



ADA Live!

EPISODE 58: BEACH ACCESS

Event Date: July 4, 2018

Presenters: Jack Humburg, Boley Center: & Cheri Hofmann, Southeast ADA Center

Host: Mary Morder, Southeast ADA Center

VOICE-OVER ANNOUNCER: Blog Talk Radio. (Music) Welcome to WADA ADA Live! Talk radio. Brought to you by the Southeast ADA Center, your leader for information, training and guidance on the Americans with Disabilities Act. And here's your host.

Mary: Good afternoon and welcome to WADA - ADA Live! On behalf of the Southeast ADA Center, the Burton Blatt Institute at Syracuse University, and the ADA National Network, welcome to the 58th episode of "ADA Live!"

The topic of today's show is Beach Access. In this episode we will discuss how to make a beach accessible to people with disabilities. This episode will examine challenges such as beach and wildlife protections, alterations to an existing beach (including upgrades to parking, circulation path, and restroom facilities) and what defines an accessible route.

"ADA Live!" listening audience, you can submit your questions about Beach Access at any time on adalive.org.

My name is Mary Morder, and I am responsible for Materials Development and IT support for the Southeast ADA Center and I will be your host for today.

Now I'd like to introduce today's speakers, Jack Humburg and Cheri Hofmann. Jack Humburg is the Director of Housing Development and Americans with Disabilities Act Services with Boley Centers, Inc. For the past twenty-two years, Mr. Humburg has served as the Administrator for the Florida Americans with Disabilities Act (ADA) Leadership Network. Mr. Humburg has received extensive training on the ADA and the Fair Housing Act through the federal enforcement agencies including the Department of Justice, EEOC, The Access Board, and HUD.

Cheri Hofmann is the Southeast ADA Center's Distance Learning and Training Coordinator. She has been a part of this organization for over 10 years. She is a recognized voice for ADA technical assistance and training for the Southeast ADA Center, by sharing her knowledge of the Americans with Disabilities Act (ADA) and other federal laws.

Mary: Welcome, Jack could you give us a brief overview of beach accessibility for our listeners.

Jack: Absolutely Mary, and good morning to you, to Cheri, and to our listening audience!

Being from Florida, I will say that no vacation to Florida is complete without a trip to the beach. Florida alone has more than 1,200 miles of coastline and beaches to explore. However, access to these beaches can be difficult for visitors with limited mobility to explore and enjoy. Particularly since conventional wheelchairs with their thin wheels do not work very well on the sand so it can be next to impossible to get from the parking area onto the beach if there is no accessible route provided.

To start addressing this problem, the U.S. Access Board has recently started issuing new requirements covering outdoor recreational areas that are now part of the Architectural Barriers Act that is the ABA Accessibility Standards, or ABA for short. I will refer to them as the Architectural Barriers Act so I don't trip on my words.

These requirements, the ABA Requirements, became effective November 25, 2013. The new standards are located in Chapters 2 and 10 of the Architectural Barriers Act. This is technical and we will post the exact citations on our Resource Sheet after this broadcast that will be available.

The new provisions address access to trails, picnic and camping areas, viewing areas, beach access routes and other components of outdoor developed areas on federal property, when these components are newly built or altered.

They provide exceptions for situations where terrain and other factors make compliance impractical. And they only apply to new construction and alterations. Regular maintenance and general repairs are not considered new construction or an alteration and therefore are not subject to these requirement.

The standards do not apply to outdoor areas that were developed by federal grants or loans. However, the Access Board intends to develop guidelines for non-federal outdoor sites covered by the Americans with Disabilities Act, the ADA, and areas developed with federal grants and loans covered by the Architectural Barriers Act through some future rulemaking. So stay tuned for those.

I also want to remind our listeners that state and local governments do not have to wait for the US Access Board or the Department of Justice to write regulations on beach access. State and local governments can—and many of them already do—pass their own regulations to make public beaches, along with their amenities like parking and restrooms, as usable and accessible as possible for everyone.

And in addition, while these Access Board standards for beach access currently apply only to Federally controlled beaches, they provide a good reference point for local governments that are working to improve program access to their beaches.

Mary: Thank you, Jack. That's an important point to remember. Now, would you please explain some of what is covered by the Architectural Barriers Act provisions?

Jack: Sure. And, for our listening audience, what I am about to talk about right now are the Architectural Barriers Act and will only apply to beaches on Federal lands. Later in this show, we will touch on the Americans with Disabilities Act and the 2010 Standards for Accessible Design and how those standards apply to access and facilities on Public Beaches.

The first question I get is “how many accessible beach access routes do I need to have?” And the answer is “it depends.” It depends on the length of the shoreline and the number of pedestrian access points you currently have.

Pedestrian access points to a beach include parking facilities that serve beaches, dune crossings, and stairways or ramps leading from boardwalks down to the beach.

The Architectural Barriers Act require that at least one accessible route for every half-mile of shoreline be provided. But the number of accessible routes required does not need to exceed the number of pedestrian access points to a beach provided by the entity.

Second, where do the accessible routes need to go? Again, it depends on what kind of beaches we are talking about. Are we talking about a tidal beaches, a river beach, beaches at lakes, ponds or reservoirs? And the Architectural Barriers Act regulations say that: Beach access routes should connect an entry point to the beach to the High tide level at a tidal beaches; the mean high water level at a river beach; or the normal recreation water level at lake, pond, or reservoir beach.

Mary: Thanks Jack, you have explained that very well. Here is a harder question. Can you describe what these accessible routes look like?

Jack: Well, I will try. The Access Board has a number of guides for different recreation areas, like boating facilities, fishing piers and platforms, but they don't have one that describes specifically beach access. So I'll do my best to describe the requirements.

The Beach Access Routes are covered in Chapter 10, Section 1018 of the Architectural Barriers Act and they are also covered in Chapter 2. We will give these links to both of those chapters on ADAlive.org after this broadcast.

Section 1018 says that beach access routes can be either permanent or they can be removable. The surface must be firm and stable, and the minimum clear width is 60 inches, except at dune crossings where the clear width of permanent beach access routes can be reduced down to 48 inches minimum.

I recently did an evaluation of a beach for Manatee County here in Florida, and we recommended the removable mat-type of surface for the county to provide an accessible route.

Obstacles on the surface should be no higher than one inch—but there's an exception: where the surface is concrete, asphalt or boards, and they are the obstacles can be no higher than half an inch and openings on the surface can be no wider than half an inch.

The running slope of an accessible route may not be any steeper than 1 in 10. That is one inch of rise for every 10 inches of surface.

There also need to be resting intervals on the route. So where the slope is 1 in 20 but no higher than 1 in 12, there needs to be a resting place every 50 feet. If it is steeper or the running slope is higher than 1 in 12 but no higher than 1 in 10, then there has to be a resting place every 30 feet.

Mary: Thanks Jack. I am glad we will have the links to the Architectural Barriers Act Standards so we can see all of this in print!

We just got a question from our audience. What does the Americans with Disabilities Act have to say about accessible routes? If the only standards covering accessible beach routes are in the Architectural Barriers Act, does this mean that only Federal beaches have to have accessible routes?

Jack: No, not really. Well it is true that, so far, the only specific standards covering accessible routes onto beaches are in the Architectural Barriers Act, and those Standards apply to federally managed lands. However, most public beaches are state or local “entities” so they would be covered under Title II of the Americans with Disabilities Act and the 2010 Standards for Accessible Design would apply. That means they have to comply with those regulations and standards.

So for example, most public beaches have parking areas which must have accessible spaces under the 2010 Standards for Accessible Design. They might also have restrooms or picnic areas—and these amenities and the path of travel to them must be

accessible. But, so far, there is nothing specific in the 2010 Standards for Accessible Design that gives any direction about access or walkways over the dunes and onto the beach. So technically the “accessible route” onto the beach can end at the edge of the parking lot.

Cheri: Hello, Mary and Jack, this is Cheri. I would like to add something here. Let’s say a city begins building a walk way, or a boardwalk tomorrow. They would have to build it in compliance with 2010 Standards for Accessible Design. So, it would have to meet the 1 in 12 slope for wheelchairs, have handrails, and if it has a switch back – they would have to have the turning radius for a wheelchair to navigate turning around. That was just an example I wanted to add in. But if anyone has questions about this and understanding accessible routes through the 2010 Standards for Accessible Design, that they can call 1-800-949-4232 to get their local ADA Center..

And, I would also like to add, that the US Access Board guidelines for outdoor recreation areas also covers accessible routes to fishing piers and boat launch areas. These new guidelines cover newly designed or constructed and altered elements belonging to Title II and Title III public and private entities. We will have that link to these Guidelines after the show on our website at adalive.org.

Mary: Thank you Cheri for giving us that additional information on accessible routes. Jack, I have another question for you. If the 2010 Standards for Accessible Design or the Americans with Disabilities Act do not require accessible access routes to beaches, do they allow people to use golf carts, or other types of devices to get to the sand and water?

Jack: Well, that is a good question, and there really is not a simple answer to this one. There are new regulations that took effect March 15, 2011 that require Americans with Disabilities Act Title II and Title III entities to allow individuals with mobility impairments to use what they call “other power driven mobility devices”, wherever the general public is allowed to go. We will call these other power devices for the ease of answering this question.

Other power devices are any mobility device that is powered by batteries, fuel, or other engines that are used by individuals with mobility disabilities for the purpose of locomotion, whether or not it was designed primarily for use by individuals with mobility disabilities.

So we’re talking about something other than a power wheelchair here, like a golf cart. Other power devices may include golf cars, electronic personal assistance mobility devices, such as the Segway Personal Transporter, or any mobility device that is not a wheelchair, which is designed to operate in areas without defined pedestrian routes.

So a covered entity, Title II or title III entity, must make reasonable modifications in their policies, practices, or procedures to permit individuals with mobility disabilities to use these other power devices unless the entity can demonstrate that that particular class of other power devices cannot be operated in accordance with legitimate safety requirements the entity has adopted.

So in determining whether a particular type of other power driven mobility device can be allowed as a reasonable modification, there are several factors that need to be assessed.

One of these factors is whether the use of the other power driven mobility device creates a substantial risk of serious harm to the immediate environment or natural or cultural resources, or could pose a conflict with Federal land management laws and regulations.

So the impact of other power driven mobility device on dunes, on wildlife, on protected areas, etc. must be considered. This would need to be looked at in each case on a case-by-case, city by city, or county by county basis.

Many beaches allow the use of what are called "beach" wheelchairs that have fat oversized wheels, but remember, that these are considered "personal devices" and cities and towns are not required to provide them. However, it's a good idea to check your local travel recreation guides or welcome center or the city's website where you are visiting because more and more beaches along the coast are providing them either for a minimal cost or for free.

Mary: Jack, this is great information. ADA Live listening audience, if you have a question about beach access, you can submit it at any time at our online forum at ADAlive.org. And now, a word from our sponsors.

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Mary: Welcome back to the second part of our program. Our topic today is Beach Access. At this time, we would like to welcome Cheri Hofmann to the show. Cheri, we have some more questions for you. Here's the first one. Do restroom facilities at beaches need to be accessible?

Cheri: Good afternoon, Mary and Jack, and that is a great question. The answer to this question is simply “Yes.” If there are public restrooms available, then they must comply with the 2010 Standards for Accessible Design if they are newly constructed, or altered after March 15, 2012.

I get a lot of question about what if they were built March 15, 2012? There is an exception to this rule, which is that there is a Safe Harbor for facilities built before that date.

So, if a these restrooms were constructed or altered before that date, then the required elements of the construction must be in accordance with the specifications in either the 1991 Standards or the Uniform Federal Accessibility Standards.

Also, keep in mind, the public entity is not required to retrofit. And that means change it to reflect the new changes in the 2010 Standards for Accessible Design. And it sounds rather technical, and it can be confusing at times. So if they have any questions they can call the ADA Center in their area 1-800-949-4232.

I want to add one more thing about safe harbor. In safe harbor also applies to other features of the built environment - like water fountains and parking. There is an excellent archived webinar that can be used as a resource on Accessible Toilet and Bathing Facilities at AccessibilityOnline.org. I found out today that the upcoming July Webinar is about Advanced Toilet and Bathing Facilities. So listeners can go directly to Accessibilityonline.org and sign up for it right after the show. We will also give you the link in our Resource list at adalive.org after this broadcast.

Mary: That is great Cheri. Thanks so much for that information. We are going to keep with the question of accessibility, and we have another question from one of our listeners: Aren't there supposed to be accessible spaces in the parking area at public beaches? The beach we use has a small parking area that is just off the street. Does parking at beaches need to have accessible spaces set aside?

Cheri: Wow, you have a great listening audience and another good question. I must say, again the short answer to this is “Yes”. There must be accessible parking spaces and, depending on who manages the land, the parking spaces must be in compliance with either the 2010 Standards for Accessible Design for public beaches and with the Architectural Barriers Act for federal land, as Jack noted earlier.

Mary: We have a follow up question. Who enforces the parking? I see families piling out of large vans in the “van accessible” parking space at our beach. I don't mind that IF they move the van when they get all their stuff out. Instead they leave it there and they do not come back until they are ready to leave the beach. They don't have hanging tags or a special license plate.

Cheri: That's another great question. And the answer to this one is not a simple yes, it is more "it depends." I say this because it depends where the parking is located. Is it a Public Beach controlled by State or Local Government, or is it a Federally Managed Park or non- federal Land?

Where I live in Florida, we have several beach parks that are strictly for military members and their families and civil service personnel, and they are located on land owned by the Military Base. There may also be another variable such as perhaps the beach parking is located behind a Condo – and then this gets tricky. The Condos should have accessible parking, but their lots may not be for public use. So most of these scenarios will NOT exempt them from the requirement to have accessible parking spaces, but it may affect how parking violations are handled.

And remember, the ADA does not enforce it. The enforcement of the parking violations could be by state or local governments according to their codes and statutes. Or if the parking is on federal property, it might be enforced by a federal wildlife officer or even military police. And in a condo association, it could be that the management may call a private towing company to move the car.

Mary: Thanks, Cheri, for sharing this information with our ADA Live! Listening audience. We will pause now for a word from our sponsors and be right back

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Mary: Welcome Back!! We have had some excellent information today. I think we have time for a few more questions.

Since we have touched on accessible restrooms, access to the beach, accessible parking – let's talk about Signage & Beach Amenities. Can you tell us a little about that Cheri?

Cheri: Sure Mary, Both sets of standards—the 2010 Standards for Accessible Design for public beaches and the Architectural Barriers Act for federal lands, require signs identifying accessible parking spaces, including signs marking every required van-accessible space.

Also if the accessible rest rooms or shower rooms or even the fishing piers and ramps are not immediately noticeable, there should be signs posted pointing to where each of these elements or amenities.

I know we have a really nice facility here where I live in Florida that has a pier, with a restaurant, public restrooms, bait store and a picnic area. It has excellent signage to the ramps, as they are not visible from the front. The accessible route is nicely done as well – all in all it is very accessible to people with disabilities.

Mary: That sounds great! We have one last question from our listening audience and this question addresses service animals. The listener asks if he can bring his service animal on a beach when the beach forbids dogs, Or only allows dogs on the beach in the early morning and late afternoon?

Cheri: In most cases, the answer is yes “service animals are welcome”. Under the Americans with Disabilities Act, people with disabilities are allowed to bring their service animals onto whatever areas the public is generally allowed.

Beaches may have some areas where the terrain is protected because the Dunes are re-nourishing, or the wildlife is protected, but for the most part a service animal should be allowed at “no pet” beaches.

According to the Department of Justice, the Americans with Disabilities Act requires facilities to modify a "no pets" policy to allow the use of a service animal by a person with a disability. This does not mean they will abandon their "no pets" policy altogether but simply that they will make an exception to the general rule to allow service animals.

And other rules could also apply to the service animal. So this is important information here. Let's say for instance a service animal must be under the control of the person with a disability at all times. This includes the requirement that maybe the service animal might have to be leashed or otherwise tethered unless having them on a leash would prevent them from performing the services the person with a disability needs. And, of course, the owners are responsible for cleaning up after their service animal.

Service animals are not allowed to pose a direct threat to the health or safety of others. And that means if they are growling or they bite someone, they could pose a direct threat. So if the service animal is not under control and poses a direct threat to the health or safety of others, the owner of the service animal would have to remove their service animal from the beach. However, the owner of the service animal would be allowed back on the beach, but that day their service animal would not be allowed back there.

That is not to say that once the service animal becomes less defensive that it would not be allowed back there, but this is going to be covered by not just the ADA but maybe codes and statutes. So it is going to be very important that the owner keeps the service animal under control.

Mary: That's great information. Thanks, Cheri. At this time, I would like to thank our guest speakers, Jack Humburg of the Boley Center and Cheri Hofmann, of Southeast ADA Center ---- And thank you, also, to our ADA Live! listening audience. The Southeast ADA Center is grateful for your support and participation in this series of WADA ADA Live! broadcasts. This Episode and all previous WADA ADA Live! Episodes are available at ADALive.org. Our episodes are archived in a variety of formats including streamed audio from our website, accessible transcripts of audio, and also available to download is podcast to listen at your convenience. I do want to thank you, our ADA Live! audience tuning in today.

We invite folks to celebrate the 28th Anniversary of the ADA. This is a big year for us! July 26th, is the 28th anniversary of the Americans with Disabilities Act, and we invite everyone to be a part of the nationwide ADA celebration.

Please go online to www.ADAanniversary.org and sign the ADA Pledge. Now, this pledge is not a money pledge. It's just a pledge saying I support the ADA, and we are glad it's here and we believe in access for everybody.

We also invite you to explore the ADA Anniversary Toolkit. It is packed full of ideas and information. Please learn, connect, and share the ADA anniversary at www.ADAanniversary.org.

Remember, you may submit questions about any of our ADA Live! topics by going to ADALive.org. If you have questions about the Americans with Disabilities Act, please contact your regional ADA Center at 1-800-949-4232. That's 1-800-949-4232. All calls are free and confidential. Join us next month on the first Wednesday, which will be August 1st, we will be discussing Polling Place Accessibility. See you next month.

(Music)

VOICE-OVER ANNOUNCER: Thank you for listening to ADA Live! Talk radio. Brought to you by the Southeast ADA Center. Remember to join us the first Wednesday of each month for another ADA topic, and you can call 1-800-949-4232 for answers to your ADA.

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