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# Disability Rights Project REPORT

Office of Attorney General Scott Harshbarger



Dear Reader,

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GOVERNMENT DOCUMENTS  
COLLECTION

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Welcome to the first issue of the Disability Rights Project **REPORT**. Last June, I had the pleasure of announcing the exciting news that I had established a Disability Rights Project within the Civil Rights Division of my office. Fortunately, many of you were able to attend that event, and I enjoyed the opportunity to meet with those members of the disability community.

As I explained in June, vigorous enforcement of equal rights for individuals with disabilities has been an important focus of my administration. By inaugurating this Project, we have further expanded our ability to guard and enforce these important rights. Significantly, we established the Project within the Civil Rights Division to convey a critical message which recognizes and underscores the importance of disability rights as civil rights.

Building upon our past efforts, the Project is actively involved in community education and public awareness to prevent the denial of civil rights. When those efforts do not resolve the problem, we will vigorously pursue enforcement actions.

Toward that end, the Project has three priorities:

- A. access to municipal events and services;
- B. fair housing rights for individuals with disabilities; and
- C. access to and non-discrimination by private entities.

As you will learn from the Disability Rights Project **REPORT**, in each of these three priority areas we have already been able to achieve solid results, all of which have been resolved without filing suit.

The Project is directed by Stanley J. Eichner, an Assistant Attorney General in the Civil Rights Division, who has a long history of legal advocacy on behalf of individuals with disabilities. Working with him is Karin Rayc, an experienced litigation paralegal who came to us from private practice specifically to work on the Project. You will find them to be very helpful when you contact the Project at (617) 727-2200 (V), (617) 727-4765 (TTY).

This newsletter will serve as a key means by which you, as a member of the disability community, can be kept fully informed of the work we have done, and our future goals. We plan to publish it twice a year. I hope and trust that communication will go in both directions, as you keep us informed of your ideas and concerns. We appreciate the very positive response the Project has received from the disability community.

We believe the Disability Rights Project will significantly contribute to the awareness of, compliance with, and enforcement of disability rights in Massachusetts. Through education and advocacy, the Office of the Attorney General, in partnership with the disability community, can use its resources to ensure full enforcement of civil rights for individuals with disabilities.

Sincerely,

Scott Harshbarger

## ACCESS TO PRIVATE BUSINESSES

One of the Project's priorities seeks to ensure that private businesses afford access to and not discriminate against individuals with disabilities.

### Telephone Service Center Access

One of the early complaints received by the Disability Rights Project was from the Cape Organization for the Rights of Disabled (CORD) and concerned access to phone services. An individual who is deaf experienced difficulty in attempting to obtain services at New England Telephone's (NET's) service center in Hyannis. The individual sought to clarify a billing dispute. Typically, a customer can resolve such issues by using a free phone in one of the company's service centers to talk to a NET supervisor. When this individual indicated his need to use a TTY (text telephone), he was informed that the customer service center did not have such equipment. Our follow-up factual investigation revealed that none of the phone centers were equipped with TTYs. When the Disability Rights Project contacted New England Telephone, the Company immediately responded to the issue, proposing a solution which not only served the needs of individuals in Massachusetts, but throughout the company's five-state service area. NET agreed to install text telephones (TTYs) in each of the 21 Residence Service Centers throughout New England.

### Funeral Home AIDS Advisory

We have also used the issuance of statewide Advisories as an additional strategy for the promotion of community education and nondiscrimination. For example, when the Project learned that some funeral homes may have been assessing a surcharge for or were refusing to provide funeral services to people who had died of AIDS. After conducting a limited survey of funeral homes, which confirmed the existence of some of the problems, the Office of the Attorney General and the Mass. Board of Registration in Embalming and Funeral Directing (the state licensing and oversight agency) jointly sent a letter on May 10, 1993 [See "Aids

Advisory," 5/10/93 in "Materials Available" box, page 5] to all funeral home directors throughout the state. The Advisory informed the homes that 1) a refusal to provide services to those who die from AIDS violates state and federal laws, and 2) assessing a surcharge for such services would violate Title III of the ADA and the consumer protection laws. We have had a very positive response from advocates and the press as a result of this Advisory.

### Effective Communication with Physician

An individual with a hearing impairment complained that a doctor was refusing to provide an interpreter for complex pre-natal exams. The doctor cited "undue burden" and "financial hardship" as his reason for not furnishing an interpreter for check-ups. Through a series of calls and negotiations, the doctor agreed to provide an American Sign Language interpreter for complex medical examinations.

### Refusal to Accommodate

The Disability Rights Project received a complaint from an individual who had been treated in a rude and discriminatory manner when trying to get financial aid forms from an educational assistance program. As a result of his disability, the complainant spoke with severely slurred speech and walked with an unsteady gait. He explained the nature of his disability to the receptionist and requested some assistance in communicating. The receptionist refused his request and called security to have him removed from the premises. We called the Director of Personnel who immediately responded by sending a letter of apology to the individual and by taking disciplinary action against the employee involved. We also ensured that the agency provided ADA and disability sensitivity training to its employees.

### Accessible Paralegal Graduation

Private universities are also covered under this priority area. An early complaint concerned a local university's plan to hold their paralegal graduation in an inaccessible location. Although the woman herself could have, with difficulty, managed

to attend the ceremony, several of her closest friends would have been precluded from attending the event. When the Project contacted counsel for the school, the school immediately agreed to move the graduation to a physically accessible location.

## FAIR HOUSING ISSUES

Ensuring fair housing rights for individuals with disabilities, particularly those who encounter opposition to their desire to reside in the community of their choice, is also a Project priority.

### AIDS Hospice

This office was contacted by representatives of St. Anne's Hospital concerning problems they experienced in their attempt to develop "Hope House," a 10-person residence for persons diagnosed with AIDS, in Fall River. Their chief obstacle was a provision in the city's zoning ordinances which prohibits group residences in Fall River by limiting such groups to four unrelated persons living together. Working with several Assistant Attorneys General from other divisions, a letter was sent to the City Solicitor which discussed how state and federal fair housing laws applied to the Fall River ordinance. As a result of the letter, the city determined that Hope House was not subject to the ordinance and issued a permit allowing the project to go forward.

### Housing Authority Access

The Architectural Access Board (AAB) had held that various aspects of a Cape Cod housing authority violated state access requirements. After the Housing Authority continued to ignore orders of the agency, AAB referred the matter to the Attorney General's Office for enforcement. Through a series of negotiations, the Housing Authority reconstructed the problem areas and the accessible apartments are now in full compliance with state and federal law.

### Pet Prohibition

A woman with a seizure disorder contacted this office when her landlord threatened to evict her,

based upon the presence of a dog in her unit, which violated the building's "no pet" rule. The complainant asserted that her dog had the ability to forewarn her of seizures. State and federal law requires that landlords make a reasonable accommodation in their rules, policies or procedures to ensure that an individual with a disability has an equal opportunity to use and enjoy a dwelling. Although not absolutely required by the laws, we were concerned the dog had not been formally certified as a seizure dog.

After we learned of a veterinarian who operates a kennel that trains and certifies seizure dogs from the Epilepsy Association of Greater Boston, we put the complainant and the kennel in touch with each other. Within a week, the kennel had certified the complainant's dog as a Seizure Alert Dog and initiated a "continuing education and training" program for both the individual and her dog. The complainant provided the landlord with the dog's certification and may now remain in her apartment.

## MUNICIPAL ACCESS

Another priority area involves ensuring access to municipal events and services. We continue to enforce the May 1991 municipal access letter signed by Attorney General Scott Harshbarger and former Mass. Office on Disability Director Jim Gleich [see "Municipal Access letter" 5/91 in "Materials Available" box, page 5] which informed all municipalities that public meetings could no longer be held in inaccessible locations. Of course, since our letter was sent, Title II of the ADA has become effective, so the accessibility mandate is now even stronger. We have been able to resolve each of these matters amicably. Our recent work in this area includes:

▲ Our office was informed that the town of Wareham was planning to hold a special town meeting in an inaccessible location. We contacted the town Administrator and Chair Selectperson who agreed to move the meeting to a physically accessible building.

▲ Working with an advocate and the town of Carver, we were able to negotiate an agreement with the town by which it agreed to move all of its public meetings and hearings out of the inaccessible town hall and into accessible meeting space.

▲ After receiving a complaint from a disability advocate regarding the Clinton Board of Health's (BOH's) inaccessible public meetings, we contacted the Chairperson of the BOH who promptly agreed to move their meetings to an accessible location. We will continue working with the advocate and town officials to ensure that all town meetings are accessible to individuals with disabilities.

▲ A vote was taken during an inaccessible Hingham School Committee meeting despite the objections of disability advocates. It was agreed that all public meetings thereafter, would be conducted in alternative accessible sites, however, the advocates challenged the validity of the vote taken during that inaccessible meeting. Through a series of discussions, the school committee agreed to retake or ratify the vote in question.

▲ We were contacted by town officials from Sheffield, MA who were interested in the laws regarding inaccessible municipal events and services. As a result of our discussions, the town moved all of the meetings to an accessible location.

▲ We were contacted by an advocate from Marshfield who informed the Project that the town was holding municipal meetings and offering services in an inaccessible facility. After speaking with the town Administrator and conducting an in-depth site review, it was agreed that all meetings would be held off-site in an accessible location. The town then allocated a large sum of money for accessibility reconstruction of the Town Hall. In response to the good faith effort demonstration of the town, a modified agreement was reached by which meetings were allowed to be held on the first floor of the Town Hall as long as they were limited in scope and duration. The town also agreed to a stringent time-line for the reconstruction.

## EMPOWERING LOCAL ADVOCATES

As a part of our partnership effort with the disability community, an important component of our work is the provision of backup and support to local advocates with a view toward empowering them in their efforts to advance the rights of individuals with disabilities. A disability rights advocate from the

south shore informed the Project that the town was charging individuals with disabilities a fee for public parking. By advising the town officials of the law pertaining to the issue and indicating that the problem had also been brought to the attention of our office, the advocate was able to resolve the issue by having the town declare a moratorium on fees for all handicapped parking.

An advocate from central Massachusetts contacted the Project for technical support and information concerning accessible town meetings. The advocate wanted to try to work with the town towards a resolution without directly involving this office. As he continues to negotiate with town officials for accessible meetings, the Project lends support by providing technical assistance and discussing strategy. Due to the efforts of the advocate, the town is making significant movement towards compliance.

## LEGISLATIVE ADVOCACY

### Fair Housing

#### 10% Housing Cap I

Outside sections 162 and 291 of the Fiscal Year budget established a 10% cap on the number of disabled people who could reside in "elderly/handicapped" housing. We explained to legislators and later to Governor Weld why the 10% Cap appeared to violate state and federal law. As cited in his veto message, based in part upon our veto recommendation, Governor Weld vetoed the provision.

#### 10% Housing Cap II

The same 10% housing cap, which was previously in the budget, was then grafted onto the housing bond bill. There was a legal question as to whether the 10% cap could be separately vetoed. We shared our view that it could be, and Governor Weld vetoed it.

#### Group Home Dispersal Bill

An outside section of the budget mandated a burdensome system of group home dispersal on EOHS. Our office shared our concerns as to the provision's legality and Governor Weld vetoed it.

## COMMUNITY EDUCATION

When Attorney General Scott Harshbarger announced the establishment of the Disability Rights Project, he specifically emphasized the importance of community education. Toward that end, the Project has conducted more than 50 trainings and presentations. A few of the notable events include:

- 1) Welcoming remarks and talk on the Disability Rights Project at a conference sponsored by ACCESS NOW for individuals of color with disabilities and social service agencies and businesses serving that community;
- 2) Special membership meeting of the Cape Organization of the Rights of Disabled (CORD) where Attorney General Scott Harshbarger re-announced the establishment of the Disability Rights Project;
- 3) Keynote speaker concerning Disability Rights Project to 300 people at the Annual Consumer Conference sponsored by Massachusetts Rehabilitation Commission;
- 4) ADA update at Annual Convention to Town Counsel and City Solicitor's Association;
- 5) Presentation on "ADA and Libraries" seminar sponsored by the Social Law Library; and
- 6) Presentation on employment rights of individuals with disabilities on "Disability News"; a cable television show in Attleboro, MA.

While employment is not one of the Project's priority areas, we receive many calls seeking information and referrals to agencies which work on employment issues. In light of our commitment to community education, we felt it was important to provide these individuals with a general overview of employment rights. To address that need, we produced a booklet entitled, "Employment Rights of Individuals with Disabilities." We have distributed over 1000 copies of the booklet.

## MATERIALS AVAILABLE

The following materials are available upon request:

- ▲ Questions and Answers on Title II of the Americans with Disabilities Act (Public Entities);
- ▲ Employment Rights of Individuals with Disabilities;
- ▲ Funeral Home AIDS Advisory (5/93);
- ▲ Municipal Access/Public Meeting letter (5/91); and
- ▲ Disability Rights Project Announcement Booklet.

To order any of the above materials, please call Robin D'Amelio, (617) 727-2200 (V), (617) 727-4765 (TTY).

## FOR FURTHER INFORMATION

Attorney General Scott Harshbarger's Disability Rights Project, which is directed by Assistant Attorney General Stanley J. Eichner, will publish the **REPORT** twice a year. If you wish to contact the Project concerning an issue of disability rights, please call Karin Raye, Paralegal, at (617) 727-2200 (V), (617) 727-4765 (TTY) or write to Ms. Raye at:

Disability Rights Project  
Civil Rights Division  
Office of the Attorney General  
One Ashburton Place, 19th Floor  
Boston, MA 02108

If you wish to contact the Office of the Attorney General for information or assistance on a non-disability related matter, call Consumer Complaints at (617) 727-8400 (V), (617) 727-0434 (TTY).

Disability Rights Project **REPORT**  
Editor, Karin L. Raye

Disability Rights Project  
Office of the Attorney General  
One Ashburton Place, 19th Floor  
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**THANKS!!!**

The Project appreciates the effort of Suzanne John who generously volunteered her time and skill towards the production and layout of this newsletter. We would also like to thank all of the volunteers for their help with the Project.

We hope you enjoyed this issue of Attorney General Scott Harshbarger's  
Disability Rights Project **REPORT**.

To join Attorney General Scott Harshbarger's Disability Rights Project mailing list or to notify us of a change of address, please use the form below:

Please make my copy: Large Print   
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(please print)

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If you have any comments or suggestions, please feel free to include them  
on this form and return it to the Project.