

**MEMORANDUM**

To: GAC Members  
From: John Nunnari, Executive Director  
Date: 06/19/2024  
Re: Summary of GAC Conversation with MAAB ED William Joyce

On Wednesday, March 13, 2024, the AIA Massachusetts Government Affairs Committee (GAC) hosted William Joyce, the Executive Director of the Massachusetts Architectural Access Board (MAAB). The MAAB is responsible for issuing regulations, known as the 521 CMR, which ensure that public buildings and facilities are accessible, functional, and safe for people with disabilities. If compliance with the Board's regulations appears impracticable, the MAAB also hears requests for variances. Below is a summary of the overview of the roles and responsibilities of the MAAB, the variance/appeals process, the work of its Subcommittee on Regulations to update the 521 CMR, and questions posed to Director Joyce and his responses.

**ED Overview:**

Director Joyce noted that the MAAB was established in 1967 to ensure accessibility and safety in buildings for persons with disabilities. The MAAB reviews applications and conducts adjudicatory hearings every other Monday. The MAAB comprises nine members, including gubernatorial appointees and representatives from relevant state offices. Director Joyce outlined variance and compliance procedures along with options for appeals and reconsideration. The MAAB aims for collaboration and compliance rather than punishment, though they can enforce fines and other measures if necessary. A Subcommittee (the Subcommittee on Regulations) is working on a comprehensive update to 521 CMR, aligning with federal regulations where possible. The Subcommittee meetings are held monthly to discuss housing provisions and other topics. Director Joyce emphasized the board's commitment to accessibility and encouraged proactive engagement from the public.

**Questions and Discussion**

The MAAB employs a 30% threshold rule (3.3.1 & 3.3.2) for accessibility standards for building renovations. The rule states that if renovation costs are under \$100,000 and less than 30% of the building's value, only the renovated areas need to comply with accessibility standards. The entire building must comply if costs exceed 30% of the building's value. We have two questions: First, the \$100,000 threshold was set in 1996, when construction costs were roughly half of what they are now. Has MAAB considered adjusting the thresholds to account for construction inflation? Second, recognizing the disparities in building assessment values across different areas of the state, does MAAB intend to address the 30% rule's impact on investment in areas with lower property values?

**Response:**

Regarding the \$100,000 threshold, Director Joyce noted that the MAAB views it as a baseline for ensuring basic accessibility features like entrances and toilets. While the MAAB is open to adjusting this threshold based on evidence-supported comments, Director Joyce emphasized that the rule has little ongoing impact once triggered since initial renovations usually achieve compliance. Regarding the 30% rule, the MAAB has not found viable alternatives despite considering suggestions like regional value distinctions or complex assessment structures. They believe relying on building assessments is appropriate, suggesting that assessment issues should be addressed with the Division of Revenue rather than the board. The 30% rule provides clarity and avoids unnecessary litigation, making it preferable as a bright-line rule. The MAAB is open to alternatives if they're workable and don't create confusion or require excessive resources, but so far, alternatives haven't met these criteria.

Relating to the threshold values, was there a specific rationale or reasoning behind choosing this threshold then, or was it deemed appropriate without further justification? Any background information or context could help in understanding its relevance today and inform discussions about adjustments based on construction cost inflation since 1996.

**Response:**

Director Joyce noted that while some details are lost to history, the threshold appears to have set a clear line for when a project is significant enough to warrant basic accessibility requirements like entrances and toilets. The MAAB relies on feedback from the public to identify areas needing adjustment, as demonstrated by recent updates to square footage values for public housing based on received comments.

Relating to the second question: Property values vary widely in localities across the state and nonprofit and public buildings are often severely under assessed since they do not affect property tax payments. Noting nonprofits' particular challenge in complying with the 30% rule, would the MAAB be open to allowing nonprofits to use insured replacement costs instead of assessed values?

**Response**

Regarding nonprofit organizations and updating property assessments by town assessors, Director Joyce emphasized the responsibility of assessors to keep assessments current and suggested addressing the issue with them, if necessary. He mentioned the challenge of obtaining accurate information on property values for nonprofits, contrasting it with the readily available public assessments, and expressed interest in exploring solutions, particularly if a database similar to CAMUS (used for state-controlled buildings) existed for nonprofits. In response, it was suggested that AIA MA gather data to compare the assessors' reported new construction costs per square foot with the actual costs, indicating that the former may be significantly lower than the latter, and provide this data to the MAAB for consideration.

What would the MAAB think about providing informal project reviews before submission?

**Response**

Director Joyce discussed the MAAB staff workload and recent staffing changes, mentioning the challenges they faced when short-staffed. He expressed relief at having a new team member, Molly, who will help alleviate their workload but emphasized that the staff's focus will still primarily be on handling complaints. Due to limited resources and manpower, staff cannot accommodate general plan reviews. Director Joyce mentioned dealing with numerous parking-related complaints and urged project developers to ensure compliance with parking regulations, as minor issues can lead to complaints, and emphasized the importance of thorough checks on parking details, as even minor discrepancies can lead to complaints. This prompted a GAC member to suggest making complaint information publicly accessible for better awareness among professionals and the public.

Regarding the work of the Subcommittee on Regulations, what is the anticipated timeline for releasing a draft of updates for public comment? When might the MAAB officially promulgate new regulations?

**Response**

Director Joyce noted that the Subcommittee on Regulations meetings are held monthly and open to the public, with agendas and notices posted on the website. The hope is to have a draft ready for MAAB review and submission into the Healey Administration review process by the end of the year. The Subcommittee is currently focusing on harmonization efforts (ADAAG and ADA's) with upcoming discussions on scoping and addressing areas needing regulatory attention. New areas, such as rules for electric vehicle charging stations and clarifying rules for

trails (FSTAG – Forest Service Trail Accessibility Guidelines), are being considered based on past comments.

The 30% threshold includes the cost of work that doesn't directly impact accessibility, such as fire safety upgrades, energy conservation measures, and decarbonization efforts. This work itself can trigger full compliance requirements. This is of particular concern with apartments and residence halls in public and private buildings across the Commonwealth. Previously, the MAAB excluded certain types of work from the threshold calculation but this is no longer the case. Has the MAAB ever held discussions regarding work that doesn't directly impact accessibility, and are there any considerations for revising the current approach?

### **Response**

Director Joyce emphasized that MAAB does not exempt certain types of work from the 30% threshold calculation, dating back to the 1987 regulations. The purpose of the 30% rule is to ensure that when a significant amount of money is invested in a building, it should be fully accessible to individuals with disabilities, aligning with the legislative goals set by the ADA. The MAAB's stance is to uphold this principle without exempting certain types of work, as it believes that any significant investment warrants full accessibility. While there may be a misconception about exempting specific work, the MAAB would consider changing its approach if a compelling rationale is presented through the comment process. The \$100,000 rule establishes a minimum project size, ensuring even smaller projects provide basic accessibility. Mr. Joyce encouraged individuals to submit comments if they have differing perspectives or suggestions.

Massachusetts's population is aging, with one in five individuals expected to be over the age of 65 soon. How will this demographic influence the MAAB's considerations regarding regulations related to mobility, strength, vision, and other factors associated with aging populations?

### **Response**

Director Joyce acknowledged this and emphasized the importance of considering regulations that address mobility, strength, vision, and other factors associated with aging. MAAB is particularly focused on increasing requirements for automatic doors to ensure accessibility, clarifying rules on multi-story dwelling units, and improving visibility. The goal is to make regulations equitable and effective, especially considering the increasing number of people relying on accessibility features in the future. Director Joyce noted that the MAAB intends regulations to remain relevant and enforceable as the population ages.

Accessibility standards, particularly ANSI A117.1, undergoes modifications or updates every decade or less. What are the MAAB's plans for maintaining and updating accessibility standards beyond the current initiative?

### **Response:**

Director Joyce acknowledged the importance of ongoing maintenance and updates to accessibility standards beyond the current initiative. He noted the potential to establish the Subcommittee on Regulations as a permanent standing subcommittee, meeting at least once or twice a year. The gap between updates in access codes, such as ANSI, ADAAG, and ADA, historically averages 15 to 20 years. Political considerations and legislative constraints have delayed the update process for 521 CMR here in Massachusetts. However, Director Joyce expressed hope that pending legislation will address statutory discrepancies and enable the board to align more closely with federal standards – meaning, having the 521 deemed Substantial Equivalency by Department of Justice would create a strong presumption of compliance with the Americans with Disabilities Act (ADA) in the event of a federal lawsuit – and emphasized the goal of modernizing processes to facilitate more frequent updates in the

future, with the ultimate aim of ensuring accessibility standards remain relevant and effective over time.

Has the Subcommittee on Regulations already reviewed and modified 521 CMR 3.00? Is the Subcommittee's open to revisiting 521 CMR 3.00 based on proposals or information provided by stakeholders?

**Response:**

Director Joyce noted that the Subcommittee on Regulations still needs to address 521 CMR 3.00 of the code, but it is next on their agenda after housing. The Subcommittee is considering adopting a separate scoping section similar to ADAAG's structure. While the Subcommittee welcomes comments and proposals, they have decided against adopting front-end amendments from IBC and ANSI due to concerns about complexity, especially for laypeople. Instead, they aim to prioritize clarity and accessibility in their code-writing process.

If a variance is denied or a conditional variance is granted, must the applicant submit documents to the MAAB showing that the work is complete?

**Response:**

Director Joyce responded that, in most cases, architects must only submit documents directly to the MAAB if specifically instructed. Frontline enforcement is typically handled by building officials. However, architects may receive an enforcement letter if someone reports non-compliance with MAAB conditions. Building officials are expected to withhold permits if plans do not conform to MAAB regulations.

Development of smart levels and other tools have impacted accessibility compliance assessment on construction projects. Strict enforcement of compliance standards have led to disputes and acrimony on construction sites, especially when minor deviations are detected. Has MAAB discussed ways to address this issue in upcoming changes to regulations? If not, would MAAB be open to suggestions or examples of enforcement problems?

**Response:**

Director Joyce outlined the rationale behind the current measurement standards used in regulations, emphasizing the importance of considering usability for individuals with disabilities. The two-foot increment measurement was chosen to account for the significant impact of even minor deviations on accessibility. Designers and contractors are advised to build tolerance margins to accommodate construction imperfections and to avoid strict adherence to the exact limits specified in the regulations. While MAAB is open to feedback and potential changes based on substantial evidence and common issues observed, the complexity and variability of sidewalk construction may not warrant blanket regulatory changes. MAAB will address consistent issues seen in variance applications but must balance fact-dependent situations with generally applicable rules to ensure usability and practicality in the built environment.

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