



# 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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## MULTI-FAMILY HOUSING ACCESS FORUM IN PHOENIX DRAWS LARGE TURNOUT

On November 14, 2006, Deputy Assistant Attorney General Grace Chung Becker hosted the Civil Rights Division's fourth Multi Family Housing Access Forum program in Phoenix, Arizona. Launched last year, the program's objective is to help building professionals understand their legal obligations under the federal Fair Housing Act's accessibility requirements and to celebrate partnerships that have successfully produced accessible multi-family housing in which everyone profits – developers and consumers alike. The program was attended by over 90 developers and building professionals, government officials, individuals with disabilities, and advocates.

In her opening remarks, Ms. Chung Becker discussed the need for accessible multi-family housing. She pointed out that Phoenix had the largest population increase from 2004 to 2005 of

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## ADA BUSINESS CONNECTION MEETING FOCUSES ON HOTELS

On November 14, 2006, Assistant Attorney General Wan J. Kim hosted an ADA Business Connection Leadership Meeting in New York, New York. The session was co-hosted by Joseph Kane, Chairman, American Hotel and Lodging Association (AH&LA), and Paul Tobin, Executive Director, United Spinal Association. Fifty participants from multinational hotel and lodging corporations and local New York disability rights organizations listened to speakers and engaged in a productive discussion as part of the event. The meeting was held in the Jacob K. Javits Center concurrently with the annual International Hotel, Motel, and Restaurant Show and AH&LA fall conference.

In his opening remarks, Assistant Attorney General Kim emphasized that the Department views ADA Business Connection Leadership meetings as an investment, allocating some of the

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(Housing Access, continued)

any city in the U.S. of 100,000 or more persons, and that from 1990 to 2000, Arizona's population of persons 65 years old or older grew 39.5%, the third largest increase in the country. As of 2004, moreover, 14.5% of people in Arizona over 5 years old and not living in an institution had a disability, and for those 65 years old or older, the incidence of disability was 42.2%. She emphasized that although the Civil Rights Division has obtained great results – 12,000 housing units in 17 states are to be made accessible to people with disabilities as a result of settlements since fiscal year 2005 – lawsuits cannot and should not be the only approach to Fair Housing Act enforcement. Achieving compliance at the design and planning stages is a more timely and cost-effective means of ensuring that the housing needs of persons with disabilities are met.

The program featured three other presenters: Michael Pyatok, FAIA, and Curtis Caton, AIA, of Pyatok Architects, Inc., based in Oakland, California, and Douglas T. Whitneybell, AIA, of Whitneybell Architects, Inc., the firm he established in Phoenix in 1976. Mr. Pyatok has 37 years of experience, has served the American Institute of Architects on its National Affordable Housing Task Group, and is

a professor of architectural design and the Director of the Stardust Center for Affordable Homes and the Family at Arizona State University in Phoenix. Mr. Caton has over 20 years of design experience with high-density housing and light commercial projects, including market-rate, affordable and special needs, and has completed over 20 separate multi-family housing projects in the Oakland area. Mr. Whitneybell is a past president of the Arizona chapter of the American Institute of Architects, and was appointed by the mayor and city council of Phoenix to serve as president of the Phoenix Residential Investment Development Effort (PRIDE), a non-profit organization providing affordable housing. Mr. Whitneybell's firm has designed a variety of multi-family, community, and specialized projects throughout Arizona.

These speakers discussed the housing needs of people with disabilities and the partnerships they have forged with developers to create mixed-income, mixed-use accessible housing. They offered suggestions about best practices to ensure compliance with the Fair Housing Act, and provided specific illustrations of how they have met the needs of their clients and served customers with

disabilities while maintaining high professional standards and profitable enterprises. For more information, go to [www.usdoj.gov/fairhousing](http://www.usdoj.gov/fairhousing).

The next forum will be held in another major city in the spring of 2007. Previous forums were held in Atlanta, Dallas, and Chantilly, Virginia.

## Did you know...

**since January 1, 2001, the Department has filed 215 cases under the Fair Housing Act, 97 of which have alleged discrimination on the basis of disability.**

(Business Connection, continued)

resources normally spent on litigation to bring together leaders of business and disability rights organizations to build collaborations and reap the dividends of voluntary ADA compliance. He stressed the value of listening to customers with disabilities and pointed out that accessible customer service practices benefit not only the more than 50 million Americans with disabilities but also older adults and parents with young children in strollers. Together these groups spend billions of dollars on hotel services annually. Each of the co-hosts made presentations strongly supporting the advantages of collaboration between business and disability organizations.

Two speakers then addressed the group. Roy Flora, Executive Vice President and COO, U.S. Franchises Systems, Inc., spoke about the



**Joseph Kane, Chairman of AH&LA, addresses participants at the ADA Business Connection Meeting**

substantial efforts that one of his corporation's chains, Microtel Hotels, is making to build brand loyalty and increase market share by attracting and welcoming travellers with disabilities. Randy Black Shantz, Chair of the Travel and Transportation Committee, New York State Independent Living Council, Inc., talked about her committee's work to ensure that hotel guests with disabilities can find and be assured of lodging in rooms that are accessible to them.

Deputy Assistant Attorney General Loretta King moderated the meeting's animated discussion, which raised substantive questions and suggestions. Inspired by the discussion and tenor of the meeting, Mr. Kane promised to make the issue of accessible lodging a central topic at AH&LA's 2007 annual conference.

## **TWO NEW YORK HOTELS AGREE TO IMPROVE ACCESSIBILITY**

Two hotels have recently entered into settlement agreements to improve accessibility for customers with disabilities, pursuant to a hotel compliance initiative being conducted by the U.S. Attorney's Office in Manhattan. They are the Salisbury Hotel, a 201-room hotel on West 57th Street, and the Flatotel International Hotel, a 289-room hotel on West 52nd Street. Both hotels agreed to evaluate their designated accessible rooms and make any modifications necessary to comply with the ADA Stan-

dards for Accessible Design; modify additional rooms for a total of ten accessible rooms, including three with accessible roll-in showers; provide visual alarms and communication devices, and appropriate electrical outlets, in seventeen rooms for people with hearing disabilities; disperse accessible rooms among all classes of sleeping accommodation; and establish written policies and procedures for providing services to hotel guests with disabilities.

## **CHILD CARE CENTER SETTLES MOTHER'S DISCRIMINATION COMPLAINT**

On September 21, 2006, the Busy Bumble Bee Palace Infant and Toddler Care Center in Chicago, Illinois, entered into a settlement agreement with the Department resolving a complaint by a mother who alleged that the Center had discontinued services to her two year old son based on his developmental and speech delays. In addition to adopting a policy of nondiscrimination based on disability, the Center will pay the complainant \$4500.

## **YOUTH BASEBALL LEAGUE WILL PROVIDE SIGN LANGUAGE INTERPRETERS NATIONWIDE FOR PLAYERS WHO ARE DEAF**

On October 10, 2006, the Department conducted a Title III training for the board of directors of PONY Baseball, Inc., a nationwide youth baseball and softball organization, at PONY's headquarters in Washington, Pennsylvania.

On August 17, 2006, the Department reached a settlement agreement with the organization, to resolve a complaint by a PONY player in Hawaii who is deaf. PONY's rules limited the number of coaches during games, and the league had ruled that the father, who was providing sign language interpreting for his son, had to be included in the total number of coaches for his son's team. In the August 17th settlement, PONY agreed to modify its rules specifically to allow players to use sign

language interpreters during games; provide, in conjunction with PONY's local leagues, sign language interpreters for players who are deaf or hard of hearing; make reasonable modifications to PONY's rules and practices to allow players with disabilities an equal opportunity to participate in PONY's baseball and softball games; appoint an ADA Coordinator who will be responsible for ensuring that PONY responds properly to requests for auxiliary aids, including sign language interpreters, and requests for reasonable modifications; have PONY's ADA Coordinator and Board of Directors trained on the requirements of Title III of the ADA; and pay \$30,000 in damages to the player who filed the complaint.

## **LOUISIANA HOSPITAL AGREES TO PROVIDE SIGN LANGUAGE INTERPRETERS WHEN NEEDED**

On October 5, 2006, Meadowcrest Hospital in Gretna, Louisiana, signed a settlement agreement resolving a complaint by a

deaf woman who alleged she was denied the services of a qualified American Sign Language interpreter when she was brought to and treated

in Meadowcrest Hospital's emergency room as well as at critical times during the five days after she was admitted to the hospital. The complainant asserted that she asked for an interpreter numerous times while in the ER and only after she was admitted did she learn of her diagnosis. By that time, she had been administered numerous prescription medications despite her inability to communicate essential particulars to treating personnel.

Under the agreement, Meadowcrest Hospital will assess the communication needs of individuals with speech or hearing disabilities upon their arrival or at the time an appointment is scheduled; provide qualified interpreters as soon as possible (and within specified time limits) when necessary for effective communication, especially in circumstances involving lengthy or complex interactions such as admissions and detailed discussions of symptoms, diagnosis, and treatment; and provide auxiliary aids, when needed, to companions as well as to patients. Additionally, Meadowcrest Hospital agreed to pay the complainant \$15,000 in compensation and to pay a civil penalty of \$5,000.

## CITY OF PHILADELPHIA SETTLES EMERGENCY MEDICAL CARE CASE

On November 13, 2006, the federal court in Philadelphia entered a settlement order and order of dismissal resolving the lawsuit Smith and United States v. City of Philadelphia, in which the United States intervened in August 2004. The suit alleged that city paramedics had violated Title II of the ADA and Section 504 of the Rehabilitation Act by refusing to provide emergency medical services to Mr. Smith upon learning that he was HIV-positive. Under the terms of the settlement, the city agreed to institute a multi-component training program regarding appropriate and nondiscriminatory care for people with HIV and other infectious diseases. The training is mandatory for all city paramedics and EMTs, and the city will submit documentation certifying yearly compliance and participation by all relevant

personnel. The city also agreed to pay Mr. Smith \$50,000 in damages.

“Vital emergency medical services must be provided in a non-discriminatory manner to all persons who need them,” said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. “The Justice Department is committed to ensuring that cities carry out this important function responsibly and in accordance with federal law.”

“This agreement protects both the patient and, by requiring proper training, the emergency responders,” said Pat Meehan, U.S. Attorney for the Eastern District of Pennsylvania. “Emergency response is a key link in the continuum of care and this agreement ensures the highest quality of care to those in great need.”

## ALABAMA CITY WILL PERMIT HOME FOR ADULTS WITH DISABILITIES TO OPEN

On October 24, 2006, the Department settled a lawsuit against the city of Saraland, Alabama, alleging housing discrimination against individuals with developmental disabilities. The Department’s

complaint alleged that the city violated the federal Fair Housing Act when it refused, for explicitly discriminatory reasons, to allow the Lewis Community Care Facility, Inc., to open a home for ten adults in

a residential neighborhood of the city. These residents were to be screened and referred by the Mobile Mental Health Center and were to share living space and common facilities in a home staffed 24-hours per day and regulated by the state of Alabama.

The settlement order resolved the Department’s case as well as a consolidated lawsuit filed by the Fair Housing Center of Alabama on behalf of Lewis Community Care and its owners, Shannon and Orin Lewis. Under the settlement, the city has agreed to allow the Lewises to operate their home as planned, to pay \$65,000 in damages and attorneys fees to the Lewises, and to pay a civil penalty of \$7,000 to the government. The settlement also mandates that certain city employees undergo training on the requirements of the Fair Housing Act and that the city maintain records relating to future proposals for housing for people with disabilities and submit periodic reports to the Justice Department.

The case began when the Lewises filed a complaint with the Department of Housing and Urban Development (HUD). HUD referred the complaint to the Justice Department, which conducted an investigation and filed suit in May 2005.

## ADA MEDIATION HIGHLIGHTS

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

In this issue, we highlight complaints in a variety of situations that have been successfully mediated.

- In Tennessee, a deaf individual complained that a uniform sales company refused to accept telephone orders from callers using the relay service. The company agreed to accept relay calls and provide ADA training to staff at 200 stores in 36 states. The company also apologized to the complainant and offered a \$100 gift certificate.

- In Florida, a person with a mobility disability complained that she had been denied the opportunity to volunteer at a

museum and theater company because of her disability. The company agreed to accept the complainant as a volunteer and to open all of their volunteer activities to people with disabilities.

- An individual with hemiplegia alleged that he was refused service by an Arizona nail salon. The salon owner reviewed a Justice Department technical assistance publication in Vietnamese, which is his native language, and changed his policies with regard to serving individuals with disabilities. The salon owner formally apologized and paid the complainant \$1,000.

- In California, a customer who uses a service animal complained that a towing service refused to allow the service animal to accompany her in the tow truck. The owner of the towing service agreed to modify its policy to allow service animals to ride in its trucks.

- In Washington State, an individual with a disability complained that an RV campground refused access to her because she uses a service animal. The park managers agreed to admit guests who use service animals and apologized

to the complainant for the treatment she received by the staff. They agreed to train staff on the ADA, using instructors from a local center for independent living, donate \$75 to the center, and work with the center to provide ADA information to other area businesses.

- A wheelchair user complained that an Ohio funeral home was inaccessible. The funeral home installed an accessible ramp at the entrance to the facility and also agreed to provide a portable ramp to a viewing area upon request and to train employees in how to safely install and use the ramp.

- A motorcyclist with a mobility disability complained that a Nevada hotel participating in an annual motorcycle event created a reserved area for motorcycle parking but made no accommodation for people with mobility disabilities who ride motorcycles. In the future, the hotel will reserve spaces nearest to the front entrance for guest motorcyclists with any state accessible parking permit, license, or placard and will post signage advising guests of the availability of such parking. In addition, the hotel agreed to write a letter to the editor of a motorcycle magazine about the need for parking for motorcy-

(Mediation, continued)

clists with mobility disabilities and the steps taken by the hotel to provide motorcycle parking during the annual motorcycle event.

- In California, a couple with mobility disabilities complained that a cruise line did not honor a free upgrade promotion because none of the cabins in the “upgrade class” were accessible. The cruise line agreed to offer accessible rooms from a comparable upgrade class and

provide additional training on the ADA to key management staff. It also agreed to provide a free 10 day cruise to the couple as compensation.

- In Nevada, a wheelchair user complained that a casino’s gaming tables were inaccessible. The casino installed accessible tables at each type of game it offers and made a \$5,000 donation to Hurricane Katrina Relief efforts.

conference was sponsored by the Federal Aviation Administration, the American Association of Airport Executives, the Open Doors Organization, and Diversity Partners. It was attended by airport and domestic airline officials from throughout the United States. The panel included representatives from the Department of Transportation’s Office of General Counsel and the Office of Aviation Consumer Protection and the U.S. Access Board. The general session presentation, entitled The Fundamentals of the ADA and the Air Carrier Access Act (ACAA), provided an overview of the ACAA and the ADA as it relates to travel.

- On November 30, Division staff made a panel presentation on the topic of “Ticketing and Disability” at a conference sponsored by the Disability Rights Legal Center in Los Angeles, California. The event brought together representatives of sports, entertainment, and theater venues, ticket sellers, attorneys, people with disabilities, and government agencies to discuss and come to a better understanding of each other’s expectations and to identify best practices for accessible ticketing policies at sports and entertainment venues.

## RECENT OUTREACH ACTIVITIES

- From October 26-28, Civil Rights Division staff participated in the Life @ 50+/AARP National Event and Expo in Anaheim, California, answering questions and disseminating ADA information to the estimated 25,000 attendees.

- On October 30 through November 2, Division staff made several presentations at the National Association of ADA Coordinators (NAADAC) fall conference in San Diego, California, on a variety of issues of interest to ADA Coordinators from state and local governments as well as architects, consultants, and others from the private sector. Topics addressed included emergency preparedness; program access, transition plans, and self evalu-

ations; strategies for compliance; health care; effective communication; corrections and law enforcement; Project Civic Access; and an update on our ADA activities.

- On November 1, Division staff made a presentation at the Architecture Exchange East 2006 conference in Richmond, Virginia, for architects, engineers, interior designers, landscape architects, and planners. The presentation addressed differences between the existing ADA Standards for Accessible Design and proposed changes.

- On November 6, Division staff participated on a panel at the Universal Access in Travel: Symposium and Exposition in Baltimore, Maryland. The