



# 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.

### In this Issue:

ADA .....	1 - 4
Fair Housing .....	5 - 6
ADA Mediation .....	6 - 7
ADA Outreach .....	8

## TICKETMASTER WILL MAKE IT EASIER TO PURCHASE ACCESSIBLE SEATS

Ticketmaster, Inc., the world's largest ticketing company, has agreed to improve its services for people with disabilities. Under the terms of an agreement signed with the Department of Justice on December 22, 2005, customers will be able to purchase accessible seating via telephone and email during the entire time period that customers can purchase regular seating through Ticketmaster's web-based automated system (approximately 22 hours a day). In addition, all requests for accessible seats will be queued so that customers are served on a first-come first-served basis. Although it will still be necessary to purchase accessible

(continued on page 2)

## NORTH CAROLINA ACCESSIBILITY CODE RECEIVES ADA CERTIFICATION

The North Carolina Accessibility Code (NCAC) has been certified as meeting or exceeding the accessible design requirements of the ADA. The Department notified the State of North Carolina on November 28, 2005, of its decision to issue the certification of ADA equivalency. Department of Justice certification simplifies the process of complying with the ADA. In a state with an ADA-certified code, businesses that conform to the state's code process during construction or alteration of a facility can use that as evidence of ADA compliance if later challenged under the ADA.

The Department held public hearings to solicit comments on this matter in Cary, North Carolina, on May 16, 2005, and in Washington, D.C., on June 20, 2005. Virtually all comments supported final certification of the NCAC.

(continued on page 2)

(Ticketmaster, continued)

seats through sales agents rather than on-line, these steps will ensure a fairer ticketing process until the web-based system is redesigned and able to process customer requests for accessible seating.

Ticketmaster has also agreed to inform customers promptly when it has exhausted its inventory of accessible seating and to advise customers if additional accessible seating might be available directly from the venue; to improve the process for customers with disabilities seeking to purchase more than one seat for their companions and will make efforts to seat everyone in the party in or near the wheelchair section; to work with venues on implementing procedures to maintain the inventory of unsold accessible seats until two weeks prior to the event; and to release those seats for general sales only after all regular seating is sold out; and to designate a Disability Coordinator.

The agreement addresses numerous problems people with disabilities had encountered in purchasing accessible seats and companion seats for concerts, sports events, theaters, and other venues served by Ticketmaster. Ticketmaster will also continue its efforts to develop a system to sell accessible seating directly on its web site.

(North Carolina, continued)

Notice of the issuance of the final certification of equivalency was published in the Federal Register on December 8, 2005. A ceremony to recognize this significant accomplishment for the State is being planned for February 9, 2006, in Cary, North Carolina.

North Carolina is the sixth state to obtain ADA certification for its code. The States of Washington, Texas, Maine, Florida, and Maryland were the first five. Washington has subsequently adopted new accessibility requirements and has submitted them to the Department for review.

## OPTIMA GAS STATIONS AND CONVENIENCE STORES AGREE TO IMPROVE ACCESSIBILITY

Sunoco, Inc., has agreed to improve accessibility at all of its Optima gas stations and convenience stores nationwide. These stores are located on properties leased and operated by Sunoco at various Wal-Mart store locations. Sunoco currently operates 28 Optima stations in Pennsylvania, Maine, Massachusetts, New Hampshire, New York, and West Virginia.

Under the terms of an agreement signed with the Department on November 29,

2005, Sunoco will bring its Optima stores into compliance with title III of the ADA and the ADA Standards for Accessible Design. Among the changes to be made to existing and future Optima stores are: appropriate accessible parking, accessible gasoline pumps, curb ramps, accessible convenience store entrances, access to items for sale within the convenience stores, and refueling assistance at the gas pump upon the request of a customer with a disability.

**Map showing northeastern states where Optima gas stations and convenience stores are located**



## COUNTY DETENTION CENTERS TO PROVIDE EFFECTIVE COMMUNICATION

The Anne Arundel County (Maryland) Department of Detention Facilities executed a settlement agreement with the Department on November 28, 2005, resolving a complaint involving a deaf man who communicates primarily through American Sign Language (ASL) and who does not communicate by speaking or lipreading. The deaf man alleged that he was denied appropriate auxiliary aids and services needed for effective communication during his incarceration at the Jennifer Road Detention Center from October 6, 2003, through May

19, 2004. Specifically, the complainant alleged that he was denied effective communication with medical personnel, equal access to telecommunications so he could make calls to his attorney, family, and friends, and closed captioning on television sets.

The settlement agreement provides for equitable relief and monitoring at the two detention centers operated by Anne Arundel County. The county will institute procedures for determining whether an inmate needs any auxiliary aids or services for effective commu-

nication; maintain a list of sign language and oral interpreting services available to provide qualified interpreters when needed; provide TTYs and telephones with volume control and hearing-aid compatibility when needed; and guarantee effective communication in all programs and services for inmates including orientation, meetings with correctional specialists and counselors, rehabilitative and educational programs, medical evaluations, reclassification hearings, classification appeals, disciplinary hearings, and status reviews.

## TAXI COMPANY AGREES TO TRANSPORT CUSTOMERS WHO USE WHEELCHAIRS

Limo Cab of Eau Claire, Wisconsin, signed an agreement with the Department on December 5, 2005, resolving a complaint that the company had refused to transport a person who uses a wheelchair and his companion. The company had a policy that precluded its drivers from transporting wheelchairs on the grounds that its liability insurance company

did not cover the transportation of wheelchairs unless they were transported on a rack. Among other things, the settlement agreement requires the company to change its policy, conduct a training program for its drivers, assist in loading and unloading wheelchairs, if necessary, and pay compensatory damages of \$500 for each individual.

### Did you know . . .

**Travelers with disabilities spend approximately \$3.6 billion annually on business and leisure travel. Studies suggest this figure would be even higher if the travel industry were more accessible.**

## **DEPARTMENT INTERVENES TO SECURE FACILITY FOR ADULTS WITH MENTAL ILLNESS**

On September 19, 2005, the Department intervened in a lawsuit in eastern Michigan alleging that the city of Royal Oak, Michigan, denied Easter Seals-Michigan a land-use permit for a day facility for adults with mental illness in violation of the ADA. The Department's complaint alleged that the city improperly denied the land-use permit because of community opposition to the facility that was based on fears and stereotypes regarding people with mental illnesses. Easter Seals had operated a similar facility in a nearby town without incident for over 19 years. When Easter Seals decided it needed a newer facility with a more open floor plan, it located and leased the property in Royal Oak. The new

Easter Seals facility is intended to provide support, vocational and employment training, and social skill-building for adults with mental illness.

On November 29, 2005, the case was resolved by a consent judgment filed by the parties and signed by the Court. Under the judgment, the facility will be permitted to open at the contested location, the city of Royal Park will pay \$300,000 in monetary damages to the private plaintiffs, and municipal employees will receive ADA compliance training. The City will also report to the Justice Department on future land use requests involving individuals with disabilities that the City denies or grants with conditions.

## **RHODE ISLAND MOTEL AGREES TO BECOME ACCESSIBLE**

The owner and operator of the Super 8 Motel in West Greenwich, Rhode Island, entered into a settlement agreement with the Department on November 28, 2005, resolving an ADA complaint. Under the agreement, the owner will modify the motel so that its

parking, entrances, lobby, service counters, accessible routes, and a number of guest rooms are accessible to people with disabilities. Additionally, the owner will refund the expenses incurred by the complainants while staying at the motel.

## **DELAWARE HOSPITAL WILL PROVIDE EFFECTIVE COMMUNICATION FOR PATIENTS AND COMPANIONS**

St. Francis Healthcare in Wilmington, Delaware, has agreed to establish a program to provide qualified sign language and oral interpreters, TTYs (teletypewriters, also known as telecommunications devices for people who are deaf) in all public areas of the hospital and in patient rooms (upon request), visual alarms, and captioning and caption decoders for television shows, and other visual programs to ensure effective communication with patients and companions who are deaf. The hospital signed an agreement with the Department on November 4, 2005, resolving a complaint filed by a man who is deaf who alleged that the hospital had failed to provide a sign language interpreter during his entire hospital stay including his initial visit to the emergency room. In addition to implementing the effective communication program, the hospital will pay the complainant \$3,500 in compensatory damages.

## MISSISSIPPI APARTMENT COMPLEX WILL ESTABLISH NON-DISCRIMINATORY RENTAL POLICIES

The Raleigh Annex Apartments, in Magee, Mississippi, will pay \$60,000 to victims of housing discrimination, establish a nondiscrimination policy and a complaint procedure, and conduct fair housing training for their employees and agents. On December 15, 2005, the Department simultaneously filed a lawsuit and a consent decree resolving claims that the owners,

managers, and rental agents at Raleigh Annex Apartments violated the Fair Housing Act by refusing to rent an apartment to an individual because of his mental and physical disabilities. The Department's lawsuit also accused the rental agents of making statements that indicated an unwillingness to rent to the individual because of his disabilities.

reasonable accommodation to a resident of a public housing complex who had requested a transfer to a wheelchair-accessible apartment. The transfer was necessary because the resident's nine-year-old daughter has cerebral palsy and is unable to navigate stairs. The complaint seeks monetary damages on behalf of the resident and her family as well as corrective actions.

On December 21, 2005, a federal court in New Jersey issued an order denying the defendants' motion for summary judgment in a Fair Housing Act case brought by the Department. The Department's complaint alleges that the defendants, the condominium association and property manager of the Port Liberte Condo 1 Association in Jersey City, New Jersey, violated the Fair Housing Act by failing to provide an accessible parking space sufficiently close to the unit of a disabled resident who had requested a reasonable accommodation. The court ruled that factual issues in dispute involving the extent of the resident's disability and the reasonableness of his request for a parking space adjacent to his building made summary judgment inappropriate. The court's opinion is posted at <http://www.usdoj.gov/crt/housing/documents/liberteordersj.pdf>.

## THREE LAWSUITS SEEK REASONABLE HOUSING ACCOMMODATIONS FOR PEOPLE WITH DISABILITIES

On November 28, 2005, the Department filed a lawsuit in federal court in Gainesville, Florida, alleging that the Gainesville Housing Authority, two of its employees, and the owners and managers of a local apartment complex discriminated against individuals with physical disabilities in violation of the Fair Housing Act. Specifically, the Department alleges that the defendants discriminated against a married couple with disabilities who were living at the complex by refusing their repeated requests to move from an upstairs to a downstairs unit as a reasonable accommodation

of their disabilities. The Department further alleges that the Gainesville Housing Authority and one of its employees retaliated against the couple for exercising their rights under the Fair Housing Act. In the complaint, the Department seeks monetary relief on behalf of the individuals as well as injunctive relief.

On December 12, 2005, the Department filed a federal lawsuit charging that the Town of Chapel Hill, North Carolina, engaged in disability discrimination in violation of the Fair Housing Act. In its complaint, the Department alleges that the defendant refused to grant a

## DEVELOPER, BUILDER, AND ARCHITECT OF CONDOMINIUM COMPLEX ARE SUED

On November 15, 2005, the Department filed a federal lawsuit against Pacific Properties and Development Corporation, Pacific Homes, and Milburn and Associates, the developer, builder, and architectural firm, respectively, of the Pacific Legends West Condominium complex in Las Vegas, Nevada. The suit charges that the complex was designed and constructed without the accessible features required by the Fair Housing Act. Pacific Legends West has 23 two-story buildings containing 210 two- and three-bedroom condominium units, including 92 ground-floor units.

The Department's suit identifies numerous violations, including doorways that are too narrow for wheelchair passage, kitchens and bathrooms that lack sufficient maneuvering space for people using wheelchairs, and public and common use areas that are not accessible to people with physical disabilities. The complex also lacks accessible routes that allow people using wheelchairs to travel from their units to the public and common use areas; many of the public and common use routes have one or more steps, no curb ramps, or steep slopes.

### Did you know...

**In new multifamily housing with four or more units, 100% of the units in a building with an elevator must be accessible. If a building does not have an elevator, all of the ground floor units in the building must be accessible.**

## ILLINOIS COMPANY SUED FOR REFUSING TO SELL LAND TO A GROUP HOME PROVIDER

On November 16, 2005, the Department filed a federal lawsuit in Springfield, Illinois, against Fleetwood Capital Development Corporation and an officer and co-owner of the company, John R. Howard, for engaging in disability discrimination in violation of the Fair Housing Act. The Department's suit contends that the defendants refused to sell property they owned in the Village of Sherman, in Sangamon County, to individuals who planned to

use for the property as a group home for adults with developmental disabilities.

The case was referred to the Department after the Department of Housing and Urban Development (HUD) received a complaint, conducted an investigation, and issued a charge of discrimination. The complaint seeks monetary damages for the victims, corrective actions, and civil penalties to be paid to the government to vindicate the public interest.

## 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 utilizes 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

(ADA Mediation, continued)

traditional investigations or litigation. Over 75% of all complaints mediated have been settled successfully.

In this issue, we highlight complaints involving places where people go for fun, entertainment, and exercise.

■ In **Arizona**, an individual whose son uses a wheelchair complained that a bowling alley did not have accessible restrooms. The bowling alley agreed to renovate the restroom to make it accessible and to host a party for the complainant's son upon completion of the renovation.

■ In **California**, a person with a mobility disability complained that a marina lacked accessible parking. The marina installed two accessible parking spaces in front of the restaurant and an additional accessible space was installed in the area reserved for vehicles towing boats. Because much of the area was gravel, the marina agreed to pave accessible paths of travel from parking to the restaurant, loading ramp, restrooms, and piers. Entrances to the restaurant and restrooms were also modified to increase access. In addition, the respondent paid the complainant \$500.

■ In **California**, a disability advocacy group filed a complaint on behalf of a

wheelchair user alleging that a bowling alley, which was in the process of being sold, was inaccessible. Both the current and prospective owners participated in mediation and agreed to re-stripe the parking lot to provide van accessible parking and appropriate signage, install a wheelchair lift to the bowling lanes, create an accessible unisex restroom, and install directional signage. In addition, the advocacy group researched and provided the respondent with information about methods for cleaning or covering wheelchair tires to protect the hardwood bowling lanes and about how to interact appropriately with customers with disabilities.

■ In **Connecticut**, an individual with a mobility impairment complained that a golf course denied him access because he uses a service animal. The golf course agreed to give ADA training to its staff and to post a sign at the entrance welcoming service animals and providing the owner's telephone number in case problems arise in the future.

■ In **Massachusetts**, an individual with a mobility impairment complained that a public golf course's policies unnecessarily excluded people with disabilities by restricting cart access to certain parts of the

course. The golf course agreed to modify the existing policy and developed a written policy providing persons with mobility disabilities access by golf cart to specified areas otherwise off limits. The respondent also apologized to the complainant and offered him a pass for a complimentary round of golf.

■ A wheelchair user complained that a **South Carolina** health club's entrance was inaccessible. The club installed an accessible ramp.

■ The husband of a wheelchair user complained that a **Washington** ski tour company arranged a trip that included inaccessible hotel and transportation accommodations. The owner of the company agreed in the future to speak directly to any individual with a disability for whom he was making trip arrangements and to confirm, in advance of the travel, that the arrangements would meet the accessibility needs of the traveler. In addition, the tour operator provided the complainant and his family a free week at a condo in the ski area that was the destination of the original trip.

## RECENT ADA OUTREACH ACTIVITIES

- On January 9, Division staff participated in a panel discussion in Washington, DC, presented by the Institute of Medicine's Committee on Disability in America. The topic was "Implementation of the Americans with Disabilities Act." Other participants include the Department of Veterans Affairs and the Department of Health and Human Service's Office of the Secretary.
- On January 27, Division staff made a presentation in Orlando, Florida, before the Medical Accessibility Task Force, a group formed jointly by the Florida Medical Association, the Florida Hospital Association, and the Florida Coordinating Council for the Deaf and Hard of Hearing. The speech addressed the ADA's requirements for the medical community.
- On January 28-February 1, Division staff attended the American Correction Association (ACA) Winter Conference in Nashville, Tennessee, to disseminate information and answer questions about the ADA and its applicability to correctional facilities.