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Information Advisory -
UNISEX TOILETS & THE PENNSYLVANIA UNIFORM CONSTRUCTION CODE
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When remodeling a tenant area within an existing building, the ICC International Building Code, referenced by our State's construction code, requires an accessible route to the primary function or tenant area of the building to comply with current accessibility standards. The accessible route includes handicapped parking spaces, sidewalk ramps, entrances, elevators and the toilet facilities and drinking fountains serving that area.

A typical solution to upgrading toilet facilities in office buildings to comply with today's Americans with Disabilities Act (ADA) accessibility guidelines, has been to install accessible unisex toilet rooms. However, the building code only permits this solution if it is technically infeasible to alter the existing toilet facilities to be accessible.

The State's Department of Labor & Industry has recently issued a statement that the building codes, as written, must be enforced by all local code enforcement offices. They have also deemed the "Department Secretary" to be the sole decision maker in Pennsylvania as to the technical infeasibility of toilet room accessibility alterations, and that a variance from the State is required to construct a separate unisex toilet room to satisfy accessibility requirements.

Where existing toilet rooms have insufficient space for wheelchairs to maneuver and where a reduction of fixtures would render the facilities in violation of the Plumbing Code, an expansion would be required. An expansion is usually deemed technically infeasible because the toilet rooms are restricted by building core elements (elevators, stairs, shafts, etc.). Leased tenant areas have also been recognized as similar obstacles to expansion.

The procedure developing as a result of these State requirements is that proposed designs must first be submitted to, and reviewed by the local code official, who is not authorized to determine the technical infeasibility of an expansion of existing toilet facilities. Therefore, permit applications proposing accessible unisex toilet room additions as acceptable solutions will have to be denied. Once plans have been rejected, a variance request can then be submitted to the Pennsylvania Department of Labor & Industry. Some local officials may permit construction to start prior to the granting of a variance, but will not issue an Occupancy Permit until the variance has been granted.

Since the costs of providing the accessible route are not required to exceed 20 percent of the costs of the alterations, the cost of expanding non-compliant toilet rooms is often scrutinized. However, it has become clear that building code enforcement officials are going to require strict conformance.

An example interpretation received from one ICC code professional:

> If a medical office tenant on the 2nd floor of an existing two-story office building with no elevator is being reconfigured, an elevator addition would be required. (Some occupancies under 3,000 sq. ft. per floor in small 2-story buildings are exempt.) However, if remodeling costs are $100,000, and only 20% of the remodeling costs ($20,000) is required to be spent on accessibility upgrades, the amount of funds remaining after constructing other accessibility upgrades to the accessible route would not be enough to add an elevator. The recommendation in this example was to "build the pit" and then build more with each successive remodeling.

We would be glad to get those interested a copy of the ICC/ANSI A117.1-2003 Manual (American National Standards Institute's Accessible & Usable Buildings & Facilities 2003 published by the International Code Council) for reference. This is the accessibility standard referenced by the 2006 International Building Code.