

Duff on Hospitality Law

Revisions to ADA and their Impact on the Hospitality Sector

By Michael Brunet on 1.21.11 | Posted in Employment Law, Hotels

In today's post, HT&T team member [Mike Brunet](#) (Employment and Litigation) discusses soon-to-be-impactful revisions to the Americans with Disabilities Act ("ADA"), with a specific focus on how it may impact those in the hospitality industry.

Approximately six months ago, in July 2010, Attorney General Eric Holder signed [final regulations revising the Department of Justice's regulations governing the ADA](#). The revisions amend Titles II (applying to public entities) and III (applying to public accommodations and commercial facilities) of the existing regulations and -- with two important exceptions discussed below -- take effect very soon, on March 15, 2011. The remainder of this blog post discusses the basics of the revisions to the ADA that may be of interest to those in the hospitality industry.

2010 Standards for Accessible Design

The most significant revision to Title III of the existing regulations is the establishment of the [2010 ADA Standards for Accessible Design](#). In an attempt to avoid conflicts with other Federal accessibility standards and model codes adopted by most states, the Justice Department drafted the 2010 Standards to be consistent with the [Federal Architectural Barriers Act](#) and private sector model codes. Highlights of the new standards include the following:

Broadened reach range requirements;

New toilet clearances for single-user restrooms;

Design requirements for accessible seating, sightlines, and companion seating in assembly areas;

Relocation of accessible routes to coincide with general circulation paths, including direct routes from parking garages to facilities;

Dispersion of guest rooms with accessibility features;

Accessible entries and exits from pool facilities; and

Design standards for placement of exercise equipment.

Unlike the majority of the new regulations, the 2010 Standards do not take effect March 15, 2011. Instead, compliance with the 2010 Standards for Accessible Design is permitted as of September 15, 2010, and becomes mandatory on March 15, 2012.

Redefinition of “Service Animal”

The new regulations change the definition of a “service animal” permitted on private premises to assist an individual with a disability. The new definition of “service animal” is a dog that has been individually trained to do work or perform tasks for the benefit of an individual with a disability, including a mental disability. Dogs used solely for emotional support by individuals with a disability are not deemed service animals under the new regulations. Animals other than dogs generally do not qualify as service animals under the new rules, although there is some flexibility to permit the use of trained miniature horses as an alternative to dogs.

Distinctions between Mobility Devices

The new rules adopt a two-tiered approach to mobility devices, with different accessibility requirements for wheelchairs as opposed to mobility devices, like the Segway®, which are not designed for individuals with disabilities. This latter category of devices is defined as “other power-driven mobility devices” in the new rules. Under these rules, wheelchairs and other mobility devices designed for people with impairments must be permitted in all areas open for pedestrian use, with very few exceptions. The same general rule applies for “other power-driven mobility devices,” but the exceptions are much broader: they need not be permitted if the covered entity can demonstrate that such use would fundamentally alter its programs, services, or activities, create a direct threat, or create a safety hazard.

Reservations

The new regulations establish requirements for reservations made by places of lodging. The rules mandate procedures for individuals with disabilities to make reservations for rooms in the same manner and during the same time as other guests. They also require places of lodging to identify accessible features of guest rooms, and to hold back from rental accessible guest rooms until all other non-accessible rooms of that type are rented. Finally, reservations systems must prevent reserved accessible rooms from being accidentally released to someone other than the person who made the reservation. Timing note: Due to the potential need for hospitality providers to change reservation systems to satisfy the new rules, these requirements do not take effect until March 15, 2012.

Timeshares and Condominium Hotels

The new rules specifically state that timeshare and condominium properties that operate like hotels must comply with Title III of the ADA. However, units that are not owned or substantially controlled by a public accommodation have limited obligations: they need not comply with certain new reservation requirements, and are not subject to certain barrier removal and alterations requirements.

If you have specific questions about the impact of the new regulations on your property, or regarding compliance with the new rules, please don't hesitate to [contact us](#).

Tags: Accessible, Accessible Design, Act, Americans, Americans with Disabilities Act, animal, Architectural, Barriers, Condominium, Condominium Hotel, Design, Disabilities, Federal, Federal Architectural Barriers Act, hotel, Segway, Service, service animal, Timeshare, with