

THE ADA & YOUR GUESTS

Managing Hospitality Risk



WHAT'S AT RISK?

In recent years, there has been no shortage of successful legal action brought against the hospitality industry for failure to accommodate guests with disabilities. Stories of court rulings against hotels are common. Holiday Inn Hotels were compelled to enter into agreements with the Justice Department to improve accessibility at hotels nationwide; a Missouri hotel was sued for not allowing a blind patron to bring in a guide dog; a Las Vegas hotel was ordered to widen 819 bathroom doorways in order to comply with the law. The time, cost, loss of goodwill, and negative publicity associated with legal action against non-compliant hotels and restaurants can be substantial. There is a great deal at risk for hospitality managers who are not proactive on this issue.

WHAT ARE YOUR LEGAL OBLIGATIONS?

The first Bush administration signed the Americans with Disabilities Act (ADA) into law in July 1990. This legislation prohibits discrimination on the basis of disability. Drafted state and municipal ordinances mirror, and in some cases exceed, these requirements.

The ADA requires that private businesses open to the public allow individuals with disabilities equal access to the services they offer. That means (among other things) providing accessible guestroom and common areas, and auxiliary aids as needed. Under the law, businesses can be compelled to comply or face stiff regulatory penalties.

While the ADA does not allow disabled plaintiffs to collect damages for violations of the Act, it has allowed lawyers to collect attorneys' fees for such lawsuits. However, in one case (Buckhamon Board & Care

Home v. West Virginia Department of Health & Human Resources (121 S. Ct. 1835, May 29, 2001), the Supreme Court held that if you fix the alleged problems, you won't be held liable for attorney's fees for the plaintiff's lawyer. In addition, legislation has been introduced (the ADA Notification Act, h.r. 914) to give lodging operators appropriate notice and reasonable opportunity to remedy ADA situations before a suit can be prosecuted.

Although these are positive signs of a growing "common sense" approach to ADA enforcement, the fact remains that the lodging industry is responsible for compliance with the various facets of the Act, and unless a systematic management approach is followed, hotels leave themselves vulnerable to continued allegations of insensitivity, bad publicity, and legal actions.

HOW CAN YOU BETTER PROTECT YOUR ORGANIZATION?

For some suggestions designed to assist you in developing sound policies and procedures for your organization, please turn this document over and review the attached checklist.

For more information about this and other hospitality risk management topics, please contact:

National Specialty Underwriters, Inc.
10900 NE 4th St.
Suite 1100
Bellevue, WA 98004
(425) 450-1090
www.nsui.com



Checklist: Complying with ADA

The following is not a complete or exhaustive list of the requirements of the ADA. It does highlight some key points to keep in mind for the common public areas of your facility. Managers should obtain a complete list of requirements from reliable sources such as the US Department of Justice or local authorities with enforcement responsibility. You should familiarize yourself with ADA Accessibility Guidelines for Buildings and Facilities, and adhere to sections 5 - Restaurants and Cafeterias and section 9 - Accessible Transient Lodging.

MAKE SURE:

- There are sufficient designated and marked accessible parking spaces. Each accessible space should be at least 8-feet wide with a marked 5 foot wide minimum level access aisle next to it.
- There are spaces closest to the accessible entrance and they are marked with the international symbol.
- At least one in every eight accessible spaces accommodate a lift-equipped van.
- There is a safe, continuous, unobstructed 36 inch path of travel from on-site parking, drop-offs, bus stops, and public sidewalks to the hotel or restaurant entry that is free of stairs.
- Curbs along the path of travel have curb cuts or ramps.
- There are continuous handrails at both sides of all stairways.
- Ramp surfaces are firm, stable, sloped safely, and covered with non-slip material.
- At least 50% of all public entrances are accessible. Entrance doors have at least a 32 inch clear opening, with door handles no higher than 48 inches that are possible to operate by someone with limited use of his or her hands.
- All not accessible customer entrances are posted with a visible sign that clearly indicates the location of an accessible entrance.
- Inside the hotel or restaurant ensure there are clear floor areas throughout for a person using a wheelchair to reverse direction, and the path of travel is free of protruding objects that may pose hazards for people with visual disabilities.
- Restrooms open to the public are accessible to customers with disabilities. Controls, dispensers, receptacles and other equipment (at least one each) are located within reach of a person using a wheelchair. Doorways to restrooms are at least 32 inches wide.
- Faucets are easy to grasp with one hand, and can be operated without tight grasping, tight pinching, or twisting of the wrist.
- Grab bars in accessible stalls are behind and on the sidewall nearest the toilet or on both sidewalls of a 36 inch wide alternative toilet stall.
- Restrooms will include at least one accessible stall.
- Amenities such as public telephones and drinking fountains are accessible to customers with disabilities.
- Drinking fountains have a public path of travel at least 36 inches wide.
- Drinking fountains include both high and low spouts so they are accessible to people who use wheelchairs and to those who have difficulty bending or stooping.
- Public phones are hearing aid compatible and adapted with volume control.
- Public phones are provided with at least 30 to 48 inches of clear floor space in front of them.