



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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MESSAGE THERAPY SCHOOLS WILL PROVIDE EFFECTIVE COMMUNICATION FOR STUDENTS WITH DISABILITIES

On July 9, 2007, the Department signed a settlement agreement with Utah College of Massage Therapy (UCMT) requiring the college to provide sign language interpreters and other auxiliary aids to students who need them. UCMT is based in Salt Lake City and has seven campuses located in Utah, Arizona, Colorado, and Nevada, each of which offers nine-month programs in massage therapy.

Under the agreement, UCMT will adopt a new effective communication policy and will post notices of the policy in its application materials and on its website. Each UCMT campus will provide appropriate auxiliary aids and services when

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SIX PENNSYLVANIA APARTMENT COMPLEXES AGREE TO RETROFIT FOR ACCESSIBILITY

On July 19, 2007, the owners, developers, builders, architects, and engineers of six apartment complexes in Pennsylvania agreed to settle a lawsuit alleging that they discriminated against people with disabilities by failing to comply with federal accessibility requirements when designing and constructing the apartment complexes. The complexes are Abram's Run Apartments and Henderson Square Apartments I and II in King of Prussia, Fox Ridge Apartments and Fox Ridge Lakeside Apartments in Limerick, and Lakeview Apartments in Royerstown.

In the lawsuit, filed on March 31, 2006, the Department alleged that the defendants violated the Fair Housing Act by

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(Massage Therapy Schools, continued)

needed to enable students who have visual or hearing disabilities to participate in the academic and clinical components of the UCMT program and will provide mandatory training on the ADA and the new effective communication policy to employees involved in the admissions process.

“We commend UCMT for taking steps to ensure that people who are deaf or hard of hearing have the same opportunity as others to gain admission to colleges and other educational institutions,” said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. “I hope that this agreement will be a model for other institutions that provide specialized training that serve as gateways to professional employment opportunities.”

The settlement is the result of a compliance review the Department conducted after receiving complaints from students and applicants alleging that they had encountered resistance when they requested a sign language interpreter. In one instance, after finally agreeing to provide an interpreter for a student who is deaf, UCMT corresponded with the student stating that he should not have been admitted to the school in the first place and that the cost of the interpreter was unreasonable. After the investigation began, UCMT was acquired by FCNH Inc., which worked cooperatively with the Department to reach the agreement.

(Pennsylvania Apartments, continued)

designing and constructing the 300 ground-floor apartments at the complexes without mandatory accessibility features that permit access by people with disabilities. The lawsuit also alleged that the owners and developers violated the Americans with Disabilities Act by designing and constructing inaccessible rental offices.

“Those who design and construct housing units may not ignore their obligation to make them accessible to

persons with disabilities,” said Wan J. Kim, Assistant Attorney General for the Civil Rights Division. “The Justice Department will continue its vigorous enforcement of all the fair housing laws.”

“It is our job to ensure that Americans are not discriminated against because of disability,” said Patrick L. Meehan, U.S. Attorney for the Eastern District of Pennsylvania. “When developers, architects and engineers take money-saving shortcuts

around the law, individuals with disabilities suffer. This settlement both corrects past violations and ensures future compliance.”

The proposed consent order, which must still be approved by the federal court in Philadelphia, provides for extensive retrofitting of the complexes, including widening doorways, removing steps, and adding new accessible sidewalks and curb ramps, replacing round door knobs with lever hardware, moving light switches and thermostats to accessible heights, and reconfiguring kitchens and bathrooms. Accessible features will also be added to the rental offices. In addition, the consent order requires the owners and developers to establish a \$307,000 fund to compensate people aggrieved by inaccessibility at the complexes, pay a \$25,000 civil penalty, and provide for training and monitoring of all defendants.

People with disabilities who believe they may have been harmed by inaccessibility at Abram’s Run Apartments, Henderson Square Apartments I and II, Fox Ridge Apartments, Fox Ridge Lakeside Apartments, or Lakeview Apartments should call 1-800-896-7743, ext. 7 or go to <http://www.usdoj.gov/crt/housing/notices.htm> to

(Pennsylvania Apartments, continued)

determine how they can file a claim for monetary damages.

The defendants include Gambone Brothers Development Company, Gambone Construction Company, and Gambone Brothers Organization, Inc. (the owners and developers Abram's Run Apartments Associates L.P., Fox Ridge Apartments L.P., Lakeside Inn Acquisition L.P., Lewis Road Apartments L.P., Henderson Square Apartments L.P., and Henderson Square Phase 2 L.P.), Joseph A. Zadlo and Mike Rosen Architects, P.C., and engineers Chambers Associates, Inc., and Urwiler & Walter, Inc.

RHODE ISLAND HOSPITAL WILL PROVIDE EFFECTIVE COMMUNICATION FOR PATIENTS AND COMPANIONS

On May 24, 2007, the Department signed a settlement agreement with the Roger Williams Medical Center in Providence, Rhode Island, resolving an allegation that the hospital had failed to provide a sign language interpreter in the emergency room for a man and his daughter who are deaf.

Under the agreement, the hospital will initially assess the communication needs of people who are deaf or hard of hearing and will continue to assess and evaluate the effectiveness of the communication methods provided to ensure effective communications between hospital staff and patients and their family members or companions. The hospital will utilize assistive technologies as well as qualified sign language interpreters, as needed, and will provide 24-hour service for patients requiring TTYs or captioning decoders for televisions. Roger Williams also agreed to train hospital staff on procedures to serve individuals who are deaf. Finally, the hospital agreed to pay \$400 in damages to the complainant and \$100 to his voluntary interpreter.

IOWA MALL WILL IMPROVE ACCESSIBILITY FOR CUSTOMERS WITH DISABILITIES

By November 1, 2007, the College Square Mall in Cedar Falls, Iowa, will remove architectural barriers and improve accessibility for customers with disabilities in public common areas, tenant spaces, parking spaces, interior and exterior accessible routes, dressing rooms, and public restrooms. On June 29, 2007, the Department signed a settlement agreement with the former owner of the mall, College Square Mall Associates, LLC, and the current owners of the Mall, College Square Mall Partners, LLC, and College Square Mall

Development, LLC, to remedy 205 identified architectural barriers. The agreement also requires the former owner to pay a civil penalty of \$40,000 to the United States.

"This case involved the Department's most comprehensive review and resolution of architectural barriers in a shopping mall in the United States," stated United States Attorney Matt M. Dummermuth in announcing the settlement. "Today's action is an excellent reminder to all businesses how important it is to provide access to goods and services to

customers with disabilities. Such equal access is not only essential for persons with disabilities and often required by the ADA, but makes great business sense because it ensures that persons with disabilities – estimated at more than 50 million people in the United States – have the same chance to buy goods and services as every other potential customer."

The Department began an investigation of the mall in 1999 after a complaint was filed by a woman who had difficulty accessing portions of the mall in her wheelchair.

MICHIGAN DEVELOPER AND ARCHITECT AGREE TO RETROFIT APARTMENT AND CONDOMINIUM COMPLEX

The developer and designer of an apartment and condominium complex in Sterling Heights, Michigan, have agreed to settle a lawsuit alleging that they violated the Fair Housing Act. In the lawsuit, filed along with the proposed consent decree on July 9, 2007, the Department claimed that the developer and designer had designed and constructed “The Preserves” without the accessibility features required by federal law. The defendants have agreed to pay over \$146,000 to retrofit the complex in order

to make it more accessible to people with disabilities.

Under the proposed consent decree, which must still be approved by the federal court in Detroit, the defendants will:

- retrofit the complex to make it more accessible;
- ensure that future or ongoing construction meets the accessibility requirements of the Fair Housing Act;
- establish a \$96,000 fund to pay for retrofits to condominiums that have previously been sold;

- pay up to \$25,000 to individuals who were harmed by the lack of accessible features at the properties; and
- pay a \$25,000 civil penalty.

The defendants include the developer, Palazzolo and Lombardo of Michigan, and the architect who designed the complexes, Robert Lipka, P.C. The developer is wholly owned by two Michigan development companies, Palazzolo Brothers of Michigan, Inc., and Lombardo of Michigan, LLC.

DEPARTMENT SUES APARTMENT OWNER AND MANAGER FOR FAILING TO PROVIDE REASONABLE ACCOMMODATION

On June 20, 2007, the Department filed a complaint against the owner and property manager of Gulf Towers Apartments in Biloxi, Mississippi. According to the complaint, which was filed in federal court in Gulfport, the defendants discriminated on the basis of disability by refusing a disabled tenant’s request for an assigned accessible parking space as a reasonable accommodation of his disability. The complaint also alleges

that the defendants sought to evict the tenant after he requested the accommodation. Before the eviction could be effectuated, Hurricane Katrina made the property uninhabitable. The case was referred to the Department by the Department of Housing and Urban Development, which investigated the tenant’s complaint and determined that there was reasonable cause to believe that the defendants had engaged in discrimination.

Did you know...

The civil rights division is celebrating its 50th anniversary this year. It was created by the civil rights act of 1957.

ILLINOIS COURT ORDERS DEFENDANTS TO SUBMIT PLAN TO REMEDY INACCESSIBLE FEATURES

On June 15, 2007, the court in United States v. Shanrie, et al. (S.D. Ill.) ordered the defendants to submit a plan to remedy inaccessible features at the Applegate Apartments in Belleville, Illinois. The court also denied the defendants' request to permit an appeal from the court's earlier order, in which it rejected the defendants' site impracticability defense, and it denied the defendants' request to stay the proceedings pending an appeal.

In March, the court granted in part the Department's motion for summary judgment, finding that the developers and architect violated the Fair Housing Act in designing and constructing this apartment complex without required accessible features, as reported in issue # 19 of this newsletter.

DEPARTMENT SUES OWNERS OF ALBUQUERQUE APARTMENT COMPLEX FOR DISABILITY DISCRIMINATION

On June 27, 2007, the Department filed a lawsuit against Woodrow and Ethel Guntharp, the owners of the Rock Creek Apartments in Albuquerque, New Mexico. According to the complaint, which was filed in federal court in Albuquerque, the defendants discriminated against a disabled prospective tenant and his mother by stating that they did not want to rent to him because of his bi-polar disability. The case was referred to the Department by the Department of Housing and Urban Development, which investigated the prospective tenant's complaint and determined that there was reasonable cause to believe that the defendants had engaged in discrimination.

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.

In this issue, we highlight complaints against shopping centers and malls that have been successfully mediated.

- In Idaho, a person who uses a wheelchair complained that a building housing several public accommodations was inaccessible. The building owners remodeled the women's and men's bathrooms on the lower level to make them fully accessible, adjusted the elevator door closer to provide additional

time to enter and exit, and installed an automatic door at the building's main entrance.

- A disability advocacy group in Missouri complained that designated accessible parking spaces in a shopping center parking lot were located in a steeply sloped area. The respondent modified the parking lot by relocating the existing accessible spaces to an area that did not exceed a two percent slope.

(ADA Mediation, continued)

- In Virginia, a person who uses a wheelchair complained that a shopping center did not have adequate signage for accessible parking. Because the signs were often knocked down by snow plows, the owner of the lot designed and installed a reinforced pillar system to post the signs and apologized to the complainant.
- In Indiana, a person who uses a wheelchair complained that he could not shop in any of three businesses in a small strip mall because there was no accessible parking and no curb cut permitting him to access the sidewalk in front of the stores. The owner of the building joined in the mediation with the store owners and agreed to install a van-accessible parking space with appropriate signage at the center point of the three stores where there was no curb to create a barrier to the sidewalk.
- In Pennsylvania, an individual with a disability complained that a retail complex did not provide accessible parking spaces. The building owner immediately installed four accessible spaces and appropriate signage.
- In Missouri, a disability advocacy organization alleged that a retail shopping center did not provide enough accessible parking spaces. The center installed additional accessible spaces, including signage and access aisles, and modified the entrance ramp to make it accessible.
- In North Carolina, a person who uses a wheelchair complained that a strip mall had barriers that prevented him from entering the shops. The respondent installed curb cuts, a ramp, and appropriate signage.
- In Idaho, a person who uses a wheelchair complained that a shopping mall's parking spaces were not accessible and that the accessible path of travel from the parking area to the mall required individuals to cross a hazardous vehicular way. The property manager agreed to relocate the spaces and make them accessible. The manager also installed a marked crosswalk, ramps to provide an accessible path of travel, and accessible door handles on all stores in the mall.

RECENT OUTREACH ACTIVITIES

- On May 14-16, representatives staffed the ADA information booth, distributed information, answered questions, and provided technical assistance at the American Association of Museums annual conference in Chicago, Illinois, attended by approximately 6,000 people.
- On May 25, staff gave a presentation at an Affordable Housing Conference sponsored by the American Bar Association in Washington, DC.
- On June 8, staff attended the ribbon-cutting ceremony for a day facility for adults with mental illness in the City of Royal Oak, Michigan. The Department previously participated in a lawsuit challenging the City's denial of a zoning permit for the facility, as reported in issue # 11 of this newsletter.
- On June 12-13, staff gave a presentation to the Equal Employment Opportunity Commission's Chicago District Office, Regional Technical Assistance Program in Chicago, Illinois. The presentation addressed employment issues and provision of reasonable accommodation in the workplace.
- On June 12 and 13, staff gave presentations in Decatur and Elgin, Illinois, as part of a

(Outreach, continued)

series of trainings sponsored by the Illinois Attorney General for law enforcement officials. The presentations provided an overview of the ADA and focused specifically on the provision of effective communication in interactions with people who are deaf and hard of hearing. The sessions were attended by 150 officials from state and local police and sheriff departments and state prosecutors.

■ On June 22, staff gave three presentations at a workshop in Des Moines, Iowa, sponsored by the Iowa Department of Public Health. The presentations addressed title II of the ADA, Project Civic Access, resources for ADA compliance, and common accessibility problems. Attendees of the event included state and local officials and students in the area of design and public health.

■ On June 28-July 1, staff distributed information, answered questions, and provided technical assistance at the Organization of Chinese Americans' (OCA's) 29th Annual National Convention in Sacramento, California, attended by approximately 20,000 people.

■ On July 1, staff gave a presentation in Minneapolis, Minnesota, for the American

Association of Visually Impaired Attorneys. Topics of discussion included access to courts and courtrooms for people with vision disabilities.

■ On July 10, staff gave a presentation in Washington, DC, for the National Alliance on Homelessness.

■ From July 7-11, staff distributed information, answered questions, and provided technical assistance at the 98th Annual National Association for the Advancement of Colored People (NAACP) Convention in Detroit, Michigan, attended by approximately 30,000 people.

■ From July 9-14, staff distributed information, answered questions, and provided technical assistance at the League of United Latin American Citizens' (LULAC's) Annual Convention in Chicago, Illinois, attended by approximately 30,000 people.

■ On July, 17, staff participated in an audio conference with the Disability and Business Technical Assistance Centers funded by the U.S. Department of Education. Staff updated participants on the Justice Department's recent ADA activities.

■ On July 18, 19, and 21, staff gave four presentations in Charlotte, North Carolina, at the annual conference of the Association on Higher Education and Disability. Staff gave a presentation at a pre-conference institute on disability law, chaired a half-day symposium entitled "Road Maps for Physical Access: Achieving Campus Accessibility and Avoiding the Detours," co-presented a session on Emergency Planning, and served as a panelist for "When Worlds (and Professions) Collide."

■ On July 24, staff participated in a panel discussion at an event commemorating the 17th Anniversary of the ADA in Syracuse, New York. Co-sponsored by the Disability and Business Technical Assistance Center - Northeast and ARISE, Inc., the conference was attended by 80 people, including staff from Centers for Independent Living, people with disabilities, and service providers. Discussion topics included updates on the Department's enforcement and technical assistance efforts. Representatives of the Equal Employment Opportunity Commission, the Department of Transportation, and the Access Board also participated.