



Disability Rights online News

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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.

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REGAL STADIUM-STYLE MOVIE THEATERS WILL BECOME ACCESSIBLE

On June 8, 2005, the Department of Justice announced the signing of a far-reaching settlement agreement with Regal Entertainment Group, one of the largest theater chains in the United States. The settlement agreement, which primarily relates to the placement of wheelchair seating in stadium-style movie theaters, will affect all of Regal's theaters nationwide.

This matter first came to light in December of 2000 when the United States Attorney's Office for the District of Massachusetts filed suit against Hoyts Cinemas Corporation, a theater chain subsequently acquired by Regal in March of 2003. The initial suit alleged that Hoyts was violating title III of the ADA by locating wheelchair accessible seating outside the stadium sections of its stadium-style theaters. An amended complaint, expanding the lawsuit to include all of Regal's stadium-style theaters nationwide, was filed simultaneously with the settlement agreement on June 8th.

Under the terms of the settlement agreement, Regal will remove all wheelchair seating located in the front row of its approximately 1,000 stadium-style theaters and, in doing so, will relocate the seating farther back within the theaters. Regal will implement this provision as to any stadium-style theaters it acquires during the next five years. In addition, for all new stadium-style theaters it builds during the next five years, Regal will locate all wheelchair seating within the stadium section and near the middle of the auditorium.

NORTH CAROLINA ACCESSIBILITY CODE MOVES CLOSER TO CERTIFICATION

Two public hearings were recently held to address the Department's preliminary certification that the North Carolina Accessibility Code (NCAC) meets or exceeds the new construction and alterations requirements of title III of the ADA.

On May 16, 2005, the Department held its first public hearing in Cary, North Carolina. Individuals in attendance voiced support for the Department's March 16, 2005, preliminary determination and urged the issuance of final certification for the NCAC. Later, on June 20th, the Department held a second public hearing in Washington, D.C.

After consideration of all comments, the Department may issue a final certification of equivalency.

ADA BUSINESS CONNECTION MEETS IN MARYLAND



Hubert Green

On June 3, 2005, former Assistant Attorney General R. Alexander Acosta convened an ADA Business Connection meeting with leaders of business and disability organizations in Prince George's County, Maryland. The session was co-hosted by Hubert Green, President of the Prince George's Black Chamber of Commerce.

The meeting, which focused on attracting and serving customers with disabilities, featured two speakers, Dr. Stephanie Pace, a mathematics resource specialist with the Prince George's County Public Schools, and Timothy Adams, President and CEO of Systems Application and Technologies, Inc. An energetic discussion, led by Deputy Assistant Attorney General Loretta King, followed and centered on local accessibility issues and resources capable of producing beneficial change for both customers with disabilities and businesses.

For more information about the ADA Business Connection, see previous stories in Issues Two and Seven or visit our website at www.ada.gov/business.htm.

RAMADA HOTEL WILL WELCOME SERVICE ANIMALS

On May 24, 2005, a settlement agreement was executed between the Department and S.R.P. Hospitality, the owner of the Ramada Plaza Hotel Convention Center in Dallas, Texas. The agreement followed an investigation that determined the hotel had discriminated against a blind guest and her two companions by failing to modify its "no pets" policy to accommodate her service animal.

Pursuant to the settlement agreement, the hotel will (1) refrain from future discrimination against people with disabilities who use service animals and their companions, (2) post an appropriate service animal policy in the hotel lobby, and (3) provide for staff training in relation to service animals. Additionally, the hotel will pay the complainant \$1,000 in monetary damages.

MOUNTAIN RESORT WILL BECOME ACCESSIBLE

On April 27, 2005, the Department entered into a settlement agreement under title III of the ADA with the owner/operator of the Skyline Mountain Resort in Fairview, Utah. Under the terms of the agreement, the owner/operator must engage in substantial barrier removal throughout the resort, which includes a golf course, tennis courts, swimming pool, club house, snack bar, camping grounds, public rental cabins, and cabin sites for sale.

Did you know . . .

Businesses must allow people with disabilities to bring their service animals into all areas of the business where customers are normally allowed to go.

DISABILITY AND SEXUAL HARASSMENT SUIT SETTLED AGAINST GROUP HOME OPERATOR

In May of 2005, the Department settled a lawsuit previously filed against David Madrid and Trinity House Living Services, Mr. Madrid's business. It was alleged that Trinity, which currently owns, operates, and manages several group residences in Albuquerque, New Mexico, for individuals with mental disabilities, engaged in a pattern or practice of harassment based on the tenants' mental disabilities and sex.

In its complaint, the Department asserted that Mr. Madrid (1) subjected tenants with mental disabilities to severe and pervasive physical harassment and discriminatory living conditions and (2) subjected female tenants to severe and pervasive

sexual harassment. The Department also maintained that he threatened to evict or take other adverse actions against tenants who refused, objected to, or reported his discriminatory actions. It was further alleged that Mr. Madrid explicitly based the terms of the female tenants' residency on the granting of sexual favors.

In accordance with the settlement agreement, Mr. Madrid will pay \$67,500 in monetary damages to the victims of his harassment, as well as pay \$7,500 in civil penalties to the government. In addition to monetary compensation, Mr. Madrid must refrain from personally managing any group home facilities for five years.

MULTI-FAMILY HOUSING ACCESS FORUM PROGRAM LAUNCHED

On May 15, 2005, the Department launched its "Multi-Family Housing Access Forum" program in Chantilly, Virginia. The program's objective is to educate architects, builders, developers, and other housing professionals nationwide about their legal obligations under the Fair Housing Act (FHA), as well as establish a continuing dialogue between housing professionals and disability advocates on the

best approaches for obtaining voluntary compliance with the FHA.

Under the program's current form, federal officials, members of the disability community, and developers of accessible housing participate in a regional forum at least twice a year to discuss not only the need for accessible housing, but also how to design and construct multi-family developments that are accessible to persons

with disabilities. At the end of each forum, audience members are invited to share their own experience in developing successful methods that ensure the design and construction of multi-family housing developments are consistent with the FHA and other federal laws.



Deputy Assistant Attorney
General Wan Kim

The May 15th meeting was hosted by Deputy Assistant Attorney General Wan Kim and featured two speakers, William Malleris and Dr. Rosemarie Rossetti. Mr. Malleris, a retired developer, designed and built integrated, accessible multi-family housing in the greater Chicago area. Dr. Rossetti, a disability rights advocate and author, is currently building a home for her family that incorporates unobtrusive universal design, resource and energy efficient "green building" methods, and advanced automation technology.

The next forum is scheduled for the fall of 2005.

DEPARTMENT SUES SAN ANTONIO HOUSING PROVIDER FOR DENYING REASONABLE ACCOMMODATION

On June 2, 2005, the United States Attorney's Office for the Western District of Texas filed a lawsuit in federal court against the Housing Authority of the City of San Antonio, Texas. In its complaint, the Department alleges that the owners and managers of the Westminster Square Apartments, a subsidized housing complex in San Antonio, refused repeated requests by a husband and wife to move from their third floor unit to a first floor unit.

The husband, a double amputee who uses a wheelchair, and the wife, who has

several conditions making it difficult to walk and maneuver her husband's wheelchair, had asked on numerous occasions to move from their third floor unit to a first floor unit. The purpose of this request was twofold: (1) they did not want to be dependent upon the elevators, which were at times unreliable, and (2) they did not want to travel as far to get to their unit. The Department's complaint alleges that the defendants denied the couple's requests despite the availability of two first floor units.

DEPARTMENT SETTLES TWO REASONABLE ACCOMMODATION CASES

On April 22, 2005, a federal court in Chicago, Illinois, approved a consent decree reached by the Department with the owner and manager of the Chateau Village Apartments in Carol Stream, Illinois. The agreement resolved a lawsuit previously filed by the Department which alleged that the owner, management company, and property manager of the apartment complex had violated the Fair Housing Act. In particular, the Department maintained that the defendants

refused to make a reasonable accommodation to allow a disabled resident to move from a one-bedroom unit to a two-bedroom unit that had both fewer steps and more room for her therapeutic equipment.

Under the settlement agreement, the apartment owners will pay \$33,000 to the former resident and \$4,500 to the HOPE Fair Housing Center. The owners have also agreed to adopt a reasonable accommodation policy and obtain fair housing training.

On May 16, 2005, a federal court in Newark, New Jersey, approved a consent decree resolving the Department's lawsuit in regards to the Bayview Condominium Association in Highlands, New Jersey. The lawsuit, which was filed against the Association, the president of the Association's Board of Trustees, the management company, and an employee of the management company, alleged that the defendants refused to make a reasonable accommodation to allow a disabled owner/resident to install a clothes washer and dryer in her condominium. The Department maintained that this individual needed the requested appliances because her disabilities, which include carpal tunnel syndrome and asthma, prevent her from regularly carrying loads of laundry to the common laundry room located on the ground floor.

The settlement agreement will require the defendants to permit the installation of the appliances by a licensed plumber in compliance with all applicable codes and industry standards. It also will require the defendants to adopt and implement a reasonable accommodation policy, undergo training, and pay the resident \$2,000 in monetary damages.

DEPARTMENT FILES TWO DESIGN AND CONSTRUCT CASES IN ILLINOIS

On April 14, 2005, the Department filed a complaint in the Northern District of Illinois against Andrian-Zeminides Architects, Ltd. The complaint alleges that the defendant failed to design River's Edge condominiums, a five-building complex located in Chicago, Illinois, in accordance with the accessibility requirements of the Fair Housing Act.

Also, on April 25, 2005, the Department filed a complaint in the Southern District of Illinois against Applegate Apartments, a multi-unit complex in Belleville, Illinois. The Department asserts that

the complex was not designed and constructed in compliance with the Fair Housing Act's accessibility requirements. The Department further alleges that the defendants' conduct constitutes a pattern or practice of discrimination and a denial of rights to a group of persons. Defendants include the Shanrie Company, which developed and owns the complex, Shanrie's President, Dan Sheils, and two engineering firms involved in the project, Netemeyer Engineering Associates, Inc. and Thouvenot, Wade & Moerchen, Inc.

police officers or municipal workers who inappropriately use the accessible parking spots. It also apologized to the complainant.

- In Mississippi, a person with a mobility disability complained that she was unable to reach the courtroom at her local courthouse because the elevator in the building was out of order. Her only alternative access to the courtroom on the second floor was going up two flights of stairs, and courthouse staff refused to assist her. Ultimately, court officials agreed to schedule the work necessary to repair the elevator and, in the meantime, to provide, upon request, an accessible courtroom on the first floor. Additionally, they required staff to help people with disabilities reach the appropriate courtroom.

ADA MEDIATION HIGHLIGHTS

Through the ADA Mediation Program, the Department refers complaints to professional mediators who are trained in the legal requirements of the ADA. Cases are initiated when both the complainant and the respondent agree to participate in the mediation process. This program has proven effective in resolving ADA 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 focus on complaints against local governments that have been successfully mediated.

- In Pennsylvania, an individual with a disability complained that police cars were consistently parked overnight in accessible spaces in the police station parking lot. In response, the town council agreed to fine any

- An individual with a disability that limits his ability to travel complained that a New Jersey county refused to change its policy requiring him to appear in person at the county seat to be sworn in as a notary public. Following the complaint, the county agreed to modify its policy so that, upon request, the county clerk will make arrangements necessary to provide access to the

(ADA Mediation, continued)

oath administration process. In this case, the county agreed to send a deputy to the complainant's town to administer the oath.

■ In Oregon, a group of citizens complained that their city hall and police station were inaccessible. In response, the city agreed to allocate \$60,000 to remove barriers and provide wheelchair access to city buildings and parking. The city also upgraded its speaker system to improve access for persons who are hard of hearing.

■ In Ohio, a person who uses a wheelchair complained that town meetings were inaccessible because of barriers both inside and outside the town hall. The town responded by reconstructing the entrance to make it accessible and placing ramps inside the building where barriers had existed.

■ In Idaho, a person with a mobility impairment complained that the offices of a county program were not accessible. Following the complaint, county officials said they planned to move the program to a new, fully accessible site once construction is completed. In the interim, the county agreed to install an intercom system for use by people with mobility impairments to alert staff

to meet them in an accessible location and to provide signage directing users to the intercom. The county also agreed to provide accessible meeting space and remove obstructions to a ramp at the entrance of the building.

■ In California, a person who uses a wheelchair complained that during the course of serving on a jury (1) the courthouse restrooms were inaccessible, (2) there was no accessible path of travel from the jury room to the courtroom, and (3) the jury box was inaccessible. During mediation, it was discovered that the courthouse did, in fact, have accessible courtrooms, jury rooms, and restrooms. The court informed all judges of the availability of accessible courtrooms, jury deliberation rooms, and restrooms and implemented a new policy to move trials or other proceedings to one of the accessible courtrooms when needed to accommodate jurors with disabilities.

■ In New Jersey, a resident complained that a county's human services department provided neither accessible parking nor an accessible route to the building. The agency restriped its parking lot to provide two accessible spaces, posted appropriate signage, and placed concrete

wheel stops to maintain an accessible path to the building. The agency also installed an automatic door opener at the front door.

■ In South Carolina, a person with a disability complained that a county did not provide effective communication during court proceedings. The county responded by agreeing to provide, upon request, sign language interpreters for individuals who are deaf and hard of hearing. The county also agreed to notify people of the availability of these services in advance of any proceedings.

■ In Arizona, a person with a mobility impairment complained that she was unable to access her town's services because many offices were located in the basement of the town building, which had no elevator. Following mediation, the town agreed to construct a new accessible office complex. In the interim, the town would install an intercom for persons with mobility impairments to use to call for services. It additionally agreed to make applications and other forms available in the accessible foyer of the town building and to hold town meetings in an accessible room at the library.

(ADA Mediation, continued)

- A person who uses a wheelchair complained that the third floor of an Arkansas county courthouse was not accessible. In response, the county agreed both to install an elevator in the courthouse and to provide access to court services at an alternative, accessible location until the elevator is installed.
- In New York State, a person with a mobility impairment complained that certain areas of a town hall, including the court and office of the town clerk, were inaccessible. The town agreed to install a van accessible parking space in front of the town hall and directional signage inside and outside the facility. It also agreed to remodel the public restrooms, install an accessible writing surface in the town clerk's office, and create an accessible route to the town meeting room. The town further promised to install accessible playground equipment at designated parks and make the entrance to the senior center accessible to persons with mobility impairments.
- In Minnesota, a person with a hearing disability complained that she could not hear the proceedings at city council meetings. The city responded by agreeing to purchase an assistive listening system and instruct all city council members to speak directly into the microphones. It also agreed to pay the complainant \$500 for attorneys fees and costs.
- A person who uses a wheelchair complained that the upper floors of a Tennessee courthouse located in a historic building were inaccessible. Following mediation, the historical society agreed to have an elevator installed in the courthouse.
- In Ohio, a person with a mobility impairment complained that a city hall was not accessible. The city agreed to create additional, accessible parking spaces, along with installing a ramp to the front entrance and three sets of automatic doors. The city also agreed both to install safety sensors in the elevators, which they ensured would be available for use by people with disabilities, and create accessible parking spaces at another city building.
- In Kentucky, a person who uses a wheelchair complained that city commission meetings were held in an inaccessible location. In response, the city agreed to advertise the commission meetings and hold them at an accessible location. The city additionally provided the complainant with a copy of its ADA self-evaluation and transition plan and reaffirmed its commitment to continue taking steps to comply with the ADA.
- In Florida, a person complained that a policy restricting the amount of time someone has to mark a ballot discriminated against individuals with disabilities. After the policy was reviewed, a voting official agreed to modify the policy for persons with disabilities and educate poll workers about it. The official further agreed to inform the public by issuing a public service announcement to all media outlets and developing an informational web site.
- In Nebraska, a person who uses a wheelchair complained that a courthouse was inaccessible. Following mediation, the courthouse representative agreed to modify the lift providing access to the first floor so that it could be operated independently without staff assistance. He agreed to relocate, upon request by persons with disabilities, any proceedings scheduled for the second floor and to post directional signage identifying the location of accessible parking and the accessible entrance at the jail. He also agreed to (1) have a disability rights organization complete

an accessibility survey of the courthouse, (2) implement sensitivity training for courthouse employees, and (3) pay the complainant \$500.

- In Pennsylvania, a parent of an adolescent who uses a wheelchair complained that the town athletic field was inaccessible. The town responded by creating a van-accessible parking space, installing curb cuts at the accessible parking space and near the main gate entrance, and leveling the ground adjacent to the concession stand. It also agreed to keep open the gates on the accessible route to the playing field during all events.

- A person with a mobility impairment complained about a wide range of barriers to accessibility in her hometown in Georgia. The city agreed to major renovations, including the construction of a new,

fully accessible police headquarters. The city installed one standard and one-van accessible parking space in the parking lot of a public park and built a ramp from the lot to the park entrance; it also installed a ramp nearby to provide access to an area reserved for festivals and built a wheelchair accessible sidewalk between the park and downtown area. At city hall, the city painted new crosswalks in front of the entrance with curb ramps at either end, installed automatic door openers at the front entrance, and provided accessible restrooms inside the building. In the downtown area, the city replaced all sidewalks, installed curb cuts at every intersection, and created four van-accessible spaces. In addition to the above remedial work, the city acquired assistive listening equipment for use during public hearings and meetings.

D.C. The event, “ADA Fifteen Years Later: Lessons for Legal Frameworks in Developing Countries,” highlighted beneficial ADA experiences for other countries interested in developing similar inclusive laws.

- On April 28, Division staff made a presentation at the Fair Housing/Human Relations Workshop, which was sponsored by the City of Rocky Mount, North Carolina, Human Relations Commission. The presentation addressed ADA Title II issues and emergency preparedness for natural disasters.

- On April 28, Division staff conducted a half-day training seminar on ADA accessibility issues for the City of New York Parks and Recreation Department in Flushing, New York. Approximately 120 architects, landscape architects, engineers, and legal counsel for the City of New York attended the seminar.

- On May 2, Division staff made a presentation to a committee of the National Association of Governors (NAG) at NAG’s annual meeting in Kansas City, Missouri. The program was entitled “ADA Enforcement Directions and Technical Assistance Opportunities Impacting State Governments and Public Accommodations.”

RECENT OUTREACH ACTIVITIES

- On April 20, Division staff conducted a training session on the ADA for the Minnesota Department of Human Services in St. Paul, Minnesota. The interactive session, “Program Access under Title II of the ADA-Requirements and Practical Application,” was video broadcasted to offices in

87 counties around the state. Audience members included policy makers, managers, and direct service providers.

- On April 21, Division staff made a presentation to the World Bank Legal Department and the Bank’s Disability Working Group in Washington,

(Outreach, continued)

■ On May 4, Division staff made a presentation at a seminar sponsored by the U.S. International Council on Disabilities for a delegation of officials visiting Washington, D.C., from Japan. Those in attendance included members of Japan's House of Representatives. Japan is seeking to better understand the ADA as it considers legislation that would extend civil rights protections to persons with disabilities.

■ On May 11, Division staff addressed an audience, via web cast, on the Advanced Notice of Proposed Rulemaking (ANPRM) for revising the ADA accessibility standards. The web cast, sponsored by the ADA and IT Center located in Houston, Texas, was attended by architects, design professionals, people with disabilities, advocates, and local government officials.

■ On May 17, Division staff participated in a regulatory panel sponsored by the American Hotel and Lodging Association in Washington, D.C. General ADA issues were addressed.

■ On May 17-18, Division staff conducted four workshops at the National ADA Symposium and EXPO in Overland Park, Kansas. Two sessions outlined the responsibilities of an ADA Coordinator, while

one provided an update on the Division's ADA activities and another an overview of Project Civic Access. The conference, sponsored by the 10 Regional ADA & IT Centers and hosted by the Great Plains Center, was attended by more than 400 people, including state and local government officials, persons with disabilities, business owners, attorneys, and architects.

■ On May 23, Division staff gave a presentation at California's Respect-ABILITY 2005 Conference in Sacramento, California. Approximately 200 individuals with disabilities, advocates, and service providers attended the conference, co-sponsored by the Western Law Center for Disability Rights and the Pacific ADA & IT Center. The presentation provided an update on the ADA and focused on enforcement activities under titles II and III.

■ On June 2-4, Division staff conducted a presentation on the ADA at the annual conference of the Alabama Association of the Deaf (AAD) in Auburn, Alabama. The workshop provided basic information on the ADA and covered legal issues.

■ On June 16, Deputy Assistant Attorney General Loretta King spoke at the Arizona State Bar Convention in

Tucson, Arizona. The seminar, "Opening the Door: Access for Persons with Disabilities in the Community," addressed titles II and III of the ADA, along with recent developments in the ADA and Fair Housing Act.

Did you know . . .

The ADA requires the Department of Justice to provide technical assistance to businesses, state and local governments, and individuals to help them understand their rights or responsibilities under the Act. The Department provides direct technical assistance through the ADA Information Line, ADA Website, and ADA Speakers Bureau, develops and disseminates technical assistance materials, and undertakes outreach initiatives to raise public awareness of the law and the Department's technical assistance services. To learn more about these activities, visit the ADA Website at www.ada.gov.