

Testimony

Statement by
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on "The Department of Justice's Guidance on Access to Pools and Spas Under the
ADA"

before
Subcommittee on the Constitution of the Committee on the Judiciary, U.S. House of
Representatives

Tuesday, April 24, 2012

Good afternoon Chairman Franks, Ranking Member Nadler and members of the House
Subcommittee on the Constitution.

My name is Ann Cody and I am the Director of Policy and Global Outreach for
BlazeSports America. BlazeSports assists communities across the country with
providing access to sports and recreation for people with disabilities. I serve on the
governing board of the International Paralympic Committee, and as Vice Chair of the
US Olympic Committee's Paralympic Advisory Committee. I hold a Masters degree in
therapeutic recreation, and have worked in the recreation and sports industry for more
than 20 years. As a three time Paralympian, I spent 10 years traveling to competitions
all over the world.

Personal Experience

I travel extensively in my profession and, as a wheelchair user I have experienced first
hand the inability to use swimming pools and hot tubs. Ironically, much of my travel is
for the purpose of educating local recreation and sport professionals about how to
include people with disabilities in their programs.

When I'm traveling I just can't slap on a pair of running shoes and get my exercise on a
treadmill. While many facilities have made the necessary adaptations, I find that pool
lifts in hotels are the exception and not the rule. This is disappointing nearly 22 years
after passage of the ADA. Frankly, I am stunned that we are having this conversation in
2012. I have used a wheelchair for 32 years and swimming is one of the best forms of
exercise for me.

In my family, weekends and vacations revolve around water activities. Before I became
disabled I swam everyday in the summer and so did my siblings, friends, classmates,
and neighbors. The swimming pool in our community was the hub of social interaction
and physical activity. Children and adults with disabilities have a fundamental right to

engage in the very activities that shape our relationships, our bodies, our health, and our communities.

Access is Critical to Independence and Integration

The ADA is a civil rights statute that aims to maximize the independence of people with disabilities and promote our full integration into all aspects of society. The ability to access swimming pools and other facilities is critical to achieving greater independence and community integration.

Just as for anyone, being physically active is critically important for people with disabilities. We are among the most sedentary, most obese minority groups in the country. Physical activity significantly enhances our physical, mental, social, and emotional wellbeing. Swimming is a highly desirable activity for many people with mobility impairments including returning veterans, as it enables us to move freely with fewer limitations.

The ADA Only Requires that Existing Pools Comply with the New Accessibility Standards if Doing So is "Readily Achievable"

The standards in the new ADA rules have undergone extensive review for more than 10 years, with multiple comment periods and many opportunities for hotels to learn about their responsibilities. The new requirements already had a generous phase-in period of 18 months.

Providing access to swimming pools is doable, not burdensome. The ADA's accessibility requirements for barrier removal in existing facilities are very reasonable. The rules are carefully crafted to take the needs of covered entities like hotels into account. The regulations direct public accommodations to use a fixed (or permanent) lift or a sloped entry into the pool, only if either can be done easily without significant difficulty or expense.

In my experience, the best way to ensure access to swimming pools is a fixed or permanent lift. A fixed lift is there and ready whenever a person with a disability wants to swim. The person doesn't have to find a staff person who knows where the lift is, where the keys are, how to set it up, and operate it. Often the keys to these lifts reside with a staff person who has to be paged over the radio. If the person with the key is in the middle of a job or on a break they are not able to respond quickly leaving the person with a disability wondering if they'll be able to use the pool at all.

Some hotels argue that it is safer to be able to use a portable lift because keeping it stored away when it is not being used will avoid accidents involving children. However, lifts pose no greater risk than any other means of pool access or other equipment around a pool. In fact, when children are exposed to lifts and to people using them, they learn not to play with them. Indeed, normalizing the experiences of people with disabilities is one of the core goals of the ADA.

It is good business

Americans with disabilities and our families work, travel, shop and spend our money in our communities. Businesses will benefit from marketing their facilities and amenities to consumers with disabilities. The auto industry markets their mobility programs and the cruise lines promote their accessibility features on TV and print media. In fact, my family is taking a cruise because I know I can use the pool and hot tub with everyone else. There is a market that these businesses are not yet fully considering – and the income generated from guests with disabilities would far exceed the \$2000-3000 it would cost to purchase a fixed lift for a pool.

Universal Access

Accessibility features prompted by ADA such as curb cuts, elevators, wider toilet stalls, ramps, and automatic doors are used by everybody—seniors, mothers with strollers, people with disabilities and others.

The accessible entrance to the swimming pool in my building is used by many residents who prefer the level entry over a flight of steps. The permanent pool lift is bolted to the ground on the pool deck and does not pose a hazard to anyone. It not only allows me to use the pool, but has also increased use by seniors and others whose mobility impairments previously prevented them from using the pool. Children who use the pool with adult supervision do not bother the lift.

Conclusion

It is excellent that the DOJ has finally addressed accessibility standards for recreation facilities, including swimming pools, so that people with disabilities have opportunities that have been available to the general public all along. Exercise and recreation opportunities should not be withheld on the basis of disability.

Recreation facilities such as swimming pools are key features of the lodging industry. The ADA pool requirements are not unduly burdensome. In an existing hotel, all that is required is what is readily achievable. Congress should ensure strong civil rights protections to end discrimination against people with disabilities. The ADA must be enforced and the DOJ must have the enforcement power to do so. Please do not weaken the enforcement we need.