



November 29, 2007

Via Electronic Mail

The Honorable Rena J. Comisac
Acting Assistant Attorney General for Civil Rights
U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, NW
Suite 5642
Washington, DC 20530

Re: Evaluation of Barrier Removal Costs Associated with the 2004 Americans with Disabilities Act Accessibility Guidelines

Dear Ms. Comisac:

The Office of Advocacy (Advocacy) of the Small Business Administration (SBA) is pleased to provide the Department of Justice (DOJ) the enclosed report, *Evaluation of Barrier Removal Costs Associated with the 2004 Americans with Disabilities Act (ADA) Accessibility Guidelines*, prepared by E.H. Pechan & Associates.

In 2004, DOJ released an Advanced Notice of Proposed Rulemaking (ANPRM), which stated that the agency was considering adopting new accessibility standards proposed by the Architectural and Transportation Barriers Compliance Board (the Access Board). In response to DOJ's ANPRM, Advocacy and small businesses commented on the potential burden of the 2004 Americans with Disabilities Act Accessibility Guidelines requirements (2004 ADAAG), particularly the requirement to perform "architectural barrier removal" from existing structures when such activity is "readily achievable." Advocacy's comment letter noted that the standard was ambiguous and that the costs to many small firms of ensuring that their structures meet the standards would be significant.

When the DOJ released its ANPRM in 2004, the agency concluded that the 2004 ADAAG requirements would likely impose significant economic impacts on a substantial number of small entities. Advocacy agreed with this conclusion, and recommended that DOJ complete an Initial Regulatory Flexibility Analysis (IRFA) for any proposed rules adopting the 2004 ADAAG requirements and consider a number of specific small business alternatives to reduce this burden. This report estimates the costs that the 2004 ADAAG barrier removal requirements will impose on a number of small businesses if the DOJ adopts them for existing facilities.

The report finds that small firms face substantial costs from the adoption of the barrier removal requirements in the 2004 ADAAG, and that higher costs are associated with typical small firm buildings than large firm buildings on both a per square foot and per employee basis. While the statements, findings, conclusions and recommendations in this report are those of its authors, Advocacy does generally agree with the conclusions of this report. Because Advocacy is an independent office, its views do not necessarily represent the positions of the U.S. Small Business Administration or this Administration.

Advocacy is pleased to forward this report on the costs of the 2004 ADAAG barrier removal requirements for small businesses. As DOJ moves forward with rulemaking on the 2004 ADAAG, we encourage the agency to consider Advocacy's recommendations and other options that reduce the regulatory burden on small businesses. Advocacy looks forward to continuing this dialog with DOJ on this important rulemaking. If you have any questions or comments, please feel to call me or Assistant Chief Counsel Janis Reyes at (202) 205-6533, or email at janis.reyes@sba.gov.

Sincerely,

//signed//

Thomas M. Sullivan
Chief Counsel of Advocacy

//signed//

Janis C. Reyes
Assistant Chief Counsel

cc: The Honorable Susan E. Dudley, Administrator, Office of Information and Regulatory Affairs
The Honorable Tricia Mason, Chair, Architectural and Transportation Barriers Compliance Board