

## THE TWO RIVER TIMES

### An ADA Civil Rights Tale

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There is a great deal of construction in the Two River area, which is good for the economy. But it must be performed according to the Americans with Disabilities Act (ADA).

The construction of some new and newly renovated inaccessible buildings has illegally discriminated against disabled customers, including wounded veterans, by excluding them.

It seems that differences between the federal Americans with Disabilities Act of 1990 (ADA) and N.J.'s Uniform Construction Code (UCC) can be confusing, even to architects and code officials.

The "ADA Guide for Small Businesses" states:

Businesses that provide goods or services to the public are called "public accommodations" in the ADA. The ADA establishes requirements for 12 categories of public accommodations, which include stores, restaurants, bars, service establishments, theaters, hotels, recreational facilities, private museums and schools, doctors' and dentists' offices, shopping malls, and other businesses. Nearly all types of businesses that serve the public are included in the 12 categories, regardless of the size of the business or the age of their buildings. Businesses covered by the ADA are required to modify their business policies and procedures when necessary to serve customers with disabilities and take steps to communicate effectively with customers with disabilities. The ADA also requires businesses to remove architectural barriers in existing buildings and make sure that newly built or altered facilities are constructed to be accessible to individuals with disabilities. "Grandfather provisions" often found in local building codes do not exempt businesses from their obligations under the ADA.

It is also important that under Title II of the ADA, government entities, including post offices and municipal buildings, be accessible to people with disabilities.

A local municipal construction official told me that he had told an owner that since he had spent 20 percent of his renovation's cost on accessible bathrooms, he did not have to create an accessible entrance under the UCC. I said, "That makes no sense. How can a patron in a wheelchair get up the steps to use the new bathrooms?" He again said that he was not allowed to require more access.

I contacted an ADA expert at the federal Access Board, Marsha Mazz, who confirmed, "In an alteration, any altered portion of a building must comply with current ADA Standards and the building code."

Horrified that construction officials could be misconstruing and incorrectly describing access rules, I called state officials, including the Dept. of Community Affairs, Division of Codes and Standards, 1-609-984-7672.

The officials confirmed that the “bible” of NJ code inspectors, the UCC, “...does not require that a building that was built before the accessibility laws to undergo an upgrade to meet accessibility requirements.” (Emily Templeton, DCA supervisor)

It is this part that causes many New Jersey officials and owners to assert, “I’m grandfathered, I don’t have to change anything!”

“However, in the Rehabilitation Subcode, the UCC does require that when a building undergoes improvement, the work that is done must comply with the UCC, including the Barrier-Free Subcode.” (Templeton)

The ADA and the New Jersey Law Against Discrimination, both civil rights laws, require that access to existing buildings be improved over time. No grandfathering.

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