title II of the ADA makes no direct mention of barrier removal. The primary concern of Title II is to provide programmatic access. When a historic building is inaccessible due to some structural barrier, the State Historic Preservation Officer is consulted. If the State Historic Preservation Officer determines that removing the barrier would threaten or destroy historic significance, or cause an undue financial burden, the barrier may remain. Access to the services and programs provided must then be made available through alternative means. If the services housed in the inaccessible historic

building cannot be provided through any alternative means, new accessible facilities should be located. This was discussed at greater length in Chapter 1.

Public entities that are historic preservation programs, which “uniquely concern the architectural and historical attributes of the property itself... must often be located in or near the historic site.”⁸² If making such a site accessible would destroy its historic significance, and “relocation would result in a fundamental alteration in the nature of the program or in undue financial and administrative burdens, the public entity does not have to ensure physical access.”⁸³ In such instances, alternative means of programmatic access (such as video presentations of the property) must still be provided.

The Title II exceptions for historic preservation programs provide the greatest level of leniency for historic buildings under the ADA. However, these provisions only apply to historic preservation programs of state and local governments whose buildings are never altered. The applicability is so limited that very few buildings benefit from it. This protection does not extend to some of the most architecturally significant buildings in the country. For most historic buildings open to the public, architectural barriers must be removed, or the programs and services located in them must move to accessible facilities.

Does the ADA Discourage Historic Preservation?

Locating businesses in historic buildings. The ADA forces the private business owner, who is covered under Title III, to decide whether he will remove barriers in his historic building to provide access for people with disabilities, or whether he will relocate

⁸¹ Lounsbury, 31.

⁸² Battaglia, 1177.

⁸³ Battaglia, 1177.

his business.⁸⁴ Neither option is beneficial to the integrity of the historic building. Either the historic building is altered, or it remains intact but is abandoned. By requiring all buildings that are open to the public to be accessible, the ADA discourages the utilization of historic buildings, wherever creating accessibility may be difficult or undesirable. Where accessibility can be more easily accomplished, the ADA requires the alteration of prominent historic facades. The Secretary's Standards seek to foster precisely the opposite results. Although discouraging the use of historic buildings and encouraging their alteration are certainly unintentional results of the ADA, they are nonetheless extremely damaging to the purposes of historic preservation.

Investing in rehabilitation/Pursuing tax credits. The level of difficulty involved in retrofitting historic buildings to meet ADA standards varies widely and depends almost entirely upon the unique architectural features of the individual building. When a building has a wide front door at ground level, with no stairs, accessibility is simple and may require little more than installing a power-assisted device to the door or changing the doorknob to a handle. Such buildings allow fairly easy compliance with both the ADAAG and the Secretary's Standards.

However, other buildings can be very difficult to access sensitively. For example, the historic hotels located on the east side of Collins Avenue in Miami Beach can be entered from the front elevation only. Their rear elevations are on the beach and their north and south elevations are so close to their neighbors that access there is strictly service oriented. The front elevations tend to include several steps up to a porch, and sometimes an additional step into the building. Many of these hotels are currently being

⁸⁴ A third option sometimes utilized by small businesses is to not open their offices to the public. Such businesses keep their doors locked and hold appointments with clients or the public in alternate locations.

rehabilitated. The investors in these projects are often attracted by the 20 percent tax credit and are thus completing their projects in accordance with the Secretary's Standards. However, they are forced to alter the front entrances to comply with the ADA. Additionally, lobby spaces often have to be retrofitted and sometimes elevators may need to be added as well. Bathrooms often have to be reconfigured and corridors and doorways may need to be widened. Each of these changes improves accessibility, but each change also damages the architectural integrity of the building and thus affects the likelihood of receiving the tax credits.

Thus, the ADA can be a stumbling block in the pursuit of tax credits. The setting and architectural features of a historic building can make conforming to ADA standards particularly difficult. Where meeting ADA regulations will require significant alteration of a historic building, and probable violation of the Secretary's Standards, the owner may likely decide against pursuing the tax credits. When tax credits are not sought, a historic property owner has no incentive to rehabilitate according to the Secretary's Standards and is free to make any alteration desired.⁸⁵

Does the ADA limit the services offered to people without disabilities?

Although the purpose of the ADA is to extend services to people with disabilities, sometimes it may actually have the effect of limiting the services that are available in historic buildings to people without disabilities. Under the ADAAG and UFAS alternative minimum accessibility requirements, there must be one accessible restroom, *if restrooms are provided*.⁸⁶ Because of the need to retrofit existing restrooms and the space requirements involved in creating accessible restrooms, providing an accessible

⁸⁵ However, in many localities nationwide, including Miami Beach, the property owner is subject to local historic commission design review, regardless of whether or not tax credits are being pursued.

facility can often be problematic. Adding restrooms, or enlarging existing facilities can sometimes necessitate the destruction of historically significant materials. Where providing an accessible restroom is deemed impossible or highly undesirable, the only available alternative is not to provide any restrooms, standard or accessible. Some historic properties with no restroom facilities will provide them in newly constructed buildings located on the property which can easily be made accessible.

The alternative minimum requirements also mandate accessible routes to all publicly used spaces on the level of the accessible entrance.⁸⁷ In a fairly simple historic building where the accessible floor has wide corridors and doorways, with no high thresholds and no steps up or down, this requirement is easily met. However, in buildings where these features are present, accessibility can be very problematic. Although visitors without disabilities could easily access these areas, under this requirement, any area used by the general public must also be accessible to people with disabilities. If the overseers of a historic property do not want to alter historic features that obstruct an accessible path, they can close the affected areas to the public. The closed areas can be utilized as office space, or in the case of museum properties, they may be viewed from doorways.

The ADA is certainly not intended to limit accessibility. However, the way that the regulations are written, the ADA is aimed at creating an “equal playing field” for all citizens. Denying access to everyone creates equal access just as effectively as extending access to everyone does. Although not occurring with regularity, this is an unfortunate and unintended result of the ADA.

⁸⁶ ADAAG 4.1.7 (3)(c). UFAS 4.1.7 (2)(c).

⁸⁷ ADAAG 4.1.7 (3)(d). UFAS 4.1.7(2)(d).

The Treatment of Accessible Additions

Rehabilitation. Sometimes the best solution for creating accessibility in a historic building is to construct an accessible addition. This option is especially useful when rehabilitating, because the Secretary's Standards for Rehabilitation are slightly more lenient than the standards for the other treatments. The Standards for Rehabilitation anticipate the necessity of making some alterations to accommodate modern needs.

An addition that allows for accessibility can be as simple as a ramp or a wheelchair lift. Alternatively, an accessible addition may be an entirely new section of the building, incorporating elements such as an elevator tower, an accessible entrance, accessible restrooms and/or accessible drinking fountains. Regardless of the nature of the addition, it should conform to the applicable Secretary's Standards.

The Secretary's Standards for Rehabilitation require that any new addition be undertaken in such a manner that it could be later removed without damaging the form and integrity of the historic property.⁸⁸ New additions should also avoid harming historic materials, including spatial relationships. New work should also "be differentiated from the old and... compatible with the historic materials, features, size, scale, and proportion, and massing to protect the integrity of the property and its environment."⁸⁹

For example, if a ramp is being installed along the front façade of a historic building to allow wheelchair access, the standards for additions should be met. Ideally, use of these guidelines will result in a sensitively designed ramp that is clearly a modern addition, yet is not visually jarring. The ultimate goal of the Secretary's Standards concerning additions is to permit changes that are necessary for the continued use of the

⁸⁸ Standard # 10. 36 CFR 68.3

⁸⁹ Standard #9. 36 CFR 68.3

building, but to ensure that those changes do not detract from the building's historic significance.

The Other Treatments. The Secretary's Standards for Preservation, Restoration and Reconstruction do not provide for new additions. However, as explained above, these buildings must be made accessible to varying degrees. Because there are no individualized provisions in the Secretary's Standards for adding accessibility features for these treatments, the guidelines for additions under the Standards for Rehabilitation could be applied to the other treatments when necessary. Any addition should be very carefully designed to have the smallest possible impact on the historic resource. Although the addition itself is outside of the realm of the Standards for these treatments, it should conform to the appropriate Standards to the greatest extent possible.

The ADA and the Secretary's Standards both impact the treatment of historic buildings. However, they have very different purposes and at times conflict with one another. The limited alternatives for historic properties do very little to protect historic resources from damaging alterations. "The ADA has clearly stated that disability access to historic properties was of greater concern to Congress and the DOJ (Department of Justice) than fully preserving the historical integrity of our historic properties."⁹⁰ The following chapter discusses sensitive approaches to accessibility for utilization when ADA standards must be met in a historic building.

⁹⁰ Fondo, Grant P. "Access Reigns Supreme: Title III of the Americans with Disabilities Act and Historic Preservation." BYU Journal of Public Law 9 (1994): 133.

CHAPTER 4

ACCESSIBILITY SOLUTIONS

The National Park Service, a branch of the Department of the Interior, is responsible for overseeing federal historic preservation policy. The National Park Service reviews nominations for listing on the National Register of Historic Places, thereby determining which cultural resources are deemed historic. The Park Service also administers the federal rehabilitation tax credit program, ensuring that the standards for treatment of historic buildings, as promulgated by the Secretary of the Interior are met. Thus, in its capacity as the federal authority on historic preservation, the National Park Service published *Preservation Brief No. 32: Making Historic Properties Accessible*, as a guide for protecting the integrity of historic buildings while providing access for people with disabilities.

In this publication, the National Park Service recommends a three-step process for addressing accessibility in historic buildings. First, the historic significance of the building should be reviewed, with an emphasis on identifying character-defining features to be protected during retrofitting. This step could also identify areas of the property that have previously been altered. Such areas may provide good locations for the installation of accessibility equipment because the original configuration and/or materials have already been disturbed or destroyed. Next, the existing level of accessibility should be assessed and compared to the required level of accessibility. Finally, the effectiveness and appropriateness of each accessibility option should be evaluated to determine which

approach could most successfully provide access and protect the historic property.⁹¹ A team should be developed to carry out this assessment. This team should include preservation professionals, accessibility consultants, people with disabilities, and building inspectors. By involving all of these people, solutions can be developed that serve the needs of all sectors affected by accessibility decisions.

Applying Physical Access Options

The most common methods of providing access to historic buildings include: ramps, lifts, elevators and re-grading.⁹² As discussed in Chapter 3, all methods of accessibility requiring new construction should be built in accordance with the Secretary of the Interior's Standards. Specifically, ramps, lifts and elevator towers should be differentiated from the historic fabric, but compatible with it. They should be removable at a future date without harming the original building. Also, they should not destroy any character defining historic material.

Re-grading. Of these common approaches, re-grading is often a good choice, where it is possible. Re-grading provides "easy and effective access with minimal intrusion in the historical environment."⁹³ Re-grading is also relatively inexpensive when compared to other accessibility options. For re-grading to be effective, the building needs to be located in an appropriate setting, with the existing entrance built fairly low to the ground. Also, the obstacle to access must be relatively small. For example, a step up from a walkway into an otherwise accessible doorway could be eliminated through simple re-

⁹¹ Jester, Thomas C. and Sharon C. Park, *Preservation Brief No. 32: Making Historic Properties Accessible*. National Park Service, Preservation Assistance Division, U.S. Department of the Interior, Washington, D.C., 1993.

⁹² Entrances to the Past Funded by the National Park Service's Cultural Resource Training Initiative. Historic Windsor Incorporated, 1993.

⁹³ Coons, Valerie J and Carl R. Lounsbury. "Approaches to Improving Access in Historic Complexes." Technology & Conservation Spring 1994: 31.

grading, however a large urban building surrounded by sidewalks and streets would probably not be a good candidate for a grading solution.

Although re-grading can sometimes be accomplished with no negative impact to the historic building, certain precautions should be taken. Re-grading, sometimes referred to as “earthen ramping”, has been utilized to provide access to some historic buildings at Old Sturbridge Village in Sturbridge, Massachusetts. Prior to re-grading the surrounding earth, Valerie Coons, access coordinator at Old Sturbridge Village, recommends installing a “subsurface drainage system consisting of crushed rocks, drainage tile, and geotextiles. This system facilitates moisture removal and promotes preservation of the structure’s lower architectural elements.”⁹⁴

Protecting the historic structure from moisture is the major concern when re-grading, although care should also be taken not to obscure any significant historic features with earth. If obstruction is unavoidable, the elements in question should be buried rather than removed whenever feasible. This policy is in keeping with the Secretary’s Standards which require that any new work – in this instance the re-graded earth – not destroy historic materials. The earth could also be removed at a later date, revealing the essential form and integrity of the property.

Re-grading often requires a combination of adding and removing earth. Re-grading around historic buildings may very well result in the disruption of archeological sites. Particularly where earth is being removed, care should be taken to document any findings, consulting archeologists where necessary. If an area designated for re-grading reveals particularly rich archeological findings, the location of the earthen ramp may need to be re-evaluated.

Re-grading causes the disruption of the immediate landscape surrounding the historic building. Often, this landscape may be historically significant as well and may contain features which should not be disturbed. Care should be taken to identify such features and to avoid destroying them. Further research should be conducted examining the impact of accessibility features on historic landscapes.

To minimize the impact of re-grading on the exterior of a building, side or rear entrances are often re-graded rather than the more significant front facades. This also reduces the likelihood of destroying historic landscape features that may be located in front of a building. Any significant landscape features should be carefully assessed and evaluated before beginning a re-grading project. If such features are to be destroyed, they should first be documented.

Ramps. Ramps are most effective where the rise or fall is again not very high. ADAAG defines a ramp as “a walking surface which has a running slope greater than 1:20.”⁹⁵ The maximum slope of a ramp allowed by ADAAG is 1:10 for a maximum rise of six inches in an existing building.⁹⁶ As part of the alternative minimum accessibility requirements, historic buildings may have a slope of up to 1:6 for a run not exceeding two feet.⁹⁷ Ramps are required to be equipped with handrails.

Like re-grading, ramps are often installed on side or rear elevations of buildings with significant front facades. While this solution does succeed in providing access without harming the historic integrity of the building, it is preferable that the publicly used entrance, usually a front door, be accessible to people with disabilities. However,

⁹⁴ Coons, 31.

⁹⁵ ADAAG, 4.

⁹⁶ ADAAG, 12.

⁹⁷ ADAAG, 14.

particularly in urban contexts, space sometimes demands that a ramp access a side, rather than front, elevation. In some cases, it is possible to install a ramp behind historic railings or knee-walls to minimize the visual impact.

The higher an entrance, the less feasible ramping becomes. To reach the necessary height, while not exceeding the slope requirements, switchbacks become necessary. These quickly become unsightly and damage the historic integrity of the building. The 1:6 slope allowed for historic buildings does help eliminate the need for switchbacks and often allows for one simple ramp to access these buildings. Where space permits, one straight ramp is far preferable to creating switchbacks, both for ease of entry and from a preservation perspective.

This point is illustrated by Athens Georgia's Hillel Student Center and Miami Beach's Leslie Hotel. Both of these early twentieth century buildings have installed accessibility ramps on their front facades. (See Photos. # 1, 2, and 3, pg.85-86.)

The Hillel Student Center is located in a two-story Prairie style house along Milledge Avenue. Milledge Avenue was historically a residential street, however today fraternities, sororities, and businesses occupy the historic homes. The Hillel Center, like most of the other houses along the street, has a paved driveway leading to a rear parking area. The ramp was installed on the front facade, south of the small entry porch. This concrete ramp could easily have been faced with brick, making it more compatible with the brick house. The ramp does utilize a black iron railing, which matches the railing along the porch stairs. This ramp requires a single switchback to accommodate the height to the front porch. The switchback ramp dominates the ground level front facade and detracts from the overall symmetry of the building. More sensitive access probably

could have been provided on the rear or side elevations. An accessibility feature at one of these locations would also be more convenient to the rear parking area than the current ramp.

The Leslie Hotel, located on Ocean Drive in Miami Beach, is listed as a contributing structure to the Miami Beach Architectural National Historic District, commonly called the “Art Deco District”, and thus qualifies as a historic building under ADAAG and UFAS standards. The Leslie Hotel sits just off the sidewalk, and close to its two neighbors. The close proximity to the neighbors on either side prevents the construction of a ramp from either side. The rear of the building is located in an alley and would be an inappropriate location for access. Thus, the ramp is located on the north side of the front (east-facing) façade.

The ramp was constructed through part of the existing, character-defining front porch, yet it does not damage the architectural integrity of this porch. The side railing of the porch remains to the north of the ramp, but part of the front railing was removed to provide the entrance to the ramp. From across the street, the ramp is hardly noticeable. (See Photo #2, pg. 85.) The porch is raised and is deep, allowing the ramp to be fairly long with an acceptably gentle slope. The ramp leads to a door in the side of the building. This door enters into the lobby where an elevator provides access to the other floors. The ramp is obviously not original, yet it does not threaten or destroy the historic integrity of the building.

The ramp at the Lustrat House, on the University of Georgia campus, provides easy access to the front door, which faces the campus. This ramp utilizes the same concrete and brick as the front walk, and the rail matches that found on the porch. This ramp does

not require a switchback like the ramp at the Hillel House. However, because of the relatively small size of the front porch and the length of the ramp, it does have a negative impact on the front facade of the building. (See Photo #4, pg 86.)

Waddell Hall, located next to the Lustrat House, also utilizes a ramp to provide accessibility. The front facade of this building has a very small entry porch set several steps above grade. (See Photo #5, pg. 87.) The rear facade Waddell Hall is not character defining, so the ramp is located along this elevation. The ramp begins at the sidewalk between Waddell Hall and the Lustrat House, and runs to a rear door. (See Photo #6, pg. 87.) The ramp is located along a well-traveled sidewalk and provides an entrance that is convenient to parking. Waddell Hall is an excellent example of a building with a prominent front facade providing appropriate side or rear access.

Ramps are perhaps the most commonly used accessibility feature. When adding a ramp to a historic building, several factors should be considered to minimize the feature's visual impact, including placement of the ramp, materials used in construction, and the possibility of shielding the ramp with architectural or landscaping features. Often, these considerations are overlooked due to time and financial restraints. Simple plywood ramps can be quickly and inexpensively added to buildings, and where there is no incentive to seek a more compatible solution, they often are. From a preservation perspective, these types of ramps should be used only as temporary solutions while more sensitive permanent solutions are sought. Sensitively placed, constructed and shielded ramps can be designed that will successfully provide access while minimally impacting historic buildings.

Lifts. There are several different types of lifts that are used to access buildings. The most common are probably vertical wheelchair lifts. This type of lift consists of a platform with railings that moves vertically from one level to another. These are often used to transport people with disabilities from grade level to a porch, where stairs are the only other means of access.

Vertical lifts are frequently installed along a porch or wall at a place where the standard means of ingress/egress is not disturbed. The Sagamore Hotel in Miami Beach installed such a lift along its porch during the recent rehabilitation. The installation of this lift required the removal of a piece of the banister. The historic significance of the Sagamore's façade is primarily found in the unique shape and fenestration pattern of the upper stories. (See Photo #7, pg. 88.) Thus the removal of a piece of the banister on the front façade does not significantly detract from the overall historic character. This solution allows people in wheelchairs to access the hotel from the front porch, the publicly used entrance.

The Sagamore also has a wheelchair lift on the interior. The rear lobby, with views to the ocean, is raised to allow for a basement level and is typically accessed by a flight of stairs from the main lobby. The library, located to the north of the raised lobby, is level with the main lobby, and shares a wall with the rear lobby. The rear lobby is open to the library, with glass knee-wall panels evenly spaced between full-height walls. One of these glass knee-walls was removed for the installation of the lift. (See Photo #8, pg. 88.) The lift itself is housed in the library when not in use. It is surrounded by a new enclosure which clearly differentiates it from the rest of the space. (See Photo #9, pg. 89.) Although the lift is somewhat intrusive in the library, this space has been altered

several times throughout the building's history, and thus such alterations are considered more acceptable than they would be if original historic fabric was being destroyed/obstructed.

Some vertical lifts can be installed on the exterior of a building so that they recede into the ground when they are not in use. They are then covered in the same paving material as the surrounding area, and are virtually "invisible" when not in use. This type of lift can be very effective at providing front door access while simultaneously respecting the integrity of the primary façade. A concealed lift was installed at the Old State House in Boston, Massachusetts to provide access to the first floor. This lift is

level with the sidewalk when not in use and rises vertically to the interior floor level. The lift used was adapted from a hydraulic industrial lift and equipped with an extending platform to bridge the steps. The platform also was provided with removable handrails, which are stored inside the building and placed in position when required... The fact that this lift's surface is flush with the sidewalk pavement when stored makes it quite inconspicuous.⁹⁸

The lift at the Old State House cannot be independently operated, staff assistance is required, but access is achieved, and the impact to the building is limited. Similar lifts are also found at Faneuil Hall in Boston, and the Lincoln Home National Historic Site in Springfield, Illinois.⁹⁹

Incline lifts are mounted onto railings along stairs. These lifts consist of a platform on which a wheelchair rests while the platform moves diagonally up the railing, passing over the stairs. The platform itself may be stored vertically along the railing when not in use. The railings, which must be installed to support an incline lift, are often fairly intrusive and their installation often necessitates the removal or obstruction of significant

⁹⁸ Tolbert, 24.

features, such as banisters. An incline lift is probably not the best choice for a particularly significant or a narrow stairway.

The Old Post Office building (circa 1912) in downtown Miami features an incline lift in the entry vestibule. There are two entry doors to this vestibule; one is accessed by a ramp. The doors are wide and easily accommodate a wheelchair. Once inside the vestibule, a short flight of stairs accesses the elevator and retail space. (See Photo #10, pg. 89.) An incline lift is located along the railing of this staircase. (See Photo #11, pg. 90.) The lift is clearly a modern addition and is not compatible with the historic character of this distinctive lobby. The photo of the lobby clearly shows both the original railing on the left and the new incompatible railing installed for the lift. Although this lift is somewhat intrusive, it does provide accessibility to the elevator and thus all levels of the building. Access is provided without destroying any historic fabric, except for one railing. The configuration of the lobby remains unchanged and the lift itself could be removed at a future date.

Several different types of lifts are available many of which can be sensitively adapted to historic buildings. Some lift companies even market their products specifically to historic properties. Everhard Lift placed an advertisement in *Traditional Building* shortly after the passage of the ADA with the slogan "The Lift Disappears So History Doesn't Have To."¹⁰⁰ Lifts are more expensive than ramps or re-grading, but they can provide more sensitively designed access options for historic properties.

Elevator Towers. Interior elevator towers are sometimes added to historic buildings to provide access to all levels of the building. As noted above, ADAAG does not require

⁹⁹ Tolbert, 24.

¹⁰⁰ Clem Labine's Traditional Building May/June 1992: 54.

elevators in any building that is less than three stories or has less than 3000 square feet per story.¹⁰¹ Many historic buildings qualify for this exemption; however, where an elevator can be added without causing significant damage to historic features it is often the best means of providing access to all levels and all significant spaces.

An interior elevator shaft was added to Faneuil Hall in Boston. A location was chosen “where only a single anteroom of significance would be adversely affected (this anteroom already had been compromised several years earlier by the construction of a temporary accessible toilet room).”¹⁰² This interior location offered a significant advantage: “the elevator shaft could use the additional roof height afforded by the interior location, so as to not penetrate the roof with the shaft overrun height required above the top landing.”¹⁰³ Thus, the addition of the interior elevator provides access to all levels of the building, yet results in no disruption to the historic appearance of Faneuil Hall’s exterior.

Exterior elevator towers are sometimes added to historic buildings in order to provide access to all levels of the building. These towers are treated as new additions and must conform to both the ADAAG regulations for new construction and the Secretary of the Interior’s Standards concerning additions to historic buildings. A new elevator tower can be equipped with its own accessible entrance, which can eliminate the need to retrofit the historic entrance. The tower will need to connect to the historic building on every level. Turning an exterior wall on the historic building into an interior dividing wall between the new and the old buildings could accomplish this. Openings would need to be provided on each level to allow passage from old to new. Alternatively, the tower could

¹⁰¹ ADAAG, 7.

¹⁰² Tolbert, 28.

be freestanding, with short connecting passageways to the historic building on each level. The latter option more clearly distinguishes the new construction from the old and also obscures less historic material, although the former option may prove more economically feasible.

A new elevator tower provides many benefits to a historic property. Obviously, the primary concern is to provide a means of access for people with disabilities. The elevator itself can also be used for transporting large items (such as furniture) to upper stories. The newly constructed tower also offers an ideal place for locating the accessible restrooms, which may be difficult to incorporate into the existing building. Emergency egress stairs may also be incorporated in an elevator addition, utilizing the same vertical shaft as the elevator.

The historic Oglethorpe County Courthouse (circa 1886) in Lexington, Georgia uses an exterior elevator tower to provide access. (See Photo #12, pg. 90.) The courthouse occupies an entire block, thus all four sides are highly visible. The tower is located on a side elevation which protects the historic integrity of the primary elevation. This tower is clearly modern and is differentiated from the historic portions of the building. (See Photo #13, pg. 91.) However, it is also compatible in massing and form to this unique building and does little to alter the overall historic significance. (See Photo #14, pg. 91 of the Courthouse prior to accessibility alterations.) The elevator is accessed from outdoors on the ground level and provides access to the second story.

Where it can be sensitively integrated, the addition of an elevator to a historic building can solve accessibility problems. Whether added internally or as part of an

¹⁰³ Tolbert, 28.

external addition, care should be taken that a new elevator does not destroy significant historic spaces.

Stair-trac. Portable devices are also available which allow a person in a wheelchair to ‘climb’ a flight of stairs. These devices attach to a wheelchair and, with assistance, ascend or descend stairs. They are powered by rechargeable batteries and can be stored in a nearby closet when not in use. Drayton Hall uses such a device to allow people in wheelchairs to access the main level of the house. The Stair-trac does not climb the interior stairs at Drayton Hall, but does allow people with disabilities to access the most significant portions of the house without causing any damage to the historic integrity of the house.¹⁰⁴ (See Photo #15, pg. 91.) Although the stair-trac cannot be independently operated, it can be used without making any alterations to a historic building.

Garaventa, a company which sells the stair-trac, markets it to individuals in wheelchairs who want to ensure accessibility for themselves where it may not be provided. Garaventa's website proclaims: "**Take it anywhere** - On school field trips, on church excursions, on weekend drives. It's easy to load into vehicles using the optional loading ramp, and fits comfortably in most car trunks."¹⁰⁵ The stair-trac can be used indoors or outdoors and is presented as an "affordable access solution that is available immediately."¹⁰⁶

Each of the above listed options successfully provides access to historic buildings. Each has a different impact on the historic fabric of the building. As described, many of the accessibility features can be added in such a way, or at such a location, as to minimize

¹⁰⁴ [Drayton Hall Homepage](#).

¹⁰⁵ [Garaventa Homepage](#). 20 Mar 2002 <www.garaventa.ca>.

¹⁰⁶ Ibid.

that impact. As the National Park Service recommends, each historic property should be evaluated to determine which options are best suited for that property.

Interior Access Issues

The accessibility solutions discussed above all involve gaining entrance to a building. However, once inside a historic building, a person with a disability may face other obstacles. In particular, doorways, restrooms and elevators often need to be retrofitted to accommodate people with disabilities.

Doors. ADAAG requires that doorways have a clear opening of at least 32 inches measured from the doorstep to the face of the door when it is open 90 degrees.¹⁰⁷ Most wheelchairs are between 26 and 28 inches wide, easily passing through a 32-inch opening.¹⁰⁸ When a doorway is a few inches shy of the minimum limit, installing offset hinges allows the door to swing completely clear of the doorframe, effectively 'removing' the door itself as an obstruction.¹⁰⁹ This solution is useful when doorways are very close to the 32-inch minimum and when the existing hinges are not historically important.

Doorknobs can also present an obstacle for people with disabilities. People with limited hand mobility often experience difficulty turning standard doorknobs. ADAAG requires that "operating devices on accessible doors shall have a shape that is easy to grasp with one hand and does not require tight grasping, tight pinching, or twisting of the wrist to operate."¹¹⁰ Installing door hardware that operates by levers rather than knobs meets this requirement and makes doors easier to open. Add-on levers are available to

¹⁰⁷ ADAAG, 4.13.5.

¹⁰⁸ Park, Sharon C. and Thomas C. Jester. "Planning and Implementing Modifications for Accessibility in Historic Buildings." Interiors Handbook for Historic Buildings: Volume II. Ed. Michael J. Auer, Charles E. Fisher, Thomas C. Jester, and Marilyn E. Kaplan. Washington, D.C.: Historic Preservation Education Foundation, 1993. 1-82.

¹⁰⁹ Massey, James C. "Lowering Old Barriers." Old-House Journal May/June 1995: 43.

¹¹⁰ ADAAG, 4.13.9.

affix to existing knobs.¹¹¹ Also, some companies manufacture hardware that looks like a doorknob but contains a push button that operates the latch.¹¹² When replacing the doorknob is undesirable, the latch operated by the knob can sometimes be locked in an open position, allowing the door to be simply pushed open.¹¹³

The amount of force required to open an accessible door is also regulated. For an interior door, the required force shall be no greater than five pounds of pressure.¹¹⁴ Many new buildings meet this requirement by installing power-assisted doors. Historic buildings can retrofit existing doors making them power-assisted. Historic door closers can also be rethreaded and hinges can be retrofitted with ball bearing inserts to ease the pressure needed to open the door.¹¹⁵ These simple solutions can be integrated into existing historic doors with little or no damage to their historic character.

Restrooms. ADAAG sets very specific standards for restrooms. Some of the requirements include:

- Hot water and drainpipes under sinks should be insulated.
- Clear floor space of 30 inches by 48 inches shall be provided in front of sinks and urinals to allow approach.
- Depending upon the configuration, at least 56 inches by 48 inches of clear floor space shall be provided.

¹¹¹ Park, Sharon C. and Thomas C. Jester. "Planning and Implementing Modifications for Accessibility in Historic Buildings." Interiors Handbook for Historic Buildings: Volume II. Ed. Michael J. Auer, Charles E. Fisher, Thomas C. Jester, and Marilyn E. Kaplan. Washington, D.C.: Historic Preservation Education Foundation, 1993. 1-82.

¹¹² Massey, 43.

¹¹³ Donaldson, Milford Wayne. "Successful Alternatives for Accessibility Compliance." Interiors Handbook for Historic Buildings: Volume II. Ed. Michael J. Auer, Charles E. Fisher, Thomas C. Jester, and Marilyn E. Kaplan. Washington, D.C.: Historic Preservation Education Foundation, 1993. 1-74.

¹¹⁴ ADAAG, 4.13.11.

¹¹⁵ Donaldson, 1-74.

- Faucets should operate by levers, push buttons, and electric sensors, etc. rather than knobs.¹¹⁶

In larger restrooms with little historic significance, these requirements can often be met by simple reconfiguration of the existing space.

These requirements can be difficult to achieve in small or historically significant restrooms. If a public restroom cannot be altered due to size or significance, it need not be accessible *if* accessible facilities are available elsewhere in the building. When the Orange County Courthouse (1901) in Orange County, California was rehabilitated, the historic restrooms were restored to their 1901 condition and opened to the public. Obviously, these facilities were not accessible, so "new men's and women's restroom facilities with full access compliance features were constructed within an existing storeroom on the first floor. Doors to the new restrooms were retrofitted with lever type hardware."¹¹⁷ This solution allowed for the accurate restoration of the historic facilities, while still providing accessible restrooms. By supplying separate facilities for both men and women, this project exceeds the alternative minimum accessibility requirements, which allow the accessible restroom to be unisex.

Elevators. Historic buildings that do not qualify for the elevator exemption will need to meet the same elevator requirements as newly constructed buildings. The ADAAG requirements for elevators include:

- Call buttons must be located 42 inches above the floor.
- A visual and audible signal must indicate when an elevator is answering a call.
- Doors must open and close automatically, with a reopening device.

¹¹⁶ ADAAG, 4.16-4.19.

¹¹⁷ Donaldson, 1-75.

- Doors must remain open for a minimum of three seconds.
- Signs indicating floor numbers must be provided at each level by a raised Arabic character and in Braille, and shall be located 60 inches from the floor.
- The control panel must have each button identified in raised arabic characters and Braille.
- The interior of each elevator cab must allow room for entry, maneuvering, and exiting in a wheelchair. The required dimensions vary depending on the location of the door.

If a historic elevator is large enough to meet the size requirements, the other requirements may be met by retrofitting. However, if a historic elevator is too small, and the building does not meet the elevator exemption, a new, code-compliant elevator may need to be provided. Methods of introducing new elevators to historic buildings were discussed above.

Stairs and Floor Surfaces. People who are not in wheelchairs but do have mobility problems may find stairs and certain floor surfaces difficult to negotiate. ADAAG requirements for stairs and floors include:

- All treads and risers must be of uniform size. Treads must be at least 11 inches wide.
- Handrails must be provided along both sides of stairs, with a clear space of 1-1/2 inches between the rail and the wall.
- Ground and floor surfaces in accessible areas must be firm, stable, and slip resistant.
- Carpet piling may be no thicker than 1/2 inch. (For wheelchair mobility.)

Even historic buildings qualifying for the alternative minimum accessibility standards must provide both accessible paths of entry and accessible routes to all public spaces. Beyond simply providing wheelchair access, these accessible routes should conform to the requirements for surfaces and stairs. Often this requires simply installing handrails or slip resistant tape along stairs. In the Orange County Courthouse project, a ceramic floor was recreated based upon historic photographs and remnants of the original floor. "The new tile was manufactured to meet current accessibility standards as a slip-resistant surface."¹¹⁸ Such creative solutions respect both the history of a building and its accessibility, and are strongly encouraged.

Other features. Other interior features of buildings affected by the ADA include the placement of water fountains, telephones, TDD devices, alarms, signage etc. The ADA requires that these items be placed where a seated person can access them. Typically, this requires simple relocation of these largely non-historic features. Complying with these regulations should be fairly simple for historic property owners.

A Unique Solution: Colonial Williamsburg

Colonial Williamsburg owns a complex of hundreds of buildings; very few of these buildings were originally designed to be accessible for people with disabilities. Colonial Williamsburg developed a unique accessibility solution shortly after the passage of the ADA. According to Lounsbury, providing access to exhibition buildings was Colonial Williamsburg's greatest challenge in complying with the accessibility regulations. He identifies Colonial Williamsburg's overall philosophy as "providing all visitors with a full range of activities."¹¹⁹ With this as the goal, the organization decided to make the

¹¹⁸ Donaldson, 1-76.

¹¹⁹ Lounsbury, 31.

most important structures accessible, and then to make at least one of each building type accessible as well.

The Colonial Williamsburg website has a guide for visitors with disabilities. This guide explains Colonial Williamsburg's accessibility policy today. The relevant portion of this policy is a little lengthy, but worth reproducing here:

We recognize, as we hope you will, that the nature of the Historic Area may impose certain restrictions on some of our visitors. Within its 173 acres are eighty-eight surviving eighteenth- and early nineteenth-century buildings, as well as others that have been reconstructed as accurately as possible. Unfortunately, eighteenth-century architecture may present difficulties for some visitors with disabilities. On the other hand, eighteenth-century design offers the advantage of few modern curbs, and automobiles are not permitted on the main street during the day. Costumed interpreters in the Historic Area will be glad to provide directions to accessible areas.

Visitors with wheelchairs will find the streets, most gardens, and outdoor activities in the Historic Area easily accessible. While portable ramps and wheelchair lifts are available at selected exhibitions, many of the buildings require at least a few steps.¹²⁰

The on-line accessibility guide then alphabetically lists the individual exhibition sites and details the level of accessibility of each, including ramps and lifts, where available, as well as the number of steps, existence of railings, etc. An inspection of this list reveals that the plan Lounsbury set forth in 1994 is indeed being carried out. The most important structures are accessible. A lift accesses both the Governor's Palace and the Capitol building, making the first floors of both these prominent buildings accessible to visitors in wheelchairs. At least one representative structure of the other main building types is accessible as well. Although Wetherburn's Tavern is not accessible, Raleigh Tavern has a wheelchair lift at the rear entrance. The Powell House and the Randolph House both

have a ramp at the rear entrance, and the Cabinetmaker and Blacksmith shops are both accessible as well.

Colonial Williamsburg's decision to make a representative portion of its structures accessible allowed the organization to select which structures could be most easily and appropriately retrofitted. As a result, the buildings that could not be altered without significant harm to their historic integrity have not been made accessible; rather, another building of the same type has. Accessibility is provided to the major historic sites and to at least one tavern, residence, and shop. Although every building is not accessible, if challenged Colonial Williamsburg can offer a compelling argument that where barriers have not been removed, such as at the Wetherburn Tavern, the service denied is being offered in a nearby accessible location, like the Raleigh Tavern.

Every historic property presents its own challenges to accessibility. These challenges result from the building's unique surroundings and architectural features. Because every building is different, each building should be individually assessed to determine the best method of providing accessibility. As these examples indicate, where property owners are committed to protecting the architectural integrity of their properties, and have the financial resources to do so, creative accessibility solutions can be developed with minimal impact on the historic property.

¹²⁰ [Colonial Williamsburg Homepage.](#)

CHAPTER 5

RECOMMENDATIONS AND CONCLUSION

The Americans with Disabilities Act redefined the acceptable treatments of historic buildings. Preservation alone is no longer acceptable; access for the disabled must now be provided as well. “Appropriate solutions which balance the goals of preservation and accessibility usually involve concessions in one or both areas, and this recognition is essential to sound policy making and design for work in historic settings.”¹²¹ Typically, when concessions are made, they are on the part of preservationists and favor accessibility. However, in some situations, accessibility concerns should concede to preservation and allow certain buildings to be exempt from ADA standards. However, wherever possible, accessibility modifications should be made to historic buildings, and care should be taken to ensure that these modifications are sensitively undertaken.

Exemptions for Historic Properties

While constantly keeping the goal of accessibility in mind, our historic resources need to be protected from mandatory alterations. The alternative minimum accessibility standards set forth in ADAAG and UFAS provide some relief, but in many cases are simply too restrictive. The alternative minimum standards still require historic buildings to be accessible; they simply eliminate the need to provide *several* accessible entrances, paths, and restrooms. Many historic buildings can be successfully retrofitted to allow access for the disabled. Yet many others can be made accessible only at considerable cost to their historic integrity. Regardless of the costs, accessibility policy today requires

ALL buildings to be accessible. Compliance with the alternative minimum accessibility requirements by providing one accessible entrance and one accessible path to all public areas will destroy the historic significance of some buildings. Provisions need to be made granting certain historic buildings an exemption from compliance with accessibility standards.

Exemptions from the ADA requirements should not be granted lightly. A process should be developed allowing property owners to apply for exemptions. The system for determining eligibility for use of the alternative minimum accessibility requirements could be utilized for granting exemptions from ADA requirements. An applicant could simply request a single review of her project and then be granted a partial exemption, a full exemption, permission to use the alternative requirements, or a denial of any special treatment.

Both preservationists and accessibility professionals should review exemption applications. The ADAAG regulations describing eligibility for the alternative requirements recommend that "(i)nterested persons should be invited to participated in the consultation process, including State or local accessibility officials, individuals with disabilities, and organizations representing individuals with disabilities."¹²² The contributions of the disabled community should be required as part of the exemption process. When determinations are made on the state level, the State Historic Preservation Officer could work with an accessibility professional in determining which buildings should be granted an exemption. Likewise, when a certified local government is

¹²¹ Tolbert, 30.

¹²² ADAAG, 4.1.7(2)(c).

responsible for granting exemptions, a preservationist and an accessibility advocate should both be consulted before final determinations are made.

Exemptions should not be granted based solely on historic significance. If the most historically significant buildings nationwide were exempted from the ADA, people with disabilities would be denied access to all the major house museums, monuments, and historic attractions across the country. Sites like Monticello have already proven that accessibility can be successfully provided in buildings of great historic significance. This is particularly true of buildings with significant financial backing which allows them to install more expensive and more compatible accessibility features.

Thus, exemptions should be granted based on the circumstances of the individual property. The most important factor to consider would be the extent to which plausible accessibility modifications would compromise the building's historic and architectural significance. Consideration should also be given to the financial resources available and to how the limitations of these resources affect which accessibility features are realistic options.

Partial exemptions should be granted when a full exemption is not warranted, but where one or more of the alternative requirements is too stringent for the property. An example would be a building that is easily entered but has some interior spaces that cannot be made accessible. The owner of this property would still be required to provide accessibility into the building, but would be exempt from providing access to all public spaces.

Buildings that are granted accessibility exemptions should be required to provide programmatic access or alternative experiences where feasible and appropriate. The

exemption should also be periodically reviewed as new accessibility options become available and as circumstances concerning the building's integrity or financial backing change. Exemption review could be mandatory whenever the building is altered and whenever there is a change in ownership.

Making Accessibility More Sensitive to Historic Character

Although receiving an exemption should be a possibility, providing sensitive access is the preferable solution to the “access vs. integrity” dilemma. Many accessibility options such as lifts come in standard designs that are intended for application to a wide variety of buildings. These industry standard designs do little to promote the unique character of the historic buildings to which they are applied. The generic appearance of most accessibility features are right at home when installed in many contemporary buildings, but they significantly detract from buildings from earlier periods. (See Photos #7, #9, #10 and #11, pg. 88-90.) Better designs can and should be created. Historic buildings should have accessibility features designed specifically for them, with care taken to complement, rather than detract from the historic fabric.

Some existing accessibility alternatives could also be modified to more readily blend in with historic buildings. The lift at the Sagamore Hotel is an excellent example. This lift could be virtually invisible from across the street if a few changes were made. First, instead of building a solid wall in front of the lift, the piece of banister that was removed to install the lift should be reinstalled, this would result in the piece of banister being moved forward to allow for installation of the lift. The walls of the lift itself could be made of a clear material such as glass to minimize their visual impact. Thus, when

viewed head on, the banister would appear to remain unbroken, maintaining the historic appearance, or at least a strong suggestion of it, while providing front door accessibility.

The Lustrat House, discussed above, could also have made a small change in its method of accessibility, transforming its acceptable modification into an exceptional one. The Lustrat House's ramp is located along the campus-facing facade. The "rear" facade, which faces the road, features a significant "welcoming arm" staircase which would be destroyed by the addition of an accessibility feature there. Providing accessibility on one of the side elevations would require the creation of a new door. Thus, the campus-facing facade *is* the best location for the ramp. However, the impact of this ramp could be minimized if it accessed the porch from the side rather than the front. A ramp could be constructed from the sidewalk to the porch along the front facade. The bushes under the window could be replanted in front of the ramp and would visually screen it. The relocation of this ramp would restore the front facade of the porch, while still providing front door access.

Another method of making accessibility less intrusive is to avoid altering the building altogether. Drayton Hall's accessibility solution, the Stair-Trac chair accomplishes this. Providing a Stair-Trac for visitors provides access without having to resort to physical alterations. This accessibility method could be more widely used and accepted as a method for gaining entry to historic buildings. The Stair-Trac could be especially useful at museums and other sites where staff members monitor visitation. Because the Stair-Trac requires staff assistance, it is not as practical a solution for businesses or governmental offices.

Making Accessibility More Economically Feasible

Purchasing and installing standard accessibility features can be quite expensive. A sensitively designed accessibility feature requires custom designing and special building materials, making it potentially much more expensive than a standard feature. If sensitively designed accessibility features are to be more widely used on historic properties, they need to be more reasonably priced and/or incentives need to exist to justify the additional expense.

Sensitive accessibility solutions in historic buildings would certainly be more common if providing them were less expensive. Large organizations, not private citizens, have been responsible for nearly all of the more sensitive examples of accessibility addressed in this paper. The National Trust for Historic Preservation operates Drayton Hall, Monticello is run by the private, and well-funded Thomas Jefferson Foundation, The Capitol and Governor's Palace in Williamsburg are overseen by the Colonial Williamsburg Foundation. Each of these organizations has the financial resources to create appropriate accessibility solutions. Smaller organizations and private citizens are far more likely to make accessibility decisions based on funding than based on the impact to historic integrity and very likely opt for the least expensive option.

Design assistance should be provided for owners of historic buildings interested in providing accessibility features that do not damage the building's historic integrity. For this assistance to be successful, each building should receive individualized attention. This assistance could probably be most efficiently handled on a state level. State Historic Preservation Offices could make potential design suggestions to property owners who requested assistance. This task should not prove too overwhelming, as large numbers of

historic properties have made their accessibility modifications over the last decade. Most requests would probably be for historic buildings being altered, and thus triggering ADA compliance, or historic buildings seeking to improve previous accessibility provisions.

Another option is for design assistance to come from universities. Many different departments, including architecture, planning, industrial design and historic preservation could offer sensitive accessibility designs to their communities. Students involved in these projects would gain an increased awareness of the issues involved in providing access to historic buildings. Upon graduation, these students would bring valuable skills to the workplace that would serve both the disability and preservation communities well in the future.

Grants are available to assist in the provision of access. For example, The Accessibility to the Arts in Pennsylvania for Individuals with Disabilities Division provides grants to help applicants evaluate and plan to make facilities and/or programs accessible, with the goal of creating “opportunities for individuals with disabilities to more fully participate in the cultural life of Pennsylvania.”¹²³ The Massachusetts Cultural Council operates a ADA Mini-Grants Program that “supports efforts by cultural organizations to make their programs and services accessible to people with disabilities – beyond the ADA’s basic physical access requirements.”¹²⁴ This program supports projects employing people with disabilities as well as accessibility activities which can become permanent programs of their parent organizations. Neither of these grant programs are specifically aimed at supporting sensitive access solutions, but either could be used to do so.

¹²³ Pennsylvania Council on the Arts. 12 Apr 2002 <www.artsnet.org/pca/accessibility.html>.

Tax incentives do exist for both providing access and for rehabilitating historic buildings. However, both of these tax incentives can be granted even for an insensitive accessibility solution: the former does not address design concerns at all, and the latter may be hesitant to object to federally required alterations.

The National Park Service and State Historic Preservation Offices should not hesitate to require that ADA modifications to historic buildings be completed in a manner sensitive to the historic fabric of the building in tax credit projects. The Park Service should create a publication highlighting some good examples of accessibility modifications. Property profiles could include before and after photographs as well as descriptions of the various accessibility options that were considered, with emphasis placed on why the chosen solution is the most appropriate. This would allow property owners the opportunity to see successful approaches that others have taken to providing accessibility and would also help them gain an understanding of the Park Service's expectations. This publication could also provide contact information for organizations that provide more individualized design assistance.

Although the expense of purchasing and installing accessibility features can be significant, it is a required and not unreasonable expenditure. The design of these features is not regulated, and thus the cheapest, and least visually appealing, options are often installed even in historically significant properties. The receipt of rehabilitation tax credits should depend, in part, on compatible accessibility designs. Design assistance should be available for property owners interested in installing more visually compatible accessibility solutions.

¹²⁴ [Massachusetts Cultural Council](http://www.massculturalcouncil.org/grants/for_organizations/ada_tier3.html). 12 Apr 2002
<www.massculturalcouncil.org/grants/for_organizations/ada_tier3.html>.

Conclusion

The ADA mandates that nearly every public building in the United States be accessible to people with disabilities. This presents a unique set of challenges for historic property owners. Unique accessibility solutions can be developed given the proper resources. Elements vital to creating successful accessibility solutions in historic buildings include:

- **accessibility options**, extending beyond just ramps;
- **adequate financial resources**, allowing the implementation of the best possible accessibility solution, independent of financial restraints;
- **design assistance**, to provide property owners with solutions designed specifically for their property;
- **special alternative or exemption status**, allowing properties that cannot achieve accessibility for architectural or financial reasons to maintain their architectural integrity.

Ideally, every historic property owner would have each of these elements available as he seeks appropriate accessibility solutions. However, chances are he does not. Even without the benefit of an exemption, ample financial resources or design assistance, there are several steps that can be taken by a property owner seeking to find appropriate accessibility solutions:

Know the requirements. This thesis has concentrated on the requirements of the ADA, however many states and local governments have their own accessibility requirements. Again, properties must conform to the most stringent of these

requirements. The applicable state and local codes should be reviewed before beginning any alterations to a historic building.

Carefully evaluate the site to locate the best possible location for placing an accessibility feature. Because accessibility is fundamentally concerned with the relationship between a building and its site, it is of primary importance to give this interaction due consideration. Examining how a building fits into its surroundings, including traffic flow (both pedestrian and vehicular), neighboring buildings, and significant landscape or terrain features, will begin to suggest appropriate locations for providing access. Are some elevations completely obscured by neighboring buildings? Could landscape features help conceal an accessibility feature?

Carefully examine the building itself as well. Identify any particularly significant features or elevations where alterations should be avoided. Seek an acceptable location for accessibility on each elevation. Also, take note of any parts of the building that have been altered over time. These areas are often ideal locations for accessibility features because their integrity has already been compromised.

Consider each of the various accessibility solutions. Evaluate the appropriateness of re-grading, ramping and installing various types of lifts and elevators in the specific context of the building. The use of a non-structural form of access, such as the stair-trac should be considered as well. How would each of these features effect the integrity of the building? Would the level of access provided be satisfactory? Consider several different solutions before committing to any one method, keeping in mind that a method which is unacceptable on one elevation might be the ideal solution on another.

Observe the solutions implemented by others. The ADA has been effective for over a decade so there are many examples of accessibility solutions at historic buildings all over the nation. Some of these methods more successfully protect the integrity of the building than others. Identifying the successful elements of existing solutions is a good place to start when adding new accessibility features.

Consult with any preservation or accessibility-minded people who frequent your building. Preservationists may be able to identify significant features to protect, or may suggest certain locations that are not as significant where alterations might be more appropriate. People with disabilities know which alterations are necessary for their utilization of facilities. Also, contact the SHPO and/or an accessibility consultant for professional advice.

Do not forget that accessibility is needed inside as well as out. Make all of the simple, inexpensive alterations possible without harming significant features. Bevel or remove any threshold over 1/2 inch high. Install offset hinges where necessary. Install the appropriate hardware at doorknobs. Move telephones, water fountains, signs, etc. to the appropriate height. Remove thick carpet and apply non-slip tape where needed. Cover hot water pipes in restrooms.

Considering these points will help ensure that the final accessibility solutions will respect the integrity of the building while providing acceptable levels of access.

Caution must be used to ensure that methods of providing access to a historic resource do not destroy the very significance which makes the building worth visiting. Providing sensitive access solutions is a vital component to the protection of both the historic built environment and the rights of people with disabilities. Providing

accessibility to historic buildings ensures that all segments of the population are given the opportunity to experience the most historically and architecturally significant buildings in the country.

Balancing concern for the preservation of our heritage with the desire to make it accessible to all is a daunting and frequently difficult task. The success of landmark properties such as Monticello and Drayton Hall remind us that even the most significant of historic buildings can often be made accessible without compromising their integrity. When alterations to a historic building are approached with care for the building, concern for access and creativity in combining the two, effective solutions can often be found.

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PHOTO APPENDIX



Photo 1: The Hillel Student Center, Athens, GA.



Photo 2: The Leslie Hotel, Miami Beach, FL.



Photo 3: Close up of the ramp at the Leslie Hotel.



Photo 4: The Lustrat House, Athens, GA.



Photo 5: Waddell Hall, Athens, GA.



Photo 6: Waddell Hall ramp.



Photo 7: Sagamore Hotel, Miami Beach, FL.



Photo 8: View of lift from rear lobby of the Sagamore, looking toward the library.



Photo 9: View of the lift from the library of the Sagamore.



Photo 10: The lift of the Old Post Office Building, Miami, FL. Note the new railing.



Photo 11: A side-view of the lift, while not in use.



Photo 12: Oglethorpe County Courthouse, Lexington,GA.



Photo 13: Close up of elevator tower.



Photo 14: Oglethorpe County Courthouse prior to accessibility alterations (HABS photo, from The Georgia Catalog)



Photo 15: Stair-trac in use at Drayton Hall. (Photo from www.draytonhall.org.)