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October 26, 2018

City of Coleraine

Brianna Anderson, Clerk - banderson@cityofcoleraine.com

Harry Bertram, Public Works - harryb@cityofcoleraine.com

Re: ADA Survey Conducted on October 24, 2018.

Dear Ms. Anderson and Mr. Bertram,

On the above date, I met with you to discuss loss control topics pertaining to the City of Coleraine. This was in conjunction with the city's participation in the League of Minnesota Cities Insurance Trust (LMCIT) property, liability and/or workers' compensation program.

Purpose of Visit

The primary purpose of my visit was to discuss the Americans with Disabilities Act (ADA) and complete a basic review of key provisions. ADA became law in 1990, with the purpose being to allow people with disabilities the same opportunities as everyone else, including all areas of public life, schools, transportation, jobs, and all public and private places open to the public.

Key Provisions

- New Construction and Alterations: Facilities constructed or altered after January 26, 1992, must comply with the ADA Standards for Accessible Design (ADA Standards), which are available online ([ADA Standards 2010](#))
- Program Access in Existing Facilities: state and local government's services, programs, and activities, when viewed in their entirety, must be readily accessible to and usable by persons with disabilities, known as "program access".
- 2010 ADA Standard include Recreational Facilities: The 2010 ADA Standards contain requirements for recreational facilities that were not addressed in the 1991 Standards. Because there were no previous accessibility standards for these types of facilities, the safe harbor does not apply. So even if one of the city's recreational facilities was built prior to 2010, the rules still apply.
- Self-evaluation of accessibility is required of all public entities. A transition plan is also required for cities of over 50 employees. [Right-of-Way Transition Plan Template](#)

Lawsuits and Claims

While many ADA lawsuits are genuinely concerned with accessibility for the good of the disabled public, the ADA has also been abused by certain attorneys seeking fees. Because of the complexities of ADA's technical requirements, they can easily find something out of compliance at the city. In addition, since there is no pre-litigation notice, the city does not see it coming. However, several indicators that a lawsuit is about to occur include:

- Open records requests regarding the ADA assessments
- An increase in complaints regarding accessibility
- Numerous businesses in your city being sued by the same plaintiff for accessibility violations

Common ADA Problem Areas at Cities

- Parking Designation
- Routes to Building Access
- Building and Facility Access
- Event Seating
- Bathroom Accessibility
- Program Access
- Recreational Facilities
- Websites and Communication

How to Make Progress

If the city has not already done so, an ADA Self-evaluation should be completed, prioritized, and implemented. Cities could use seasonal employees, volunteers, safety committee, in some instances, a city may choose to hire a vendor, or use a local advocacy group to perform these evaluations.

[MN State Council on Disabilities: Building Access Survey](#)

Summary of Solutions

Though no amount of risk prevention can eliminate the risk of ADA litigation, the following efforts go a long way:

- Make sure your city has an ADA coordinator (50 or more employees), who understands the need to coordinate the city's efforts to comply with and carry out the ADA mandates.
- Make sure your city has established a grievance procedure (50 or more employees), for resolving complaints of violations.
- Confirm that a self-evaluation was conducted.
- Confirm the implementation of a transition plan.

Conclusions

- The City of Coleraine has some provisions to meet ADA requirements in place including: access paths, curb ramps, some accessible portable toilets, fish pier, building access ramps, among others.
- Taking additional steps will strengthen the city's efforts to meet ADA requirements and improve accessibility.
- Areas we discussed for an improvement include: accessible parking designation, accessibility code enforcement, improving access routes, and designating accessible parking spots.

Resources

[MN Council on Disabilities](#)

[MN State Council on Disabilities: Building Access Survey](#)

[Recreational Facilities: Access Board](#)

[Outdoor Developed Areas: Access Board](#)

[Beach Access Route](#)

Recommendations and comments are provided for loss control and risk exposure improvement purposes only. They are not made for the purpose of complying with the requirements of any law, rule or regulation. We do not infer or imply in the making of these recommendations and comments that all sites were reviewed or that all possible hazards were noted. The final responsibility for conducting loss control and risk management programs rests with the member.

[ADA Update: A Primer for State and Local Governments](#)
[ADA Best Practices Tool Kit for State and Local Governments](#)
[Transition Plan Template: Right-of-Way](#)
[Digital Accessibility Toolkit](#)
[Website Accessibility](#)

Recommendations

I've included loss control recommendations to strengthen ADA elements for your consideration in the appendix. We also reviewed previous recommendations and I've updated the status of these as well.

Service Plan

We discussed possible areas of focus for our next Loss Control visit. General Liability is one option we discussed, but we can consider others next year. I will plan to contact you in approximately one year to schedule the next loss control meeting.

60 Day Response

I have submitted recommendations for your consideration as a tool to help guide your risk management efforts. The decision to complete the recommendations, either in part or in full or the decision not to complete recommendations, lies entirely with the city. LMCIT believes completion of recommendations can ultimately reduce property, liability or workers' compensation losses.

Please contact me by telephone or e-mail within the next 60 days to let me know what, if any, progress you are making on each recommendation. I look forward to hearing from you.

Thanks again for the time and courtesy extended to me during my visit. As always, if you have safety or loss control related questions, please do not hesitate to contact me.

Sincerely,



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Resources Left at Time of Visit:

- Accessible Parking
- ADA Compliance
- MN Accessibility Code Enforcement Fact Sheet
- ADA Checklist and Reference Sheet

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Recommendation Appendix

Below are areas involving ADA Accessibility we discussed and/or viewed during my visit to the City of Coleraine. The City should take a closer look at these areas, using the tools referenced in this letter, attached, and listed below, to identify deficiencies and to use as a guide for improvements.

General

1-10/18 Recommend development of process to enforce Minnesota Accessibility Code. The MN Department of Labor requires that cities that have not adopted the State Building Code, are still responsible for enforcement of the Minnesota Accessibility Code. This would be for private business open to the public, as well as other public buildings in your city. (See fact sheet left at time of visit)

2-10/18 Recommend discussion and development of a method to provide “program access” to those wanton library users with mobility disabilities. Some cities accomplish this by making a book mobile available or other method to avail this resource. In addition, a long-term plan should be developed as to how to makes the library accessible.

Pavilion Park

3-10/18 Recommend improvement to the accessibility to the various features located in Pavilion Park. As we discussed, this should include: designated ADA parking, access route, and barrier removal in route such as below uneven surfacing near the monument.



Consider an ADA parking spot and connecting access route to the existing pathway park



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4-10/18 Consider curb ramps in this area so the crosswalks can lead to the park access route which leads to park features such as the monument and the gazebo. In addition, the gazebo, built in 1991, show signs of the effects from being exposed to weather and should be evaluated for structural integrity, and perhaps the need for diagonal supports.



5-10/18 Consider improving access to the Old Log Church. This would include a drop-off spot at the top of the hill from the alley, where a person could be dropped off on an accessible surface/route that would lead to the existing ramp, minimizing the current barriers that exist. Also, the portable restroom should also be accessible. And lastly, the stairs and railing should be inspected to insure integrity since used as a photo setting.



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Beach Area

6-10/18 Consider accessibility improvements to the beach area including:

- Accessible Parking
- Accessible Portable Restroom



Future Playground Improvements

7-10/18 In the future, if new play equipment is installed, consider improvement to playground accessibility. Presently, sand or pea-rock is used in and around playground equipment, which is not considered accessible. In general, this can be accomplished by installing an access path to the playground, and accessible opening to playground surfacing, as well as accessible surfacing material such as wood chips (engineered wood fiber) or accessible access paths as illustrated below. See link on accessible playground surfacing options.

<https://www.access-board.gov/attachments/article/1666/play-surfaces.pdf>

Example of making a playground system accessible via rubber pathway, and concrete into EWF surface.



<https://www.access-board.gov/guidelines-and-standards/recreation-facilities/guides/play-areas/components-and-accessible-routes>

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