



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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DOJ CREATES MORE THAN 12,000 NEW ACCESSIBLE HOUSING OPPORTUNITIES IN SINGLE YEAR

In FY 2005, the Justice Department shattered all previous records in the enforcement of the accessibility provisions of the Fair Housing Act, creating more than 12,000 new housing opportunities for persons with disabilities. This is more than three times the number of accessible housing opportunities created between 1992 and 2000.

One example of these record-breaking efforts is a recent settlement agreement executed by the Department with a developer and several architectural firms in Michigan, Indiana, Illinois, Ohio, Wisconsin, Virginia, and Nebraska. The agreement, which was approved by the U.S. District Court for the Eastern District of Michigan, resolved two lawsuits alleging disability related housing discrimination. Under the terms of the agreement, the developer and architectural firms will retrofit 49 apartment complexes and pay \$1,060,000 in compensation and penalty fees. Specifically, the defendants will (1) retrofit 5,400 ground-floor apartments to make them more accessible, (2) pay up to \$950,000 to individuals harmed by the lack of accessible features at the properties, and (3) and pay a \$110,000 civil penalty. The defendants include the developers of the complexes - Edward Rose & Associates and affiliated companies - and the architects - Dorchen/Martin Associates, Inc.; Eckert/Wordell Architects P.C.; Alexander V. Bogaerts & Associates P.C.; SSOE, Inc.; and architects Gerald Peterson and James R. Saule - who designed the complexes.

This and similar lawsuits require that more than 12,000 housing units be made accessible in multi-family complexes in 17 states. These include more than 4,000 units resulting from *United States v. Deer Run Management* (W. D. Ark.) and more than 800 affordable housing units resulting from *United States v. Housing Authority of Baltimore City* (D. Md.). These units will be retrofitted to achieve the accessibility mandated by the Fair Housing Act over the course of the next several years. As the newly-accessible housing units become available, they will make a tremendous difference in the housing opportunities available to persons with disabilities all across the country.

DEPARTMENT COMMEMORATES FIFTEENTH ANNIVERSARY OF ADA



Associate Attorney General Robert McCallum welcomes guests

On July 25, 2005, Associate Attorney General Robert D. McCallum, Jr., Acting Assistant Attorney General Bradley J. Schlozman, and Deputy Assistant Attorney General Loretta King hosted a ceremony at the Department of Justice in Washington, D.C., commemorating the fifteenth anniversary of the Americans with Disabilities Act (ADA). The event highlighted the annual accomplishments of Project Civic Access (PCA),

the Department's wide-ranging initiative to increase access for people with disabilities nationwide to local government programs, facilities, and services.

Under PCA, Department investigators, attorneys, and architects conduct on-site compliance reviews of local governments in cooperation with local officials, and then develop a plan to improve accessibility in those communities. The intended result of these efforts is compliance with the ADA and Section 504 of the Rehabilitation Act. More than one million people with disabilities will benefit from the 35 settlement agreements executed in 2005.

Guests at the ceremony included local government officials, community advocates, and residents with disabilities from all across the country. A highlight from the afternoon was the signing of settlement agreements with officials from Birmingham, Alabama; Tucson, Arizona; Miami, Florida; Will

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obligations under the ADA to businesses and the general public. Although the ten-lesson course is intended for owners, managers, and employees of all types of businesses, it is of particular utility to small business owners who are less likely to be familiar with the requirements of the ADA than their counterparts operating franchises or chains. Consumers with disabilities will also benefit from the course's explanation of consumer rights under the ADA.

This innovative course condenses hundreds of pages of regulations, technical guidance, and Department policy into a product that is easy to use and understand. Users will appreciate the fact that they can review the comprehensive course at their own convenience, day or night, with the flexibility to study the lessons one at a time or all at once. The straightforward language, abundant examples, easy navigation, and numerous links to supplemental information make the course ideal for all. The entire course is in an accessible format that can be used by people who are blind or have low vision.

The course will assist millions of owners and employees nationwide to learn more about their responsibilities under the ADA and comply with its regulations.

"Reaching Out to Customers with Disabilities" is located on the Department's ADA Website at www.ada.gov.

INNOVATIVE ADA ONLINE COURSE FOR BUSINESSES

On July 25, the Department announced the availability of "Reaching Out to Customers with Disabilities," a new web-based interactive online course

that explains the ADA and its applicability to the business community. This is the first online course created by the Department that explains legal

(Anniversary continued from page 2)

County, Illinois; Allen County, Indiana; Prince Georges County, Maryland; Monroe County, New York; and Memphis, Tennessee. In addition, Acting AAG Schlozman presented plaques to two employees of Dodge City, Kansas, who led that City's efforts to achieve full compliance with ADA requirements under a previously signed PCA agreement.

In his remarks, Acting AAG Schlozman also announced the signing of fourteen other PCA agreements negotiated during the past year with local governments from Crittenden County, Arkansas; Hartford, Connecticut; Ada County, Idaho; Gary, Indiana; Washington County, Maine; St. Louis County, Minnesota; Omaha, Nebraska; Paterston, New Jersey; Providence, Rhode Island; Laurens County, South Carolina; Madison County, Tennessee; Amarillo, Texas; Webb County, Texas and Loudoun County, Virginia. This follows an additional thirteen PCA agreements, which were announced earlier this year with local governments from Sedona, Arizona; Carpinteria, California; San Luis Obispo, California; Lafayette County, Florida; Hutchinson, Kansas; Missoula County, Montana; Cheshire County, New Hampshire; Gallup, New Mexico; Monroe County, Pennsylvania; Bend, Oregon; Florence County, South Carolina; Washington County, Utah and Suffolk, Virginia.

MEDICAL PERSONNEL AGREE TO PROVIDE EFFECTIVE COMMUNICATION

On June 22, the Department signed a settlement agreement with Greater Southeast Community Hospital in Washington, D.C. The agreement resolved a complaint alleging that the hospital had refused to either provide a qualified sign language interpreter or ensure effective communication with a deaf patient. Injunctive relief provisions within the agreement included (1) the provision of appropriate auxiliary aids and services, (2) the assessment of communications, (3) the maintenance of logs, (4) the creation of a compliance resolution mechanism, and (5) the development of appropriate steps to ensure an effective, interactive conference system.

On August 17, the Division entered into a settlement agreement with an Oklahoma City, Oklahoma, consulting

psychologist. The agreement resolved a complaint alleging that the psychologist, who had been court-assigned to consult and evaluate family members involved in a divorce case, did not secure appropriate interpreting services to evaluate a minor child who is deaf. Terms of the agreement included (1) providing individuals who are deaf or hard of hearing with appropriate auxiliary aids and services necessary for effective communication, (2) conducting an individualized assessment to determine which aid or service is needed and the timing, duration, and frequency with which it will be provided, and (3) informing individuals with disabilities of the availability of auxiliary aids and services in the absence of the individual's request for an aid or service.

DEPARTMENT FILES TWO ADA LAWSUITS IN PENNSYLVANIA

On July 5, the Department filed a lawsuit in federal court in Pittsburgh alleging that Denunzio's Restaurant, located in Jeannette, Pennsylvania, violated Title III of the ADA by failing to remove physical barriers to access. The complaint, which alleges that the restaurant's entrance and restrooms are

inaccessible, seeks corrective action, compensatory damages, and civil penalties.

On July 7, the Department filed a lawsuit in federal court in Philadelphia against Bern Township, Pennsylvania, alleging violations of Title I of the ADA. The complaint specifically alleges discrimination against

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(Lawsuit continued from page 3)

Marvin Gilmer, a 27-year veteran of the Township's road crew, after he had a stroke that substantially limited his ability to perform manual tasks, care for himself, talk, and work. Mr. Gilmer had regained most of his strength and ability to talk, but the Township, citing a provision in a collective bargaining agreement which it asserted superceded the ADA, did not allow him to return to work without a full release from his physician. Eventually, the Township terminated Mr. Gilmer rather than provide a reasonable accommodation that would have enabled him to return to work. In its complaint, the Department seeks changes to the Township's return-to-work policies, along with compensatory damages for Mr. Gilmer.

Did you know . . .

The Department maintains a web page for viewing an assortment of ADA settlement agreements. It can be accessed at www.ada.gov/settlemt.htm.

MULTI-FAMILY HOUSING ACCESS FORUM TO BE HELD IN TEXAS IN NOVEMBER 2005

The Civil Rights Division's "Multi-Family Housing Access Forum" will hold its next program in the Dallas/Fort Worth metropolitan area on November 16, 2005. The theme of the program will be "Models That Work: Celebrating Accessibility Partnerships Between Housing Professionals and the Disabled." The program will feature speakers who have fostered and maintained successful working relationships with members of the building and/or disability community regarding accessibility issues.

The Access Forum's objective is to educate architects, builders, developers, and other housing professionals on their legal obligations under the Fair Housing Act, as well as, establish a continuing dialogue between housing professionals and disability advocates on the best approaches for obtaining voluntary compliance under the Act. For more information, please contact Housing and Civil Enforcement Section Chief Steven H. Rosenbaum or Deputy Chief Nicole Porter at (202) 514-4713.

DEPARTMENT SETTLES FIRST FAIR HOUSING CASE IN ALASKA

On June 9, a federal court in Anchorage approved a consent decree resolving a lawsuit against the owners of Red Oaks Assisted Living, Inc., a 16-room assisted living facility in Anchorage. In its complaint, the Department alleged that the owners of the facility, upon discovering that a resident was HIV-positive, made repeated inquiries to the resident and her care coordinator concerning her HIV status. It was further alleged that the owners threatened to sue the care coordinator for assault and reckless endangerment for placing the

woman in the facility without disclosing her HIV status.

The settlement prohibits the owners from discriminating in housing on the basis of disability and retaliating against anyone who exercises their rights under the Fair Housing Act. It also requires the owners to undergo fair housing training, report on discrimination complaints, post a fair housing sign, use the fair housing logo in advertisements, and pay \$3,500 to the complainant.

This was the Department's first disability-based Fair Housing Act case in Alaska.

DEPARTMENT SETTLES FAIR HOUSING CASE IN TENNESSEE

On August 12, a federal court in Greeneville, Tennessee, approved a consent decree reached by the Department with a private plaintiff and the owners of the Western Heights Apartments in Rogersville, Tennessee. The decree resolved separate lawsuits filed by the plaintiff and the Department, which were later consolidated into one case. In its complaint, the Department alleged that the owners violated the Fair Housing Act by refusing to make a reasonable accommodation for the plaintiff's mobility impairment. The Department also alleged that the principal defendant, Bruce Hurley, retaliated against the plaintiff after the plaintiff filed a complaint with HUD.

Under the decree, the apartment owners have agreed to pay the plaintiff \$10,000 and provide him a reference letter for future housing. The agreement also requires the owners to adopt a reasonable accommodation policy, notify employees and tenants of their non-discrimination policies, undergo fair housing training, and provide reports of their compliance to the Department over a three-year period.

\$1.67 MILLION IN ACCESSIBILITY IMPROVEMENTS SLATED FOR TWO RENO, NEVADA, HOUSING COMPLEXES

On July 12, a federal court in Reno, Nevada, approved a consent decree requiring accessibility improvements to 170 ground floor apartment units and the common areas of two housing complexes on the outskirts of Reno: Silver Lake Apartments and Sierra Sage Apartments. The total cost of these improvements is estimated to be 1.67 million.

The suit, which is the Department's first enforcement action in Reno concerning the accessibility requirements of the Fair Housing Act, alleged that ERGS, Inc., civil engineering firm CFA, Inc., and architect John McCamant violated the Fair Housing Act by designing and constructing housing complexes that were inaccessible to people with disabilities. After

filing a complaint with the U.S. Department of Housing and Urban Development (HUD), the Reno-based Silver State Fair Housing Council (SSFHC) filed suit. HUD later referred SSFHC's complaint to the Department, which filed a lawsuit that was eventually consolidated with SSFHC's suit.

Under the terms of the agreement, the defendants will pay \$27,500 in compensatory damages to the SSFHC and \$250,000 to reimburse the attorney's fees and expenses it incurred during litigation. The defendants have also agreed to establish a \$150,000 fund to compensate individuals injured by the inaccessible housing, and pay \$30,000 to the government as a civil penalty.

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 hotels, motels, and other places of lodging that have been successfully mediated.

- In Tennessee, a couple complained that a hotel refused to honor their reservation upon learning that one of them uses a service animal, forcing them

(ADA Mediation, continued)

to find alternative lodging. Following the complaint, the hotel agreed to apologize to the couple and train its staff to carry out the requirements of the ADA. The hotel reimbursed the couple for the cost of substitute lodging, as well as for the phone calls and postage required to make the change. The hotel also extended an offer for a complimentary room for two nights.

■ In North Carolina, an individual with a disability who uses a service animal complained that hotel employees questioned her disability and challenged her right to bring the service animal into the hotel. As a result, the hotel provided ADA and sensitivity training to its employees, posted a copy of its ADA nondiscrimination policy at the front desk, and posted a sign at the hotel entrance welcoming guests with service animals. It also paid the complainant \$4,000 and provided an official letter of apology.

■ In New Jersey, a man who is deaf complained that a hotel did not have accessible telephones, doorbells and alarms and that hotel employees did not use the TTY at the front desk to communicate with guests who are deaf. In response, the hotel directed employees to use the existing TTY at the front desk and provided training on how to use it. The hotel also agreed to provide ADA and sensitivity training to all employees. In addition, the hotel purchased

four (each) TTYs, visual alarms connected to the building's emergency system, visual notification devices for incoming phone calls and room doorbells, and closed-caption television decoders.

■ In Georgia, a person who is deaf complained that a hotel failed to provide accessible notification devices in guest rooms. Following the complaint, the hotel placed kits containing portable TTY's, visual alarms, and visual notification devices in each of its hotels and installed signage at the registration desk to notify guests of the availability of the kits upon request at check-in. The hotel developed a system for obtaining additional notification devices, if needed, to meet an increased number of guest requests. The hotel also agreed to provide ADA training to all customer service staff and reimburse the complainant for the cost of the room.

■ An individual with a hearing impairment complained that a Missouri hotel was inaccessible. The hotel subsequently agreed to purchase six kits containing portable alarms, door and telephone notification devices, and TTYs for use by guests who are deaf or hard of hearing. The hotel further agreed to reimburse the complainant for 50% of her room charges.

■ In Texas, a wheelchair user, along with her daughter, complained that although they

had reserved an accessible room, there appeared to be no accessible features at the hotel when they arrived. The hotel sent a written apology to the daughter and reimbursed the mother \$700 for expenses incurred in finding alternative lodging. The hotel modified four guestrooms to make them accessible, and three additional rooms were added to the capital plan to be rebuilt with roll-in showers. The hotel modified the ballroom to make it accessible, including the installation of a vertical wheelchair lift between two levels and the lowering of a section of the bar to make it accessible. The hotel also gutted and rebuilt restrooms in the lobby and sixth floor ballroom to be accessible. In addition to the above, it provided all staff members with training on the requirements of the ADA.

■ In California, a person with a mobility impairment complained that a hotel and conference center failed to provide the accessible room she had previously reserved. As a result of her complaint, the hotel joined a national reservation system that eliminates double booking of accessible rooms. The hotel agreed to train its staff on the ADA, develop an emergency evacuation plan for guests with disabilities, and make its guest transportation services accessible. The complainant was reimbursed \$809 for expenses incurred and given \$2,500 in cash and \$2,500 in gift certificates from the

(ADA Mediation, continued)

hotel. The hotel also paid \$694 to another guest who had been traveling with the complainant at the time.

■ The daughter of a wheelchair user complained that a Pennsylvania hotel failed to provide an accessible room that she had previously reserved. The hotel subsequently modified its reservation policy to ensure that accessible rooms are available when reserved and agreed to include ADA information in a mandatory orientation program for all staff. Hotel management apologized to the complainant and her family for the incident, reimbursed the complainant for costs incurred to rent a van to transport her family to the hotel, and offered a complimentary weekend either at their hotel or a comparable resort hotel in the vicinity.

■ A wheelchair user complained that a Utah hotel had only one accessible room, which had already been rented to another guest. He also complained that the hotel was forced to provide transportation to him in an ambulance because its airport shuttle was not accessible. Following his complaint, the hotel agreed to construct twelve additional, accessible guest rooms, including the appropriate number of rooms equipped with roll-in showers. The corporate owner of the hotel agreed to conduct a comprehensive review of its 36 properties prior to initiation of

any planned renovations and to achieve full ADA compliance in all hotels by 2005. The corporation agreed to provide lift-equipped hotel shuttle service at every location, ADA training to its employees and free airfare and hotel accommodations for the complainant and his family to visit the hotel after completion of the accessibility modifications. It also agreed to pay the complainant \$7,500.

■ In Alabama, the family of a person with a mobility impairment complained that a small motel was inaccessible. In response, the motel installed two van-accessible spaces, extended the ramp to the entrance walkway to reduce the slope, removed the threshold between the restaurant and the motel, and altered one guestroom to make the bathroom accessible.

■ A wheelchair user complained that a New York motel was inaccessible. The motel thereafter agreed to install accessible parking and a ramp to the lobby entrance and to construct five fully accessible rooms, including one with a roll-in shower. It also agreed to equip two additional rooms to be accessible to guests who are deaf or hard of hearing and widen entrance doors to all 80-guest rooms to provide 32 inches of clear width.

■ In Indiana, a wheelchair user complained that a hotel parking lot did not have clearly marked

accessible parking spaces and that the hotel room provided was not fully accessible. The hotel subsequently agreed to renovate four of its rooms to be fully accessible and to re-stripe the parking lot to provide accessible parking. In addition, the hotel agreed to compensate the complainant \$300 and offered one free night's stay at the hotel.

■ A person with a mobility impairment complained that a Pennsylvania hotel offered only one class of accessible rooms, at the higher hotel room rate, but two classes of inaccessible rooms. The hotel chain agreed that, in properties where only one class of accessible rooms was available, the accessible rooms would be made available to people with disabilities at the lower rate offered by the hotel establishment.

■ A person who uses a wheelchair complained that a Texas hotel charged a higher rate for an accessible room with a roll-in shower because it also contained a hot tub. There were no other rooms with roll-in showers in the hotel. Following the complaint, the hotel adopted a written policy to charge regular room rates to guests with disabilities requesting the accessible room with the roll-in shower.

RECENT ADA OUTREACH ACTIVITIES

- From June 29 - July 1, the Division participated in the League of United Latin American Citizens 76th National Convention and Expo in Little Rock, Arkansas. From July 9-14, it participated in the NAACP 2005 Annual Convention in Milwaukee, Wisconsin. On July 11, 12, and 14, it participated in the National Council on Independent Living's 2005 Annual Conference in Washington, D.C. From July 28-30, it participated in the Organization of Chinese Americans' 27th Annual National Convention in Las Vegas, Nevada. At all four events, ADA specialists staffed an exhibit booth, answered questions, and disseminated ADA information to conference attendees.
- On July 18, Division staff spoke before the 80th Annual Conference and Trade Show sponsored by the International Association of Assembly Managers in Washington, D.C. The presentation featured an update on the upcoming new ADA accessibility design guidelines.
- On July 19, Division staff gave a presentation for the Great Lakes ADA and IT Center entitled "Annual ADA Update". This annual audio conference is conducted in conjunction with staff from the Equal Employment Opportunity Commission. Commemorating the 15th anniversary of the ADA, staff addressed issues concerning Titles II and III of the ADA, discussed recent Supreme Court decisions affecting the ADA, and answered questions posed by the audience.
- On July 26, Division staff participated in an all-day celebration of the 15th anniversary of the ADA at an event sponsored by the North Central Chapter of the Paralyzed Veterans of America in Sioux Falls, South Dakota. Staff discussed with those in attendance the ADA Business Connection, success stories from 15 years of ADA implementation, the obligations for public entities, and lessons learned from Project Civic Access. Staff also provided ADA technical assistance materials to the attendees.
- On July 28, Division staff spoke at a daylong conference in Phoenix, Arizona, commemorating the 15th Anniversary of the ADA. The Arizona Office for Americans with Disabilities and the Pacific ADA and IT Center sponsored the event. The presentation highlighted the Department's enforcement efforts since the passage of the ADA and provided an update on recent ADA activities. The event, which also featured a speaker from the EEOC, drew 150 participants, including representatives of state and local governments and people with disabilities.
- On July 29, in celebration of the 15th anniversary of the ADA, Division staff conducted two training seminars in Fort Lauderdale, Florida, for the Center for Independent Living of Broward. The seminars, which were intended for architects and local code enforcement officials, focused on accessibility issues and the ADA design standards. An evening event was held for consumers with disabilities.

(ADA Outreach, continued)

- On August 5, Division staff, along with staff from the Access Board and the Department of Education, made a panel presentation to 100 representatives from colleges and universities around the country. The presentation, entitled “DOJ is in my space! Who invited them? What now?” was part of the annual conference of the Association for Higher Education and Disability held in Milwaukee, Wisconsin. Staff discussed (1) the Department’s initiative to conduct compliance reviews at private colleges and universities, (2) how institutions can bring themselves into compliance with Title III of the ADA, (3) the Access Board’s new ADA and Architectural Barriers Act guidelines, and (4) the rulemaking that may lead to adoption of those guidelines as new ADA standards.
- On August 11, Division staff conducted two ADA training sessions at a conference sponsored by ADA Wisconsin, the state affiliate of the Great Lakes ADA & IT Center. The workshops, which addressed the specific requirements of Titles II and III of the ADA. They also discussed recent Supreme Court decisions affecting the ADA and were attended by 120 government officials, business owners, people with disabilities, building inspectors, and designers.