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## American Planning Association **Wisconsin Chapter**

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### Winter-Spring 2016 Newsletter

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## Aging in Place: Planning for the Retirement Boom

By Lydia Statz

APA - Wisconsin Student Editor

University of Wisconsin - Milwaukee

Throughout their lives, Baby Boomers have had unprecedented impacts on the American economy and culture in many ways. Now, they're about to do it again. Their changing needs will put many communities to the test.

Nationwide, approximately 10,000 people are turning 65 years old every day, a trend that will continue for many years. Wisconsin is not immune to the "aging boom." The elderly population in Wisconsin is expected to double, rising from about 750,000 in 2010 to 1.5 million in 2035. Perhaps more surprising, according to a presentation by the UW-Extension, the number of elderly Wisconsin residents is forecast to exceed the number of children at some point in the latter half of the 2020s. Communities are already beginning to experience new challenges associated with this demographic trend, like increased development of assisted living and memory care facilities, challenges to zoning that disadvantage the elderly and elder-focused facilities, and increased needs for medical services, including emergency response.

And yet, a 2006 survey found that, at that time, fewer than 46% of communities had begun planning for an aging community. Putting off this conversation would be a mistake for any community because, contrary to popular opinion, most retirees will stay in their community throughout their old age. According to the UW-Extension, only about 3% of Wisconsinites age 65 and older moved between 2011 and 2012, compared to 14% of those under age 65. Those who did move normally stayed within the same state, and even the same county.



Though Madison was named the second-best city in the US for successful aging, many other Wisconsin communities compare poorly with cities that are more conducive to aging residents. According to a 2012 study, residents in rural areas were much less likely to report their community as being "aging friendly," due largely to lack of transportation and limited health care access. So what does planning for an increasingly graying community look like?



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The American Association of Retired People (AARP) and the American Planning Association have each identified several policies and focus areas that can help communities to ensure their communities work for citizens of all ages. AARP offers information and a [Network of Age-Friendly Communities](#) and a self-service toolkit to assess your communities' "environmental, economic and social factors that influence

the health and well-being of older adults." AARP also offers a [community survey tool](#) for residents 50 and older focusing on:

- \* Housing
- \* Outdoor Spaces and Buildings
- \* Transportation and Streets
- \* Health and Wellness
- \* Social Participation, Inclusion and Education Opportunities
- \* Volunteering and Civic Engagement

AARP also launched a [Livability Index](#) in Spring 2015 that rates places on livability for all ages, but with a special emphasis on the needs of aging residents.

Here is a quick look at these top issues along with activities underway in Wisconsin to address aging in place.

## Transportation

Because many older adults do not drive, ensuring the elderly in the community retain their mobility is key to keeping citizens connected, healthy and independent. However, a 2011 Wisconsin Public Interest Research Group report found that over half of boomers in eight Wisconsin metro areas had poor access to public transit. Paratransit programs and volunteer driver programs can help fill the gap, and should be fully marketed to ensure they are utilized to their full potential. But the cost of funding those programs are often difficult to sustain, especially as demand grows.

The simpler option to improve independent mobility may be to focus on pedestrian facilities, improving life for all age groups. Providing complete streets and a connected street grid can allow seniors the option to give up their vehicle and walk for their daily chores, and focusing on slowing traffic can be crucial for senior pedestrians. Walking is the second-most popular transportation option for seniors, so making the mode more attractive, safe, and convenient can have big benefits.

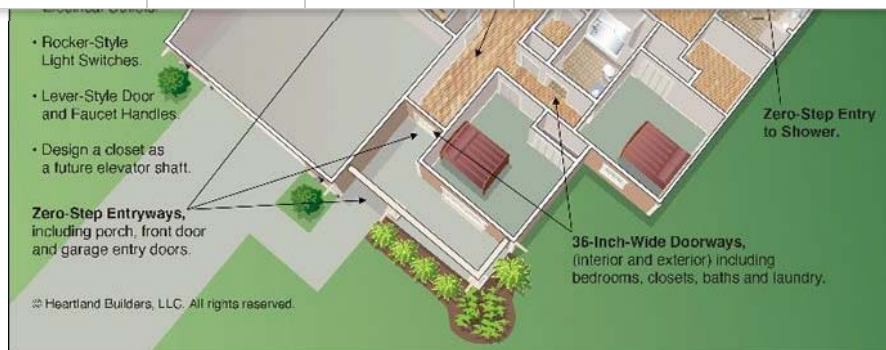
## Housing

Though the vast majority of Boomers express a desire to remain in their communities as they age, communities will need to provide them with the right tools to do so.

Aging in place means different things to different people. Some would literally like the ability to remain in their current home as long as possible. Many of these residents will need to make modifications to their homes to make that possible, and planners should ensure their community's code is accommodating of this. According to the UW-Stevens Point Center for Land Use Education, a growing trend is the addition of accessory dwellings, which allow multiple generations to reside on the same lot, if not under the same roof.



Some residents will be looking to downsize, but stay within their community. To meet this demand, communities might look to the principles of universal design, a set of standards intended to meet the needs of

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implemented successfully, it produces houses (or public buildings) with wide halls and doorways, ADA compliant fixtures, and no-step entryways.

Several cities nationwide have included incentives for builders to include universal-design features, or required that a certain percentage of units in large projects be universally designed.

## Land Use

Many communities across the state are already seeing an uptick in the number of assisted-living and memory care facilities under construction. This is a trend likely to continue, and may be a good time for communities to review their code and have conversations about how and where to accommodate these facilities.

The City of Fort Atkinson recently put a temporary moratorium on community-based residential facilities while it determines exactly how to move forward with future requests. Currently, residents in adult homes make up approximately 3% of the city's population, and concerns were raised because emergency calls to these facilities take up approximately 16% of emergency officials time, with an average duration of 73 minutes.

Though the city has density and separation requirements, those have always been overridden by the Americans with Disabilities Act and federal Fair Housing laws. The consequences of not keeping the city's code in line with current standards led the city to a "tipping point," according to the city council. It needed to take a closer look at its code for assisted living and other facilities for the elderly.

In addition, the city was forced to further refine its code when a developer came forward with a plan to expand his assisted living facility into the first floor of a Main Street building. Though that was technically a permitted use, the council agreed that Main Street should be preserved as a retail corridor. A quick amendment righted that oversight, but the growing pains remain as the city continues to debate the role of residential care facilities.

Outdated code and a lack of preparation threw Fort Atkinson officials into a difficult situation, which other communities around the state can learn from. Assisted living and memory care facilities are under construction statewide, and communities should be prepared to handle the reality of an aging population before they, too, reach a "tipping point."

## Resources at APA

The APA offers a number of resources to help communities transition to become more age-friendly places. [A 2012 symposium on aging in place](#) can be "attended" as a podcast (and earns 2.5 AICP CM credits). The podcast includes advice on how master plans, capital improvement plans, transportation plans, zoning and subdivision requirements and building codes need to be re-examined through the lens of the needs of aging residents—and keeping the community competitive for those residents.

Planners may also want to consult two publications by APA:

- Planning Aging-Supportive Communities (2015, PAS Report 579, <https://conference.planning.org/publications/book/9026902/>) and
- APA Policy Guide: Aging in Community (2014) <https://www.planning.org/policy/guides/adopted/agingincommunity.htm>

**For additional resources** on planning for an aging community, visit this UW-Extension website on [Creating Aging-Friendly Communities](#), or the APA's [collection of resources](#) on Aging and Livable Communities.

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## An Award for APA - WI's Past VP for Awards

UW-Milwaukee School of Architecture and Urban Planning (SARUP) faculty member Carolyn Esswein was recently recognized with the prestigious Spire Award from the Wisconsin Commercial Real Estate Women (WCREW).

The Spire Award recognizes “visible or unsung heroes, who through their everyday actions consistently demonstrate...excellence, integrity and innovation, and serve as through leaders, change agents and...champions of diversity.” In her acceptance of the award, Carolyn acknowledged her privilege to work with great partners, students, and colleagues who share her passion for cities.



Esswein has been a practicing urban designer and planner for over 20 years, working with more than 30 communities. She holds AICP certification and has served as APA - Wisconsin's Vice President for Awards through the end of 2015. Currently, she is the director of Community Design Solutions, a student-staffed design center at SARUP that provides design services to community and non-profit groups. Among other projects, CDS recently spearheaded the design of gateway signage for Milwaukee's Brewer's Hill Neighborhood, as well as proposed streetscape improvements. Find out more about CDS here: <http://uwm.edu/community-design-solutions/>



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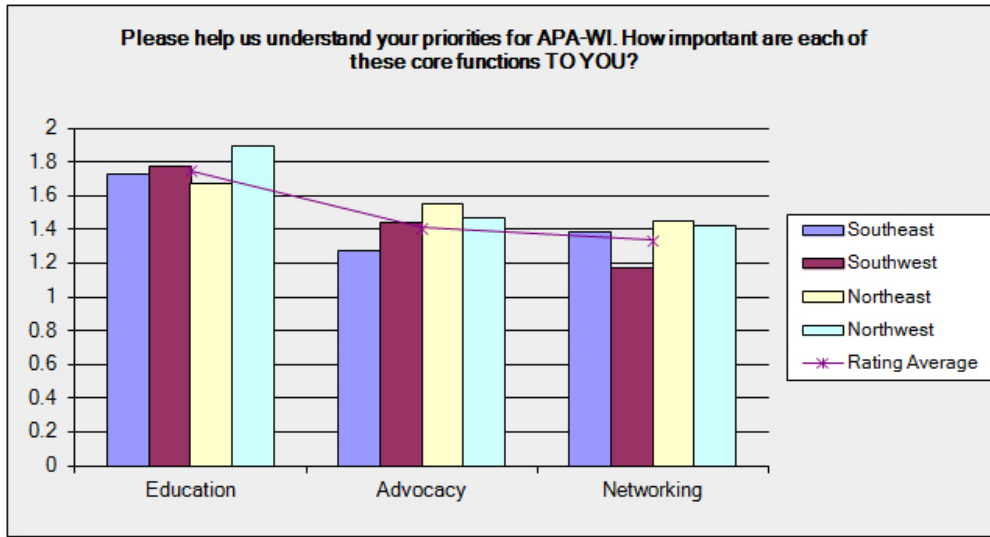
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## APA - Wisconsin Member Survey Results



The recent Member Survey checked in with our members to make sure our strategic plan and annual work plan for the chapter is consistent with member priorities. Here is what the 152 respondents told us.

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## AICP CM

### Upcoming Webcasts – all at 12 p.m. CT:

For more information, visit the [APA-WI AICP distance ed page](#).

- **March 18 – Small Towns and Rural Planning Division – The New “Cottage” Industry: Housing, Lodging, and the Sharing Economy** – Speakers: Jessica Garrow, Phillip Supino, Brian Duffany. 1.5 CM credits approved
- **April 1 – Pennsylvania Chapter – Assessing Affordable Housing Need: A Practical Toolkit** – Speakers: Jenni Easton and Nick Fedorek. 1.5 CM credits approved
- **April 15 – New Mexico Chapter – Utilizing public-private partnerships and funding to create local and region innovation – How Albuquerque’s BICI bike share became a reality** – Speakers: Lola Baird and Valerie Hermanson. 1.5 CM credits approved
- **April 22 – Transportation Planning Division – Applications in Transit Planning: From Transit Equity in Long Island, NY to Incentive Programs in Durango, CO** – Speaker: Jon Sigall. 1.5 CM Credits pending

Click on the title links above to register. You can see the current listing of all webcasts at [www.ohioplanning.org/planningwebcast](http://www.ohioplanning.org/planningwebcast).

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## Law Update

As of February 15, 2016

**By Brian W. Ohm, JD**  
**Dept. of Urban & Regional Planning**  
**UW-Madison**

For questions or comments about these cases, please contact: [bwohm@wisc.edu](mailto:bwohm@wisc.edu).

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Visit the [Law and Legislation](#) page on our website for cases reported since summer. Here is a quick summary of the issues addressed by the courts over the summer.

### Cases reported in January and February

## Wisconsin Supreme Court Opinion Diminution in Value Due to Change of Access Not Compensable Under Eminent Domain Laws

Hoffer Properties v. State of Wisconsin, 2016 WI 5, involved the review of an unpublished decision of the Wisconsin Court of Appeals arising from a challenge to the amount of compensation awarded for the taking of land by the Wisconsin Department of Transportation (DOT) to provide a new highway access.

The facts of the case are as follows. Hoffer Properties owns land west of the City of Watertown. Originally the property had direct access to State Trunk Highway 19 via two driveways. DOT later designated the portion of STH 19 bordering the Hoffer property as a "controlled-access" highway. DOT also relocated State Trunk Highway 26 to intersect STH 19 near the Hoffer property. The DOT eliminated Hoffer's direct access to STH 19 and condemned .72 acres of Hoffer's 9.90 acre parcel in order to create a new access to Hoffer's property. The new access was a more circuitous route that required vehicles to travel roughly 1000 feet to reach STH 19. Hoffer received \$90,000 in compensation for the taking of the land for the new access but challenged the award arguing that compensation for the .72 acres must include the diminution of value of the rest of the parcel due to the loss of its direct access to STH 19.

The opinion, written by Justice Gableman, focused on two issues. First, whether DOT is authorized under state law to eliminate an abutting owner's direct access to a controlled-access highway and replace it with a more circuitous route. The second issue was whether the existence of some access precludes the property owner from receiving compensation for the diminution of value for the remaining land caused by the changed access.

As to the first issue, the Wisconsin Supreme Court held that Wisconsin Statute § 84.25(3) authorizes DOT to eliminate a property owner's direct access as an exercise of the police power and DOT is not required to provide compensation as long as alternative access is given that does not deprive the property owner substantially all beneficial use of the property.

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matter of law from challenging the reasonableness of the access and receiving compensation for diminution in value to the remaining parcel due to the changed access.

Justice Abrahamson wrote a concurring opinion in which she was joined by Justice Ann Walsh Bradley.

Justice Prosser wrote a dissenting opinion. Justice Rebecca Bradley did not participate.

## Wisconsin Court of Appeals Opinions The Amish and Building Permits

An unpublished decision by the Wisconsin Court of Appeals, Eau Claire County v. Borntrager highlights an interesting Freedom of Religion issue that has confronted several Wisconsin Counties that are home to the Old Order Amish. State and local laws require building and sanitary permits for the construction of residences. Those that practice the Amish religion must follow a modest lifestyle. The use of modern technology required in building and sanitary codes violates their religious beliefs. Applying for the permit requires signing an application that states the applicant will adhere to the applicable building codes. Signing the application form would constitute a false statement since the Amish have no intent to comply and false statements are prohibited by their religion.

The Borntrager case arose as a result of an enforcement action brought by Eau Claire County because the Borntragers, who are Amish and constructed a residence, did not obtain the required building and sanitary permits due to their religious beliefs. The Borntragers moved to dismiss the County's action based on religious freedom grounds. The circuit court denied the motion and later granted summary judgment to the County and ordered the Borntragers to apply for building and sanitary permits. The Borntragers did not appeal the granting of summary judgment. The Borntragers did not obtain the necessary permits as required by the circuit court's order so the County filed a motion for contempt. The circuit court granted the contempt order. The Borntragers appealed the contempt order.

While the Wisconsin Court of Appeals acknowledges that the Wisconsin Constitution provides much broader protections for religious liberty than the First Amendment of the U.S Constitution, the Court does not address that issue in this case. The Court of Appeals found that the religious liberty issue was decided by the circuit court in the earlier summary judgement action which the Borntragers did not appeal. This action only deals with whether the Borntragers were in contempt of a court order. The Borntragers did not refute that they had not complied with the circuit court's order. The Court of Appeals therefore affirmed the circuit court's finding of contempt.

Case law updates are posted monthly, usually in the second half of the month, at the Chapter [Law and Legislation](#) page.

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## Legislative News

### APA - Wisconsin Legislation Tracking

By Steve Hiniker, 1000 Friends of Wisconsin

In this issue, Drew Pennington, APA-WI Vice President for Chapter Affairs, reviews what passed and what didn't in the recently ended legislative session. For Steve Hiniker's [report](#) on our website for a complete overview.

If you are interested in being actively involved in the chapters legislative advocacy efforts, please contact your [District Representative](#).

## "Now that the legislative session has ended . . ."

By Drew Pennington

Vice President – Chapter Affairs

APA – Wisconsin Chapter

Now that the legislative session has ended, it seems appropriate to assess which bills were enacted into law, and which were left on the table. Note that some of the most significant bills were not enacted into law.

See also Steve Hiniker's February 2016 legislative update on the APA - WI Law and Legislation page, [http://wisconsinplanners.org/wp-content/uploads/2015/01/APA-WI-Legislative-Report\\_February-2016.pdf](http://wisconsinplanners.org/wp-content/uploads/2015/01/APA-WI-Legislative-Report_February-2016.pdf)

### Enacted

Act 176 - AB568/SB445: Relating to establishing historic districts, rental inspections, pre-existing sprinkler requirements, and landlord/tenant issues <http://docs.legis.wisconsin.gov/document/acts/2015/176>

Act 178 - AB563/SB479: Relating to allowing Dane County Towns to opt out of County zoning <http://docs.legis.wisconsin.gov/document/acts/2015/178>

Act 223 - AB523/SB403: Relating to nonconforming mobile home parks and replacing nonconforming structures <http://docs.legis.wisconsin.gov/document/acts/2015/223>

Act 167 - AB603/SB477: Relating to County shoreland zoning regulations <http://docs.legis.wisconsin.gov/document/acts/2015/167>

Act 219 - AB459/SB314: Relating to prohibiting adverse possession of public lands <http://docs.legis.wisconsin.gov/document/acts/2015/219>

### Not Enacted, But of Interest to Planners

AB583/SB446: Relating to pre-emption of local regulation of vacation rentals

AB582/SB464: Relating to property rights, judicial review standards, shoreland regulations, zoning notification, conditional use permits, downzoning, moratoria, etc.

AB600/SB459: Relating to navigable waterways & wetlands.

Legislative news is posted on the [Law and Legislation](#) page at least monthly.

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