



# 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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## DEPARTMENT CELEBRATES 20<sup>TH</sup> ANNIVERSARY OF THE ADA

On July 23, 2010, the Department hosted one of the federal government's major celebrations of the 20th anniversary of the ADA, an occasion designed to salute the leaders involved in securing passage of the ADA, remember the challenges faced, and share visions of the ADA's future. Kicking off the event, Thomas E. Perez, Assistant Attorney General for the Civil Rights Division, welcomed the speakers and guests, which included disability rights leaders, advocates, and leaders of the business community. The first speaker, Attorney General Eric H. Holder, Jr., highlighted some of the Department's ground-breaking legal cases of the 1990's and talked about today's important cases and initiatives. Richard L. Thornburgh, Attorney General when the ADA was passed, then spoke about the bipartisan support for the legislation and the glorious event when President George H.W. Bush signed the bill into law on the White House lawn. He also talked about developing the Department's regulations to guide the law's implementation. Next, former U.S. Representative Tony



Assistant Attorney General Perez introducing Attorney General Holder, former Attorney General Thornburgh, and former Representative Coelho at ADA Celebration

(Continued on page 2)

(ADA Celebration, continued)

Coelho spoke movingly of the attitudinal barriers he faced when he developed epilepsy in childhood after a car accident and the unexpected path that eventually led him to introduce the ADA bill in the House of Representatives.

Following the speeches, Principal Deputy Assistant Attorney General Samuel Bagenstos moderated a panel of five ADA experts who played significant roles in the development and passage of the ADA. Robert Burgdorf, then legal counsel for the National Council on Disability, Robert Silverstein, then an aide to Senator and bill-sponsor Tom Harkin, Arlene Meyerson, then a legal advisor for the Disability Rights Education and Defense Fund, Chai Feldblum, then a staff attorney for the ACLU



**Panel members and audience at ADA Celebration**

AIDS Project, and John Wodatch, then a Deputy Chief in the Civil Rights Division and currently Chief of the Disability Rights Section, shared their recollections and insights.

In addition to the guests in attendance, a live streaming webcast of the event -- the first

live webcast ever from the main Department of Justice building -- enabled more than 6,000 people to watch the ceremony in the Great Hall from locations around the country. The webcast can be found on the ADA Website at [www.ada.gov/videogallery.htm](http://www.ada.gov/videogallery.htm).

## DEPARTMENT ISSUES NEW ADA REGULATIONS

On July 26, 2010, President Obama announced that the Department will be issuing new regulations for Title II and Title III of the ADA. The documents clarify and refine many issues raised over the past 20 years and address new issues that have arisen since the original regulations were published in 1991. The new regulations, which were published on September 15, 2010, also

adopt new ADA Standards for Accessible Design, which were updated to be more consistent with model building codes and industry standards. In addition, the Standards include new requirements for features in judicial facilities, detention and correctional facilities, publicly built residential facilities, and recreational facilities such as swimming pools and playgrounds that were not addressed

in the 1991 Standards. The new rules will go into effect on March 15, 2011, except for the rules about architectural accessibility and hotel reservation systems which will go into effect on March 15, 2012. The new regulations and related documents can be viewed on the ADA Website at [www.ada.gov/regs2010/ADAregs2010.htm](http://www.ada.gov/regs2010/ADAregs2010.htm) or ordered from the ADA Information Line.

## DEPARTMENT SEEKS PUBLIC COMMENTS ON FOUR NEW ADA TOPICS

On July 26, 2010, the Department published four notices seeking public comment on the possibility of expanding the ADA regulations to address accessible websites, captioning and video description of movies shown in theaters, accessible features for Next Generation 9-1-1 (when 9-1-1 centers acquire new equipment that enables them to receive voice, text, and video calls over the Internet), and accessible equipment and furniture. The proposals are in the form of Advance Notices of Proposed Rulemaking, or ANPRMs, which describe these ADA issues and ask for information and comments on cost and technical issues that the Department would take into consideration in deciding whether to draft regulations on these topics. Comments can be submitted in writing to the Department or submitted electronically using the links provided at [www.ada.gov/anprm2010.htm](http://www.ada.gov/anprm2010.htm). The deadline for commenting on the proposals is January 26, 2011.

## RECENT ACTIVITIES TO ENFORCE SUPREME COURT'S *OLMSTEAD* DECISION

In 2009 the Department launched an aggressive effort to enforce the Supreme Court's decision in *Olmstead v. L.C.*, a 1999 ruling recognizing that the unjustified isolation of individuals with disabilities in institutional settings is a form of discrimination under the ADA. The *Olmstead* decision requires that people with disabilities be served in community-based settings when that is the most appropriate setting for their needs. This decision has often been called the *Brown v. Board of Education* of the disability rights movement.

On July 16, 2010, the Department filed a Statement of Interest in *Hampe v. Hamos*, a lawsuit pending in the federal court in Chicago, Illinois. The brief was filed on behalf of a group of young adults with severe disabilities who, because they have reached age 21, no longer qualify for a Medicaid program that provides home and community-based services and now face the risk of being institutionalized in order to obtain the services they need. The State of Illinois has agreed to maintain benefits for the named plaintiffs pending

a final decision in the case but opposes certifying them as class representatives of all young adults in the same situation. The Department's brief argued that certification of the proposed class is proper because class actions are an effective means of achieving the systemic reforms necessary to provide services for people with disabilities in community settings when appropriate for their needs.

On July 19, 2010, the Department filed a Statement of Interest in *Napper v. County of Sacramento*, a lawsuit pending in the federal court in Sacramento, California. This lawsuit challenges the county's decision to close most of its existing outpatient mental health clinics without having a viable plan for providing the services elsewhere, causing people with mental illnesses to face the prospect of foregoing the services they need or being institutionalized in order to obtain needed services. The Department's brief urged the court to grant the plaintiffs' motion for a preliminary injunction prohibiting the county from closing the clinics while the lawsuit is pending. The court agreed and granted the preliminary injunction at a hearing on July 21, 2010.

## RECENT SETTLEMENTS INVOLVING SERVICE ANIMAL POLICIES

On June 6, 2010, the Suisun Marsh Natural History Association, which owns and operates the Suisun Marsh Wildlife Center, a wetlands natural habitat preservation park in Solano County, California, entered into a settlement with the Department resolving a complaint from a woman who was asked to leave the wildlife center because she was accompanied by her service animal. Under the agreement, the operators of the center will adopt a policy ensuring equal access to the park and facilities for people with disabilities who use service animals and publish the policy on its website. In addition, they will conduct a free educational program about animals for the complainant's grandchild's school group and offer three additional no-fee educational programs or on-site programs for organizations benefiting children or people with disabilities who are interested but cannot pay the customary \$50 fee.

On July 14, 2010, the owner and operator of the Sheraton Grand Sacramento Hotel in Sacramento, California, entered into a settlement agreement resolving a complaint by a hotel guest with a disability who was required to pay a pet deposit and was assigned to the

pet floor because she uses a service animal. In the settlement, the hotel agreed to adopt an ADA-compliant service animal policy or specifically exempt service animals from its existing pet policies, write to 33 other Sheraton hotels around the country encouraging them to ensure equal access for guests with disabilities who use service animals, and pay \$500 in compensatory damages to the complainant.

On July 19, 2010, Blockbuster, Inc., entered into a settlement agreement with the Department resolving a complaint filed by an individual with a disability who experienced multiple denials of access at different Blockbuster stores when she attempted to shop while accompanied by

a service animal, even after contacting Blockbuster, Inc., and receiving assurances that she would be allowed to shop at Blockbuster stores with her service animal. The agreement requires Blockbuster to adopt and implement a comprehensive service animal policy, provide training to employees at more than 3,000 retail stores throughout the United States about the policy, post its service animal policy and a "Service Animals Welcome" sign in each of its stores, and establish a toll-free number and a grievance procedure for resolving ADA complaints from customers. Blockbuster will also pay \$12,000 in compensatory damages to the complainant and a \$10,000 civil penalty to the United States.

## NATIONAL CHAIN OF GAS STATIONS AND CONVENIENCE STORES WILL IMPROVE ACCESSIBILITY AND COMPENSATE VICTIMS OF DISCRIMINATION

On July 19, 2010, the federal court in Lincoln, Nebraska, entered a consent decree resolving a simultaneously filed lawsuit against QuikTrip Corporation, a company that owns and operates more than 550 gas stations, convenience stores,

travel centers, and truck stops in the Midwest, South, and Southwestern United States. In response to complaints about inaccessible parking by two individuals with disabilities in the Omaha area, the Department opened an investigation that revealed accessibility

(Gas Stations, continued)

problems throughout the chain. QuikTrip Corporation worked amicably with the Department to resolve the matter without active litigation.

“Convenience stores and gas stations are a critical part of everyday life in America, and these facilities must afford equal access to individuals with disabilities,” said Assistant Attorney General Perez. “QuikTrip has worked cooperatively with the department so we could resolve this case without active litigation and has affirmed its commitment to serving individuals with disabilities by taking the necessary actions to achieve ADA compliance at all of its stores.”

Under the terms of the decree, QuikTrip will remove barriers at its current stores over a three year period to achieve compliance with ADA accessibility requirements; design and construct future stores to comply with ADA accessibility requirements; ensure that at least two gas dispensers at current stores and all gas dispensers at future stores are accessible to individuals with disabilities, including the dispenser controls, self-service payment mechanisms, call buttons for people who need assistance, and other amenities; adopt, implement, and train store

employees on policies for providing fueling and other types of assistance for people with disabilities, serving people who use service animals, and maintaining accessible features, such as accessible parking and routes; upgrade and maintain call buttons for customers with disabilities who need assistance; implement and maintain an ADA comment line and a complaint resolution process to resolve ADA-related complaints received from customers; and make its website accessible.

In addition, QuikTrip will create a \$1.5 million compensatory damages fund for individuals who were victims of discrimination, and will advertise the availability of the victims’ fund on QuikTrip Corporation’s website and, once a week for a period of 90 days, in major newspapers in areas

where QuikTrip does business. QuikTrip will also pay a civil penalty in the amount of \$55,000.

Individuals who believe they have experienced discrimination at a QuikTrip store may contact the Department by e-mail at [QTclaims@usdoj.gov](mailto:QTclaims@usdoj.gov) or by telephone at 866-708-1273 (voice) or 866-544-5309 (TTY). Claims must be received within 90 days after the last ads about the victims’ fund are published in the newspapers. Payment amounts will be determined by the Department, and money not distributed to claimants will be paid to non-profit organizations serving the interests of individuals with disabilities in areas of the country where QuikTrip does business. For more information, see [www.ada.gov/quiktrip\\_claim\\_sht.htm](http://www.ada.gov/quiktrip_claim_sht.htm).

## Did you know . . .

**There are more than 125,000 gas stations in the United States. A majority of them have convenience stores. Gas stations and convenience stores are covered by the ADA.**



## OWNERS AGREE TO IMPROVE ACCESSIBILITY AT GEORGE WASHINGTON'S HOME

On July 21, 2010, the Mount Vernon Ladies' Association of the Union, which owns and maintains Mount Vernon Estate and Gardens, the home of President George Washington, entered into a settlement agreement with the Department to continue correcting ADA deficiencies identified in a compliance review of the historic site. The estate, located in Alexandria, Virginia, was designated a National Historic Landmark in 1960 and is listed on the National Register of Historic Places.

Under the agreement, Mount Vernon will improve accessible routes connecting the historic residence to the modern visitors' center, museum, and restaurants and shops that serve visitors to the site; increase accessibility on the ground floor of the mansion and provide photographs and printed commentary describing the rooms on the inaccessible floors; train tour guides to describe sites and exhibits for people who are blind or have low vision and allow them to touch selected objects and reproductions; provide printed materials and information in alternate formats for people with vision disabilities; offer tours with sign language or oral interpreters on advanced request for people who are deaf or

hard of hearing; provide closed captioning for films shown in the museum; and modify interactive displays for easier use by people with dexterity disabilities.

"As the nation celebrates the 20th anniversary of the ADA, we commend the Mount Vernon Ladies' Association for its cooperation and for its innovative efforts to improve access to this historic estate and to its exhibitions and programs for individuals with

disabilities," said Assistant Attorney General Perez. "This agreement shows that two lofty goals - providing access for individuals with disabilities, and preserving and understanding our nation's historic past - are not in conflict. This agreement will ensure equal access for individuals with disabilities who want to participate in the wide range of public offerings of one of the most important historic estates in the United States."

## VIRGINIA TOWN PAYS \$60,000 TO SETTLE DISCRIMINATION SUIT

On June 28, 2010, the Town of Gretna, Virginia, entered into a settlement agreement with the Department resolving a complaint from an individual who wanted to sign up with a local non-profit agency to provide foster care in her home for two adults with intellectual disabilities. The town denied her application for a Special Use Permit after a hearing at which townspeople expressed unfounded concerns about the people she would be caring for, but subsequently granted the permit after the Department became involved in the matter. Under the agreement, the town will adopt nondiscrimination practices with respect to land use decisions and will provide ADA training for town officials. The town also agreed to pay the complainant \$60,000 in compensatory damages.

"The integration of individuals with disabilities in all aspects of social and civic life, consistent with the mandate of the Supreme Court in the landmark *Olmstead v. L.C.* decision, is a priority of the Civil Rights Division," said Assistant Attorney General Perez. "The Civil Rights Division will continue to vigorously pursue zoning discrimination to ensure that individuals with disabilities have a full and equal opportunity to participate in all facets of their communities."

## **CITY IN WASHINGTON STATE WILL MAKE ITS PARKS AND ANNUAL FESTIVAL ACCESSIBLE FOR PEOPLE WITH DISABILITIES**

On July 14, 2010, the City of Milton, Washington, entered into a settlement agreement with the Department resolving a complaint that the City's parks and annual parade and festival are not accessible for individuals with mobility disabilities. According to census data, one in every four residents of Milton is an individual with a disability.

Under the terms of the agreement, the city will create accessible parking, accessible routes, and accessible picnic tables, tennis courts, basketball courts, baseball fields, and drinking fountains in its two parks; provide accessible playground equipment in the larger park; replace inaccessible toilet facilities in the larger park with accessible toilet facilities when funding is appropriated and, in the meantime, provide accessible portable toilets; and modify city policies and practices for the annual summer parade and festival.

"This agreement will ensure that individuals with disabilities living in Milton will have improved access to their parks and recreational activities," said Assistant Attorney General Perez. "I commend city officials for making this commitment to their residents with disabilities. In this year when we will celebrate the 20th anniversary of the ADA, it is time for all state and local governments throughout the country, no matter what size, to make a renewed commitment to achieving full ADA compliance and ensuring the civil rights of individuals with disabilities."

## **CHILD CARE CENTER WILL MODIFY POLICIES TO ACCOMMODATE CHILDREN WITH DISABILITIES**

On August 3, 2010, the Rainbow River Child Development Center of Hawthorne, California, entered into a settlement agreement with the Department resolving a complaint filed by parents of a five-year-old boy with Type I

diabetes. The complaint alleged that the Rainbow River refused to allow staff to supervise the child's use of an insulin pump, insisting instead that one of his parents come to the center at lunch and snack times to supervise him, and refused to

allow him to go on field trips with the other children in his class.

The center's rationale for these policies was that state regulations prohibit the center from providing medical care and supervision of its enrolled children without appropriate authorization from the state licensing board. Authorizations are granted on a case-by-case basis depending on the needs of an individual child. Under the terms of the agreement, Rainbow River will adopt a diabetes management policy that includes supervising and monitoring children with diabetes while they are consuming food or using blood glucose monitoring tests, insulin pumps, syringes, or other diabetes-related medical equipment, will train staff on the policy, and, at the parents' request, will apply for authorization from the state when a child needs care that requires state authorization.

Insulin pumps are commonly used in lieu of routine insulin injections, especially by children. In many cases, pumps offer a better quality of insulin administration and are easier to use.

"A child with Type I diabetes should never be subjected to discrimination and denied the opportunity to participate in the same activities as all other children. Child care

(Child Care, continued)

centers must make reasonable modifications of policies to permit children with disabilities to participate fully in the programs it offers, unless doing so would cause a fundamental alteration in the program or service,” said Assistant Attorney General Perez. “We commend Rainbow River for working cooperatively with the department on today’s settlement, and for welcoming children and families of children with disabilities.”

## DEPARTMENT FILES BRIEFS IN SUPPORT OF PLAINTIFFS IN TWO PRIVATE ADA LAWSUITS

On June 21, 2010, the Department filed a brief as *amicus curiae*, or friend of the court, in *Miller v. Smith*, a lawsuit pending in the federal court in Statesboro, Georgia. Mr. Miller, who has paraplegia, alleges that he has been incarcerated at inaccessible facilities and been denied the opportunity to participate in programs at two facilities of the Georgia Department of Corrections in violation of the ADA and the Rehabilitation Act. The Department’s brief explains the obligations of correctional officials to house inmates with mobility disabilities in accessible cells, provide inmates with disabilities access to all prison programs, activities, and services, and provide disability-related medical care, assistance, equipment, and supplies.

On July 21, 2010, the Department filed another brief as *amicus curiae* in *Miller v. Smith*, this time addressing Georgia’s argument that Mr. Miller does not have the right to sue the state for violating the Department’s ADA regulations. On August 9, 2010, the court rejected the state’s argument.

On July 6, 2010, the Department filed a Statement of Interest in *Equal Rights Center, et al. v. Abercrombie & Fitch Co., et al.*, a lawsuit pending in the federal court in Baltimore, Maryland, alleging that Abercrombie & Fitch and Hollister clothing stores nationwide have inaccessible main entrances, inaccessible service counters, and inaccessible interior paths of travel. The Department’s brief argues that the defendants’ motion to dismiss the lawsuit should be denied because the plaintiffs meet the legal tests for establishing their right to pursue their claims against the defendants.

## NEW YORK STATE UNIVERSITIES WILL OFFER VOTER REGISTRATION SERVICES FOR STUDENTS WITH DISABILITIES

On July 8, 2010, the federal court in Syracuse, New York, approved a consent decree resolving a lawsuit against the state of New York and its public university systems for their failure to provide voter registration services at on-campus offices serving students with disabilities. The lawsuit was brought under the National Voter Registration Act (NVRA) which, among other things, requires that voter registration services be provided at offices that provide state-funded programs primarily for people with disabilities. In March 2010 the court ruled that the NVRA applies to disability services offices at public institutions of higher education and gave the parties time to negotiate an appropriate solution.

Under the decree, disability services offices at each public university and college campus in the state will provide voter registration services to students with disabilities beginning at the start of the 2010-2011 school year. The decree also requires the state to publicize the



(Voter Registration, continued)

availability of the services and calls for training and oversight to ensure compliance.

“The voting process begins with registration and

it is essential that all citizens, including individuals with disabilities, have unfettered access to voter registration opportunities,” said Assistant Attorney General Perez. “This

decree ensures that college and university students with disabilities throughout New York State will be able to register to vote as easily and conveniently as possible.”

## HOUSING AUTHORITY IN MASSACHUSETTS WILL REVISE DISCRIMINATORY POLICIES AND COMPENSATE VICTIMS OF DISCRIMINATION

On July 6, 2010, the Fitchburg, Massachusetts, Housing Authority and its executive director, Robert W. Hill, entered into a consent decree with the Department resolving a lawsuit alleging that the Housing Authority and Hill violated the Fair Housing Act (FHA) by adopting and implementing policies that denied tenants with disabilities other than mobility impairments the opportunity to transfer between apartments within Fitchburg’s public housing neighborhoods. (See previous article in issue # 31.)

Under the terms of the decree, which was approved by the federal court in Worcester on July 9, 2010, the Housing Authority will implement non-discrimination and reasonable accommodation policies and a procedure by which tenants may file a disability discrimination complaint against any employee or agent of the authority; employees of the Housing Authority will receive training on federal fair housing laws; and

the defendants will establish a \$65,000 settlement fund to compensate people who have been injured by their alleged discriminatory conduct.

“The Fair Housing Act requires equal access to housing for persons with disabilities,” said Assistant Attorney General Perez. “This comprehensive settlement will ensure equal access to housing for all disabled

individuals, not just those who are substantially limited in the major life activity of walking.”

This case originated when a former resident of the Fitchburg Housing Authority filed a discrimination complaint with the U.S. Department of Housing and Urban Development (HUD). HUD conducted an investigation and referred the matter to the Justice Department.

## INDIANA CITY WILL PERMIT GROUP HOME FOR RECOVERING ADDICTS

On June 15, 2010, the city of Columbus, Indiana, entered into a consent decree with the Department resolving a lawsuit charging that the city violated the FHA when it denied a request from Addictions Counseling Treatment Service, Inc., (ACTS), an Indiana corporation, for a land use variance to operate a group home for up to 11 men recovering from drug or alcohol addiction, to be known as Bethesda House. (See previous article in issue # 33.)

Under the terms of the decree, which was approved by the federal court in Indianapolis on June 17, 2010, the city will pay \$18,000 in compensatory damages to ACTS, pay a \$6,000 civil penalty to the United States, grant ACTS permission to operate the home in the event that it submits a new application within three years, adopt and implement a policy for accommodating

(Bethesda House, continued)

requests for variances from the city's zoning rules and practices on behalf of people with disabilities, and obtain training on the FHA for staff of the city's Planning Department and Board of Zoning Appeals.

"Experience has shown that people recovering from addictions to alcohol and drugs can benefit when given the opportunity to live in supportive residences. The Fair Housing Act prohibits local governments from using zoning codes to deny them this opportunity," said Assistant Attorney General Perez. "The Justice Department will continue to vigorously protect the civil rights of all persons with disabilities across the country."

"Enforcement of the Fair Housing Act in this manner protects the civil rights of persons with disabilities," said Timothy M. Morrison, U.S. Attorney for the Southern District of Indiana. "These actions encourage local governmental units to end discriminatory policies."

"Recovery programs help the individual and the community. This settlement enables all parties to move forward based on fact, not stereotype," stated HUD Assistant Secretary for Fair Housing John Trasviña.

The case was referred to the Justice Department by HUD.

## PROVIDERS OF SECTION 8 HOUSING SUED FOR DISABILITY DISCRIMINATION

On July 14, 2010, the Department filed a lawsuit in the federal court in Milwaukee, Wisconsin, against the owner, operator, and manager of the Village Square Apartments (VSA), an 18-unit apartment complex in Walworth, Wisconsin, that provides Section 8 housing for elderly people and people with disabilities. The suit alleges that owner WHPC-DWR, LLC, operator Cardinal Capital Management, Inc., and manager Dee Luebke violated the FHA by refusing to provide an assigned parking space as a reasonable accommodation to a VSA resident who has a severe mobility disability.

The case stems from a complaint filed by the former resident with HUD, which investigated the matter and referred it to the Justice Department. The lawsuit seeks injunctive relief and monetary damages.

## Did you know...

**Individuals who believe they have been victims of housing discrimination can call the Housing Discrimination Tip Line at 1-800-896-7743, email the Justice Department at [fairhousing@usdoj.gov](mailto:fairhousing@usdoj.gov), or contact HUD at 1-800-669-9777.**

## KENTUCKY APARTMENT COMPLEX SUED FOR DISABILITY DISCRIMINATION

On August 10, 2010, the Department filed a lawsuit against the owners, developers, architects, and civil engineers of Park Place Apartments, a 276-unit complex in Louisville, Kentucky, for failing to provide accessible features as required by the FHA. The lawsuit, filed in the federal court in Louisville, alleges that the complex was designed and constructed with, among other things, interior doors that are too narrow for people who use wheelchairs; kitchens and

(Kentucky Apartment, continued)

bathrooms that limit or prevent individuals who use wheelchairs from maneuvering about them; thermostat controls that are mounted above the reach range of people who use wheelchairs; and routes from the public access parking areas to apartment units and to site amenities that are not accessible for people who use wheelchairs.

The lawsuit seeks a court order requiring the defendants to make appropriate accessibility retrofits at the complex, to pay monetary damages to individuals who have been harmed by their conduct, and to refrain from future discrimination.

“Since 1991, federal law has required that new multi-family housing complexes with four or more units be built with certain accessible features. There is no excuse for developers and design professionals to fail to comply,” said Assistant Attorney General Perez. “Inaccessible multi-family housing developments deny persons with disabilities their legal right to equal housing opportunities.”

This lawsuit arose from a complaint filed with HUD, which conducted an investigation and referred the matter to the Justice Department. The defendants are Kevin D. Cogan, Edwynn Burckle, George E. Clark, Doris Cogan, Bayus Evola Architects, James A. Hall, Hall Construction Company, Mindel Scott & Associates, Inc., and Willett Engineering Company.

## **MICHIGAN TOWNSHIP SUED FOR DISCRIMINATING AGAINST HOME FOR RECOVERING ADDICTS**

On July 28, 2010, the Department filed a lawsuit in the federal court in Grand Rapids, Michigan, against Dalton Township alleging that the township violated the FHA and the ADA by ordering an existing “Sober House” for people recovering from drug and alcohol addiction to cease operation, denying a Special Use Permit District for the

home, denying a request that the residents be treated as a family under the zoning ordinance, and prohibiting the home from taking in any new residents.

The lawsuit seeks a court order requiring the township to permit the continued operation of the house as a sober home for eight individuals and a resident manager, awarding monetary

damages to compensate victims, imposing a civil penalty, and prohibiting future discrimination by the township.

“The Fair Housing Act and the Americans with Disabilities Act seek to ensure that individuals with disabilities can live in communities of their choice without facing discrimination,” said Assistant Attorney General Perez. “We will continue our vigorous enforcement efforts to make certain that persons with disabilities are granted their rights under federal law.”

“Under the Fair Housing Act and the Americans with Disabilities Act, persons with disabilities have the right to reside in communities and housing of their choice,” said John Trasviña, Assistant Secretary for Fair Housing & Equal Opportunity. “HUD will take legal actions to ensure that they can live in the most integrated setting.”

This lawsuit arose as a result of a complaint filed with HUD by Joel Kruszynski Sr., who, through Cedar Creek Investments Inc., and Serenity Shores Apartments LLC, owns and operates the group home known as “Serenity Shores.” The case was referred to the Justice Department by HUD.

## ADA MEDIATION HIGHLIGHTS

The ADA Mediation Program is a Department-sponsored initiative intended to resolve ADA complaints in an efficient, voluntary 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 78% of all complaints mediated have been resolved successfully.

To be able to shop, people have to be able to park, enter, and maneuver within a store. In this issue, we highlight complaints against retail stores that have been successfully mediated.

- In New York, a person who uses a wheelchair complained that a country store was inaccessible. The store installed a ramp at the door, restriped the accessible parking space to make it van-accessible, and installed appropriate signage.

- In California, a person who uses a wheelchair complained

that a shopping center failed to provide accessible parking. The center installed curb cuts and accessible parking spaces throughout the facility and added crosswalks between the accessible parking and the accessible store entrances.

- A person who uses a wheelchair complained that a North Carolina department store was inaccessible because merchandise blocked the accessible route and boxes were stored in the accessible dressing rooms. The store increased space between the racks, trained employees to ensure that merchandise is not stored in the aisles or in the accessible dressing rooms, and apologized to the complainant.

- In New York, a person who has a mobility disability complained that a department store's dressing room was inaccessible. The store cleared the dressing room of obstacles, implemented new ADA training for employees, and gave the complainant a \$50 gift card.

- A person who uses a wheelchair complained that a Virginia hobby store failed to provide accessible parking and access to the store's second floor. The shopping center

where the store was located installed signage directing customers to accessible parking. The store instituted a policy to assist individuals who cannot navigate the stairs by informing customers about what is available on the second floor, bringing merchandise down until the customer finds what he or she is looking for, and then completing the sale.

- An individual who uses a power wheelchair alleged that a Texas department store had insufficient space between clothing racks. The department store moved the clothing racks to provide an accessible route throughout the store, conducted staff training in assisting people with disabilities, provided a suggestion box for customers, apologized to the complainant, and gave him a \$500 gift certificate.

- In Washington, a person who uses a wheelchair complained that he had to remain outside in cold, rainy weather for a long time while helping a friend with low vision select a cell phone, because the phone store was inaccessible. The company installed a wheelchair lift and renovated the store entrance to make it accessible. In addition,

(Mediation, continued)

the company developed comprehensive ADA training materials for its employees and paid \$2,783.75 to the complainant and his friend.

■ A person with a serious heart condition complained that a Pennsylvania garden store refused to provide assistance loading heavy items into his car because it was self-service only. The respondent apologized to the complainant and agreed

to train all staff in assisting customers with disabilities. Additionally, the respondent agreed to install accessible parking, including a van-accessible space.

■ In Texas, a person who uses a wheelchair complained that a strip mall was inaccessible. The mall installed a ramp and accessible parking spaces, including a van-accessible space, and reduced the opening force of the door to one of the businesses in the mall.

Staff also provided a brief update on the status of the ADA rulemaking for Guide Dog Users, Inc. Both organizations are affiliates of the American Council of the Blind (ACB) and meet in conjunction with ACB's annual convention.

■ On July 12, staff spoke about the Department's enforcement activities relating to accessible sidewalks, answered questions, and disseminated ADA technical assistance materials at the Transportation Research Board's annual workshop on transportation law, in Newport, Rhode Island.

## RECENT OUTREACH ACTIVITIES

■ On June 28, staff participated in a panel discussion at the annual conference of the National Association of College and University Attorneys in Washington, DC. The title of the panel was "What's on our Minds? Hot Topics for Obama's Civil Rights Enforcement Agencies: A Discussion with Anti-Discrimination Experts." The other panelists were from the EEOC and the Office for Civil Rights at the Department of Education.

■ On July 10, staff provided training on the ADA at a two-day intensive "boot camp" for correctional physicians in management and leadership positions sponsored by the National Commission on

Correctional Health Care and the Society of Correctional Physicians, held in Boston, Massachusetts.

■ From July 10 -13, staff answered questions and disseminated ADA technical assistance materials at the NAACP's annual convention in Kansas City, Missouri. Approximately 30,000 people attended this event.

■ On July 11, staff spoke at the annual conference of the American Association of Visually Impaired Attorneys (AAVIA) in Phoenix, Arizona, on the topic of Internet accessibility and the Department's enforcement relating to accessible information technology.

■ On July 14, staff gave two presentations on the ADA at the Association on Higher Education and Disability (AHEAD) annual conference in Denver, Colorado.

■ From July 14 -16, staff answered questions and disseminated ADA technical assistance materials at the League of United Latin American Citizens' (LULAC) annual convention in Albuquerque, New Mexico. Approximately 30,000 attended this event.

■ On July 19, staff gave a presentation and answered questions on the requirements of the ADA and the Rehabilitation Act at a FEMA-sponsored day-long training session in

(Outreach, continued)

Kansas City, Missouri, for local, state, and federal emergency managers, first responders, and non-profit organizations that provide emergency response services.

■ On July 21, staff participated in a webcast discussion with the Disability and Business Technical Assistance Centers which are funded by the U.S. Department of Education to update them on recent ADA enforcement activities.

■ On July 23, staff gave the keynote address at a celebration of the ADA's 20th anniversary in Concord, New Hampshire, sponsored by the Governor's Commission on Disability and the Granite State Independent Living Center.

■ From July 25-28, staff answered questions and disseminated ADA technical assistance materials at the National Association of Blacks in Criminal Justice's annual conference in Atlanta, Georgia. Approximately 1,500 people attended the conference.

■ On July 28, staff spoke on employment law issues at a technical assistance program sponsored by the Equal Employment Opportunity Commission's New York District Office, held in Boston, Massachusetts.

■ On July 31, staff gave a workshop on the ADA and correctional settings at the American Correctional Associations' annual congress in Chicago, Illinois.

■ On August 3, staff spoke on employment law issues at a technical assistance program sponsored by the Equal Employment Opportunity Commission's Chicago District Office, held in Chicago, Illinois.

■ On August 9, staff gave a presentation and answered questions on the requirements of the ADA and the Rehabilitation Act in the emergency management context at the 2010 Reinventing Quality Conference in Baltimore, Maryland. This is an annual conference jointly sponsored by the National Association of State Directors of Developmental Disabilities Services, the Research and Training Center on Community Living, and the Human Services Research Institute to showcase best practices nationwide in providing services and supports for people with intellectual and developmental disabilities. Attendees included disability professionals, people with disabilities, family members, advocates, and state and federal officials.

■ On August 9-11, staff answered questions and disseminated ADA technical assistance materials at the National Asian Peace Officers Association's (NAPOA) annual training conference in Boston, Massachusetts. Approximately 1,500 attended the conference.

■ On August 10-11, staff participated in a round table discussion, gave three workshops, and conducted outreach at the University of New Mexico, School of Law's annual American Indian civil rights conference in Albuquerque, New Mexico. The workshops covered the basic provisions of the ADA, FHA, and Equal Credit Opportunity Act.

■ On August 18, staff gave an overview of the ADA and spoke about how to serve people with disabilities effectively at the 2010 Indian Country Conference on Victims of Crime in Rapid City, South Dakota. Sponsored by the U.S. Attorney's Offices for the Districts of Nebraska, South Dakota, and North Dakota, the conference was attended by direct service providers, including law enforcement and medical providers, and officials from tribal, state, and federal government agencies.