

State's blueprint for improving accessibility noting some success

The Texas Department of Licensing and Regulation (TDLR) recently presented the Westin Riverwalk Hotel with the "Access for All" decal and certificate which signifies that the hotel is in compliance with the Texas Accessibility Standards or TAS. The presentation



Design Matters

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was made by William Kuntz, Jr., the executive director of TDLR, during the quarterly meeting of the Governor's Committee on People with Disabilities.

As far as I know, this is the first time the agency has ever publicly presented the certificate and decal.

Why is this significant? Because it represents the changing attitude of the agency in dealing with design/construction/building owners and what it is working to accomplish. And changes are a way of life when it comes to complying with the state's accessibility laws.

Since William Kuntz and Brian Francis, the deputy executive director, came to TDLR a few years ago, there has been a shift from micro to macro management of the Architecture Barriers Program. They realized that more would be accomplished in improving compliance with the state's accessibility standards by affecting changes in Texas laws, TDLR regulations and encouraging the private sector to do more of the mandated plan reviews and follow-up inspections.

Two changes which have resulted in a significant increase in the number of projects being registered with the state are:

1.) Starting in 2001, projects could be registered online from the TDLR Website (www.license.state.tx.us); and

2.) Municipalities are now required by law to reject an application for a building permit if proof is not provided that the project has been registered with TDLR.

These changes and others have resulted in an increase in the number of projects being registered with TDLR - from 13,754

in 2000 to 16,400 in 2002. Additionally, according to Francis, in 2000 TDLR staff was accomplishing approximately 45 percent of the plan reviews with the private sector doing 55 percent. Now that ratio is 12 percent TDLR and 88 percent private sector. A similar trend can be seen in the number of inspections being performed.

TDLR is also working to increase awareness of the Texas Architectural Barriers Act - Article 9102 - and associated regulations with all persons involved with the design and construction of commercial projects. TDLR regularly conducts training and seminars for design professionals and employees of large and small municipalities.

Kuntz and Francis believe - and I think they are correct - that greater compliance will be accomplished through education, awareness and rule changes than through disciplinary actions against design professionals.

Inspections

Now that TDLR has positively affected the plan review process, it is focusing its attention on the required follow-up inspection and enforcement. Since the beginning of the program, many more projects were reviewed than were inspected. And it is the inspection process where the tire meets the road, so to speak.

As I tell my clients, it is somewhat irrelevant whether or not construction plans are "Approved" or "Disapproved" during the plan review process. What really matters is that no violations are noted during the final inspection.

The reason for the discrepancy between the number of projects reviewed and inspected is complicated and the system has evolved over time with parts of the process now seeming irrational.

One significant reason for the lower number of inspections is that the regulations require the owner to call for the inspection when construction is completed, and this does not usually happen. While there is a well educated design and construction community, most owners are unaware of the laws, rules and regulations dealing with accessibility.

TDLR has addressed this problem by sending out "Notice of Inspection Due" forms to the owner of record - the person so identified when the project was first

registered. Needless to say, owners are usually confused and frustrated when they receive these notices. The first question I usually hear is "Is this something I really need to do?" And the answer is "Yes," especially, now that TDLR is routinely fining owners \$1,000 for failing to respond to repeated notices.

But the question remains, what about the ever growing number of projects that have been reviewed but not inspected? When I recently asked Deputy Executive Director Francis about this, I received several comments. He said that TDLR is working to streamline the process and system, which it has done and continues to work on. Additionally, the system is sending out the inspection notices as fast as it can get the information in the agency's computer.

Obviously, many of the projects that have been in the system for a long time will not be inspected and will fall through the cracks. It is these cracks that TDLR's chiefs are trying to close. But bureaucracies change slowly especially when changes involve legislation which, of course, means politics.

And finally there are the other major challenges facing TDLR, such as implementing new Texas Accessibility Standards (TAS) and enforcement. TDLR recently formed a committee to work on developing a new TAS which, according to Francis, will be completed some time this year. Francis also said the new TAS will be modeled after the new Americans with Disabilities Act Accessibility Guidelines (ADAAG) which are awaiting final approval and adoption at the Federal level.

The new TAS should address many of the issues or conditions which are routinely approved through the variance process.

The new TAS will also address areas for which no state standards currently exist, such as recreational areas and, maybe, public right-of-way. These changes will have a positive affect and hopefully reduce the need for variances and allow greater flexibility in the design and construction process.

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