



Disability Rights online News

U.S. Department of Justice
Civil Rights Division

February 2007
Issue Seventeen

Disability Rights Online News

is a bi-monthly update about the Civil Rights Division's activities in the area of disability rights. The Division enforces laws prohibiting discrimination based on disability in employment, housing, access to businesses serving the public, access to government programs and services, including voting and public transportation, and unconstitutional conditions in institutions of confinement.

In this Issue:

Disability Treaty	1 - 3
ADA	1, 3 - 4
Fair Housing	5 - 7
ADA Mediation	8
ADA Outreach	9

UNITED NATIONS ADOPTS DISABILITY RIGHTS TREATY

On December 13, 2006, the United Nations adopted the first international human rights treaty of the 21st century, the Convention on the Rights of Persons with Disabilities. It was the most rapidly negotiated human rights treaty in the history of international law, concluding a process that began five years ago. The treaty will be open for signature and ratification by U.N. member states beginning on March 30, 2007, and will enter into effect as soon as at least 20 countries have ratified it, which is expected to occur sometime within the next two years. Member states that have not yet enacted comprehensive domestic legislation protecting the rights of people with disabilities will be required to enact disability rights legislation upon ratification of the treaty. Currently, only 45 of the 192 countries that are UN members have such laws. In addition, member states that ratify an optional

(Continued on page 2)

DEPARTMENT SIGNS 150th PROJECT CIVIC ACCESS AGREEMENT

On December 5, 2006, the Justice Department signed the 150th Project Civic Access (PCA) agreement at a signing ceremony held in Charleston, West Virginia. Project Civic Access is the Department's wide ranging initiative to work cooperatively with local governments to ensure that people with disabilities have an equal opportunity to participate in civic life, a fundamental part of American society.

At the ceremony, Assistant Attorney General Wan J. Kim gave remarks and signed three agreements, one with Kanawha County Parks and Recreation, one with Metro 9-1-1 of Kanawha County, and one with Kanawha County, the Department's 150th PCA agreement. The Department has now conducted reviews in all 50 states, as well as Puerto Rico and the District of Columbia,

(Continued on page 3)

(United Nations, continued)

protocol to the treaty will confer upon their citizens the right to petition an international Committee on Rights of Persons with Disabilities once they have exhausted all avenues for relief within their own country.

The treaty was spearheaded and driven by the international disability community and was the first human rights treaty to gain momentum from lobbying conducted extensively through the Internet. It was negotiated by an Ad Hoc Committee of the General Assembly comprised of all U.N. member states. A Working Group of the Ad Hoc Committee led by disability NGOs (nongovernmental organizations) produced the draft text that formed the basis for the negotiations, an unprecedented level of NGO involvement in the treaty negotiation process.

Ambassador Don McKay of New Zealand, who chaired the Ad Hoc Committee sessions during the final two years, provided excellent stewardship of the negotiation process and is widely regarded as the key to the treaty becoming a reality. The United States was an active participant from the beginning, represented by a delegation of State Department officials and technical advisors from the Department of Justice and the Department of Health and Human Services who shared their expertise and experience with U.S. disability rights laws

and helped to improve the text in several key areas.

Hailing the treaty on the day of its adoption, U.N. Secretary-General Kofi Annan stated, “Today promises to be the dawn of a new era – an era in which disabled people will



Kofi A. Annan, outgoing Secretary General of the United Nations

no longer have to endure the discriminatory practices and attitudes that have been permitted to prevail for all too long. This convention is a remarkable and forward-looking document. While it focuses on the rights and development of people with disabilities, it also speaks about our societies as a whole – and about the need to enable every person to contribute to the best of their abilities and potential. Throughout the ages, the treatment of people with disabilities has brought out some of the very worst aspects of human nature. Too often,

those living with disabilities have been seen as objects of embarrassment, and at best, of condescending pity and charity. Societies have even gone out of their way to ensure that persons with disabilities are neither seen nor heard. On paper, they may have enjoyed the same rights as others; in real life, they have often been relegated to the margins and denied the opportunities that others take for granted. . . [The treaty] will offer a way forward to ensure that those with disabilities enjoy the same human rights as everyone else.”

The treaty reaffirms the fundamental principles of the disability rights movement that was its inspiration and extends those principles globally. Recognizing that “persons with disabilities continue to face barriers to their participation as equal members of society and violations of their human rights in all parts of the world” and that “a comprehensive and integral international convention will make a significant contribution to redressing the profound social disadvantage of persons with disabilities and promote their participation in the civil, political, economic, social and cultural spheres,” the treaty’s central purpose is “to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with

(United Nations, continued)

disabilities.” Among the core principles reflected in the treaty are respect for individual autonomy, nondiscrimination, accessibility, equality of opportunity, full and effective participation and inclusion in society, respect for difference, and acceptance of disability as a part of human diversity and humanity. The treaty’s many detailed articles address issues such as access to justice, voting rights, and equal participation in political and public life; the right to be free from abuse, exploitation, medical or scientific experimentation, or institutionalization without due process; accessible buildings, communication and information technology; equal access to education, employment, health care and rehabilitation; independent living; protection during wars and humanitarian or natural disasters; participation in cultural, recreational and leisure activities; equal protection with respect to end-of-life decisions; availability of mobility aids; right to privacy; respect for choices relating to marriage and reproduction; and right to an adequate standard of living and social protection. The full text of the treaty is available at <http://www.un.org/esa/socdev/enable/rights/convtexte.htm>. Additional background information is available at <http://www.un.org/esa/socdev/enable/disovlf.htm>.

(Project Civic Access, continued)

and the 150 agreements are helping to improve lives and broaden opportunities for more than three million Americans with disabilities.

The signing ceremony, held in an historic courtroom in the Kanawha County courthouse, was well attended by state and local officials, community advocates, and the local press. “From day one, all three entities welcomed the Department’s investigation. This type of cooperation by local governments across the country has helped make Project Civic Access a big success,” said Assistant Attorney General Kim. “People with disabilities will be able to participate more fully in fundamental aspects of American life in Kanawha County, including attending town hall meetings, viewing government web sites, enjoying local parks and recreational facilities, accessing emergency services, and voting at their local polling places. Their increased participation benefits all Americans.”

Assistant Attorney General Kim also noted that the PCA review of Kanawha County was undertaken on the Department’s own initiative under the authority of Title II of the ADA, rather than resulting from a complaint. Kanawha County was chosen by the Department in part because nearly 22 percent of the people over the age

of five in the county have disabilities, a full 7 percent higher than the national average.

Sharing the positive sentiment about the Department’s PCA investigation, Kanawha County Commission President W. Kent Carper said, “We are committed to making the County’s programs, parks, and 9-1-1 system accessible to everyone who lives in or visits our County. The County Commissioners, Parks and Recreation Board, and Metro 9-1-1 Board welcomed the opportunity to work with the Justice Department to figure out where access for people with disabilities could be improved, and we have already started making those improvements.”

Charleston Mayor Danny Jones, speaking on behalf of the Metro 9-1-1 Board of Directors, said “Metro 9-1-1 will address the access concerns of all individuals with disabilities,” and is committed to becoming ADA compliant.

Did you know...

A complete collection of PCA agreements is available at www.ada.gov/civicfac.htm.

(Project Civic Access, continued)

David Stewart, a community advocate for people with disabilities who spoke during the signing ceremony, said he has sometimes been frustrated by the lack of wheelchair accessibility in older buildings, and that signing the three agreements “shows the commitment of the county to move forward.”

Assistant Attorney General Kim also announced the issuance of the first installment of new technical assistance materials the Department is developing to assist state and local officials in complying with ADA requirements. The new materials, entitled “The ADA Best Practices Tool Kit for State and Local Governments,” will teach state and local officials how to conduct accessibility audits of their own programs, services, activities, and facilities. “State and local officials have asked us to show them how to identify barriers to access for people with disabilities. The Tool Kit is a very practical type of technical assistance. It tells government officials what to review and what questions to ask in order to identify ADA problems,” said Assistant Attorney General Kim.

THREE NEW YORK CITY HOTELS AGREE TO IMPROVE ACCESSIBILITY

Three additional hotels in Manhattan’s theater district have entered into settlement agreements to improve accessibility for customers with disabilities, pursuant to the hotel compliance initiative being conducted by the U.S. Attorney’s Office in Manhattan (see previous article in newsletter issue 16). They are the Paramount Hotel, a 567-room hotel on West 46th Street, the Hilton Times Square, a 444-unit hotel on West 42nd Street, and the DaVinci Hotel, a 27-room hotel on West 56th Street.

The Paramount Hotel will make eighteen rooms accessible, six of which will have roll-in showers, will provide visual alarms and communication devices (either built-in or through the use of portable kits) in thirty rooms for guests with hearing impairments, will maintain a TTY at the front desk, and will provide an accessible registration counter.

The Hilton will eliminate access barriers in fourteen rooms, five of which will have roll-in showers, will disperse the accessible rooms among the hotel’s various classes of sleeping accommodations, will provide sufficient rooms or portable kits to accommodate people with hearing impairments, and will establish a written policy on providing services to guests with disabilities.

The DaVinci Hotel will conduct a self-evaluation of its designated accessible rooms and make any modifications necessary to bring them into compliance with the ADA Standards for Accessible Design, will provide visual alarms and communication devices in four rooms for guests with hearing impairments, and will bring its public entrance into compliance with the ADA Standards.

Henry C. Shores, Kanawha County Commissioner, signs one of the PCA agreements as officials from the County and Justice Department look on



ILLINOIS TOWN WILL ISSUE PERMIT FOR GROUP HOME FOR DISABLED ADULTS

On December 13, 2006, a federal court in Chicago approved a settlement of the Department's lawsuit against the Village of South Elgin, Illinois, alleging discrimination against people with disabilities. The Department's complaint alleged that the village violated the Fair Housing Act by refusing a permit to allow Unity House, Inc., to operate a home for seven residents recovering from addictions to drugs and alcohol.

Under the settlement, the village must allow Unity House to operate with up to seven residents recovering from drug or alcohol addiction. The settlement also requires the village to pay a total of \$25,000 in damages to Unity House, \$7,500 each to two residents who were not able to live in the home when

the permit was denied, and \$15,000 to the United States as a civil penalty. The settlement also requires village officials and employees to receive training on the Fair Housing Act and requires the village to keep and maintain records for the next three years relating to other zoning and land use requests regarding homes for people with disabilities.

Unity House is a group home for people recovering from alcohol or drug dependency. Under the Fair Housing Act, people recovering from drug or alcohol addiction are protected from discrimination in housing because they are recovering from addiction. People who are currently using illegal drugs are not protected by the disability provisions of the Fair Housing Act.

Act when they designed and constructed the Ridgeview and Indian Meadows apartment complexes in Olathe, Kansas, without required features for people with disabilities.

Under the settlement, the defendants are required to contribute money to a fund that will be used to retrofit parking areas, paths and walkways, public and common use areas, as well as the interiors of ground floor units, to enhance the accessibility of the complexes to residents with disabilities and their guests at an estimated cost of about \$1.2 million. In addition, the fund will be used to pay \$200,000 for enhanced accessibility features upon request by tenants, up to \$200,000 in damages for unidentified victims, and \$50,000 in civil penalties to the government. The settlement also requires the defendants to obtain training on the requirements of the Fair Housing Act and the Americans with Disabilities Act.

The lawsuit arose as a result of a referral from the U.S. Department of Housing and Urban Development. The Justice Department conducted an investigation and filed suit in April 2002.

KANSAS APARTMENT COMPLEXES AGREE TO MAKE ACCESSIBILITY RETROFITS

On November 8, 2006, a federal court in Kansas approved a settlement resolving United States v. LNL Associates/Architects, P.A., a case alleging

discrimination against people with disabilities. The Department alleged that developers, builders, architects, and engineers violated the Fair Housing

DEPARTMENT SETTLES DISABILITY DISCRIMINATION LAWSUIT AGAINST FLORIDA HOUSING AUTHORITY

On December 21, 2006, the Department of Justice settled a lawsuit against the Gainesville Housing Authority alleging disability discrimination at the Madison Cove Apartments, a rental property in Gainesville, Florida. The consent decree, approved by a federal court on January 10, 2007, also resolves the government's claims against the owner of the complex, Madison Cove of Gainesville, Ltd., and the management company, Davis Property Management, Inc.

The Department's complaint alleged that the defendants violated the Fair Housing Act when they discriminated against Sheila and Charles O'Steen by failing or refusing to grant their requests for a reasonable accommodation of their physical disabilities. Specifically, the O'Steens requested a transfer from a second floor to a first floor unit.

Under the settlement, the defendants agreed to pay a total of \$50,000 to the O'Steens, develop and implement rea-

sonable accommodation and complaint policies that comply with federal civil rights laws, undergo fair housing training, and submit periodic reports to the Justice Department.

The case began when the O'Steens filed a fair housing complaint with the U.S. Department of Housing and Urban Development (HUD). After investigating the matter, HUD issued a charge of discrimination, and the matter was referred to the Justice Department, which filed the lawsuit in November 2005.

MISTRIAL DECLARED IN DISABILITY LAWSUIT AGAINST DISTRICT OF COLUMBIA

On December 8, 2006, a federal court in Washington, DC, declared a mistrial after a 12 person jury failed to reach a unanimous verdict on the Department's allegations that the District of Columbia violated the Fair Housing Act by discriminating against people with disabilities. The Department's claims of intentional discrimination were consolidated for discovery and trial with a case brought by Father Flanagan's Boys and Girls Home ("Boys Town"). During the trial, which lasted six days, the plaintiffs presented

evidence that District officials delayed and denied Boys Town's building permit applications for the construction and operation of four group homes and a short-term shelter for children with disabilities in the Capitol Hill East neighborhood of Washington. The evidence indicated that the District's treatment of Boys Town was caused by discriminatory community opposition to the Boys Town project.

Two additional Fair Housing Act claims brought by the Department will be decided by the federal court, sitting

without a jury. The Department alleges that the District failed to grant Boys Town's reasonable accommodation requests in a timely manner and that the District's municipal regulations include zoning classifications that discriminate on the basis of disability. The Department has requested an evidentiary hearing before the court with respect to these outstanding issues. The plaintiffs also are responding to the District's motion to dismiss all claims in both cases prior to any consideration of a retrial on the jury claims.

HONOLULU APARTMENT COMPLEX WILL RECEIVE ACCESSIBILITY RETROFITS

On January 24, 2007, the owner, builder, architect, and civil engineer of the West Loch Village, a 150-unit apartment complex in Ewa Beach, Hawaii, reached a settlement with the Department resolving allegations of disability discrimination in the design and construction of the complex. The federal Fair Housing Act requires that multi-family housing be constructed with accessibility features so that it can be used by people with physical disabilities. The Department's suit was brought as a result of a referral from the U.S. Department of Housing and Urban Development.

Under the settlement, the City and County of Honolulu, Mecon Hawaii Limited, Yamasato, Fujiwara, Higa & Associates Inc., Hawaii Affordable Properties Inc., and R.M. Towill Corp. will pay all costs related to making the apartment complex accessible to people with disabilities. The settlement also requires the defendants to undergo training on the requirements of the Fair Housing Act and to establish a \$75,000 fund which will be used to compensate individuals harmed by the inaccessible housing. A further claim against the City and County of Honolulu, alleging that one resident of the complex was hurt when he fell due to the design and construction defects, was not settled by this partial settlement agreement.

"Accessible housing is a necessity for people with disabilities," said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. "These types of design and construction cases reflect the Justice Department's commitment to enforcing this nation's fair housing laws."

MULTI-FAMILY HOUSING ACCESS FORUM TO BE HELD IN MINNEAPOLIS/ST. PAUL IN MAY

The Department will host a discussion on the topic of accessibility in the construction of multi-family housing on May 22nd, 2007, at the Radisson Plaza Hotel in Minneapolis, Minnesota. The event is part of a nationwide "Multi-Family Housing Access Forum" that the Assistant Attorney General for the Civil Rights Division launched in 2005. Its purpose is to help building professionals understand their legal obligations under the federal Fair Housing Act's accessibility requirements and to celebrate partnerships that have successfully produced accessible multi-family housing in which everyone profits – developers and consumers alike. Expected to participate are building professionals, including architects and engineers, as well as developers, government officials, and advocates for people with disabilities.

The last Access Forum event was held in Phoenix in November 2006. Previous events were held in Atlanta, Dallas, and Chantilly, Virginia. To learn more about the program and the Department's fair-housing enforcement activities, visit www.usdoj.gov/fairhousing/. To receive an invitation to the May event, email the Department at accessforum@usdoj.gov

Did you know...

Information about the Justice Department's Civil Rights Division and the laws it enforces is available at www.usdoj.gov/crt.

ADA MEDIATION HIGHLIGHTS

The ADA Mediation Program is a Department sponsored initiative intended to resolve ADA complaints in an efficient manner. Mediation cases are initiated upon referral by the Department when both the complainant and the respondent agree to participate. The program uses professional mediators who are trained in the legal requirements of the ADA and has proven effective in resolving complaints at less cost and in less time than traditional investigations or litigation. Over 75% of all complaints mediated have been settled successfully.

In this issue, we highlight complaints against financial institutions that have been successfully mediated.

■ A wheelchair user complained that a New Jersey bank was inaccessible because it had seven steps at the entrance. The bank reconstructed the front of

the building to provide access to the lobby and installed two van accessible parking spaces in its parking lot.

■ A wheelchair user complained that a Missouri bank's accessible entrance was locked during business hours. The bank installed a new, more secure door at the accessible entrance that will remain unlocked during business hours.

■ In Florida, a wheelchair user complained that an insurance agency did not have an accessible entrance. The business immediately constructed an accessible ramp at its entrance.

■ In Michigan, a person with a seizure disorder complained that he was denied access to a bank due to concerns about involuntary behavior resulting from the side effects of medication. The institution sent

an apology, provided ADA training to its staff, and paid the complainant \$1,000.

■ In Colorado, an individual who is legally blind complained that a credit card company failed to provide effective communication. Although the company routinely provides large print monthly statements, the print was too small for the complainant to read. The company agreed to maintain an accessible website and worked with the complainant so he can now access the website to enlarge and print his monthly statements in a format usable by him. The company reaffirmed its commitment to continue to provide statements in large print and Braille and to provide telephone customer assistance 24 hours a day, seven days per week. The company also paid the complainant's attorney's fees.

RECENT OUTREACH ACTIVITIES

- On December 2, staff made a presentation at an ADA workshop sponsored by Deaf Community Services, a program under the auspices of Easter Seals Crossroads, Indianapolis, Indiana, a non-for-profit organization that provides a broad array of support services to community members with disabilities. The presentation provided an overview of Title II and III of the ADA, with emphasis on the requirements for effective communication.
- On December 5 and 6, staff made a presentation in Albuquerque, New Mexico, to grantees of the Department of Education's Office of Postsecondary Education at the annual meeting of project directors responsible for demonstration grants under the disabilities program. The presentation, "Justice in Higher Education," described the Department's ongoing reviews of institutions of higher education, the nondiscrimination requirements of Section 504 and the ADA, and how to address program accessibility, emergency preparedness, and transportation issues in educational settings.
- On December 7, staff made a presentation to law students at Columbia Law School in New York, New York. The presentation addressed the ADA issues of establishing disability discrimination claims, reasonable accommodation, and design & construction requirements.
- On December 12, staff made two presentations at the de l'Epee Deaf Center in Gulfport, Mississippi, one to consumers who are deaf and the other to sign language interpreters employed by the Center. Both presentations provided an overview of Titles II and III of the ADA with particular emphasis on the effective communication requirements.