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**TO:** Henry L. Hayes, Jr., Town Manager (*By Electronic Mail Only*)  
**FROM:** Gregg J. Corbo, Esq.  
**RE:** Role of Disability Commission – ADA Self Evaluation and Transition Plan  
**DATE:** January 8, 2021

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I am writing in response to your request for an opinion concerning the role of the Town’s Disability Commission with respect to the preparation of an ADA self-evaluation and transition plan. It is my understanding that the Town has retained the services of a consultant to prepare a self-evaluation and transition plan with respect to the Town’s properties, programs and services and to issue a report to the Town Manager. During the course of this work, a question has arisen as to what role, if any, the Town’s Disability Commission should play in the process of developing the plan. For the detailed reasons set forth below, it is my opinion that the Disability Commission’s role is to provide input to the Town Manager in the form of comments and non-binding recommendations.

Pursuant to ADA’s implementing regulations, 28 CFR 35.105(a), the Town is required to evaluate its current services, policies, and practices, and the effects thereof, that do not or may not meet the requirements of [the ADA] and, to the extent modification of any such services, policies, and practices is required, the Town is required to proceed to make the necessary modifications. This process is referred to as the Self Evaluation and Transition Plan (the “Plan”). As part of the procedure for developing the Plan, the Town is required to provide interested parties, including individuals with disabilities or organizations representing individuals with disabilities, with an opportunity to participate in the self-evaluation process by submitting comments. 28 CFR 35.105(b).

The implementing regulations do not specify who in a municipality is responsible for preparing the Plan or implementing its recommendations. By passage of Chapter 131 of the Acts of 1993, the Town Manager is the Chief Administrative Officer of the Town and in that capacity he is responsible for responsible for the efficient use, maintenance and repair of all town facilities. In my opinion, the Town Manager’s responsibility for Town facilities includes development and execution of plans to ensure that they comply with the requirements of law. Therefore, it is my opinion that the Town Manager, as the Chief Administrative Officer of the Town, has the final authority over all aspects of the Plan, subject to the requirement that he provide members of the public with an opportunity to be heard with respect thereto. The nature and extent of such public input, however, is not specified in the regulations, and is left to the reasonable discretion of the Town Manager.

The Disability Commission was formed pursuant to Massachusetts General Laws, Chapter 40, Section 8J. The Disability Commission is an advisory board, charged with, among other things: researching local problems of people with disabilities; advising and assisting municipal officials and employees in ensuring compliance with state and federal laws and regulations that affect people with disabilities; and reviewing and making recommendations about policies, procedures, services, activities and facilities of departments, boards and agencies of the Town as they affect people with disabilities. The statute does not confer upon the Disability Commission the authority to implement policy or to make decisions that are binding on the Town.

While the Disability Commission and its members are a valuable resource to the Town, and their input with respect to the Plan should be encouraged, it is my opinion that the Disability Commission does not have a formal role to play with respect to the development and implementation of the Plan. Rather, in my opinion, the Disability Commission's role is limited to providing input and recommendations to the same extent as other members of the public and other organizations representing individuals with disabilities.

It is my understanding that the Town Manager intends to provide the Disability Commission and its members with an opportunity to review a draft of the Plan and that members of the Commission will have an opportunity to provide comments and recommendations prior to the Plan being finalized by the Town's professional consultant. In my opinion, this level of participation satisfies the Town Manager's obligation for soliciting comments from organizations representing individuals with disabilities. While the Town Manager may, in his discretion, allow the Commission to play a larger role in the process, it is my opinion that it he is not required to do so.

Please do not hesitate to contact me if you have any questions or if you would like to discuss this matter.