Ethical Implications of Voluntary Accessibility Measures Taken by Religious Institutions

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Abstract

Religious institutions in the United States are legally exempt from the accessibility requirements outlined in the Americans with Disabilities Act. This raises the question of whether or not they are fulfilling their moral and social duty to disabled individuals of faith communities. This study examines whether religious institutions choose to fulfill that duty. A standardized accessibility checklist was used to collect data from 22 Asheville area houses of worship. Interviews were also conducted to try to understand the motivations driving successful implementation of accessibility or barriers preventing implementation. This research revealed that many institutions take steps to accommodate disabled congregants; however, their efforts are inconsistent and shaped by the needs of their communities. Inaccessibility was often an unintended consequence of a lack of financial resources or practical knowledge. These findings suggest that increased education on accessibility standards, strengthened community bonds, and more funding sources could greatly improve the accessibility of religious spaces and help religious institutions fulfill their ethical obligations.

Introduction

It is common knowledge in the disability community that churches will not go out of their way to be accommodating and can sometimes be cruel. This is a piece of community knowledge we share with each other to ensure mental and physical safety. Because I am disabled, I assumed going into this project that many of these places would be inaccessible or unwelcoming to me. However, as I have lived in Asheville, North Carolina for the past four years, I've noticed that most people here care about their communities and put effort into helping others. It was hard to reconcile what I had been told about the church with what I knew about my local community. Surely, these very same people wouldn't act that way. These thoughts inspired me to explore the questions: Do churches implement accessibility measures even if they are legally exempt from doing so? What are the moral implications of those choices?

Overview of the Americans with Disabilities Act

In 1990, after years of demonstrations and protests by activists, the Americans with Disabilities Act was passed. This act was hailed as the disability equivalent of the Civil Rights Act. There are five parts to this act. Title I deals with access in regards to employment, Title II deals with access in regards to government services and transportation, Title III deals with public accommodations, Title IV deals with telecommunications, and Title V is miscellaneous provisions ("What Is the Americans with Disabilities Act (ADA)?"). When people talk about the ADA more broadly, usually they're talking about Title III. This section states that reasonable accommodations must be made so that anyone, no matter their ability, can have equal access and enjoyment to a place of public accommodation. A reasonable accommodation is adjusting a building or event so that a disabled person can access something just as meaningfully as a nondisabled person, as long as it does not place an undue hardship (like costing an excessive amount of money) on the person accommodating. An example of a reasonable accommodation is the sign language interpreters that can be seen on TV during natural disasters. A place of public accommodation is anywhere the general public is allowed to go, like a store, restaurant, hotel, etc. Before the Americans with Disabilities Act passed, nothing required places to be accessible. Now, 35 years after its passing, religious institutions like churches, synagogues, and mosques are exempt from the ADA and are still not required to be accessible. Because of this, religious institutions ignore best accessibility practices. Disability advocates state that just because they are allowed to do so doesn't mean they should. Religion is an important and influential institution in American life and inaccessibility unknowingly, or sometimes purposefully, excludes a large portion of potential congregation members as over 70 million US

adults have a disability. This is more than one in four people ("CDC Data Shows over 70 Million U.S. Adults Reported Having a Disability").

2.1 History of Religious Exemptions

The rationale for allowing religious centers to be exempt from these kinds of laws goes back to 1972. After the Civil Rights Act was passed, a female minister tried to sue the Salvation Army on the basis that she was treated differently compared to her male peers and wrongly terminated. The church argued back that asserting this law over them would be violative of the First Amendment and other provisions of the law. The Fifth Circuit Court of Appeals sided with the church (*McClure v Salvation Army*, 554-556). This case and the exception it birthed - the Ministerial Exception - seem to only cover church-related employment. But the precedent it set was clear. The church will not tolerate the government telling it what to do. So, now laws are written to specifically have caveats for churches. Religious entities and the places they control have a special section carved out for them in Title III saying that they don't have to follow any of these guidelines ("Religious Entities under the Americans with Disabilities Act.").

2.2 Best Accessibility Practices

Best accessibility practices are generally understood to follow a principle called universal design. Universal design aims to build "products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design" ("Center for Universal Design"). There are seven guiding principles to help ensure that buildings, educational materials, experiences, etc are as accessible to all from the start. The principles follow the general theme of being proactive, creative, and considerate of others' needs.

Ethics Review

Most ethicists have never written about accessibility or disability specifically, but their writings suggest what the appropriate behaviour would be. The following four ethical theories have approaches that seem appropriate to consider when thinking about the question of the ethical responsibility religious institutions have towards accessibility and the disabled.

It seems only fitting to start an ethical review on this topic with selections from the Bible. The Bible makes many mentions of treating the disabled or less fortunate well. The Old Testament commands one to "not curse the deaf or put a stumbling block before the blind" and "open your mouth for the mute, for the rights of all who are destitute" (*ESV Bible*. Lev. 19:14, Prov. 31:8). The new testament says, "bear one another's burdens, and so fulfill the law of Christ" (*Bible*. Gal. 6:2). These passages suggest that it is ethically imperative for those who follow the teachings

of the Old and New Testaments to speak up for the rights of those less privileged than themselves and to work to not make their lives any harder than their own. It's not just ethically imperative, but spiritually imperative: these are the words of God and a good follower will fulfill these instructions. This touches on the topics of equality and equity. Both are important topics when discussing accessibility within the church. A theological ethicist would be in favor of expanding equal access practices based on the teachings of the Bible.

Utilitarian Jeremy Benthem said, "it is the greatest happiness of the greatest number that is the measure of right and wrong" (Bentham). He also poses the question, "why should the law refuse its protection to any sensitive being? The time will come when humanity will extend its mantle over everything which breathes" (Bentham). Following this logic, it's clear a utilitarian would believe that since increased accessibility allows services to be open to more people and serves a vulnerable population, it is not only the right thing to do, but should be legally required.

Jean-Jacques Rousseau, pioneer of the social contract theory, wrote "the social pact, far from destroying natural equality, substitutes, on the contrary, a moral and lawful equality for whatever physical inequality that nature may have imposed on mankind; so that however unequal in strength and intelligence, men become equal by covenant and by right" (Rousseau). Rousseau would argue that as communal creatures, it is our moral imperative to care for one another. Nature puts us on an unequal footing so we should work to manufacture equality and equity. This can be achieved with accessible architecture or accommodations. We should also desire to do things to help our fellow man, such as implement accessibility measures, and not have to be told to do them. This is all part of living together in a society and we can not choose not to do it.

Deontology teaches us that beneficence is a duty we owe others (Kant, "Preliminary"). Immanuel Kant, a prominent deontologist, adds that we must treat people as more than a means to an end. You must treat everyone with respect and value them as a whole individual, not just use them to get things you want (Kant, Fundamental). When applied to this topic, it can be interpreted to mean churches should be made accessible out of respect for disabled individuals and not for any ulterior reason, like increasing revenue or improving appearances. A deontologist would say that creating accessibility is our responsibility simply because it benefits others while demonstrating respect and there is no morally good reason to avoid doing it.

Methodology

To investigate the rate at which churches implement accessibility measures, I chose to survey all houses of worship within the 28804 area code. This

encompasses North Asheville, which includes the UNC Asheville campus, and Woodfin. I was drawn to this area code because it has a noticeably diverse range of economic situations which could impact a place's ability to implement accessibility. The area around the UNCA campus appears a little more affluent, likely influenced by the University and downtown area. There are more shops and things to do, higher urban density, and buildings are newer or less likely to be in disrepair. The more northern and western areas of the survey zone are a little less affluent. It is more rural, many buildings along the main road are older or in need of repairs, and there are fewer things to do that would draw people to the area.

I identified the houses of worship by grid-searching Google Maps to identify each GPS point that indicated a religious institution. I further looked up those places to see when they were open and removed some that were on Google Maps but had closed permanently. I included all religions, all denominations, and all sizes of institutions; the only inclusion criteria were being in the 28804 area code and being open to the public.

To get the most unbiased sampling possible, I visited these houses of worship as any regular parishioner would. I went when they were open for worship services to assess their facilities and complete a pre-determined checklist. I intended to only talk with someone in charge if they got perfect or near-perfect scores. Surprisingly, a lot of places did get high scores so I ended up speaking to many people about why their organizations scored so high.

Midway through data collection, someone from a church I visited called the police to report me for "suspicious behaviour." Because of this, I decided it was for the best to email as many of the remaining houses of worship as possible so that this would not happen again. I got lots of responses and spoke to many people. However, this was not ideal, because it introduced the possibility that the places I emailed were only being welcoming or accommodating because they knew ahead of time that I was doing research and would not be coming back.

Development of the Accessibility Checklist

I evaluated the accessibility of the houses of worship I visited based on a standardized accessibility checklist, seen in Appendix 1. This allowed me to be sure I was evaluating them all the same, giving consistent scores, and making fair comparisons. I got the idea to use a checklist based on a similar checklist we had available as a resource when I interned at the North Carolina Department of Commerce. That checklist was specifically for businesses to self-audit and see potential strong and weak spots. I decided to adapt that idea to be an evaluation tool.

The key components I had on the checklist were accessible entrance, accessible services, accessible facilities, service animal access, and disability-friendly community events. I chose the first three categories to assess how accessible the overall church-going experience would be. I included service animal access as a category because I have a service animal. I hear of other service dog handlers being denied access at church a lot, so seeing if I would be denied was something that I was curious about. I included the last category to see how far a place's commitment to accessibility went. It is one thing to have the main event (a Sunday worship service) be accessible, it's another to have other programs and events be accessible, too.

I had four attainment levels that could earn progressively higher points for each category. The first being not present at all, earning 0 points. Insufficient fulfillment of a category would get one point. If something was passable it would get two points. Finally, if something was exceptional it would get three points. This made the highest possible score a 15. I defined passable as meeting the ADA standards for other facilities. Some of these "standards," I had to imagine or adapt from similar situations since there are no specific rules for churches. For example, in a theatre, to facilitate wheelchair access there are spaces left between chairs for someone to pull in, so in a church there should be cutouts in the pews. I did not have to use my imagination for things like ramps, parking, or bathroom size. Exceptional was defined as going above and beyond, doing things no one would otherwise think about, and is included for the sake of being more inclusive and more welcoming. These things showed a place knew and was thinking about the needs of their congregation. To continue with the seating example, this could look like having individual chairs instead of pews. Chairs can be rearranged in any combination to fit the needs of the congregation. A chair can be removed from any aisle to accommodate a wheelchair. As many wheelchairs as needed can be accommodated as it is not constrained by the number of cutouts there are. Insufficient was defined as less than passable. Clearly, an effort was still made, for example, there is ample space in the back of the hall to park a wheelchair. However, this could make someone feel left out and doesn't allow them to sit with their family. Something is being done, it's not nothing, it's just not quite right. A zero in this instance would be not having seating at all and it being a standing-room-only congregation. In many instances, a score of zero seemed unlikely to be achieved.

I debated on having more categories that would be more specific to get more precise scores but decided a simpler checklist would be better. If I had more niche categories then it would apply to fewer places or inadvertently favor more affluent churches. For example, a small one-story church is not going to have an elevator and would get a 0 if that was its own category. However, elevator access for multi-story buildings is part of the accessible facilities category along with

cheaper options like ramps for one-story buildings or zero-entry access.

As I tested the checklist I found it easy to use and it validated some of my gut instincts. When I checked the unbiased final score against my more personal, subjective perception of what I was feeling, most of the time, they lined up. There were only a few cases where a place got a score that did not line up with how the facility made me feel, and it usually came down to the people. If I had to remake the checklist and collect the data again, I would include a section about the people. While personal attitudes are not regulated under the ADA, they certainly contributed to how accommodating and welcoming a place felt. Accessibility isn't just physical. Unwelcoming, unhelpful, or discriminatory people can be barriers to accessing services equal to physical inaccessibility.

Analysis of Church and Worship Community Demographics

I visited 22 houses of worship over the course of this research. Only one of them was not affiliated with Christianity; it was a Jewish synagogue. 1/3 of the institutions were Baptist churches. The end of this section includes a chart, Figure 1, and a map, Figure 2, of the area further exploring the demographics based on observation during field research. Figures 1 and 2 are color-coordinated to show the location spread of the various denominations. In the area surveyed, there was a good mix of financially well-off and less well-off, old and young, large and small, white and non-white congregations and congregations with a mix of the above. Some churches seemed to be only open for Sunday service with the pastors being more like volunteers with other jobs, while other places had other services necessitating that they be open all week, commonly a daycare or school.
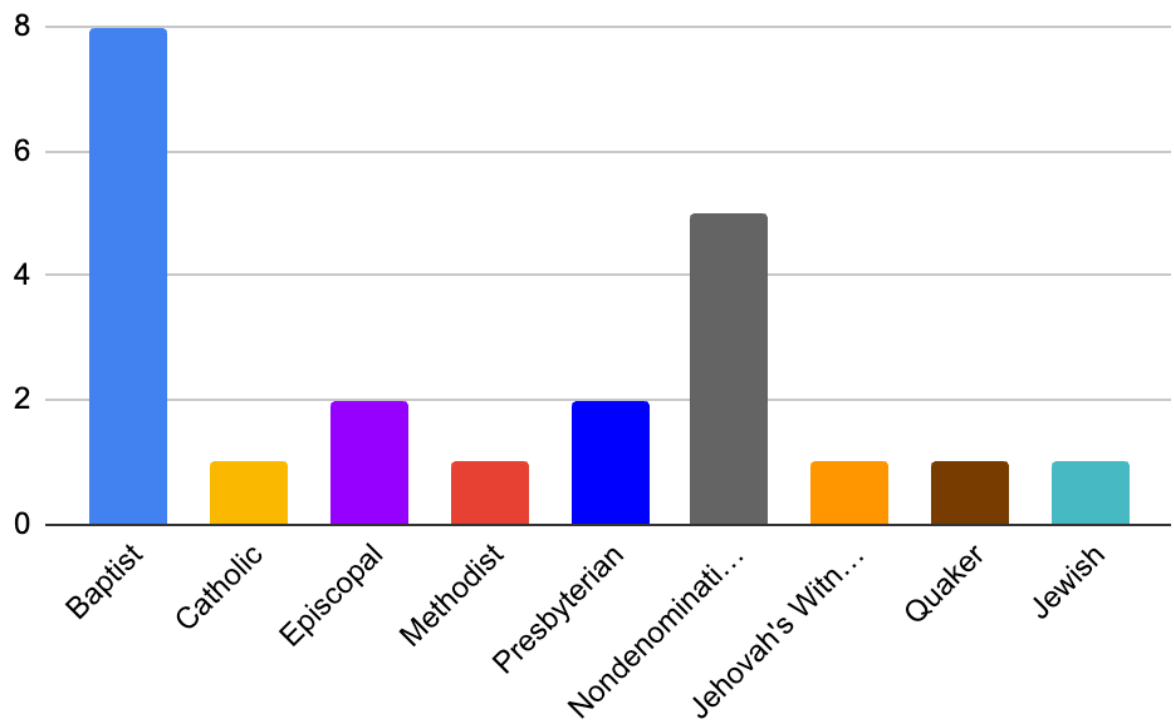
Figure 1. Breakdown of the 22 houses of worship visited by denomination. Each bar is color-coded to correspond with the points on the map seen in **Figure 2**.
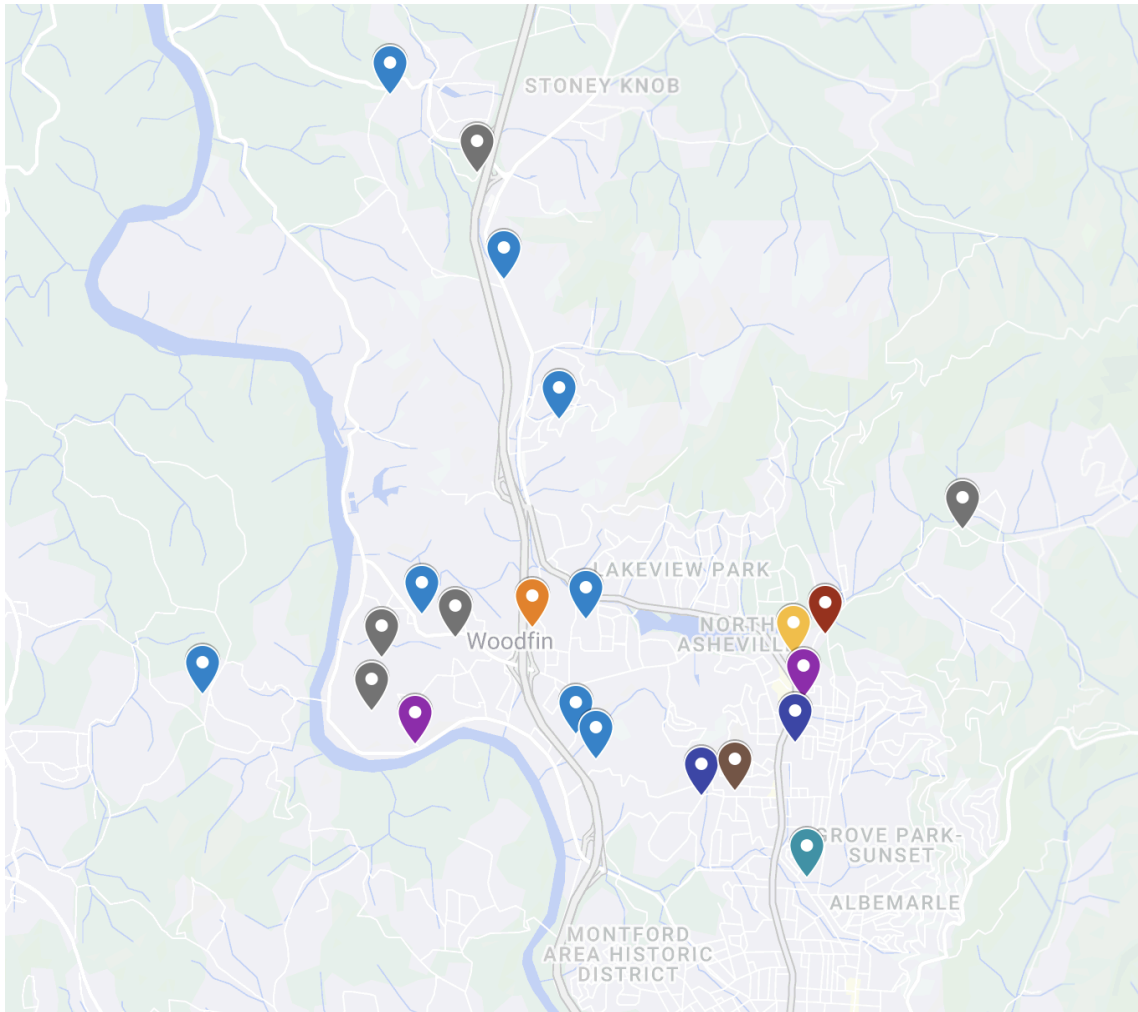
Figure 2. Map of the 28804 area code with the 22 locations surveyed plotted on it. The dots are color-coded to represent the denominations from the bar graph in **Figure 1**.

Findings

I found that, even though churches are not legally obligated to be accessible, many make some effort. Five got perfect scores while three others only got marks of passable or above. Of the places that got less than passable scores (0 or 1), seven got those scores in 2 or more categories. Four places earned zeros, but only in one category each (either the accessible entrance or accessible facilities categories). Most places had the "standard" accommodations: designated parking, pew cutouts, and ramps of some kind. However, there was no consistent type of "extra" accommodations, or the kinds of things that would push a place into the "exceptional" category. This leads me to believe that

these accommodations get added as ideas get brought up by parishioners who would benefit from them. For example, two churches I went to had baskets of complimentary foam earplugs in case the sermon was too loud. In both these buildings, the sound system was extremely high quality and got very loud at points. One had listening assist devices available and I did see one person using it.

Most of the high scores went to the more established institutions. These were often the places that had other programs, like a daycare or religious school, on-site or new construction. This still did not require them to comply with accessibility laws, but would have more people coming in and out of the building more often so accessibility would seem like a good investment. They could also afford the little luxuries like a basket of one-time-use ear plugs for anyone to take or an expensive hearing aid relay system vs the headset system I saw in use. This gave the impression that these facilities were more affluent.

A lot of the places that scored low weren't necessarily for lack of trying but for lack of knowledge. A lot of times, I found there would be a ramp but the ramp would be too steep or there would be grab bars in the bathroom but behind a door that was too narrow. This may be due in part to there being no oversight over compliance on accessibility measures for churches because they are not required to comply. One pastor I spoke to who wanted his church to be as accessible as possible when he renovated it said he had to proactively make building plans with accessibility in mind and pick a contractor who knew what those regulations were because no one was going to go over the plans and correct them. Many pastors I spoke to did not know ADA regulations at all.

Below is a graph of the final scores. Two churches got a score of "no data" for either being closed or unreachable despite their Facebook pages making it seem like they were still operational, getting them past the first round of screening. The average score was 11.9/15. A solid C+ or just shy of 4 out of 5 stars.
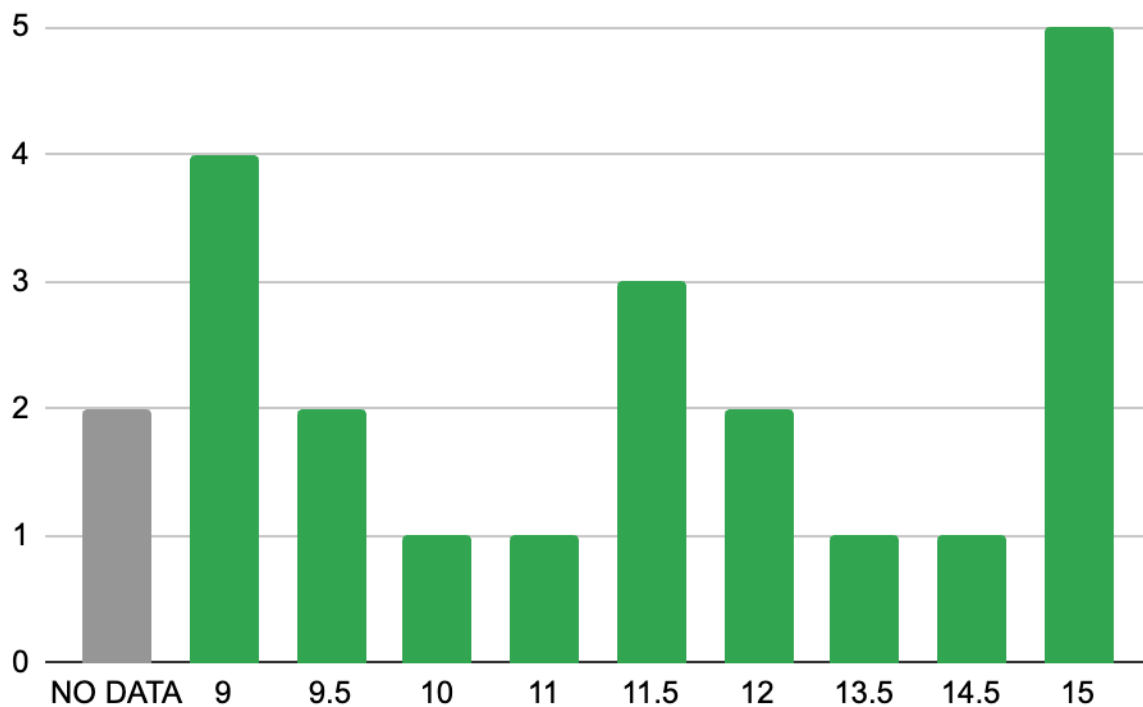
Figure 3. Frequency of scores after being graded with the accessibility checklist.

Discussion

After speaking with many religious leaders, it is clear to me that a lack of accessibility is not necessarily coming from a malicious or even apathetic place. Many of these people are deeply involved in their communities and care a great deal about the well-being of their congregation. What is lacking is practical knowledge about how to implement accessibility and enough funding to do so.

A number of the people I spoke to were honest with me and told me they had no idea what it would mean to fulfill the obligations of the ADA, even if they wanted to. At places where I did not get the opportunity to speak to someone, I could see evidence of attempted accommodations, but small mistakes were made that rendered them unusable. For example, a bathroom had grab rails, but the door was too narrow or the sink was too tall for a wheelchair user. No one is teaching them how to maximize and maintain accessibility. Because they don't have to, either, it's easy to let it fall to the wayside instead of figuring it out. This is especially true in some of the older buildings that may have been built without things like standardized plumbing in mind, let alone ramps or elevators.

This raises an ethical question: is it anyone's responsibility but their own to teach them these things? Each school of thought in the ethics review presented it as a personal responsibility to advocate for the rights of others and ease their burdens. That we all had a responsibility to take action and be proactive. It did not say it was acceptable to be reactive, waiting for someone else to come around and tell you what to do or do it for you (*Bible*, Bentham, Rousseau, Kant).

This calls into question the common objection to taking government funding. It is a lot easier to comply with ethical standards around accommodating others when there is ample money to do so. However, many of these places lack the ability to raise the funds to make significant structural changes, for example, themselves. One place only had three parishioners the day I went. So, if they cannot come up with the money themselves to fund these projects but want to become more accessible, it's only logical that they could accept government assistance. Unfortunately, some institutions would rather reject the help and the accompanying connection with the State. As with most government money programs, there are strings attached. The church that expressed the biggest interest to me in becoming more accessible also knew that taking government money would come with "government oversight" and was firm on not wanting that. However, they explained there was no other way for them to increase accessibility at their facility. They explored every option and they were all too expensive. Their score was a 9.

The conversation around "government funding and oversight" started sounding like the boogeyman. There were a lot of assumptions and vague statements but not a lot of concrete answers as to what this oversight would look like. This repeats the theme of an education gap. What actually comes with government money is a little extra bookkeeping and ensuring that everyone is treated equally (which most establishments are doing a good job of anyway). When a religious institution accepts government funds, those specific funds cannot go towards "inherently religious" activities (DCD). Things like renovations, interpreters, and parking lot striping aren't inherently religious and would be an acceptable use of government money. The religious institution would now become covered under Section 504 of the Rehabilitation Act, the ADA's predecessor ("Religious Organizations and Private Clubs under the Ada."). This bans disability-based discrimination like the ADA does. It disallows preventing access on the basis of disability and requires the making of reasonable accommodations.

Because this system of government funding is already in place, I don't think the right move is amending the Americans with Disabilities Act to force the hands of these institutions. Not because I don't want to see increased accessibility but because I don't think it will lead to that. I got the sense that many of the places I visited would fight the rule change on the grounds of religious freedom as was done so many years ago. They may win or they may not, but it will only sow division. I think these places would be more willing to accept help from a government program if they fully knew what they were

getting into. If places knew what they stood to gain was much more than what they thought they would have to give up, I think more places would agree to participate. Potentially revamping the system as well to create temporary relationships between the church and State if they only need a one-time renovation loan or grant as opposed to an ongoing program could attract even more participants. The more participants that can be engaged, the more accessibility that can be created. More study is needed to compare the accessibility of churches that have access to federal funds and those that do not and if those with federal funds are happy with their decision.

Conclusion

After completing my research on the topic of voluntary accessibility measures taken by religious institutions in the North Asheville and Woodfin area, I realized the issue was much more nuanced than I originally thought. After years of being told that churches would take full advantage of their legal exemption from the Americans with Disabilities Act, I realized that was not the case. Most people in charge of these facilities recognize their moral obligation to take care of and respect their neighbors. However, the actual level of accessibility and education varies greatly from place to place. The ethical argument for increasing accessibility is strong. However, many practical challenges lie in the way. Mainly, lack of funds and unwillingness to work with the government. The best way forward is to foster connections between faith communities and secular communities while increasing education about government programs. With more people to serve, accessibility will become necessary. Religious leaders will also be more willing to accept outside help if they know more about what is involved with accepting it. Continuing research and conversation are needed on this topic to ensure a future where religion and accessibility can coexist.

Acknowledgments

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Appendix 1

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ESI 490

Name of Center: _____ Date: __/__/____

Denomination: _____

Item and Notes	No (0pts)	Insufficient (1pts)	Passable (2 pts)	Exceptional (3 pts)
Accessible Entrance:				
Accessible Service (pews, bibles, etc):				
Accessible Facilities (bathrooms, elevators):				
Service Animal Access:				
Disability-Friendly Community Events (AA):				
Column Total:		/5	/10	/15
Total:				/15

Additional Notes: