

Accessibility Study of Businesses With Main Street Addresses

Conducted in 2004-2007 to Coincide
With the Town of Andover's
Main Street Project



By
The Andover Commission on Disability

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SUMMARY

Architectural, communication, programmatic, and policy barriers prevent people from participating fully in society. People with all types of physical, sensory, cognitive and other disabilities must be ensured equal access to facilities, services and programs. They must not be discriminated against through structural barriers, unequal policies and practices, or inaccessible means of communication and dissemination of information. This study addresses architectural barriers to people living with disabilities.

The overall goal of this study was to achieve compliance with ADA regulations—to make public buildings accessible to, functional for, and safe for use by people living with disabilities. Specifically, to increase awareness of the Americans with Disabilities (ADA) Law as it impacts the Town of Andover; to advocate for improvements to comply with ADA Law: adjustments, adaptations, modifications, renovations to achieve proper access; to address the access needs of people living with disabilities; to evaluate the accessibility of Main Street’s public buildings; to educate property owners, business people and citizens on Main Street about standards of proper access, and to compliment the Main Street Project of the Town of Andover.

The focus of the study is on places of public accommodation. A place of public accommodation is a private establishment (for-profit or nonprofit) that fits one of twelve categories specified by the Department of Justice in the ADA regulations. Under Title III of the ADA, any private entity that owns, leases, leases to, or operates an existing public accommodation has four specific requirements: remove barriers to make their goods and services available to and usable by people with disabilities to the extent that needed changes can be accomplished without much difficulty or expense; provide auxiliary aids and services so that people with sensory or cognitive disabilities have access to effective means of communication; modify any policies, practices, or procedures that may be discriminatory or have a discriminatory effect, and ensure that there are no unnecessary eligibility criteria that tend to screen out or segregate individuals with disabilities or limit their full and equal enjoyment of the place of public accommodation.

Our target area was intended to fully compliment the parameters of the Main Street Project. We contacted 159 business owners whose addresses are on

Main Street from Wheeler Street north to Stevens Street, and it included all levels of the structure, as all are required to be accessible by law. We explained what the study was about and asked permission to visit their premises, take measurements, and ask relevant questions. Appointments were at the convenience of the business owners. The Study members used a standardized form that was created based on the MA Office on Disability Community Access Monitor Program, which in the Commission's opinion covers each Section of ADA Law as it applies to public accommodation. The findings of the site visits were reviewed and discussed by the three member committee with the group deciding if the site was in compliance or not. A letter was sent to each business owner with a copy to the property owner. If the business was 100% compliant, it was issued a decal to be placed in its store window stating the Commission on Disability has approved the facility as meeting all the standards of the ADA Law. This serves as a "disability-friendly" hallmark to residents and visitors to Andover.

The results of the study are shocking. Of the 159 businesses visited, only 46 or 29% of the businesses were 100% in compliance with the American with Disability Law. The Town of Andover and the Commission have worked together to make all town owned buildings comply with ADA Law, but some business and property owners have yet to address ADA issues. 36 businesses or 23% would need minor adjustments to meet full compliance of the ADA Law. 77 businesses or 48% need major renovation to meet compliance with the ADA Law.

The Commission is strongly advocating that businesses and property owners review the study letter they received and begin making the necessary improvements to have their physical location accessible to people with disabilities. Work should begin now so when the new sidewalks are completed all people will be able to engage in downtown business and enter and navigate Main Street establishments without difficulty. More than compliance with federal law, it is a welcoming atmosphere for residents and visitors alike.

GOALS OF THE STUDY

The goals of this study were

1. To increase awareness of the Americans with Disabilities (ADA) Law as it impacts the town of Andover.
2. To advocate for improvements to comply with ADA Law: adjustments, adaptations, modifications, renovations to achieve proper access.
3. To address the access needs of people living with disabilities.
4. To evaluate the accessibility of Main Street's public buildings.
5. To educate property owners and business people on Main Street about standards of proper access.
6. To compliment the Main Street Project of the Town of Andover.

The overall goal of this study was to achieve compliance with ADA regulations – to make public buildings accessible to, functional for, and safe for use by people living with physical disabilities.

RATIONALE

Architectural, communication, programmatic, and policy barriers prevent people from participating fully in society. Currently, people with disabilities cannot assume they can use common public places, such as stores, banks, offices, restaurants, restrooms, or participate in ordinary activities, such as working, getting an education, visiting friends, and attending community events.

People with all types of physical, sensory, cognitive and other disabilities must be ensured equal access to facilities, services, and programs. People with disabilities must not be discriminated against through structural

barriers, unequal policies and practices, or inaccessible means of communication and dissemination of information.

This study addresses architectural barriers to people living with disabilities. The focus of the study is places of public accommodation.

A place of public accommodation is a private establishment (for-profit or nonprofit) that fits one of twelve categories specified by the Department of Justice in the ADA regulations. A complete list of the twelve categories and examples of each are listed in *Attachment 1*. Under Title III of the ADA, any private entity that owns, leases, leases to, or operates an existing public accommodation has four specific requirements:

1. Remove barriers to make their goods and services available to and usable by people with disabilities, to the extent that it is readily achievable to do so; in other words, to the extent that needed changes can be accomplished without much difficulty or expense.
2. Provide auxiliary aids and services so that people with sensory or cognitive disabilities have access to effective means of communication, unless doing so would fundamentally alter the operation or result in undue burdens.
3. Modify any policies, practices, or procedures that may be discriminatory or have a discriminatory effect, unless doing so would fundamentally alter the nature of the goods, services, facilities, or accommodations.
4. Ensure that there are no unnecessary eligibility criteria that screen out or segregate individuals with disabilities or limit their full and equal enjoyment of the place of public accommodation.

Title III requirements for existing facilities and alterations became effective on January 26, 1992.

ACOD MISSION / BACKGROUND

The mission of the Andover Commission on Disability (ACOD) is to serve in an advisory capacity to town officials about the issues and needs of residents and their families living with disability. Since our inception in 1995, we have advocated for

compliance with federal law, the Americans with Disabilities Act (ADA), and state law, the Architectural Access Board (AAB) to promote the provision of access.

As early as 1999, a photographic study was initiated of the street level businesses on Main Street in response to contacts made by individuals regarding the inability to enter certain public facilities. This study included photos of sidewalks and curb cuts as well as building entrances.

Starting in 1999, members of the Commission on Disability, with town employees, inspected all public buildings owned by the Town to see if they complied with ADA. Recommendations were made when necessary and the Town responded with complete corrections. The Commission also reviewed the plans for the Public Safety Center prior to construction, made specific recommendations, and inspected the facility when completed. We are very pleased to say that all Town public buildings are in 100% compliance with ADA regulations.

In 2002, the Commission purchased and donated handicap voting booths for each precinct for use at every election held in Andover. Also in 2002, a general information mailing was made to businesses on Main Street with enclosures about the Americans with Disabilities Act regulations.

In fall of 2003, The Commission worked with the owners and architects of the Chateau Restaurant in making their establishment 100% compliant with ADA Law. Upon completion of construction, the Commission awarded the owners a commemorative plaque in recognition of being 100% in compliance with ADA, a role model for restaurants.

In 2004, the disability commission sent a letter to all Andover businesses on the street level on Main Street with educational materials about compliance with federal and state regulations on access. Our services were offered regarding the interpretation of these regulations and their application to specific sites. This mailing was in anticipation of the Main Street Project being approved.

In 2005, with the award of state funding to the town of Andover for improvements to Main Street, it was seen to be the perfect time to compile our research to compliment such an effort. With reconfiguration of street parking, design of sidewalks and curb cuts, planting of trees, placement of new lighting, benches and waste receptacles, it is only logical that entrances be made accommodating and passageways allow for navigation by people using power wheelchairs. This study was completed in the summer of 2007

METHODOLOGY

Target Area

The target area of the study was intended to fully compliment the parameters of the Main Street Project. The study group included all businesses with a Main Street address from Morton Street in the south to Stevens Street in the north. It included all levels of the structure as all are required to be accessible by law. In the scope of this study, 159 business owners were contacted as well as the corresponding 27 property owners.

Accessibility

For purposes of the study ACCESSIBILITY was defined as “compliance” with the laws and regulations of the Americans with Disabilities Act of 1990. The Massachusetts Architectural Advisory Board Rules and Regulations of 2006 closely parallel the federal legislation. Please refer to *Attachment 2*.

Site Reviews

A standardized form (see *Attachment 3*) was created based on the MA Office on Disability Community Access Monitor Program, which covers each Section of ADA law as it applies to public accommodation. Each business owner was contacted by phone to explain the study and request permission for members of the study group to visit their premises, take measurements, and ask relevant questions. Sites were visited by appointment at the convenience of the business owners. Site review forms were completed on each in a checklist format. If the business provided a parking lot, this was also evaluated by standardized criteria for compliance to federal and state regulations. If the business was a food establishment, handicap restrooms are required, therefore, these were also evaluated. Elevators, lobbies, and proper signage were also evaluated. The findings of the site reviews were discussed by the committee of three with the group deciding if the site was in compliance or what was to be recommended.

Communication

A formal letter was then addressed to the business owner with our observations and recommendations. A copy of the letter to each business owner was sent to the property owner since the removal of structural obstacles is a shared responsibility between the two. An IRS brochure was enclosed describing the possible tax advantages of adapting facilities for the disabled. If a business space was in 100 percent compliance with ADA regulations, they were sent a congratulatory letter and awarded a decal (see *Attachment 4*) for their entrance stating that the Commission on Disability has approved the facility as meeting all the standards of the Americans with Disabilities Act. This serves as a “disability-friendly” hallmark to residents and visitors to the town.

If the business was not in compliance, these letters denoted each point of the business site’s non-compliance with reference to the section of the law that applies. Information about remediation devices such as for errant thresholds was also shared. Excellent advances were made due to the knowledge shared. For example, the brick sidewalk on Post Office Avenue was reconstructed for safe passage, accommodating all the businesses in the Musgrove Building. The sub-committee also reviewed the blueprints and design plans for Butler Bank when it was under construction. It was then inspected and awarded the Commission’s decal.

We offer our commendations and deep appreciation to those business and property owners who, together, offer places of business that are in total compliance with ADA regulations. (*Attachment 5*)

STUDY FINDINGS

A total of 159 Main Street businesses were given a site evaluation using standardized criteria. Specifically, these businesses were evaluated regarding compliance with the regulations of the Americans with Disabilities Act of 1990. (The provisions are in total agreement with the 1988 regulations of the Massachusetts Architectural Access Board.)

46 businesses or 29 percent of the study group are in full compliance with federal and state regulations.

36 businesses or 23 percent of the study group are not in full compliance with federal and state regulations but would require only minimal adaptations to meet compliance.¹

77 businesses or 48 percent would require major renovations to meet compliance with regulations.²

¹Of the 36 businesses needing only minimal adaptations to become accessible, 20 need only a change of door handles; 6 need minor adaptations of the actual thresholds (not ramps); 2 need both a change of door handles and threshold adaptations.

²Of the 77 businesses needing major renovations to become accessible, 61 would require either an elevator or ramp, 6 have entrances that are not accessible, one requires that restrooms be made accessible.

Please refer to *Attachments 6, 7, and 8*.

Six additional places of business were included in the list for site reviews but were eliminated from the study because a) 3 locations were considered private work space and not a place of business open to the public, b) 3 locations were engaged in judicial procedures before the state architectural access board.

STUDY RECOMMENDATIONS

When our sidewalks are redesigned with curb cuts to enable all people to engage in downtown business, we want them to be able to enter and navigate Main Street establishments without difficulty. More than compliance with federal law, it is a welcoming atmosphere for residents and visitors alike. Considered a “model town” by other agencies and studies, Andover should also be a model of accessibility for its citizens who live with a physical disability.

Recommendation # 1

Recommendations for minimal adaptations made in the Commission’s letters to the business and property owners should be completed within the timeline of the Main Street Project.

We have surveyed Main Street businesses and are strongly advocating that businesses make the necessary improvements to have their physical location accessible to people with disabilities. Work should begin now to eliminate any barriers to their entrances (from the renovated sidewalks) and any internal access obstacles impeding navigation throughout their places of business.

Recommendation # 2

Major renovations should allocate twenty percent of the renovation cost to ADA compliance. (ADA ACT of 1990, Book 28 CFR, Title III, Public Accommodations and Commercial Facilities)

As delineated by the Americans with Disabilities Act of 1990, we are advocating that when major renovations are undertaken, it is essential and, in fact, a point of law, that there be 20% of renovation cost committed to achieving ADA compliance. Any renovations (“alterations”) that affect the usability of areas covered by the ADA begun after January 26, 1992 must comply with ADA Accessibility Guidelines. The focus for compliance with ADA during renovations is: HP parking, access route to the entrance, accessible entrance, inside accessibility.

Recommendation # 3

Recommended Transition Plan

At present, Main Street properties are in **29%** compliance with the Americans with Disabilities Act of 1990. We challenge the Main Street business and property owners to bring that total to **40%** compliance by the completion of the Main Street Project. We further challenge the business and property owners to reach the goal of **50%** compliance within twelve months of the completion of the Main Street Project. The Town of Andover, its property owners and business owners, must commit to a continuous improvement process for ADA compliance.

ATTACHMENTS

1 American with Disability Act Title III Public accommodation twelve categories specified by the Department of Justice.

2 The Massachusetts Architectural Advisory Board Rules and Regulations of 2006 and American with Disability Act Comparisons

3 Data Collection Survey Form (sample)

4 Decal for business entrance stating that the Commission on Disability has approved the facility

5 List of Businesses awarded Decals

6 Statistical Summary

7 Graph of Problems Found

8 Photo's (not included):

For specific photo's please contact:

The Andover Commission on Disability

FACT SHEET 1

Who has Obligations Under Title III?

Type of Establishment	Examples (list is not exhaustive)
1. Place of lodging	Hotel, inn, motel (except if less than six room and the residence of the owner)
2. Establishment serving food or drink	Restaurant, bar
3. Place of exhibition or entertainment	Theater, cinema, concert hall, stadium
4. Place of public gathering	Auditorium, convention center, lecture hall
5. Sales or rental establishment	Bakery, grocery store, clothing store, shopping mall, video rental store
6. Service establishment	Bank, lawyer's office, gas station, funeral parlor, laundromat, dry cleaner, barber shop, beauty shop, insurance office, hospital, travel service, pharmacy, office of health care provider
7. Station used for specified public transportation	Depot, bus station, terminal
8. Place for public display or collection	Museum, library, gallery
9. Place of recreation	Park, zoo, amusement park
10. Place of education	Preschool, nursery, elementary, secondary, undergraduate or post-graduate private school
11. Social service establishment	Shelter, hospital, day care center, independent living center, food bank, senior citizen center, adoption agency
12. Place of exercise and recreation	Gymnasium, health club, bowling alley, golf course

Attachment 2

AAB to ADA Comparisons

(ADA)	Architectural Access Board Law (AAB)	Americans with Disabilities Act
Jurisdiction	Massachusetts State Law	Federal Civil Rights Law (Businesses fall under Title III of ADA)
Key Characteristic	Waiver Possible	No waivers
Stronger in these areas	Enforcement by Local Government	No waivers, horizon of multiple years
Effective Date	First signed 1968 Gov't Buildings only 1975 Private Buildings	ADA July 26, 1990 Title III Effective: July 1992
Revisions	1996, 2002, 2006	
Orientation	New Construction Totally Accessible. Regulations based on date built	New Construction Totally Accessible. 20% of renovation \$ should be allocated to ADA compliance
Key Trigger	% Value of Buildings + \$100, 000 in renovations	Advocacy Department of Justice (DOJ) Complaint
Enforcement	Local Building Dept, AAB Compliant	Advocacy DOJ Complaint
Process Stopper	No Occupancy Permit	Possible DOJ action
Fines for non-compliance	Up to \$1000. per day	Up to \$50,000 - \$100,000
Key Metrics	Total enforcement by State Law, State: Architectural Access Board (AAB), Local: Town Building Division	Focus is on 4 parts: 1) HP Parking 2) Access Route to entrance 3) Accessible entrance 4) Inside Accessible
Federal Tax Credits		IRS 535 form 8826 Disabled access credit to eligible small business owners

**SITE REVIEW CRITERIA FOR MAIN STREET PROJECT
LOCATIONS**

1. No steps to enter
OK _____ PROBLEM: _____

2. Stable surface leading to door (36 inches wide minimum)
OK _____ PROBLEM: _____

3. If ramp or grade, slope must increment at 12/1 – for every 12 inches, 1 inch in height
 - 36 inches wide minimum
N/A _____ OK _____ PROBLEM: _____
 - railing 34 to 38 inches high on both sides if ramp is longer than 6 feet
N/A _____ OK _____ PROBLEM: _____
 - non-slip surface
N/A _____ OK _____ PROBLEM: _____
 - 5 foot landing at top and bottom and for every 30 feet length of ramp
N/A _____ OK _____ PROBLEM: _____

4.
 - Route of travel stable, firm, slip resistant
OK _____ PROBLEM: _____
 - Objects protruding in path are shorter than 27 inches from ground or higher than 80 inches
OK _____ PROBLEM: _____
 - Accessible routes to all public spaces at least 36 inches wide
OK _____ PROBLEM: _____

5. Door
 - Signage indicating handicap entrance is a separate entry
N/A _____ YES _____ NO _____
 - Center line of business signage at separate entry is mounted 60 inches from the floor
N/A _____ YES _____ NO _____
 - Business signage at separate entry is mounted on wall adjacent to latch side of door
N/A _____ YES _____ NO _____
 - 18 inches of clear wall space on pull side of door next to handle so that door can clear chair
YES _____ NO _____
 - Lever or loop door handle, operable by closed fist
YES _____ NO _____
 - Handle no more than 48 inches high
YES _____ NO _____

...continued... Restaurants, elevators, rest rooms...refer to criteria supplements

**ANDOVER COMMISSION ON DISABILITY
COMMENDATION DECAL FOR ENTRANCES**



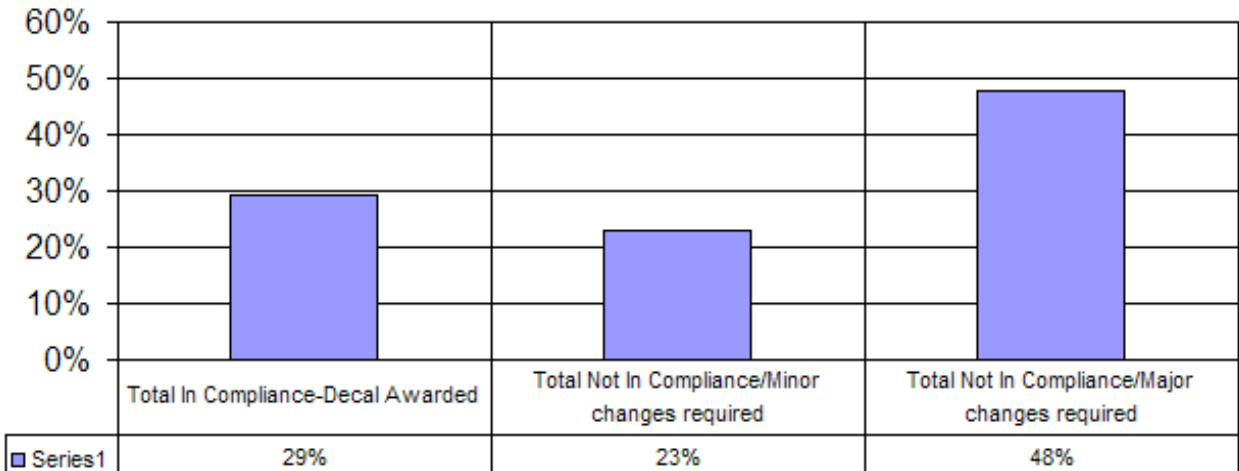
Attachment 5

Decals Awarded

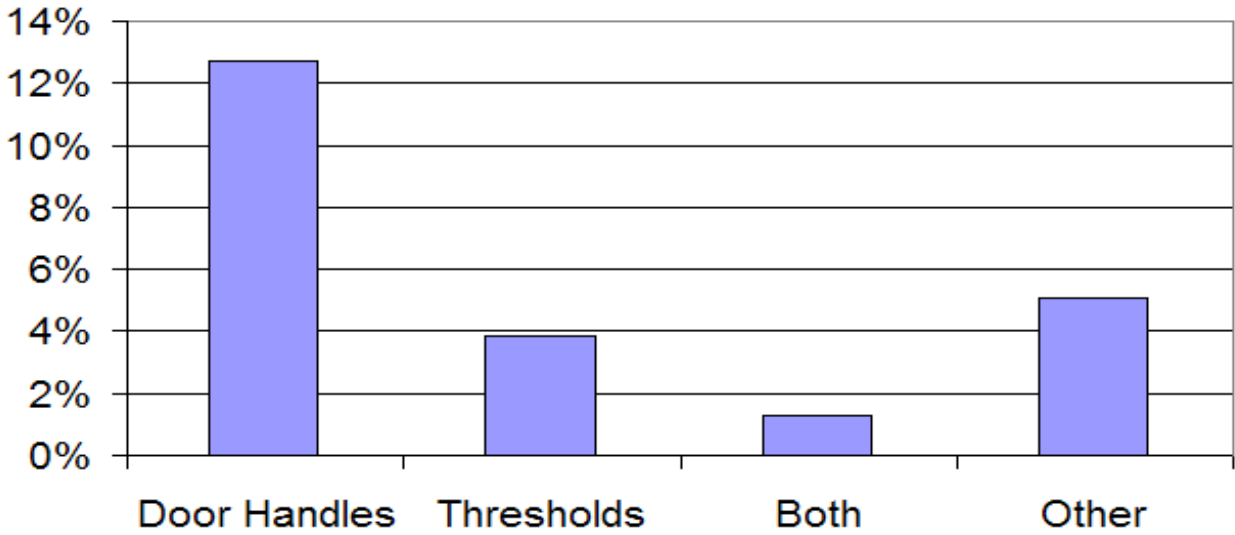
Alper's Fine Art
Andover Barber Shop
ArchiText, Inc.
Athlete's Corner
Barnard Building Lobby
Bertucci's
Bruegger's
Butler Bank
Children's Neuropsychological
Christina's Bridal
Daher's Shoes
Dalton, Baron & Associates
Dino Furs
Douglas S. Browell, DMD
Dr. Charles F. McQuade, DMD
Dr. Daniel R. Morocco, MD
Drew Mortgage
Dunkin Donuts
Fraser Law Office, LLP
Fred Church Insurance
H & R Block
House of Clean
In the Pink
Irresistibles
James & James, Esq
Jankowski Insurance Agency
John M. Hurchik, DPM
John R. Valerio, Esq.
Josef & Michael Gendlerman, MD
KaBloom
Krasnool & Klehm LLP
Michael B. Feinman, Esq.
Mobil Station
Native Sun
Quiet Pleasures
Regina Gifts
Robert Jason Salon
Star Nails Beauty Salon
Starbuck's
Stride Rite
TD BankNorth
Town of Andover Safety Center
U.S. Postal Services
Ultimate Perk
William Roberts Salon
Wine Sense

Summary as of September, 2007			
Main Street from Stevens Street to Wheeler Street			
Total On-site Surveys Completed		159	
Total In Compliance-Decal Awarded		46	29%
Total Not In Compliance/Recommendations Offered	Minor	36	23%
	Corrections		
Needs only a change of door handles		20	
Needs minor adaptation of thresholds (not ramps)		6	
Both		2	
Other		8	
Total Not In Compliance/Recommendations Offered	Major	77	48%
	Corrections		
Upper floors need elevator/ramp		61	
Needs accessible restrooms		1	
Entrance way not accessible		6	
Other		9	

Summary Data



Minor Corrections Issues



Needs only a change of door handles	20	13%
Needs minor adaptation of thresholds (not ramps)	6	4%
Both	2	1%
Other	8	5%
Total Not In Compliance/Minor changes required	36	23%

BIBLIOGRAPHY

Americans with Disabilities Act of 1990

**Massachusetts Architectural Access Board Rules and Regulations
Of 2006**

**Massachusetts Office on Disability's Community Access Monitor
Program**

National Institute on Disability and Rehabilitation Research

**Adaptive Environments Center under contract to Barrier Free
Environments**

IRS Publication 3966, revised 7-2005, catalog # 33430K

The Access sub-committee of the Andover Commission on Disability conducted this study:

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This document is presented to the Town of Andover. Should there be any questions or concerns about its contents, the authors of this study would be willing to respond. Contact Justin J. Coppola, Sr., Chairman of the Andover Commission on Disability. (coppolaj@comcast.net)

September, 2007