

BUILDERS PAVEMENT PLAN (BPP) FREQUENTLY ASKED QUESTIONS

1. **What Law, Regulation, Standard requires private developers to construct, improve, and/or reconstruct pedestrian ramps across a city street? DOT regulations require improvements to be proposed to the centerline of the mapped roadway plus 5'.**
 - Title II of the ADA applies to public entities, which includes state or local government. NYC, by and through DOT, is thereby responsible to adhere to all ADA regulations and its design and construction standards within the public right of way and to ensure that all work being done by its contractors and third party permittees, including developers, utility companies, and state/quasi-government entities also abide by these regulations.
 - DOT Highway Rules generally require third party construction to be in compliance with the ADA.
 - ADA regulations and DOJ guidance also make clear that it is the person or entity performing Alteration work that is responsible for compliance with ADA standards.
 - Alteration is defined as “a change to a [vehicular way or pedestrian route] that affects or could affect the usability of [the vehicular way or pedestrian route] or portion thereof. Alterations include, but are not limited to...rehabilitation, reconstruction, resurfacing of circulation paths or vehicular ways...” See generally 28 CFR 35.151
 - DOJ formal opinion specifically states that “if the resurfacing affects the crosswalk, even if it is not the full roadway width, then [pedestrian] ramps must be provided at both ends of the crosswalk.” <https://www.ada.gov/doj-fhwa-ta-supplement-2015.html> at Question 3.
 - The focus therefore is at on the triggering activity, not who is the owner of the property.

2. **Why do some comments received seem contrary to DOT Standard H-1011?**
 - Comments are made according to the latest version of the DOT H-1011 Standard Detail of Construction released June 10th, 2022.
 - The latest version can be found in the web address provided below:
https://www1.nyc.gov/assets/ddc/downloads/publications/scops/SB22-004-NYCDOTSTANDARDDETAILSOFCONSTRUCTION_2022-06-06.pdf
 - H-1011 are standard details showing typical conditions and their applicability must be evaluated to consider site specific conditions.
 - Ramp placement must consider the existence of accessible areas and their use by people with disabilities (including limited mobility and visual impairment).

3. **Can I be waived from constructing pedestrian ramps if there is a future or adjacent construction project?**
 - The ADA and supplemental guidance issued by US DOJ and US DOT state that when performing Alteration work (as defined above) the entity or third party who engaged in that triggering activity must provide accessible elements and features within the scope of the project either before or at the same time as that Alteration work.
 - Therefore, future or adjacent projects do not negate BPP scope obligations. See, <https://www.ada.gov/doj-fhwa-ta-supplement-2015.html> at Q1 and Q6.

4. **Why are private developers being forced to replace pedestrian ramps that have previously been built or reconstructed by another entity?**
 - Please see response to question 3 above. Similarly, completed projects do not negate BPP scope obligations.



- Please also note that different projects have different scopes of work, dependent on the type of work being performed.
- For instance, not all third party work conducted prior may necessarily have required construction of a compliant ramp. Whether or not a third party is responsible depends on the ADA trigger. See: https://www.nycpedramps.info/sites/default/files/2022-08/PedestrianRampConstructionTriggers_Web_3-3-22.pdf

5. Are all projects being held to the same standards?

- DOT enforces the same requirements regardless of who is performing the work. DOT does not enforce stricter requirements against private developers than it does for Capital Improvement contractors. It is simply following the ADA and the terms of its 2019 court-ordered class action settlement.

For more information on the Pedestrian Ramp Program please visit our dedicated webpage. www.nycpedramps.info