

ADA TRANSITION PLAN

A white sticky note with a red pushpin at the top right corner is pinned to a light-colored wall. The note has the handwritten text "What's the plan?" in black ink. The background of the slide features a faint architectural floor plan with several arrows pointing in different directions.

PRESENTERS:

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WORKSHOP OBJECTIVES

- ✓ Understand program accessibility and the purpose of the self-evaluation and transition plan
- ✓ Identify strategies for conducting a self-evaluation and developing a transition plan



WHAT WE WON'T COVER

- ✓ ADA design specifications
- ✓ How to construct ADA compliant facilities



AGENDA

- ❖ Pre-Test
- ❖ Legal Framework of ADA
- ❖ Transition Plan & Self-Evaluation
- ❖ IDOT Perspective & Resources for Local Agencies



PRE-TEST



MODULE 1



ADA STATISTICS



Disability

- 24% of people age 18 or older have a mental illness
- 38% of people age 18 and older have some form of hearing loss
- 20% of the U.S population has some form of vision loss


Source: National Institute of Mental Health, American Foundation for the Blind, U.S. Census Bureau

ADA STATISTICS

 Veterans returning with disabilities

 Aging population

IT'S THE LAW



What authority requires public agencies to make the public right-of-way accessible for pedestrians with disabilities?

❖ **Section 504 of the Rehabilitation Act of 1973**

29 U.S.C. § 701

❖ **Title II of the Americans with Disabilities Act of 1990**

42 U.S.C. §§ 12111 et seq.

REHABILITATION ACT OF 1973



Section 504 (29 U.S.C. §794)

No otherwise qualified individual with a disability ...shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any **program** or activity receiving Federal financial assistance ...”

ADA TITLE II



Title II – State and Local Governments

Statutory Anti-Discrimination Provision

“No qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the **services, programs, or activities** of a **public entity**, or be subjected to discrimination by any such entity

ADA TITLE II

 Signed into law July 26th 1990 – George H. W. Bush

 State and local governments

 Effective January 1992

ADA TITLE II REQUIREMENTS

Designate a responsible employee – ADA Coordinator

Someone with sufficient authority to make decisions and take action

Grievance procedure

Establish and publicize a procedure for addressing complaints regarding ADA Compliance

ADA TITLE II REQUIREMENTS

Notify the public

Provide a public statement of ADA Compliance to be made available across multiple platforms (print, auditory, website, etc.)

Conduct a self-evaluation

Assess all programs and services to identify barriers to participation by people with disabilities

ADA TITLE II REQUIREMENTS

Develop a Transition Plan

Identify barriers that impact access and develop a plan to remove those barriers

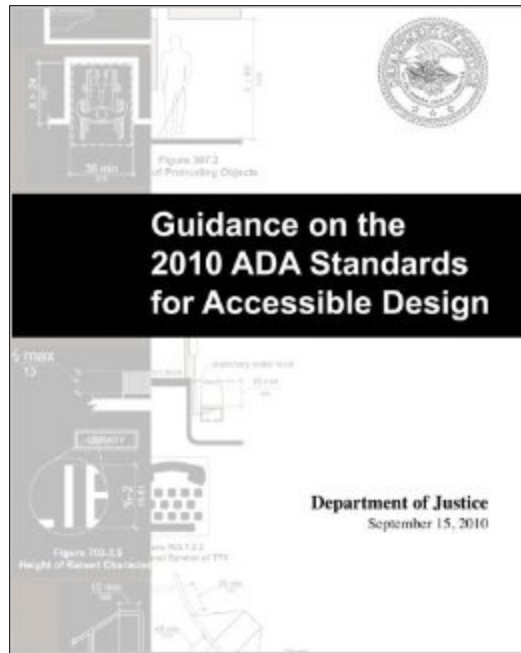
LEGAL ENTITIES

- ❖ **U.S. Access Board**
- ❖ **U.S. Department of Justice (DOJ)**
- ❖ **U.S. Department of Transportation (DOT)**
- ❖ **IL Attorney General**

LEGAL ENTITIES



U.S. Access Board develops accessibility guidelines and standards



ADA ENFORCEMENT IN ILLINOIS

- ➔ **Capital Development Board** develops accessibility guidelines and standards for the state of Illinois
- ➔ **IL Attorney General** enforces accessibility law in IL



PROJECT CIVIC ACCESS



U.S. Department of Justice

Civil Rights Division enforces federal statutes prohibiting discrimination on the basis of ...**disability**, religion, familial status and national origin.

- ❖ **Project Civic Access:** Conduct periodic reviews of local governments to ensure that communities are in full compliance with the requirements of title II of the ADA.

PROJECT CIVIC ACCESS

- ❖ Scope of civic access extends beyond elements in the pedestrian facilities
- ❖ Remedial actions generally within 3 months of effective date of agreement

PROJECT CIVIC ACCESS

Settlement agreements in Illinois

- ❖ Champaign County - 7/20/15
- ❖ St. Clair County – 5/11/10
- ❖ Village of Midlothian – 7/29/09
- ❖ Warren County – 9/06/01
- ❖ Waukegan – 12/15/05
- ❖ Waukegan Park District – 2/27/04
- ❖ Will County – 7/25/05

PROJECT CIVIC ACCESS

Warren County – 9/06/01

- ❖ Initiated by a complaint filed under title II of the Americans with Disabilities Act ... The complaint alleged that the County had not completed its self-evaluation and transition plan as required by 28 C.F.R. § 35.105 and § 35.150(d), respectively.

PROJECT CIVIC ACCESS

SIDEWALKS

Within three (3) months of the effective date of this Agreement, Champaign County will implement...its written process for requesting and receiving input from people with disabilities regarding the accessibility of its sidewalks, including requests to add curb cuts at particular locations.

PROJECT CIVIC ACCESS

SIDEWALKS

Annually, the ILA (Independent Licensed Architect) will confirm to the United States that Champaign County has provided curb ramps ... in accordance with the approved plan and timetable.

PROJECT CIVIC ACCESS

SIDEWALKS

Within three (3) months of the effective date of this Agreement, Champaign County will identify and report ...

(1) a plan for identifying all streets, roads, and highways that have been constructed or altered by Champaign County since January 26, 1992; and (2) a timetable for providing curb ramps ...at all intersections of those streets, roads, and highways that have been constructed or altered since January 26, 1992...

PROJECT CIVIC ACCESS

SIDEWALKS

Within three (3) years of the effective date of this Agreement, Champaign County will provide curb ramps ...at all intersections of the streets, roads, and highways constructed or altered by Champaign County since January 26, 1992...

CHICAGO TITLE II SETTLEMENT

Council for Disability Rights v. City of Chicago October 2005

- ❖ Council for Disability Rights sought to require the city to properly install and maintain sidewalks, curb cuts and ramps necessary for the mobility of persons with disabilities
- ❖ Plaintiffs alleged the Chicago violated Title II of the Americans with Disabilities Act, 42 U.S.C. §12101 Section 504 of the Rehabilitation Act of 1973

CHICAGO TITLE II SETTLEMENT

September 2007 settlement agreement provided:

- ❖ The city of Chicago will install only curb ramps and sidewalks that meet or exceed the specifications of the Federal ADA guidelines
- ❖ For the next 5 years the city will spend **\$50,000,000 (\$10,000,000 per year) in new money** to repair and replace curb ramps and sidewalks in high traffic areas which are not on the city's schedule for repair or replacement.

CHICAGO TITLE II SETTLEMENT

September 2007 settlement agreement provided:

- ❖ **The city will continue to spend approximately \$18,000,000 each year** installing curb ramps and sidewalks as a part of the City's annual resurfacing work
- ❖ The city shall install ADA compliant curb ramps into intersections of each cross street at its intersection with alteration or resurfacing

PRE-TEST Q & A

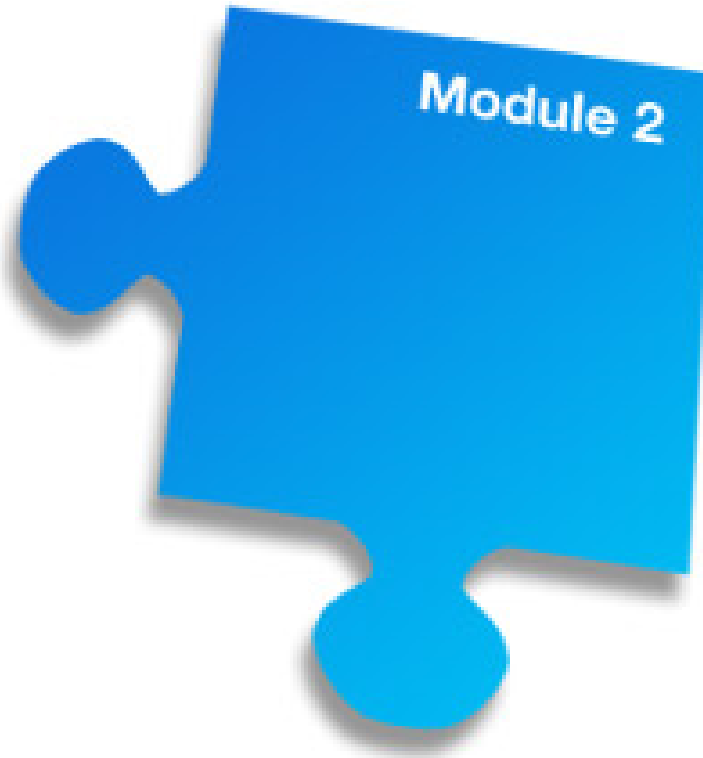
- ❖ **What entities must have a transition plan?**
 - All public agencies with >50 employees (full-time & part-time) *28 CFR §35.150(d)*
- ❖ **What authority requires public agencies to have a transition plan?**
 - Section 504 of the Rehabilitation Act of 1973
 - Title II of the Americans with Disabilities Act of 1990 (ADA) *(42 U.S.C. §§ 12131-12164)*

PRE- TEST Q & A

- ❖ **List the current federal and state standards and guidelines for accessible design?**
 - 2010 ADA Standards for Accessible Design
 - PROWAG –Proposed Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way (*DRAFT*)
 - Illinois Accessibility Code

- ❖ **List the federal and state agencies designated with enforcement of Title II?**
 - U.S. Department of Justice
 - U. S. Department of Transportation (FHWA)
 - IL Attorney General

MODULE II



WHAT IS A TRANSITION PLAN



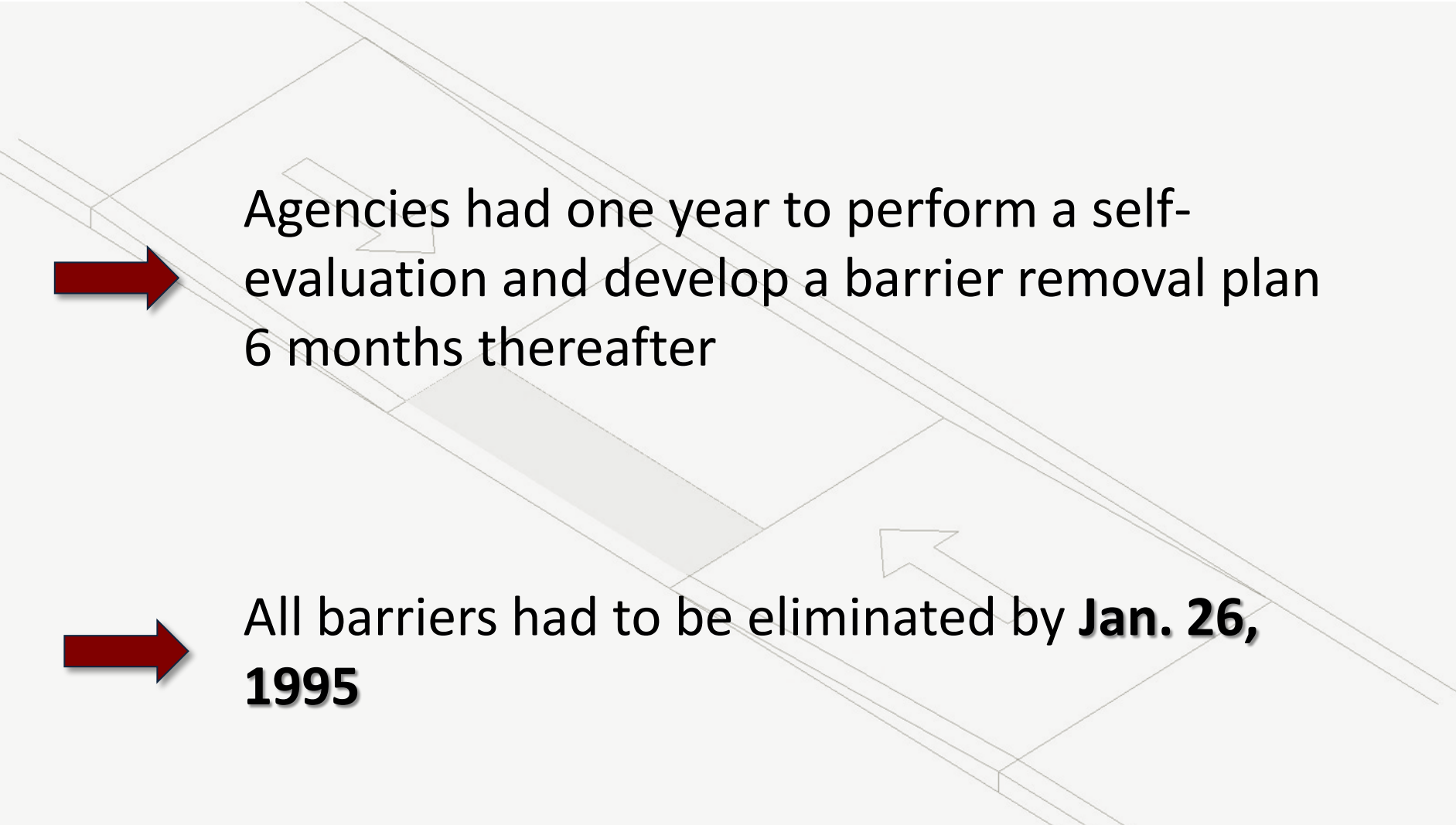
An **actionable** plan to identify and eliminate accessibility barriers

WHO NEEDS A TRANSITION PLAN



ADA requires all agencies with 50 or more employees to have an ADA Transition Plan

COMPLIANCE DEADLINE



Agencies had one year to perform a self-evaluation and develop a barrier removal plan 6 months thereafter

All barriers had to be eliminated by **Jan. 26, 1995**

DEVELOPING A TRANSITION PLAN

- Responsible party
- Timeline
- Estimated cost
- Architectural barriers



DEVELOPING A TRANSITION PLAN

- Policy barriers**
- Public input**
- Prioritize improvements**
- Review & update**



MINIMUM REQUIREMENTS

Person responsible for implementing the transition plan

- ❖ Person Must be familiar with agency operations
- ❖ Person must be trained or knowledgeable in ADA and other nondiscrimination laws
- ❖ Person must have sufficient authority, time, and resources to accomplish the duties

28 Code of Federal Regulations 35.150(d)(3)(iv)

MINIMUM REQUIREMENTS

A timeline shows strong commitment toward ADA compliance

- ❖ Prioritization information
- ❖ Planning directed at eliminating barriers over time
- ❖ Dedicated resources to eliminate identified ADA deficiencies

See 28 CFR 35.150(d)(2) & (3)

MINIMUM REQUIREMENTS

Self-evaluation – inventory of barriers

❖ Architecture

❖ Policy

❖ Procedures

See 28 CFR 35.150(d)(3)(i) & 28 CFR 35.105(a)

SELF- EVALUATION

- ❖ Examine programs, services, activities and information technology
- ❖ Evaluate how people with disabilities participate in programs and activities
- ❖ Identify policies, practices and procedures that pose barriers for people with disabilities

SELF-EVALUATION

Get the word out

- ❖ Media
- ❖ Centers for independent living
- ❖ Town/Village meeting



SELF-EVALUATION

Collecting data

- ❖ College interns
- ❖ Internal staff
- ❖ Consultants



SELF EVALUATION

Public Right-of-Way Barriers



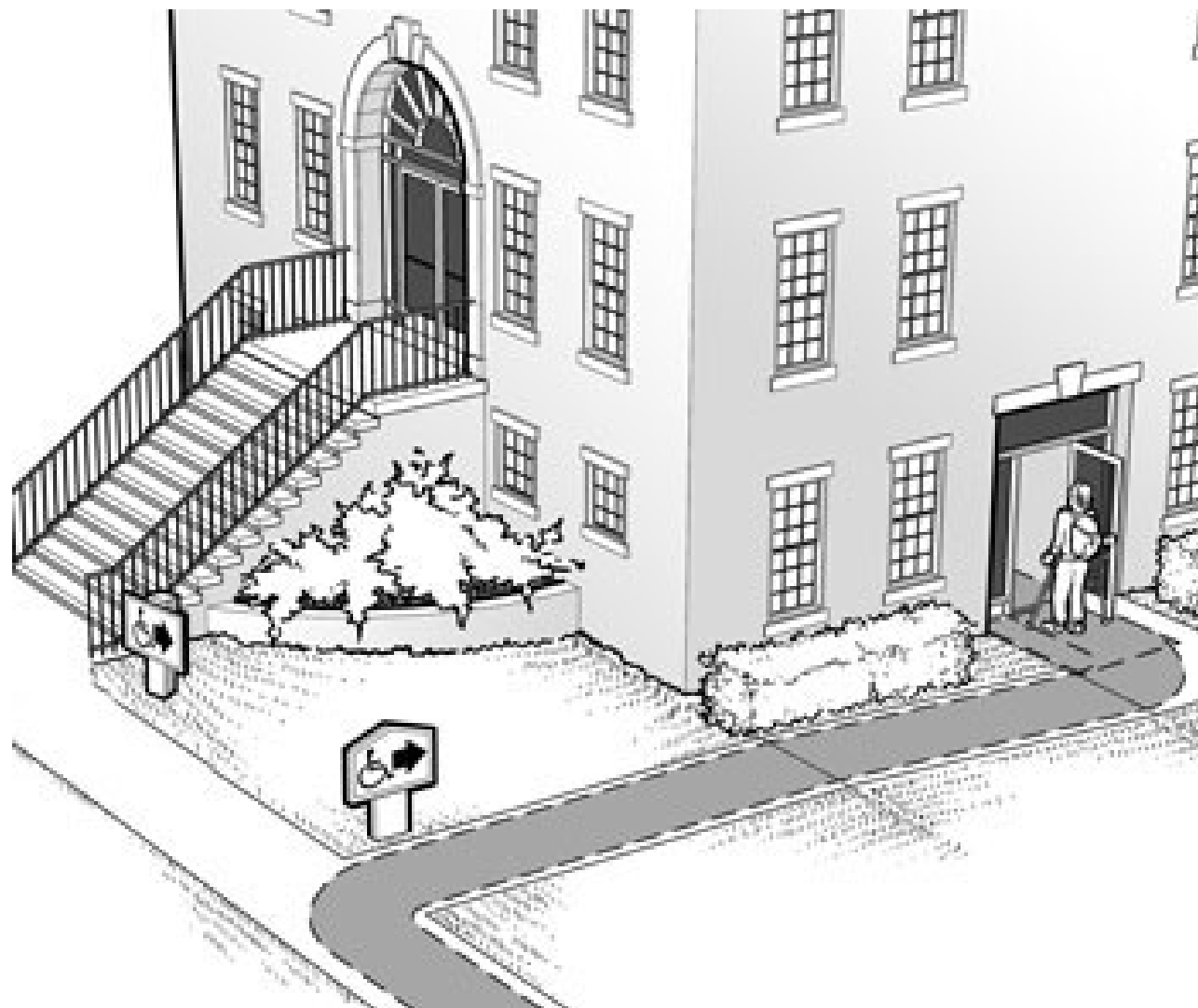
SELF-EVALUATION

Public Right-of-Way Barriers



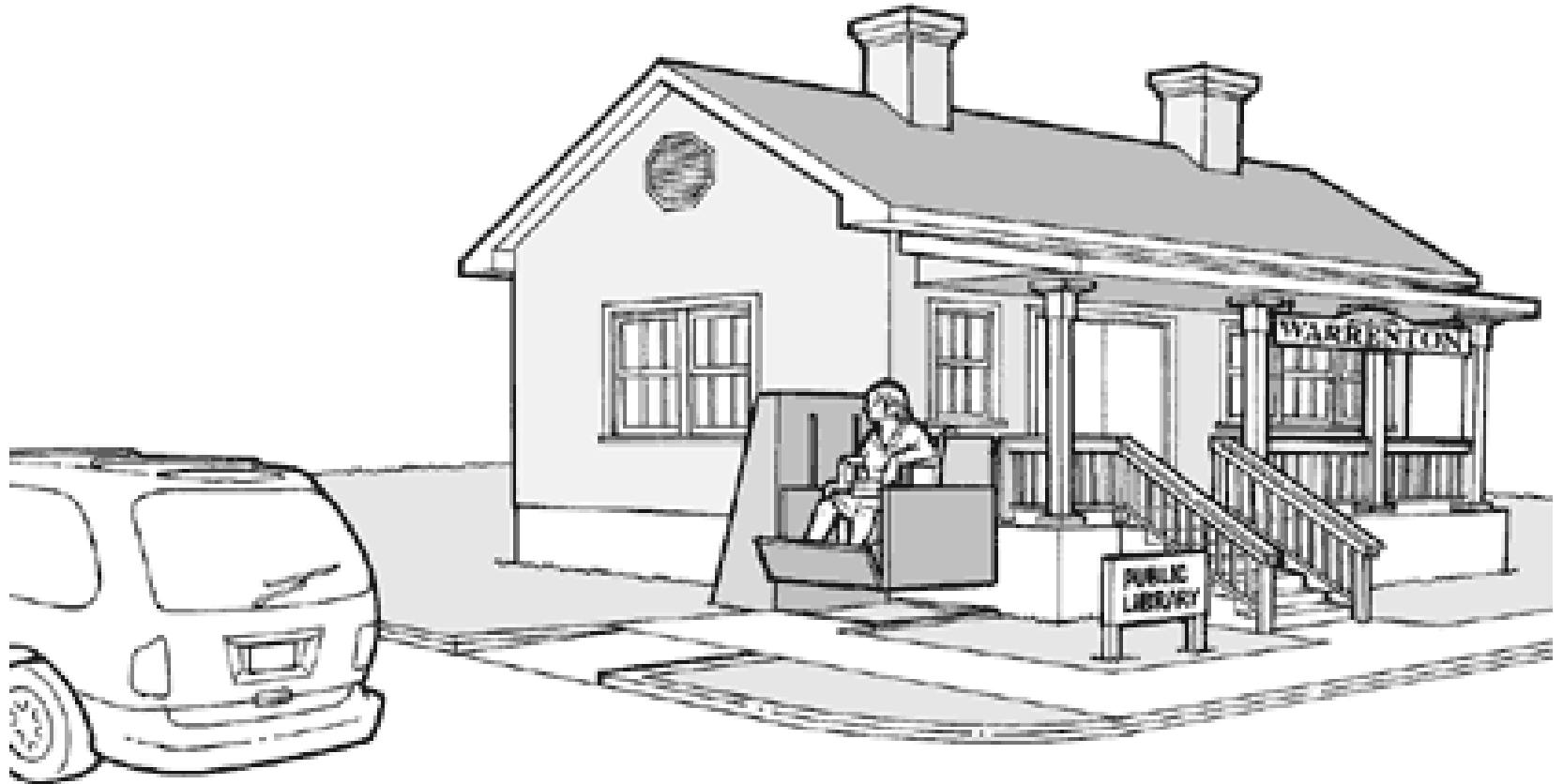
SELF-EVALUATION

Architectural Barriers




SELF-EVALUATION

Architectural Barriers



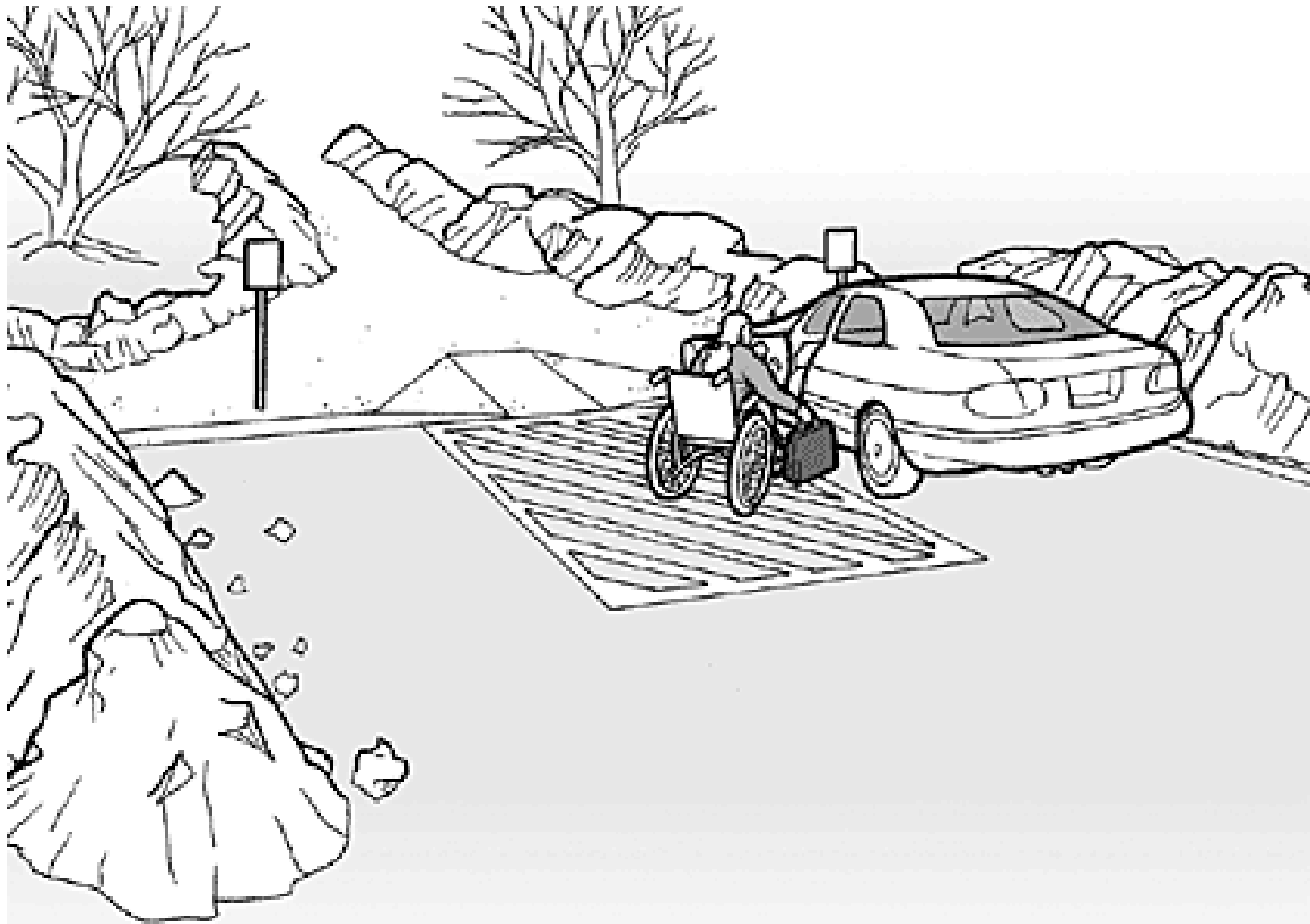
SELF-EVALUATION

Polices & Procedures

 Make reasonable modifications to policies, practices, and procedures to avoid discrimination against individuals with disabilities.

SELF-EVALUATION

Maintenance policies



Clearing snow from accessible parking spaces

SELF-EVALUATION

Maintenance policies



Overgrown trees/shrubs create access barriers

SELF-EVALUATION

Maintenance policies



Source: www.boston.com

SELF-EVALUATION

Maintenance policies



Provide temporary pedestrian access

(source: <http://www.unionleader.com>)

SELF-EVALUATION

Maintenance policies

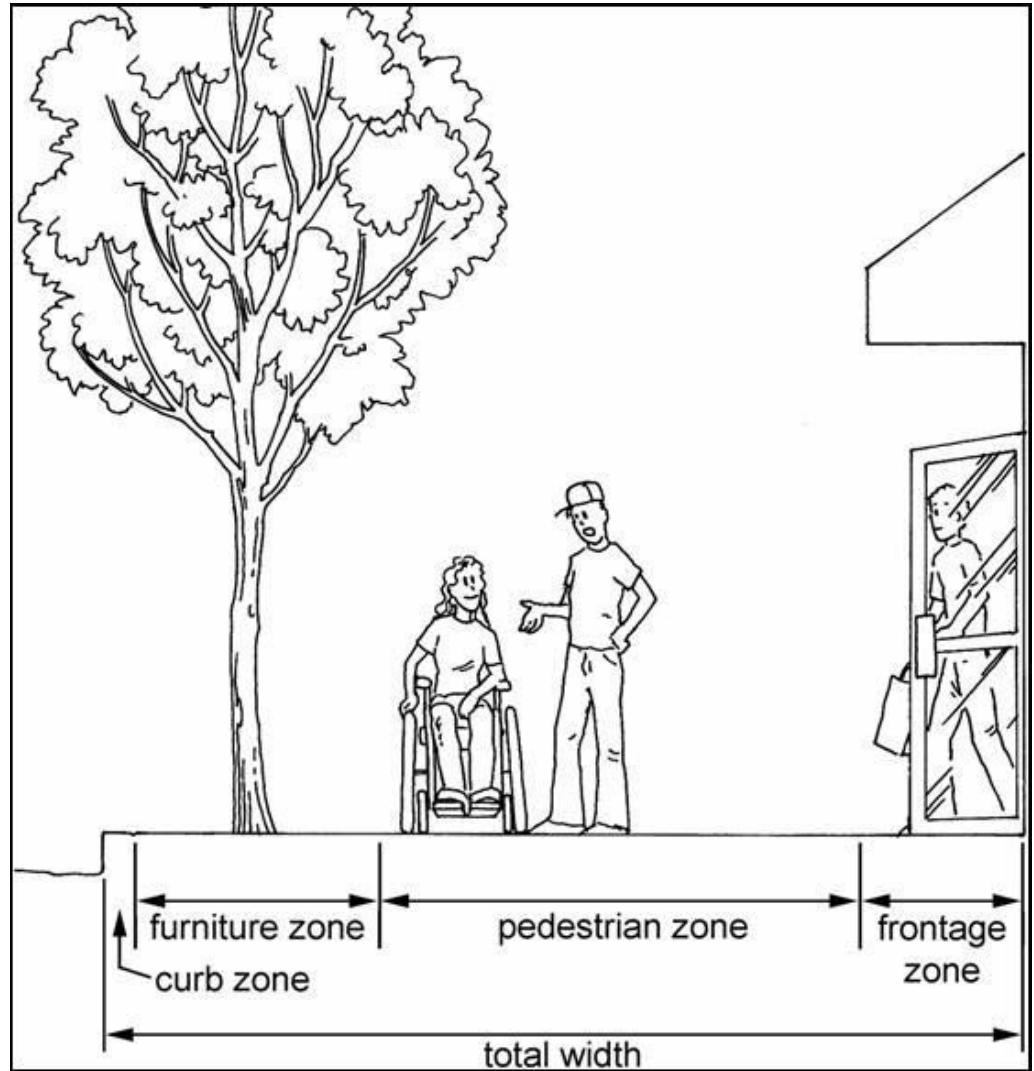


Temporary pedestrian route must be accessible

(source: <http://www.latimes.com>)

SELF-EVALUATION

Commerce policies



(source: www.fhwa.gov)

ADA compliant pedestrian zone

SELF-EVALUATION

Commerce policies



(source: <http://charmeck.org/city/charlotte/Transportation/PedBikex>)

ADA compliant pedestrian zone

SELF-EVALUATION

Commerce policies



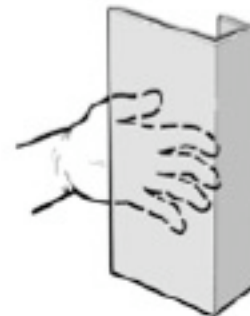
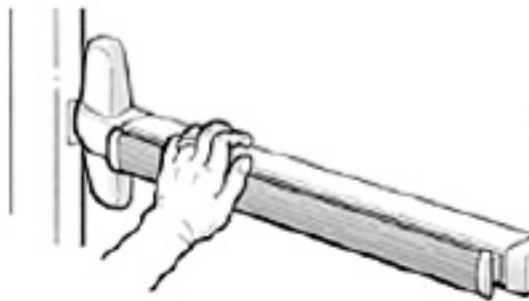
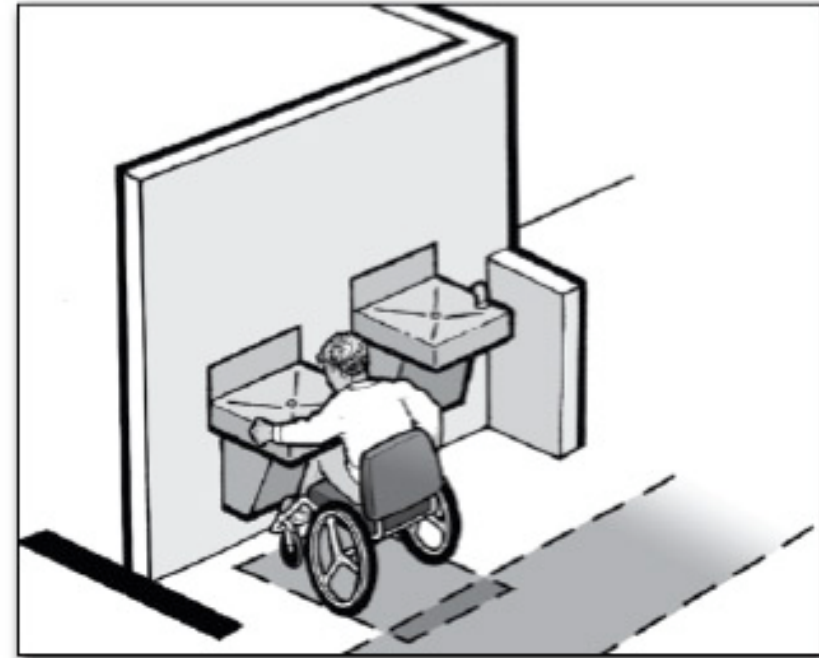
(source: <http://charmek.org/city/charlotte/Transportation/PedBike>)

ADA compliant pedestrian zone

SELF-EVALUATION

Interior barriers

- Restrooms
- Signage
- Seating in public spaces
- Drinking fountains
- Path of travel within buildings



OTHER REQUIREMENTS

Public involvement supports the self-evaluation and prioritization

- ❖ Public notification of rights under the ADA and the responsibilities of the agency as it pertains to ADA
- ❖ Allow public comment for self-evaluation and transition plan
- ❖ List of individuals/groups consulted

See 28 CFR 35.150(b), (c), &(d)(1)



OTHER REQUIREMENTS

Establish a **grievance procedure**

- ❖ A description of how and where a complaint under Title II may be filed
- ❖ Enable the filing of complaints in a variety of forms and formats
- ❖ Description of the time frame and process to be followed by the complainant and the government entity

See 28 CFR 35.107(b)

PRE-TEST Q & A

- ❖ **What is the difference between self-evaluation and a transition plan?**
 - Self-evaluation is an inventory of accessibility barriers
 - Transition plan is a roadmap to removing the barriers identified during the self-evaluation

PRE-TEST Q & A

❖ What should a transition plan include?

- Designated ADA Coordinator
- Inventory of barriers/self-evaluation
- Timeline
- Public involvement
- ADA policy statement
- Grievance procedure

PRE-TEST Q & A

- ❖ **How does the transition plan affect a public agency's transportation planning process?**
 - Integrate identified accessibility needs into the overall transportation planning process
 - Develop stand-alone accessibility projects
 - Identify and address accessibility needs during scheduled maintenance activities

MODULE III



IDOT TRANSITION PLAN

**Adopted
First ADA
Transition
Plan**

1992

**Initiated
Update to
ADA
Transition
Plan**

2013

**Began Self
Evaluation
& Inventory**

2013

IDOT TRANSITION PLAN

**Draft
Transition
Plan
published**

July 2014

**Inventory
must be
completed**

April 2015

**Transition
accepted by
FHWA**

June 2015

IDOT ADA CONTACTS

Juliet Shoultz, P.E., ADA Policy Engineer

Tim Peters, P.E., Local Roads Policy & Technology Engineer

D1 – Amruta Mate, P.E.

D5 – Scott Neihart, P.E.

D2 – Jon McCormick, P.E.

D6 – Andrew Werner, P.E.

D3 – Scott Ferguson, P.E.

D7 – Rob Macklin, P.E.

D4 – Kevin Horst

D8 – Cecil Downing, P.E.

D9 – Carrie Nelson, P.E.

IDOT SUB-RECIPIENTS

Local Public Agency Transition Plans

Bureau of Local Roads and Streets

Circular Letter 2014-18

ADA Self Evaluation & Transition Plan

Oct. 2, 2014

“If an acceptable transition plan is not in place, federal and state project authorizations may be withheld on future projects utilizing federal or state funding.”

IDOT SUB-RECIPIENTS

Local Public Agency PAR during construction

Bureau of Local Roads and Streets
Circular Letter 2015-09

Americans with Disabilities Act- Alternative
Pedestrian Access Route During
Construction and Design Considerations

URBAN LEGENDS OF ADA

We don't have to meet ADA because there is no federal funding – **FALSE!**

All state and local agencies must meet ADA requirements regardless of funding

All pedestrian routes do not have to be made accessible – **FALSE!**

If a pedestrian facility is provided, it must be made accessible to all

URBAN LEGENDS OF ADA

If we can't make a route accessible, we can just remove the facilities – **FALSE!**

Removing pedestrian facilities is not an appropriate solution to addressing non-compliance

An unmarked crosswalk is not a legally defined crosswalk – **FALSE!**

The Illinois Vehicle Code defines a crosswalk as the part of a roadway at an intersection within the connections of the lateral lines of the sidewalks (625 ILCS 5/1-113)



**KEEP
CALM
BECAUSE
WE HAVE
A PLAN**

TRANSITION PLAN MONITORING

- ❖ Transition Plan is a “Living Document”
- ❖ Use Transition Plan in Annual Planning Cycle
- ❖ Program stand-alone accessibility projects
- ❖ Regularly update the Transition Plan
- ❖ Track progress from initial self-evaluation

PRE-TEST Q & A

- ❖ Does a privately funded sidewalk beautification project in the public-right-of-way have to be built ADA compliant?
- ❖ When and how should a Transition Plan be updated?
- ❖ Is your ADA Transition Plan defensible in the event of an accessibility complaint?

IDOT FACILITATED TRAINING

- ❖ IDOT T² - Proposed Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way Seminar
 - March 2, 2016 Libertyville FY2016-044
 - April 13, 2016 Yorkville FY2016-040

ADDITIONAL RESOURCES

- ❖ **IDOT BLR Circular Letter 2014-18** *ADA Self Evaluation and Transition Plan*

<http://www.idot.illinois.gov/Assets/uploads/files/Transportation-System/Bulletins-&-Circulars/Bureau-of-Local-Roads-and-Streets/Circular-Letters/Informational/CL2014-18.pdf>

- ❖ **IDOT BLR Circular Letter 2015-09** *ADA Alternative Pedestrian Access Route During Construction & Design Considerations*

<http://www.idot.illinois.gov/Assets/uploads/files/Transportation-System/Bulletins-&-Circulars/Bureau-of-Local-Roads-and-Streets/Circular-Letters/Informational/CL2015-09.pdf>

ADDITIONAL RESOURCES

- ❖ **Project Civic Access** www.ada.gov/civicac.htm
- ❖ **U. S. Department of Justice**
<http://www.ada.gov/smtown.htm>
- ❖ **ADA and Section 504 Review**
http://www.fhwa.dot.gov/resourcecenter/teams/civilrights/ada_sect_504/module2/player.html

ADDITIONAL RESOURCES

- ❖ **ADA Best Practices Took Kit for State and Local Governments**
<http://www.ada.gov/pcatoolkit/toolkitmain.htm>

- ❖ **IDOT Technology Transfer Center**
<http://www.idot.illinois.gov/transportation-system/local-transportation-partners/county-engineers-and-local-public-agencies/technology-transfer-center/index>

QUESTIONS



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