Design for Life: Community Policies and Planning

- Overview of Federal Laws which address access to facilities
- Universal Design and Principles
- Comparison of Accessibility – Accessibility Laws vs Universal Design
- Universal Design for Municipalities
Federal Laws Addressing Physical Access to Community Facilities

Federally-funded Programs and Facilities
- The Architectural Barriers Act (ABA) 1968
- Section 504 of the Rehabilitation Act of 1973

Publically-funded facilities
- The Americans with Disabilities Act of 1990 Title II
  ◦ Olmstead vs L.C. 1999

All Facilities
- The Fair Housing Amendments Act of 1988
- The Americans with Disabilities Act of 1990 Title III
  ◦ Olmstead vs L.C. 1999

Federal Laws Addressing Physical Access to Community Facilities
Section 504 of the Rehabilitation Act of 1973 states that “No qualified individual with a disability shall be excluded from, denied the benefits of, or be subjected to discrimination under” any program or activity receiving federal financial assistance.

Administration and enforcement is through the U.S. Architectural and Transportation Barriers Compliance Board or “The Access Board”
The Americans With Disabilities Act (ADA) prohibits discrimination on the basis of disability in:

- Employment (Title I)
- State and local government, including transportation services (Title II)
- Public accommodations and commercial facilities (Title III)
- Telecommunications (Title IV).

**The Americans with Disabilities Act of 1988**
• Covers all activities of State and local governments (public entities) regardless of the entity's size or receipt of Federal funding.

• Public Entities must provide people with disabilities an equal opportunity to benefit from all of the State’s or Municipality’s programs, services, and activities including public education, employment, transportation, recreation, health care, social services, courts, voting, and town meetings.

• Enforcement is through the Department of Justice and the Department of Transportation.
Public Entities Must:

- Follow specific architectural standards in the new construction and alteration of public buildings.
- Relocate programs or otherwise provide access in inaccessible older buildings.
Public Entities Must:

- Communicate effectively with people who have hearing, vision, or speech disabilities.

- Make reasonable modifications to policies, practices, and procedures where necessary to avoid discrimination, unless they can demonstrate that doing so would fundamentally alter the nature of the service, program, or activity being provided.

ADA Title II: Public Entity Responsibilities
Public Entities Must:

- Comply with requirements for accessibility in newly purchased vehicles.
- Make good faith efforts to purchase or lease accessible used buses or remanufacture buses in an accessible manner.
- Provide paratransit where they operate fixed-route bus or rail systems unless creates an undue burden.
The Americans with Disabilities Act of 1988

Olmstead vs L.C. 1999 - Background

- Implementing regulations for Title II of the ADA require public entities to “administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.”

- The Supreme Court’s decision in Olmstead v. L.C., 527 U.S. 581 (1999) held that Title II prohibits the unjustified segregation of individuals with disabilities and reinforces the ADA’s Title II integration mandate.

- In 2009 President Obama launched “The Year of Community Living” and directed federal agencies to vigorously enforce the civil rights of Americans with disabilities.

- Highlights the need for more affordable accessible housing in the community for people to live independently.

The Americans with Disabilities Act of 1988
A public entity may violate the ADA’s integration mandate when it:

- Directly or indirectly operates facilities and or/programs that segregate individuals with disabilities.
- Finances the segregation of individuals with disabilities in private facilities.
- Through its planning, service system design, funding choices, or service implementation practices, promotes or relies upon the segregation of individuals with disabilities in private facilities or programs.
• Covers businesses and nonprofit service providers that are public accommodations, privately operated entities offering certain types of courses and examinations, privately operated transportation, and commercial facilities.

• Public accommodations are private entities who own, lease, lease to, or operate facilities such as restaurants, retail stores, hotels, movie theaters, private schools, convention centers, doctors’ offices, homeless shelters, transportation depots, zoos, funeral homes, day care centers, and recreation facilities including sports stadiums, fitness clubs and private transportation providers.

• Enforcement is through the Department of Justice.
ADA Title III:
Responsibilities of Private Entities

Private Entities Must:

- Comply with basic nondiscrimination requirements that prohibit exclusion, segregation, and unequal treatment.
- Comply with specific requirements related to architectural standards for new and altered buildings.
- Remove barriers in existing buildings where reasonable to do so.
- Provide reasonable modifications to policies, practices, and procedures.
- Provide effective communication with people with hearing, vision, or speech disabilities.

ADA Title III: Responsibilities of Private Entities
• Prohibits housing discrimination on the basis of race, color, religion, sex, disability, familial status and national origin.

• Coverage includes private housing as well as publicly-funded and sponsored housing.

• Requires reasonable accommodations be made by landlords and reasonable modifications be allowed to be made by tenants.

• Administered and enforced through the HUD (Housing and Urban Development)

Fair Housing Act as Amended in 1988
Other covered activities include, for example, financing, zoning practices, new construction design, and advertising.

Requires owners of housing facilities to make reasonable exceptions in their policies and operations to afford people with disabilities equal housing opportunities.
Covered Multi-family Dwellings:

- All dwelling units in buildings containing four or more units, with an elevator.
- All ground floor units in buildings containing four or more units, without an elevator.
What is not Covered:

- Single-family residences.
- Duplexes and tri-plexes.
- Multi-story townhouses.
- Conversions or rehabilitations of any building originally built prior to 1991.
• The United States Access Board is charged with the promulgation of guidelines and standards for the built environment, transportation systems, information and communication technologies, and medical diagnostic equipment.

  ◦ ADA Accessibility Guidelines for Buildings and Facilities
  ◦ ADA Accessibility Guidelines for Transportation Vehicles
  ◦ Architectural Barriers Act (ABA) Accessibility Guidelines
  ◦ Electronic and Information Technology Accessibility Standards
  ◦ Telecommunications Act Accessibility Guidelines
  ◦ Medical Diagnostic Equipment Accessibility Standards
  ◦ And the breathlessly awaited, 13 years and counting ..............
    The Public Rights of Way Accessibility Guidelines (PROWAG).
Final guidelines and standards issued by the Access Board include:

- August 4, 1982 - Minimum Guidelines and Requirements for Accessible Design (the basis for the Uniform Federal Accessibility Standards)
- July 26, 1991 – ADA Accessibility Guidelines (ADAAG) for Buildings and Facilities
- September 6, 1991 – ADA Accessibility Guidelines (ADAAG) for Transportation Facilities
- September 6, 1991 – ADA Accessibility Guidelines (ADAAG) for Transportation Vehicles
- January 13, 1998 – ADAAG Supplement for Building Elements Designed for Children’s Use
- February 3, 1998 – Telecommunications Act Accessibility Guidelines
- September 28, 1998 - Over-the-Road Buses
- October 18, 2000 – ADAAG Supplement for Play Areas
- December 21, 2000 – Section 508 Electronic and Information Technology Accessibility Standards
- September 3, 2002 – ADAAG Supplement for Recreation Facilities
- July 23, 2004 – Updated ADA and ABA Accessibility Guidelines
- September 26, 2013 - Supplement to the ABA Accessibility Guidelines for Federal Outdoor Developed Areas
- May 7, 2014 - Supplement to the ADA and ABA Accessibility Guidelines for Emergency Transportable Housing

Accessibility Standards – ADA/ABA
U.S. Department of Housing And Urban Development is charged with the enforcement, administration, development, and public understanding of federal fair housing policies and laws.

- The Fair Housing Act Design Guidelines (FHAAG) for Accessible/Adaptable Dwellings.

- The Fair Housing Act Design Manual
Part 2: Universal Design and Accessibility Laws – what’s the difference?
Universal Design or inclusive design involves designing environments, products and spaces so that they are usable to the greatest extent possible by the widest range of people possible.
The term "universal design" was coined by the Architect, Ronald L. Mace who promulgated the 7 principles that are commonly used to describe Universal Design:

1. Equitable Use
2. Flexibility in Use
3. Simple and Intuitive
4. Perceptible Information
5. Tolerance for Error
6. Low Physical Effort
7. Size and Space for Approach and Use
Accessibility Standards restrict requirements for access to a percentage of the total (in housing):

- Through the ADA/ABA Accessibility Guidelines the total is typically 5%.

- Through the International Building Code the total is between 2% and 5%.

- Fair Housing uses exceptions to compliance to reduce the requirements for access.
  - Multi-story townhomes are exempt.
  - Upper levels of multi-story buildings without elevators.
  - Buildings with less than 4 dwelling units under one roof.
  - Formulas for site impracticality.
Universal Design in its broadest sense is a set of design principles, it is not a federal law or mandate and cannot be substituted for the requirements of federal accessibility laws.

Universal Design, because it is a set of principles, can be used more holistically in the planning and design of environments, products and spaces. It can be used as:

- An overlay in the planning of developments and redevelopments
- As a framework in the design of facilities.
- As a filter in the evaluation of strategic plans, development proposals and funding programs.
Design for Life: Community Policies and Planning

Part 3: Universal Design Issues and Opportunities for Municipalities
Workshop Participant Survey results suggest the following about our region:

- We have an aging population
- We have affordability issues in housing
- There is a lack of choice in existing living arrangements
- There are serious infrastructure challenges: sprawl, limited land area, transportation issues
- Regulatory barriers limit choices: zoning & other land use restrictions
- The local development community is reluctant to change, especially when not pushed (or pulled) and,
- Local political communities tend to follow the money
Examples of Universal Design strategies for public entities:

- **State of California Model Universal Design Ordinance**
  - Provides framework for municipalities to consider and adopt local universal design ordinances

- **Missouri Housing Development Commission**
  - New QAP (Qualified Action Plan, the document used to determine which affordable housing development proposals are approved) requires all new construction projects, regardless of number of units be universally designed.

- **St Louis Trust Fund**
  - Provides funding for affordable and universally-designed new construction/rehab housing and housing related services.
In 2005, The California Department of Housing and Community Development published their Model Universal Design Ordinance (AB 2787) in response to Assembly Bill 2787 (Chapter 726 of Statutes of 2002) adopted Section 17959 of the Health & Safety Code which require the California Department of Housing and Community Development to develop and certify one or more model universal design ordinances applicable to new construction and alterations for voluntary adoption by local governments.

- In general, the model ordinance provides:
  - Definitions for critical terms
  - Local option as to types of units, (owner-occupied and/or rental), and number of units
  - Specific exemptions and enforcement mechanisms
City of Sacramento, California

The Sacramento City Council adopted their Universal Design Ordinance on February 16, 2010. The ordinance requires single family home builders to provide universal design features as an option available to buyers. Single-family and two-family developments of 20 units or more will need to offer basic universal design features to make homes more accessible. Universal design features – such as grab bars, no step entries, and wider doorways – are now required in at least one model in a subdivision.
The Missouri Housing Development Commission (MHDC)

- Background: MHDC is the State’s housing finance agency responsible for providing funding through a variety of resources including tax credits, tax-exempt bonds and federal HOME funds for the construction and maintenance of affordable housing in Missouri.

- The Missouri Housing Development Commission (MHDC) instituted a requirement initially in 2003 that all single-family, duplex and senior apartments be designed in conformance with the seven principles of Universal Design.
The Missouri Housing Development Commission (MHDC)

• The Commission’s Qualified Action Plan (QAP) is the document that provides interested applicants information on the State’s housing priorities and lists the Commission’s requirements for receiving a funding award for the year’s funding cycle.

• The draft 2015 Qualified Action Plan requires that “All new construction projects, regardless of number of units, shall be designed and constructed in accordance with universal design principles”, which substantially expands MHDC’s current Universal Design requirements.
Background: In 2001, a group of dedicated individuals interested in providing quality affordable housing for the City’s residents helped push through a landmark tax bill that provides annually several million dollars “To promote City living and neighborhood stabilization through the preservation and production of affordable, accessible housing and support services that enhance the quality of life for those in need.” The agency established to award the funding and provide information and training on these topics is the Affordable Housing Commission.

- The Affordable Housing Commission has developed a set of Universal Design Criteria to be used in the design and construction/rehabilitation of the housing the Commission funds.
Some currently available regulatory change tools include:

- Urban Redevelopment Districts
- Master Planned Development Districts
- Overlay (zoning)districts
- Planned Unit Developments
- Administrative reliefs
Some available incentive tools include:

- Municipally awarded HOME, CDBG and NSP funds

- Priority lists for State funding for tax credit or HOME funds awarded through the state housing finance agency:
  - Missouri Housing Development Commission (MHDC)
  - Kansas Housing Resources Corporation (KHRC)
Example 1: New Baden Design Charette

- The Village of New Baden, Illinois’ Comprehensive Plan recommendations addressed issues surrounding the ability of long term residents to stay in the community as their needs changed.

- These concerns were addressed in more detail utilizing the Building Livable Communities Community Assessment Tool with the support of Joy Paeth and the Area Agency on Aging of Southwestern Illinois.

- The community’s Senior Task Force followed up with a Long Term Strategic Plan report which identified key issues.
New Baden, Illinois – Community Plan

Issues identified through the assessment and strategic plan were:

- There is not enough affordable and usable housing for seniors in the community.
- Senior services are spread out or unavailable.
- Existing New Baden services and businesses are difficult for seniors to use.
- State Route 161, the main thoroughfare through the Village is busy, difficult to cross and difficult to travel along.
A Design Charette with community members, volunteer designers, developers and service providers was held to brainstorm and generate design ideas to address three main problems identified by the organizing committee.

- Provide ideas for infill housing solutions to accommodate seniors within the existing neighborhoods close to current community activities.

- Modify the existing Civic Center site and building to incorporate senior-centered activities.

- Make recommendations for making transportation along and across Hanover Street (Highway 161) more easily managed (crossings, walking, parking, rest areas) by seniors.
Teams developed and presented concept drawings and ideas to the participants addressing the identified priorities.

Multi-generational infill house prototypes

Senior Housing Prototypes

New Baden, Illinois – Community Plan
Teams developed and presented concept drawings and ideas to the participants addressing the identified priorities.
Streetscape Improvements

The concepts for infill housing, senior housing senior services and transportation were incorporated into a master recommendations plan identifying priority locations and routes.
In addition to providing universal design concepts for the community to pursue in addressing the needs of their aging population the participants concluded:

- The community should review all new proposals for Village improvements for ways to ensure the improvements also enhance the lives of its senior population.

- Every idea that allows seniors to age in place more comfortably will also enhance the lives of all the Village residents, regardless of their ages and also create a more commercially successful community.

- Working toward the enhancement of Village life will offer opportunities for forging new cooperative partnerships between business, civic and government entities.

- In order to provide better opportunities for developments that encourage and assist aging in place, the Village should review its ordinances and look for ways of reducing regulatory barriers to encourage innovative development.
Community Policies and Planning: Identifying Opportunities

Example 2: Delmar Loop Design Charette

- During the Universal Design Summit 4 in St. Louis, a neighborhood design charette was conducted in response to the growing interest in and redevelopment plans for the Delmar Loop neighborhood of St. Louis/University City.

- Charette problems were identified by a review of issues noted in the recently developed planning documents by some of the major stakeholders and through conversations with three key stakeholders.
Charette Problems:

◦ Infrastructure: how to make access to the Delmar Loop Metrolink station more usable and provide better connections between the station and other transportation systems and pathways.

◦ Connections: expanding the routes from transit to the neighborhood services and to home more usable to more people.

◦ Loop Housing Options: providing suggestions for more housing types that could serve people with a variety of needs.

◦ Neighborhood Housing Options: providing ideas for how to infill empty parcels with housing that is compatible with the neighborhood and also provides more universal features.
Walkable, secure neighborhood redevelopment

Infill Apartment

Delmar Loop, St Louis, Missouri – UD Overlay
Charette Outcomes:

- Although the Delmar Loop Charette was a learning exercise for participants of the Universal Design Summit, the report was provided to major neighborhood stakeholders, including the Metropolitan Saint Louis Transit Agency, Washington University, the City of St. Louis Community Development Agency and the area’s major private developer, in the hopes that the document could be used to provide a decision-making framework for future plans and projects.
1. Addition to an existing cottage in a historic district.

2. New infill housing on existing narrow lot in neighborhood with an approved redevelopment plan.

3. New infill duplex accommodating varied lifestyles.
Addition to cottage on small lot

417 Farmer: universally designed addition to cottage listed as a contributing structure in a historic district in Independence

Addition to cottage on small lot
Infill house in Urban Redevelopment District on narrow lot with universal features
Duplex with “Mother-in-Law” unit
Universal Design – don’t leave it all to the private sector

Olivette, Missouri Neighborhood Redevelopment
Universal Design - Providing for All