



# Disability Rights online News

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Civil Rights Division

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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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## **MADISON SQUARE GARDEN WILL MAKE ACCESSIBILITY IMPROVEMENTS**

On November 1, 2007, the Department simultaneously filed a lawsuit and consent decree in the federal court in Manhattan against the owners and operators of Madison Square Garden, the premier sports and entertainment arena in New York City. The consent decree was approved by the court on November 5. Under the terms of the settlement, two wheelchair and two companion seats were to be provided on the arena floor for basketball games by November 4, 2007; two wheelchair seats, two companion seats, and an additional twenty accessible aisle seats will be provided for hockey games, concerts, and other events by January 31, 2008; and by October 1, 2008, 48 additional wheelchair and companion seats and another 40 accessible

(Continued on page 2)

## **MULTI-FAMILY HOUSING ACCESS FORUM ATTRACTS LARGE TURNOUT IN MIAMI**

On November 29, 2007, more than 80 developers and building professionals, government officials, and advocates for individuals with disabilities attended the Civil Rights Division's Multi-Family Housing Access Forum in Miami, Florida. Hosted by R. Alexander Acosta, United States Attorney for the Southern District of Florida, and Steven H. Rosenbaum, Chief of the Housing and Civil Enforcement Section of the Civil Rights Division, the event featured presentations by two prominent architects followed by engaging questions from the audience. The event was free and included breakfast.

Launched in 2005 by Mr. Acosta, who was then the Assistant Attorney General for the Civil Rights Division, the Access Forum's objective is to help building professionals understand their legal obligations under the federal Fair Housing Act's

(Continued on page 2)

(Madison Square Garden, continued)

aisle seats will be provided in locations dispersed throughout the arena. In addition, hundreds of architectural barriers along the routes between the entrances and the newly accessible seats will be remedied, ensuring that patrons with disabilities will be able to use all of the restaurants, bars, elevators, bathrooms, telephones, and drinking fountains that line the routes to their seats. The arena owners also agreed to pay \$55,000 to the United States and to expend at least \$10,000 per year for the next three years on advertisements promoting the availability of accessible seating.

These changes will benefit people attending events during the 2007-08, 2008-09, and 2009-10 basketball and hockey seasons. Because the arena owners are currently planning to either relocate to a new facility or undertake significant renovations at the current facility, the consent decree also contains provisions committing the owners to comply fully with the ADA if the arena is relocated or substantially renovated and, if not, to make additional changes in the existing facility beginning with the 2010-11 season to further enhance accessibility for individuals with disabilities.

(Access Forum, continued)



**Steven H. Rosenbaum, R. Alexander Acosta, Robert A. Plichta, and Michael S. Maurer at the Multi-Family Housing Access Forum**

accessibility requirements and to celebrate partnerships that have successfully produced accessible multi family housing in which everyone profits – developers and consumers alike. The theme of the event is “Good Access is Good

Business.” Previous events were held in Minneapolis, Phoenix, Atlanta, Dallas, and Washington, DC.

In his welcoming remarks, Mr. Acosta spoke about the Department’s enforcement activities and encouraged

the building professionals in attendance to comply with the law at the outset, observing that the expense of retrofitting later is far greater. Mr. Acosta stated that the Access Forum represented government at its best, seeking to encourage compliance with the law through outreach and education rather than through lawsuits.



**R. Alexander Acosta, U.S. Attorney for the Southern District of Florida**

Mr. Rosenbaum discussed the need for accessible multi-family housing, especially in the coming years as the population of persons with disabilities grows. Mr. Rosenbaum noted that according to the 2000 Census, 18% of the U.S. Population – more than 50 million Americans – has some type of disability; 8.2%, or 21 million, have a condition limiting basic physical activities such as walking, climbing stairs, reaching, lifting or carrying; and 42% of persons 65 and

(Access Forum, continued)

older have some type of disability. In Florida, more than 22% of the population – 3 million Floridians – report having a physical disability.

Mr. Rosenbaum emphasized that although the Civil Rights Division has obtained great results through litigation – over 14,000 housing units in 25 states will be made accessible to persons with disabilities as a result of settlements since October 2004 – 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 without costly retrofits and litigation.

The featured presenters were Robert E. Chisholm, FAIA, NCARB, president and owner of R.E. Chisholm Architects, Inc., a Miami firm, and Robert A. Plichta, AIA, CPP, of BSB Design, an international multi family design firm. Mr. Chisholm discussed his experiences incorporating accessibility as a key design principle adapted to a wide variety of projects, including a large, multi-phase migrant-worker housing project and high-end mixed-use commercial and residential properties. Mr. Chisholm highlighted the need

for public and common-use areas to meet the standards of minimum accessibility. He discussed the sense of community that is created by public and common use areas, and encouraged design professionals to remember and plan for the needs of persons with disabilities during the initial design phase and to be involved in ensuring that the plans are carried out so as to comply with the standards of accessibility.

Mr. Plichta discussed the housing needs of people with disabilities and offered suggestions about best practices and technical resources for architectural firms to ensure compliance with the Fair

Housing Act in multi-family housing design projects. Mr. Plichta also discussed how he has met the needs of his clients and served customers with disabilities while maintaining high professional standards and profitable enterprises. Mr. Plichta said that the minimum standards of accessibility would prove useful if not necessary to most people at some point in their lives, whether presently disabled or not.

For more information about the Fair Housing Act and the Division's enforcement activities, go to [www.usdoj.gov/fairhousing](http://www.usdoj.gov/fairhousing). The Division's next forum will be held in another major city in the spring of 2008.

## **SWARTHMORE COLLEGE AGREES TO INCREASE ACCESS FOR PEOPLE WITH DISABILITIES**

On November 19, 2007, Swarthmore College in Swarthmore, Pennsylvania, reached an out of court settlement agreement with the Department under which the college will make its campus and services more accessible to individuals with disabilities. The agreement results from a compliance review during which the Department found barriers to access in existing facilities and elements such as doors, restrooms, seating, signage, and interior and exterior circulation routes.

The college will prepare a plan to make alterations to its facilities within six years and will relocate services and programs to accessible facilities with prior notice. The agreement addresses a wide variety of services and facilities, including administrative buildings, housing, access between facilities, parking, directional signage, and emergency preparedness. Under the agreement, the college will:

(Swarthmore, continued)

- ensure that all buildings and facilities in which programs, services, and amenities are offered to the public and the college community meet the accessibility criteria in the agreement, unless participation requires advance notice or registration;
- ensure that those services and programs that require advanced notice or registration are located in (or relocated to) an accessible location in the event that a person with a disability registers;
- submit an accessibility plan for review to the Department by December 1, 2008, outlining how the college will comply with the agreement, after conducting architectural surveys and seeking public comment;
- update its campus wide emergency evacuation, sheltering, and shelter in place plans for individuals with disabilities;
- ensure that 3 percent of the units (and adjacent toilet rooms) in its student living facilities are accessible and dispersed among the facilities; and ensure that, in addition, a reasonable number of housing facilities has an accessible entrance, first floor common area, and toilet room that is usable by a visitor with a disability;
- display information on its website by September 1, 2008, identifying accessible routes through the campus, accessible parking areas, accessible entrances to buildings, and accessible spaces within buildings; post signs at facility entrances and toilet rooms identifying those that are accessible and, at inaccessible entrances and toilet

rooms, directing individuals to the nearest accessible entrance or toilet room; and

- provide assistive listening systems and devices for people with hearing impairments in lecture halls, meeting rooms, auditoria, and other assembly areas.

“We are pleased that Swarthmore is taking steps to make its facilities and programs more accessible to persons with disabilities and commend Swarthmore for its spirit of cooperation in working with the Department,” said Rena J. Comisac, Acting Assistant Attorney General for the Civil Rights Division.

## **MICHIGAN COURTHOUSE WILL MAKE ACCESSIBILITY IMPROVEMENTS**

On September 25, 2007, the City of Eastpointe, Michigan, signed a settlement agreement with the Department resolving a complaint that the Thirty-Eighth District Court courthouse, which was built after the ADA went into effect, was not accessible to people with disabilities. The city agreed to make a number of structural changes to the courthouse in the next six months, including: converting the north entrance to an accessible entrance with accessible parking; modifying or replacing exterior routes and curb ramps; installing permanent signs in raised characters and Braille; installing visual fire alarms; replacing an inaccessible drinking fountain; creating accessible routes within the courtroom to features such as the witness stand and judge’s bench; installing wheelchair seating areas in the spectator seating area of the courtroom; making modifications to several toilet rooms; and modifying one holding cell.

## ADA BUSINESS CONNECTION HOLDS MEETINGS IN ILLINOIS AND KANSAS

On September 17, 2007, Acting Assistant Attorney General Rena J. Comisac sponsored the 21st ADA Business Connection Leadership meeting at Hamburger University on McDonald's corporate campus in Oak Brook, Illinois. The meeting was co-hosted by Don Thompson, President of McDonald's USA, and Marca Bristo, President and CEO of Access Living, Inc. Fifty participants, representing Chicago area disability advocacy organizations, national corporations, and local small businesses, heard presentations by Susan Palmer Mazrui, Director of Federal Regulatory Affairs for AT&T, and John Lewicki, Director of Marketing for McDonald's USA.

The presenters emphasized the power of inclusive marketing for people with disabilities. "It quickly becomes clear," Ms. Comisac stated, "that positive, inclusive advertisements provide multiple benefits for both the audience and the sponsors. Individuals with disabilities gain tangible access to businesses' goods and services and also gain the more intangible benefit of being seen in popular media as participants in



**Rick Knight, co-host from SKIL, welcomes participants to the Pittsburg, Kansas, meeting. Sally Conway, from DOJ, listens.**

everyday life activities like buying shoes, going to parties, playing basketball, and becoming a home do-it-yourselfer. Companies gain new, appreciative customers -- persons with disabilities, older adults who benefit from accessible features, family and friends who patronize establishments that value customers with disabilities, and the general public who supports businesses that promote customer diversity."

Deputy Assistant Attorney General Loretta King moderated the meeting and led the discussion, which resulted in offers among group members to share resources and information in

an ongoing effort to improve access to businesses for both customers and employees with disabilities.

On October 10, 2007, the Department held its first "Accessible Neighborhood Businesses: Information Exchange" meeting in Pittsburg, Kansas. This new series of meetings brings together local business and disability leaders in smaller communities across the country to discuss issues of common concern and propose ideas for a small-scale project that will improve neighborhood business accessibility and cement a long-term relationship among the participants. These meetings complement the

(ADA Business Connection, continued)

“ADA Business Connection Leadership” meetings, which take place mainly in metropolitan areas. The event was co hosted by Southeast Kansas Independent Living (SKIL) and the Pittsburg Area Chamber of Commerce and was attended by 48 people from the local business and disability communities along with college students from the local chapter of Students in Free Enterprise.

The meeting included co-host remarks, an information session on the ADA led by Department staff, discussion, and a brainstorming session for a follow-up project or projects to be implemented by the meeting participants. Ideas suggested included ADA training and resource dissemination and matching grants for accessibility improvements in conjunction with the Pittsburg Downtown revitalization project. Project(s) will be selected and completed within six months.

## **UNIVERSITY OF MICHIGAN SUED FOR LACK OF ACCESSIBILITY AT STADIUM**

On November 20, 2007, the Department filed a motion to intervene in Michigan Paralyzed Veterans of America v. University of Michigan, a lawsuit challenging the accessibility of the University of Michigan football stadium, the largest college stadium in the United States. In its complaint in intervention, the Department alleged that the university and its Board of Regents violated and continue to violate Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act by failing to make the stadium accessible for individuals with mobility disabilities.

“Attending football games is a key element of campus life at the University of Michigan, both for students and alumni,” said Acting Assistant Attorney General Rena J. Comisac, “We seek to ensure that the university’s iconic football stadium, the largest stadium in the United States, has the accessible seating and amenities that federal law requires.”

While the university is planning to add wheelchair seats to the luxury boxes and suites as part of its upcoming multi-million dollar renovation of the stadium, that plan does not resolve violations in the other seating sections.

## **FLORIDA SHERIFF’S OFFICE AGREES TO PROVIDE EFFECTIVE COMMUNICATION FOR PEOPLE WITH DISABILITIES**

On September 28, 2007, the Consolidated City of Jacksonville, Florida, entered a settlement agreement with the Department to resolve seven ADA complaints. The complainants, all of whom are deaf or hard of hearing, individually alleged that sign language interpreters were not provided when necessary to ensure effective communications between themselves and deputies from the Jacksonville Sheriff’s Office. Specifically, qualified interpreters were not provided: during an interview with a mother following her daughter’s experience as the victim in a sex crime; during an interview following an automobile accident; and during three separate arrests.

The agreement includes a policy to provide auxiliary aids, including sign language interpreters, in a timely manner when needed for effective communication. It also requires that deputy sheriffs and other staff be trained on the new policy.

## THREE NEW YORK CITY HOTELS AGREE TO IMPROVE ACCESSIBILITY

Three additional hotels in Manhattan's theater district have entered into settlement agreements to improve accessibility for customers with disabilities, pursuant to the hotel compliance initiative being conducted by the U.S. Attorney's Office in Manhattan (see previous articles in newsletter issues 16 and 17). They are the Courtyard by Marriott Times Square, the Doubletree Guest Suites Times Square, and the Hilton New York Towers.

The Courtyard by Marriott Times Square will conduct a survey of the hotel's designated accessible rooms and make any modifications necessary to comply with the ADA Standards; provide a total of ten accessible guest rooms

dispersed among four classes of sleeping accommodations; provide a total of 17 rooms accessible to guests with hearing impairments (either by providing accessible rooms or by providing equivalent facilitation through the use of portable kits); and implement a written policy addressing the provision of service to persons with disabilities that addresses reservations of accessible guest rooms, service animals, alternate formats, and modifications in policies and procedures.

The Doubletree Guest Suites Times Square will conduct a survey of the hotel's designated accessible rooms and make any modifications necessary to comply with the ADA Standards; provide a total of 14 accessible guest rooms

dispersed among all classes of sleeping accommodations; provide a total of 23 rooms accessible to guests with hearing impairments (either by providing accessible rooms or by providing equivalent facilitation through the use of portable kits); and implement a written policy addressing the provision of service to persons with disabilities that addresses reservations of accessible guest rooms, service animals, alternate formats, and modifications in policies and procedures.

The Hilton New York Towers will conduct a survey of the hotel's designated accessible rooms and make any modifications necessary to comply with the ADA Standards; provide a total of 52 accessible guest rooms dispersed among all classes of sleeping accommodations; provide a total of 83 rooms accessible to guests with hearing impairments (either by providing accessible rooms or by providing equivalent facilitation through the use of portable kits); and implement a written policy addressing the provision of service to persons with disabilities that addresses reservations of accessible guest rooms, service animals, alternate formats, and modifications in policies and procedures.

## STOCKTON, CALIFORNIA, FIRE DEPARTMENT WILL PROVIDE SERVICES TO PEOPLE WITH HIV/AIDS

On November 9, 2007, the City of Stockton, California, Fire Department entered into a settlement agreement with the Department resolving a complaint alleging that the Fire Department failed to provide the complainant with appropriate emergency medical services because of his HIV status. Under the agreement, the City of Stockton Fire Department agrees not to discriminate against individuals with disabilities, including people with HIV/AIDS, and to retrain Fire Department employees on the proper treatment of patients with HIV and other infectious diseases. In addition, the city will pay the complainant \$25,000.

## MEMPHIS HOSPITAL AGREES TO PROVIDE EFFECTIVE COMMUNICATION FOR PEOPLE WITH DISABILITIES

On September 24, 2007, Methodist LeBonheur Healthcare, a group of major, critical care hospitals in Memphis, Tennessee, signed a settlement agreement with the Department resolving a complaint from an individual with a hearing and visual impairment who alleged that Methodist Hospital denied him effective communication despite repeated requests for a qualified interpreter and despite explaining exactly what he needed in order to communicate effectively. The complainant was in the hospital for two weeks and underwent medical tests and procedures without understanding what was happening. The attending physician noted in the medical records that he could not communicate with the complainant. The settlement agreement requires the parent company to: implement comprehensive policies for ensuring effective communication in all six of its locations; conduct individualized assessments of individuals with communication disabilities; provide appropriate auxiliary aids and services in a timely manner; develop a mechanism for the resolution of disputes; ensure that the staff is fully apprised of all policies dealing with effective communication; and post notices informing patients and their companions of the policy. Additionally, the company will pay \$40,000 in compensatory damages and a civil penalty of \$3,000.

## HOUSING AGENCY IN IOWA AGREES TO SETTLE DISCRIMINATION CASE

On October 25, 2007, the federal court in Des Moines approved a consent decree resolving the Department's disability discrimination lawsuit against the Municipal Housing Agency of Council Bluffs, Iowa; Mark Schultz, former Executive Director of the agency; and Dee Wentzel, an employee of the agency. The Department's complaint, filed in September 2005 (see story in issue # 10), alleged that the defendants violated the Fair Housing Act by maintaining a policy of requiring prospective

tenants to divulge mental health information and, on occasion, to make their mental health records available to the defendants as part of the tenancy application process.

Under the consent decree, the defendants will issue a nondiscrimination policy, train employees on the Fair Housing Act and the new policy, and keep records. They will also pay \$31,700 in damages to the complainants, \$3,300 in damages to a fair housing organization, and \$5,000 in a civil penalty to the United States.

"No one in this country should be treated differently in his or her search for a home because of a disability," said Acting Assistant Attorney General Rena J. Comisac. "We are pleased that the Municipal Housing Agency of Council Bluffs changed its admissions and occupancy policy once the problem with the policy was brought to its attention."

The case originated when two individuals with disabilities filed discrimination complaints with HUD. HUD conducted an investigation and referred the case to the Justice Department, where it was expanded to seek relief on behalf of other individuals.

## **SARASOTA COUNTY, FLORIDA, TO PAY \$760,000 AND ALLOW CONTINUED OPERATION OF GROUP HOMES FOR PEOPLE IN RECOVERY**

Sarasota County, Florida, has agreed to pay \$760,000 to settle two lawsuits alleging that the county discriminated against people with disabilities when it refused to allow the operation of group homes for people in recovery from alcohol and substance abuse. The settlements were approved by the federal court in Tampa on October 29, 2007.

In 2003 Renaissance Manor, Inc., purchased Tammi House, a collection of four single-family homes operated as group homes for people in recovery from alcohol and substance abuse, plus two additional lots with the intention of constructing two additional homes. In June 2004, Sarasota County notified the owners that the homes were classified as “community residential homes” not “single family homes” and, as such, five of the six homes would have to be shut down because they were not spaced far enough apart from each other to meet the requirements for their zoning classification. The Department’s lawsuit, filed in June 2006, alleged that the county’s 2004 zoning decision was motivated by intentional disability discrimination. The lawsuit also alleged that the county refused to grant a

reasonable accommodation and retaliated against Renaissance Manor by refusing to award county grant funding.

“The Fair Housing Act is clear that local governments cannot use their zoning and land use laws to discriminate against persons with disabilities,” said Acting Assistant Attorney General Rena J. Comisac. “The Justice Department will continue its commitment to ensure that local governments comply with all fair housing laws.”

In April 2007, the Department’s lawsuit was consolidated with a private lawsuit filed by Renaissance Manor and four individual plaintiffs in May 2005. Coastal Behavioral Healthcare Inc., which co owns Tammi House with Renaissance Manor, intervened in the government’s lawsuit in September 2006.

The private lawsuit was resolved simultaneously with the government’s lawsuit. Under the two settlements the county must pay a total of \$750,000 to Renaissance Manor, Coastal Behavioral Healthcare, Inc., and three individual plaintiffs, and \$10,000 to the United States for the benefit of the public interest. The settlements also allow the group homes to continue to operate. The government’s settlement prohibits future discrimination and requires the county to adopt policies to prevent future discrimination.

The case began when Renaissance Manor, Inc., 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 June 2006.

## **GEORGIA LANDLORDS AGREE TO STOP DISCRIMINATING AGAINST PEOPLE WHO USE SERVICE ANIMALS**

On October 31, 2007, the federal district court in Savannah, Georgia, approved a settlement of the Department’s disability discrimination lawsuit against the owners and managers of the Hickory Plantation

and Willow Way Apartments, both located in Camden County, Georgia. According to the Department’s complaint, which was filed simultaneously with the consent decree, defendants Herbert Bolt, Betty Bolt, and

(Georgia landlords, continued)

Herbert Bolt, Jr., violated the Fair Housing Act by refusing to rent an apartment at Hickory Plantation to a person with a visual disability who used a guide dog.

Under the agreement, the defendants will pay \$35,000 to compensate additional victims who may be identified at Hickory Plantation and Willow Way, pay a \$20,000 civil penalty to the U.S. government, establish and follow nondiscriminatory tenancy procedures, undergo fair housing training, and file reports with the government.

“Individuals who use guide dogs are entitled to the same housing opportunities as people who don’t,” said Acting Assistant Attorney General Rena J. Comisac. “Landlords must understand that they have a responsibility to make reasonable accommodations for persons with disabilities, and where they fail to do so, the Department will enforce the law.”

The Department conducted its investigation using fair housing testers – individuals who pose as renters for purposes of gathering information about possible discriminatory practices in the rental of apartments.

## **MINNESOTA LANDLORD SUED FOR DISCRIMINATING AGAINST PEOPLE WHO USE SERVICE ANIMALS**

On September 10, 2007, the Department filed a disability discrimination lawsuit against Bouquet Builders, which owns and operates the Avalon Cove Townhomes in Rochester, Minnesota. The complaint, filed in federal district court in Minneapolis, alleges that the defendants violated the Fair Housing Act when they refused to make an exception to their no-pets rule to allow a woman to move in with her assistance animal, which had been prescribed to treat her depressive disorder and other medical conditions. Even after the woman explained that the law required the defendants to allow assistance animals, the leasing agent stated that the woman’s family could sue them if they wished, but they would not allow the family to move in if they had an assistance animal.

The Department’s complaint seeks monetary damages for the prospective tenant and her family, and an injunction prohibiting the defendants from violating the Fair Housing Act. The case originated when the prospective tenant filed a discrimination complaint with HUD. HUD conducted an investigation and referred the matter to the Justice Department.

## **WISCONSIN LANDLORD SUED FOR FAILING TO ACCOMMODATE A RESIDENT WITH MENTAL DISABILITIES**

On September 28, 2007, the Department filed a disability discrimination lawsuit against the owners and property managers of Plaza Village Townhouses, a Section 8 apartment complex in Hudson, Wisconsin. The complaint, filed in federal district court in Madison, alleges that the defendants violated the Fair Housing Act by failing to provide a reasonable accommodation to a resident and subsequently evicting her. The resident, a single mother of three children, had attention deficit disorder and major depression. She asked the defendants to excuse her delays in submitting certain documents because the delays were attributable to her disabilities. In addition, to assist her in the timely submission of documents in the future, she proposed several reasonable accommodation alternatives. Rather than accommodating her by excusing her past delays and by agreeing to at least one of her proposed alternatives for avoiding future delays, the defendants evicted her.

(Wisconsin, continued)

The Department's complaint seeks monetary damages for the former resident and an injunction prohibiting the defendants from violating the Fair Housing Act. The case originated when the former resident filed a discrimination complaint with the U.S. Department of Housing and Urban Development (HUD). HUD conducted an investigation and referred the case to the Justice Department.

## **INDIANA TOWN SUED FOR REFUSING TO GRANT A VARIANCE ALLOWING A RESIDENT TO PROVIDE HOUSING FOR A PERSON WITH A DISABILITY**

On September 21, 2007, the Department filed suit against the Town of St. John, Indiana, for violating the Fair Housing Act. The suit, filed in the federal court in Hammond, Indiana, charges that St. John intentionally discriminated against people with disabilities when it refused to grant a variance allowing a St. John resident to permit an individual with a disability to live with the resident in his home. Under the town's zoning regulations in effect at the time, unrelated persons could not live together in a dwelling in a single family district. In this case the resident, whose wife had multiple sclerosis, had retrofitted his house to accommodate her disability and cared for her for many years. After her death from the disease, for humanitarian reasons, he sought the

variance so that he could offer another person with multiple sclerosis the benefit of living in the already retrofitted house. The suit seeks a court order prohibiting future discrimination by the town and requiring the town to grant the requested variance, pay monetary damages to compensate victims, and pay a civil penalty.

"This lawsuit is another example of this Administration's commitment to end the exclusion of persons with disabilities from the mainstream and to increase their opportunities to share in the American dream," said Acting Assistant Attorney General Rena J. Comisac.

This lawsuit arose as a result of a complaint filed with HUD. HUD referred the case to the Justice Department after conducting an investigation.

## **DEVELOPERS, ARCHITECTS, AND ENGINEERS IN KENTUCKY, WASHINGTON, AND GEORGIA SUED FOR DISABILITY DISCRIMINATION**

In September 2007, the Department filed three separate lawsuits alleging that developers, architects, and engineers failed to design and construct residential complexes in three states with accessible features required by the Fair Housing Act. The suits affect over 1,300 ground floor units and the public and common use areas at 18 rental or condominium apartment complexes in Kentucky, Washington, and Georgia.

The Kentucky lawsuit, filed in federal district court in Louisville on September 25, names 25 defendants and identifies 11 multi-family housing developments in Louisville with over 900 covered ground floor units. This is the Department's first lawsuit in Kentucky alleging violations of the Fair Housing Act and the Americans with Disabilities Act in the design and construction of multi-family housing.

(Disability Discrimination, continued)

According to the Department's complaint, the public and common use areas of these developments have steps leading to covered dwelling units, lack walkway connections to covered dwelling units, lack accessible parking, and have routes leading to covered dwelling units that are too steeply sloped to be accessible to people who use mobility assistance devices. Inside the dwelling units, doors and hallways are insufficiently wide, thermostats are mounted too high, and bathrooms and kitchens lack sufficient clear floor space for people who use wheelchairs. In addition, at some of the complexes, the leasing/sales offices lack certain accessible features required by the ADA.

The complexes at issue are Audubon Woods Condominiums, Cooper Creek Village Apartments, Gardens of Glenmary Village Condominiums, Glenmary Village Apartments, Glenmary Village Overlook Condominiums, Renaissance St. Andrews Apartments, Renaissance St. Andrews Condominiums, Springs of Glenmary Village Condominiums, Valley Farms Apartments, Woodridge Lake Patio Homes, and Woods of St. Andrews Condominiums.

"Persons with physical disabilities should have the same housing choices as other persons," said Acting Assistant Attorney General Rena Comisac. "We will continue to pursue vigorously those who still have not gotten the message that failing to design and construct multi-family housing with basic features of accessibility violates the law."

The Washington lawsuit, filed in Spokane on the same day, involves five apartment complexes in Spokane County, Rock Creek Apartments, Prairie Hills Apartments, Granite Court Apartments, Hilby Station Apartments, and Pineridge Apartments.

The Georgia lawsuit, filed in Savannah on September 26, involves two condominium complexes in Savannah, Stonelake Townhomes and Highlands Crossing.

"New multi-family housing complexes built after March 1991 must have basic accessible features for persons with disabilities," said Acting Assistant Attorney General Rena J. Comisac. "Yet 16 years later, the Justice Department must still remain vigilant in pursuing those who fail to comply. We demand that retrofits be made to ensure that persons with disabilities have an equal opportunity to enjoy their homes."

The suits seek court orders requiring the defendants to modify the complexes to bring them into compliance with federal laws and prohibiting future discrimination by the defendants. They also seek monetary damages to compensate victims and civil penalties to be paid to the government to vindicate the public interest. All three complaints are available on the Department's website, [www.usdoj.gov/fairhousing](http://www.usdoj.gov/fairhousing).

## 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.

(Mediation, continued)

In this issue, we highlight complaints against local governments that have been successfully mediated.

■ In New York, an individual with an artificial knee and rheumatoid arthritis alleged that a courthouse failed to allow individuals with mobility disabilities to use the elevator reserved for court personnel and attorneys. The courthouse reaffirmed its policy of allowing individuals with disabilities to use the restricted elevator, posted directional signage to the elevator, and retrained all staff regarding the court's policy. The courthouse is undergoing a renovation that will provide a public use elevator in addition to the existing restricted elevator.

■ In California, a person who is deaf complained that a city police department failed to provide her with a sign language interpreter. The police department had a policy in place, but agreed to provide additional training on effective communication to be conducted by a local deaf advocacy organization for all police officers.

■ In Indiana, a wheelchair user complained that a county social service agency was adding a surcharge for wheelchair users to use its transportation service. The

county agreed to immediately end the surcharge. In addition, the county created a written policy requiring uniform fares as well as a policy to allow service animals.

■ In Mississippi, a wheelchair user complained of several accessibility issues in her town. The town installed accessible parking and accessible routes at the fire and police departments, city hall, city auditorium, health department, and electric department, and accessible restrooms in city hall. The town also provided curb cuts at intersections along the main street and near five central businesses.

■ In Missouri, an individual with a mobility disability complained that a county failed to provide access to public zoning meetings that were held on the second floor of the courthouse. The county installed an elevator.

■ In Wyoming, an advocate for individuals who are hard of hearing complained that a city did not provide assistive listening equipment at its public meetings. The city installed a new accessible sound system in the convention center where the meetings are held and purchased eight portable assistive listening systems available for use in other city meeting locations. The city

apologized to the three people who initiated the complaint and agreed to provide ongoing training to city employees on accommodating people with disabilities.

■ An individual with a mobility disability who uses a service animal complained that she was denied access to an event at a county arena in Kansas. The county agreed to post signs welcoming service animals and agreed to require anyone renting the facility to comply with the ADA in the lease agreement.

■ In New York, a disability rights activist complained that a town hall's meeting rooms and offices located on the second floor were inaccessible to people unable to climb stairs. Town officials agreed to install an elevator to provide access.

■ A wheelchair user complained that a Connecticut town allowed restaurants to use public sidewalks to provide outdoor seating, creating barriers for people who use wheelchairs or other mobility devices. The town worked with the restaurant owners and the local chamber of commerce to advise them about the need for unobstructed accessible routes and drafted a local ordinance to provide for and maintain sidewalk accessibility.

## RECENT OUTREACH ACTIVITIES

- On September 25-27, Division staff gave a presentation on service animals and the ADA at several break-out sessions at the annual Southwest Region of the U.S. Food and Drug Administration conference in Cheyenne, Wyoming.
- On September 28, Division staff participated on a panel and presented an afternoon workshop at the 14th Annual Maryland ADA Conference in Baltimore, Maryland, co-sponsored by the DBTAC's Mid-Atlantic ADA Center and the Maryland Coalition for ADA Education. The panel presentation, which included representatives from the Equal Employment Opportunity Commission, the U.S. Architectural and Transportation Barriers Compliance Board (Access Board), and the Department of Transportation, provided an update and overview of the Division's enforcement and technical assistance activities, followed by a facilitated audience question and answer session. The afternoon session outlined the responsibilities of an ADA Coordinator, the requirements of title II, and an overview of the Best Practices Toolkit and other available resources.
- On October 13 through 17, Division staff made several presentations at the National Conference on Correctional Health Care in Nashville, Tennessee.
- On October 22 through 26, Division staff gave numerous presentations at plenary sessions and break-out sessions at the conference of the National Association of ADA Coordinators in Salt Lake City, Utah.
- On October 23, Division staff attended the 12th National Workshop on Adult and Juvenile Female Offenders, held in Baltimore, Maryland.
- On November 5, Division staff participated in a panel discussion at the University of Miami Law School in Miami, Florida. Staff addressed current issues about employment discrimination law and why working for the government is a great opportunity.
- On November 8, Division staff gave a presentation in Waterloo, Iowa, on the responsibilities of local and county governments under title II of the ADA at a conference sponsored by the Office of the U.S. Attorney for the Northern District of Iowa.
- From November 13 - 17, Division representatives staffed an ADA booth, answered questions, and disseminated ADA information to the estimated 8,000 attendees at the National League of Cities' Congress of Cities Expo in New Orleans, Louisiana.
- On November 15, staff participated in an audio conference with the Association on Higher Education and Disability (AHEAD) on emergency preparedness in higher education.
- On December 4, staff presented a speech at a World AIDS Day event at Pennsylvania State Law School in University Park, Pennsylvania.