

KANSAS DEPARTMENT OF HUMAN RESOURCES
**COMMISSION ON DISABILITY CONCERNS**
1430 S.W. Topeka Boulevard, Topeka, Kansas 66612-1877
913-296-1722 (Voice)●913-296-5044 (TDD)●561-1722 (KANS-A-N)

Mike Hayden, Governor

February 21, 1990

Ray D. Siehndel, Acting Secretary

\rpadabw

Ruby Parks

RR 4 Box 201

Fredonia KS 66736

Dear Ms. Parks:

I have reviewed the January 27, 1990 letter that Representative Whittaker sent to you regarding the Americans with Disabilities Act (ADA). As you know, the disability community has been united in support of the Senate version (S. 933) of the ADA. The postcard which you sent to Mr. Whittaker urges his support of S. 933, it does not ask his support of the original proposed bill. Mr. Whittaker's concern over a conflict between the ADA and a drug-free workplace has long since been resolved in S. 933.

In light of this fact, it seems odd that Mr. Whittaker would devote half of his letter describing a concern which has nothing to do with S. 933, the measure we wish him to support. It is equally perplexing that he mentions having various other reservations about the bill, but says nothing specific.

rpadabw: page 2

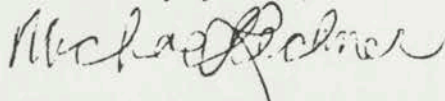
It is possible that his concerns are based on the House of Representatives' original bill (HR 2273) which is the version being considered by the House Committee on Commerce and Energy. Nonetheless, the problems perceived in HR 2273 have been resolved in S. 933.

S. 933 also has the support of President Bush, Senators Robert Dole and Nancy Kassebaum, Representatives Jan Meyers, Jim Slattery and Dan Glickman. Further, the House Committee on Education & Labor recommended S. 933 (with minor technical amendments) for passage, rather than HR 2273.

You may wish to contact Mr. Whittaker again to let him know that it is S. 933 which we are supporting, not HR 2273. S. 933 is the product of extensive compromise. We have given up as much as we can. We cannot accept a weaker version of the ADA.

Thank you for your support of the ADA. It is good to see advocates working together. Please contact me if you wish to discuss this further.

Sincerely yours,



Michael Lechner, Executive Director

cc: Bob Whittaker, Senator Dole

BOB WHITTAKER
5TH DISTRICT, KANSAS

WASHINGTON OFFICE:
2436 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-1605
(202) 225-3911

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Congress of the United States
House of Representatives
Washington, DC 20515-1605

ENERGY & COMMERCE
COMMITTEE

January 25, 1990

Ruby Parks
RR 4 Box 201
Fredonia, Kansas 66736

Dear Ruby:

Thank you for your postcard regarding the Americans with Disabilities Act (ADA). I appreciate hearing from you.

As you know, the Americans with Disabilities Act has passed the Senate and is now being considered by the House of Representatives. While supporting this legislation, I do still have some concerns about the ADA. For example, as this bill was originally introduced, alcohol and drug abusers would have been considered disabled individuals and could have filed a class action suit against their employer if they were terminated on the grounds that they were protected under this legislation. This would have rendered the Drug-Free Workplace Act that Congress passed last year totally useless, something I certainly do not support.

As I'm sure you know, the Senate recently passed its version of the ADA, which is a tremendous improvement over the original bill. The House has yet to finish work on its version. I am hopeful that the remainder of my concerns will be properly addressed. You can be assured that I will have your thoughts in mind when this legislation comes to the Floor of the House for consideration. Be assured that my colleagues and I will be working on the ADA to ensure that the goals of this legislation - ending discrimination of handicapped persons -- are met in a manner that is acceptable and beneficial to all.

Once again, thanks for sharing your thoughts with me. Anytime I can be of assistance, please be sure to let me know.

Best wishes.

Sincerely,

Bob Whittaker

AMERICANS WITH DISABILITIES ACT
H.R. 2273

SUMMARY OF DINGELL-LENT SUBSTITUTE

The Dingell-Lent substitute amends H.R. 2273, as introduced, to address matters within the sole and shared jurisdiction of the Committee on Energy and Commerce. It makes no changes in the employment title of the original bill; it makes only technical and conforming changes in the provisions of the bill dealing with public accommodations in order to deal with other related provisions addressing private rail passenger operations.

The major provisions of the Dingell-Lent substitute are summarized below:

Amtrak

- * Requires that within 5 years Amtrak must have at least one accessible car per train.
- * Requires that, with specified exceptions, all new cars purchased or leased by Amtrak must be fully accessible to individuals with disabilities, including individuals who use wheelchairs.
- * New single-level passenger coaches need not meet wheelchair accessibility requirements, but after 10 years Amtrak must have available on its trains a number of spaces to park and secure wheelchairs (for passengers wishing to sit in their wheelchairs) and a number of spaces to fold and store wheelchairs (for passengers wishing to transfer to a coach seat) equal to the number of single level passenger coaches in the train. These spaces may be located in either the coaches or in food service cars, with a maximum of two of each type in any one car.
- * The requirements applicable to accessibility of dining cars and availability of food service will differ depending on the age and type of equipment. In all cases, Amtrak will be required to provide equivalent food service in the most integrated setting practicable.

Commuter Rail Transportation

- * Requires that within 5 years all commuter authorities must have at least one accessible car per train.
- * Requires that all new cars purchased by commuter authorities be accessible to individuals with disabilities, including individuals who use wheelchairs. For commuter rail purposes, accessibility does not require an accessible restroom if no restroom is provided on the car for any passenger, nor does it require space to store and fold a wheelchair.

Private Rail Transportation Providers

- * Provides an exception for historical and antiquated rail cars and stations served exclusively by such cars to the extent that compliance with accessibility requirements would significantly alter the historic or antiquated character of such cars or stations.

Rail Stations

- * Requires that all new stations used in Amtrak or commuter rail systems be constructed accessible to individuals with disabilities, including individuals who use wheelchairs.
- * Requires that Amtrak (within 20 years) make existing stations within its system accessible, and that commuter authorities (within 3 years) make key stations within their systems accessible. A waiver of up to 20 years may be granted by the Secretary of Transportation to commuter authorities for certain extraordinarily expensive structural changes.
- * Improves current law by clearly allocating the responsibility for making stations accessible among Amtrak, commuter authorities, other public owners, and private owners.

General

- * Provides a "safe harbor" for design of stations and rail cars during period when new regulations, guidelines, and standards for accessibility are being developed by federal agencies.

Telecommunications

- * Requires the FCC to ensure that interstate and intrastate relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals.
- * Requires common carriers within 3 years to provide telecommunications relay services -- individually, through designees, through a competitively selected vendor, or in concert with other carriers.
- * Provides for FCC certification of state programs to make such relay services available on an intrastate basis.
- * Requires any television public service announcement produced or funded in whole or part by any Federal agency or instrumentality to include closed captioning.

MIN Report #1 -- March-April 1990

4

But the disability community has been counterattacking. During February, hundreds of advocates from around the country came to Washington, DC to lobby key congresspersons on behalf of the ADA while state disability organizations orchestrated grassroots letter-writing campaigns. A full-page advertisement in The Washington Post urged the House to pass the Senate version of the bill. And to add a little glamor to the campaign, actor Daniel Day-Lewis, star of "My Left Foot," (the acclaimed movie about Irish writer-painter Christy Brown, who had cerebral palsy) was recruited to convince the representatives they should pass the legislation in its present form.

Yet some in the Congress had other ideas. The House Energy and Commerce Committee, chaired by John Dingell, one of the most powerful legislators on Capitol Hill, decided to draft a new version of the Americans with Disabilities Act. The drafting of the legislation, directed by committee staffer Allen Roth, took some surprising turns. An early version appeared to suggest that persons who are mentally ill should be dropped from coverage under the ADA. When word leaked out about this proposal, Congressman Dingell faced a deluge of protest in his Michigan home district from a local chapter of the National Alliance for the Mentally Ill and other advocates.

Rep. Dingell immediately issued a statement saying "individuals with mental illnesses should be included under the ADA" and that "language pertaining to the mentally ill...was taken out of context." However, he also noted that "our committee hearings did disclose numerous difficulties with the legislation as it passed the Senate, some of which are drafting problems that even advocates for the disabilities community admitted require correction." (In The Mainstream was unable to find out who these advocates might be.)

Congressman Dingell's statement ended on a positive note: "Eliminating the barriers that prevent disabled Americans from becoming fully integrated and productive members of our society is an important goal, and one which I support. I expect that the ADA bill in its final form will contain protection against discrimination for the mentally ill, as well as all other disabled individuals, and I plan to support the best possible legislation when it reaches the House floor."

Although the Energy and Commerce staff is still working on its version of the ADA (as are the other two committees), reports say that this draft is so sweeping it is bound to conflict with the bills coming out of the other committees. In short, a jurisdictional battle is developing and it remains to be seen whether the House leadership has the will to make powerful John Dingell toe the party line.

Marcia Shulman, an aide to Rep. Steny Hoyer (D-MD), House manager of the ADA, told In The Mainstream she believes the bill will emerge, with some changes most likely in the transportation section, by April for a vote on the House floor. In the meantime, the hardball lobbying is intensifying.

Progress on Americans with Disabilities Act Slowed by House Energy and Commerce Committee

A noisy confrontation over the Americans with Disabilities Act of 1989 (ADA) legislation has become louder--and increasingly bitter. The disability community, for once solidly united, is accusing the small business lobby of stooping to distortions and lies to try to slow down the ADA bill's eventual passage. But what makes disability advocates even more angry is that small business's efforts to if not defeat then at least weaken the ADA could be succeeding, at least with one important congressman: Rep. John Dingell (D-MI).

To recap: The proposed Americans with Disabilities Act of 1989, which bars discrimination against persons with disabilities in employment, public services and public transportation, public accommodations, and telecommunications, easily passed the Senate last year after lengthy negotiations with the White House. President Bush endorsed the Senate bill.

On the House of Representatives side, the same original legislation was sent for mark-up to four separate committees: Education and Labor, Judiciary, Public Works and Transportation, and Energy and Commerce. In theory, at least, each committee is supposed to take action on only those parts of the bill over which it has clear jurisdiction. Because of the comprehensive nature of the ADA, some overlapping jurisdictions among the committees were inevitable.

In November, the Education and Labor Committee primarily marked up the employment and public accommodations provisions of the measure, modifying the Senate version somewhat, but not enough to lose the support of the disability community. This version passed 35-0 and Congress recessed (until late January) before the other committees had scheduled their mark-up sessions.

In the meantime, the small business and transportation lobbies went into high gear, telling House members the ADA legislation would do such things as force companies to make all accommodations and provide total accessibility regardless of cost; make employers hire anybody who was a practicing drug addict or alcoholic; include homosexuals among those covered in the legislation; and force Greyhound to cut back service to rural areas because the cost of making new buses accessible would be too expensive.

A reading of the legislation shows that accommodations must be reasonable in terms of cost and safety, and accessibility must be readily achievable in existing structures; current users of alcohol or other drugs, and homosexuals are specifically not covered under the bill; and the Office of Technology Assessment is instructed to find the most cost-effective method for making over-the-road buses accessible to individuals with disabilities. Nevertheless, arguments against the ADA are getting the attention of some House members who are focusing on the legislation for the first time.

(Please turn over)

ENERGY AND COMMERCE BILL RIPS APART THE ADA

Excerpts from the Bipartisan Staff draft include:

- 1) Removing persons with a number of mental impairments from the definition of who is disabled under the bill.
- 2) Ties your civil rights to the receipt of federal funds by saying that Amtrak and commuter rail need not make their stations accessible unless Congress appropriates SPECIFIC MONEY to do so.
- 3) Says that only 20% of new Amtrak and commuter rail passenger cars have to be accessible. ADA as passed by the Senate and the Education & Labor committee requires that all new cars be accessible.
- 4) Changes the definition of readily achievable to tie accessibility in existing privately operated rail stations to the number of disabled customers that use the facility -- this is a cost-benefit standard that says you don't have to make an existing station accessible unless you can recoup the money the accessible feature costs (from the disabled customer!).

This is very dangerous because the business community can now request that the entire public accommodations section of the bill be amended to include this cost-benefit standard.

- 5) May delay the date the rail provisions of the bill become effective.

The ADA as passed by the Senate and the Education and Labor Committee contains specific time-certain dates when each provision of the bill becomes effective. The Energy and Commerce draft makes the rail provisions of the bill effective on the date that regulations are issued. Remember how many years we waited for the Section 504 regs? We are still waiting for regulations for the Air Carrier Access Act of 1986.

- 6) Could endanger the quality of telecommunications relay services provided under the ADA

The Energy and Commerce draft relieves telephone companies from their obligation to ensure efficient and effective relay services. These companies would be relieved of overseeing the quality of relay service if an independent service provider is selected to provide the relay services. We must make sure that telephone companies are given the ultimate responsibility for ensuring high quality relay services under the ADA, .

- 7) The ADA, as passed by the Senate, prohibits long distance telephone companies from imposing surcharges on telephone consumers to pay for interstate relay service. The proposed draft would allow these companies to use surcharges for this purpose. The cost of providing interstate relay service should be considered an operating expense of these companies, to be recovered in their general telephone rates.

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* - Co-sponsor of ADA

Bob Mitchell

TASK FORCE ON THE RIGHTS AND EMPOWERMENT OF AMERICANS WITH DISABILITIES

907 6th Street, S.W., Suite 516C, Washington, D.C. 20024
(202) 488-7684 Voice (202) 863-0010 FAX (202) 484-1370 TDD

Appointed by Congressman Major R. Owens, Chairman, House Subcommittee on Select Education

MEMBERS

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GREYHOUND PROPOSAL

ANSWERS BY THE TASK FORCE TO OBJECTIONS TO THE AMERICANS WITH DISABILITIES ACT - PUBLIC AND PRIVATE TRANSPORTATION BY BUS.

Strong opposition to ADA in its present form has been expressed by the representatives of public and private bus owners, who argue that implementing the Act will result in massive financial and legal burdens for their members. The Task Force on the Rights and Empowerment of Americans with Disabilities believes that these arguments are based on obsolete traditional assumptions, incomplete information, misinformation, and normal resistance to change.

Following is a brief discussion of assertions made by opponents of ADA's requirements for equal opportunity in the area of public and private bus transit. For the sake of brevity and clarity, discussion is limited to S-933, the Senate passed version of ADA, which has been strongly endorsed by the Bush administration and approved, with some clarifications, by the House Education and Labor Committee.

OPPONENTS' ASSERTION: THAT ADA WILL WORK PARTICULAR ECONOMIC HARDSHIP ON THE OPERATORS OF INTERCITY AND OTHER PRIVATE BUS SYSTEMS, WHO RECEIVE NO PUBLIC SUBSIDIES. LOBBYISTS FOR THESE OPERATORS CITE ENORMOUS COST ESTIMATES FOR MAKING SYSTEMS FULLY ACCESSIBLE, AND IMPLY THAT THESE COSTS WILL RESULT IN IMMEDIATE ELIMINATION OF SERVICES AND EMPLOYEES, AND EVEN BANKRUPTCIES. THEY PROPOSE PARTIAL SERVICES IN INACCESSIBLE BUSES AND, IN SOME CASES, SPECIALLY ARRANGED SERVICES.

PARTIAL SERVICES TO PROVIDE EQUALITY? Greyhound Lines, which dominates cross country bus travel, has been, perhaps, the nation's most vigorous opponent of ADA. Their representatives have proposed an alternative to a fully accessible bus fleet.

EQUAL ACCESS TO THE AMERICAN DREAM

1. They have announced an "Interim Travel Assistance Program." People with disabilities will be allowed to travel without a personal aide, but only if they call at least 48 hours in advance to ensure that assistance will be available at all points where buses must be boarded or deboarded. Since such assistance will probably be available at less than ten percent of the scheduled stops, and almost no person who might travel a Greyhound Bus can afford to employ a personal aide, the company's proposal amounts to a practical denial of service to most areas.

2. Greyhound has proposed the eventual inauguration of a plan to wheel people with mobility impairments up special boarding ramps on special boarding chairs. A set of this equipment would be kept at each of the firm's 200 largest terminals, and shipped to other stops with sufficient advance notice. This is another cosmetic service with little practical substance in terms of implementing equality for millions of citizens.

WHAT HAPPENS when a large number of persons with disabilities wish to travel from local areas to a central city on the same day to participate in a disability community meeting about their most basic human rights and services? This occurs several times every year in every state. Is there any conceivable way that a person required to receive 48 hour advance permission to travel could achieve full competitive equality with others as a businessperson, an employee or a consumer, or in the areas of education, religion, recreation, family and social activities? What about the ability to participate equally in the youth, civic, and professional activities which are essential to advancement in education and employment? **WHAT ABOUT THE ABILITY OF RURAL RESIDENTS TO HAVE IMMEDIATE, ECONOMICAL ACCESS TO MEDICAL SERVICES WHEN NEEDED? WHAT ABOUT THE BASIC CONSTITUTIONAL RIGHT OF RURAL RESIDENTS TO PARTICIPATE FULLY IN THE DEMOCRATIC PROCESS - RALLIES, TOURS, CONVENTIONS, MEETINGS INVOLVING ELECTED REPRESENTATIVES SUCH AS CONGRESSPERSONS?** The very same severe limitations apply to proposals that special accessible buses will, at some unspecified time in the future, be available on advance request.

Programs similar in concept to those proposed by Greyhound have been in place in many local areas for years. The Task Force has received ample evidence, that such systems do not and could not enable people with disabilities to be fully equal, fully productive members of society.

This nation's tragic century long experiment with Jim Crow "equality" for Black people clearly demonstrated that partial equality is not equality, and that such approaches are uneconomic and totally repugnant to the great majority of Americans.

UNAFFORDABLY HIGH COSTS TO COMPLY WITH ADA? Greyhound cost estimates for making buses accessible are greatly exaggerated and otherwise misleading. The actual cost of wheelchair lifts currently available is far less than that cited by lobbyists. Their estimates for making wider aisles and accessible bathrooms, which comprise well over half of their total projected costs, are completely erroneous because ADA does not require such modifications. Their assumption that ADA requires wheelchair lifts regardless of their feasibility is not correct. ADA simply mandates equal access, and a three year study to determine how equality can be implemented. The study could, but will not necessarily result in a requirement for lifts.

THE COSTS TO PRIVATE BUS OWNERS OF MEETING THE REQUIREMENTS OF ADA WILL BE WELL UNDER HALF OF THE AMOUNTS THEY HAVE CITED TO CONGRESS AND THE MEDIA.

ADA WILL CAUSE THE IMMEDIATE ELIMINATION OF SERVICES AND EMPLOYEES?

ADA gives private bus systems a six to seven year period to plan, accumulate capital and develop economical technology before even one dollar must be spent to purchase the first accessible buses. The costs of achieving total accessibility would be spread over a period of the 12 additional years that it normally takes to replace old buses with new ones. Initial costs would begin in about 1997. Maximum costs would be reached in about 2009. Attorney General Thornburgh has pointed out that this would provide ample time for Congress to consider any legislative adjustments necessary to refine or facilitate the process.

RESPONSIBILITY. The private intercity bus systems have a virtual monopoly controlling the only public transportation available to citizens in thousands of communities. These systems have a profound responsibility to meet the reasonable transit needs of the populations they serve. They are spending millions on optional items – bathrooms, air conditioning, new and remodeled terminals – which cost far more than providing equal access to people with disabilities. In this context it seems more than a little cynical and irresponsible for them to assert that they cannot find any way to fulfill their most basic responsibilities to the nation's poorest, most isolated citizens: rural and urban residents with disabilities and frail elderly persons.

OPPONENTS' ASSERTION: THAT REQUIREMENTS FOR COMPLETELY ACCESSIBLE PUBLIC TRANSIT WILL RESULT IN SYSTEMS WHICH ARE UNAFFORDABLY COSTLY, IMPRACTICAL IN AREAS WITH INCLEMENT WEATHER, AND LARGELY UNUSED BY PEOPLE WITH DISABILITIES. THE STATUS QUO SEPARATE "PARATRANSIT" SYSTEMS ARE PROPOSED AS THE WAY TO ACHIEVE EQUALITY AND EMPLOYMENT.

SOLE RELIANCE ON PARATRANSIT TO ACHIEVE EQUALITY? –This is simply a repetition of the same old "separate but equal" argument that has greeted every expansion of civil rights in history. It is undemocratic. It is un-American. It was intolerable for Black Americans. It is intolerable for Black South Africans. It is intolerable for Americans with disabilities.

PARATRANSIT TO ACHIEVE EMPLOYMENT AND MAINSTREAM PARTICIPATION? – While paratransit services are essential to meet the needs for people with very severe disabilities, the Task Force has overwhelming evidence that paratransit alone cannot provide the practical access to the productive processes of society necessary to enable the vast majority of people with disabilities to achieve their potential for employment and responsible citizenship. Rides must be arranged one or two days in advance. Service is characteristically operated within limited hours and is notoriously tardy and otherwise unreliable. If there happens to be a heavy demand at a particular time, one simply does not get service. If one is attending an important business, civic or government meeting – perhaps as a speaker or negotiator – and paratransit comes early, or the meeting runs late and paratransit happens to come on time, one simply misses the rest of the meeting. One's able bodied colleagues or competitors take the next bus. Can an employer afford to entrust an important public mission to a representative with this problem?.

Paratransit was originally created to meet the minimal needs of isolated, dependent people, who require an occasional ride to receive medical or other essential services. It does not, and it cannot economically meet the needs of a large population of fully employed, active citizens.

Could one use paratransit to be a fully competitive participant in any significant portion of the nation's vast sales distribution system, which employs millions in well paid positions that require frequent face to face contact? Could one go shopping on the way to or home from work, or during the lunch hour, as millions of busy career people do? Could one accompany a professional colleague for lunch? Could

one accompany one's family and friends to church, to a public park, or to the shopping center? Could one take one's children to school or to the doctor? For most communities, the answer in most cases is no.

PARATRANSIT A CHEAPER WAY TO ACHIEVE EQUALITY? To anyone familiar with the costs of transit services it is self-evident that even attempting to provide the equivalent of the door-to-door chauffeur services necessary to achieve full employment and full, first class citizenship for millions of people with disabilities would cost an astronomical amount of money – and would still not implement the kind of social and economic integration provided by public transit. Since many of the individuals proposing paratransit are transportation professionals, one can only assume that they have no serious intention of implementing full employment and social participation, but are simply seeking an excuse not to undertake modifications to mainline systems.

A DECISION TO RELY ON PARATRANSIT ALONE IS A DECISION TO REINFORCE A STATUS QUO THAT HAS RESULTED IN THE EXCLUSION OF 8-10 MILLION POTENTIALLY PRODUCTIVE AMERICANS WITH DISABILITIES FROM THE WORKPLACE. PRESIDENT BUSH HAS ESTIMATED THE COST OF THIS EXCLUSION AT \$300 BILLION PER YEAR – ABOUT \$1200 ANNUALLY FOR EVERY MAN, WOMAN AND CHILD IN AMERICA, AND GOING UP.

PEOPLE WITH DISABILITIES WILL NOT USE ACCESSIBLE PUBLIC TRANSIT? WHEEL CHAIR LIFTS ARE IMPRACTICAL, ESPECIALLY IN PLACES WITH COLD WINTERS? These same claims were made about early trains, autos and aircraft. "They will never replace the horse and buggy and sleigh." Totally accessible public transit systems have been operating productively and with substantial ridership in many communities for many years. They are operating in communities with extreme winter weather conditions such as Denver, Colorado, Buffalo, New York and Oshkosh, Wisconsin. Like all pioneer technology, wheelchair lifts are rapidly improving and becoming more economical. As this process and public attitudes mature, as other aspects of the environment become accessible, and as people with disabilities gain confidence in the new services, accessible transit will be accomplished with increasing efficiency and ridership. It will be increasingly profitable to operators, to taxpayers and to society as a whole.

OPPONENTS' ASSERTION: THAT PROVIDING INTEGRATED PUBLIC TRANSIT SYSTEMS WILL CAUSE THE TERMINATION OR DRASTIC REDUCTION OF SPECIAL TRANSIT SERVICES FOR PERSONS WITH VERY SEVERE DISABILITIES. This is untrue. Paratransit systems for people who really need them are **REQUIRED** by ADA, not as a substitute for, but as a supplement to, 100% accessible public transit.

THE BOTTOM LINE. Discrimination and segregation are morally and economically intolerable in America. Prohibitions of discrimination in employment will have only limited effect if people with disabilities, who can least afford other transportation, are denied the regular use of mainline public transit to prepare for and to travel to work, and to live in the communities where work is available. The modest cost of making transportation systems accessible is infinitesimal relative to the \$300 billion per year that it costs America to maintain the status quo segregation.

Q&AHA.J19

TASK FORCE ON THE RIGHTS AND EMPOWERMENT OF AMERICANS WITH DISABILITIES

907 6th Street, S.W., Suite 516C, Washington, D.C. 20024
(202) 488-7684 Voice (202) 863-0010 FAX (202) 484-1370 TDD

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Tony Young

VOLUNTEER STAFF

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ANSWERS BY THE TASK FORCE TO OBJECTIONS TO THE AMERICANS WITH DISABILITIES ACT - PUBLIC ACCOMMODATIONS.

Strong opposition to ADA in its present forms has been expressed by the representatives of business organizations, who argue that implementing the Act will result in massive financial and legal burdens for their members. The Task Force on the Rights and Empowerment of Americans with Disabilities believes that these arguments are based on obsolete, traditional assumptions, incomplete information and misinformation, and normal resistance to change.

Following is a brief discussion of assertions made by opponents of ADA's requirements for equal opportunity in the area of public accommodations. For the sake of brevity and clarity, discussion is limited to S-933, the Senate passed version of ADA, which has been strongly endorsed by the Bush administration and approved, with some clarifications, by the House Education and Labor Committee.

OPPONENTS' ASSERTION: THAT ADA IS A HASTILY WRITTEN, ILL CONSIDERED "BLANK CHECK FOR THE DISABLED," AND "LAWYERS' EMPLOYMENT ACT." THAT ADA INVOLVES MASSIVE, UNKNOWN COSTS WHICH WILL OVERWHELM BUSINESSES, ESPECIALLY SMALL BUSINESSES, THREATENING THEIR PROFITABILITY AND VERY EXISTENCE. THAT ADA CONTAINS OVERKILL REMEDIES AND VAGUE NEW TERMS WHICH INVITE A FLOOD OF LITIGATION.

MASSIVE COSTS FOR THE NATION? The bottom line is that the costs of ADA are negligible and painless relative to the massive and rapidly escalating price of discrimination. Using data available from federal agencies, EEOC Chairman Designate Evan Kemp and President Bush have estimated that excluding 10 million citizens with disabilities from the workplace costs our society about \$300- billion annually.

UNKNOWN COSTS? The specific costs of complying with ADA are no mystery. Every single policy or accommodation required by ADA has been implemented for more than a decade by a small but significant percentage of local communities and businesses throughout the nation, voluntarily, or pursuant to Title V of the Rehabilitation Act of 1973 (applying only to federally supported entities) and other federal, state and local legislation. There is a well documented track record of successful compliance, at modest cost. Indeed, most businesspersons who have implemented equality are vociferously proud of and pleased with their results.

OVERWHELMING COSTS FOR CERTAIN BUSINESSES? The public accommodations provisions of ADA covering existing facilities require only those accessibility modifications that are "readily achievable...without much difficulty or expense" - relative to the particular circumstances of the business or other entity. Only newly constructed facilities and areas covered by extensive renovations are required to be completely accessible. Long experience has proven that with appropriate planning, totally accessible new facilities can usually be constructed at little or no extra cost.

OVERKILL REMEDIES? A FLOOD OF LITIGATION? Hardly. The refined Senate version of ADA gives no incentive whatsoever for frivolous lawsuits. Plaintiffs cannot sue for punitive or compensatory damages. The authority to seek punitive damages is limited to violations of the public accommodations requirements of the Act, and is given only to the Attorney General in pattern or practice cases of general public importance. The limits of such damages, \$50,000-\$100,000, completely eliminate the problems associated with recent multi-million dollar judgments. Monetary relief for individual plaintiffs is available only in the form of back pay due from proven employment discrimination - a remedy which has been available to other minorities for over 25 years.

VAGUELY DEFINED TERMS? Far from being vaguely defined, "reasonable" accommodation, "undue hardship" and most other terms and concepts set out in ADA are taken from the above mentioned federal legislation that has been in place for 15 years. They have been well defined through practice by courts, attorneys and many businesses, and have not resulted in confusion or excessive litigation. What ADA does do is to specify a rational flexibility in the application of requirements depending on the particular circumstances of each business. This is the kind of common sense law that business has been advocating for decades.

OPPONENTS' ASSERTION: BUSINESSES WITH LESS THAN 15 EMPLOYEES SHOULD BE EXEMPTED FROM THE REQUIREMENTS THAT THEIR FACILITIES MUST BE ACCESSIBLE TO PEOPLE WITH DISABILITIES. This is morally and economically unacceptable. Since it would exempt 75-80% of all places of business from the requirements of equal access, it would declare by law that people with disabilities are 75% less equal than other people. People cannot work or purchase goods and services in places they cannot enter. They cannot live in neighborhoods where any significant percentage of the businesses are inaccessible. The proposed exemption would simply perpetuate the unemployment, isolation, poverty and costly welfare dependency of all those denied access. It would hurt small neighborhood businesses, because they would be deprived of the growing population of people with disabilities and frail elderly persons as much needed consumers and employees. It would be intolerable to the disability community and totally inconsistent with the pledge of "liberty and justice for all."

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“I’m going to do whatever it takes to make sure the disabled are included in the mainstream....They’re not going to be left out anymore.” President George Bush

A MESSAGE TO CONGRESS FROM REPRESENTATIVES OF 43 MILLION AMERICANS WITH DISABILITIES

ADA YES! LEGALIZED DISCRIMINATION NO!

WE CONGRATULATE President Bush, Attorney General Thornburgh, Senators Harkin, Dole, Kennedy, McCain, Simon, Durenberger, Hatch and all who supported the overwhelming 76-8 vote by the US Senate on September 7 to pass THE AMERICANS WITH DISABILITIES ACT (ADA).

WE URGE THE PROMPT APPROVAL by the US House of Representatives of this landmark legislation to provide to people with disabilities the “clear and comprehensive mandate for the elimination of discrimination” which other minorities attained more than two decades ago.

WE URGE THE REJECTION OF WEAKENING AMENDMENTS that would legalize current discrimination in areas such as public accommodations, transportation, employment and telecommunications. These amendments would condemn millions of 21st century Americans to the same barriers which have made people with disabilities this nation’s most isolated, unemployed, impoverished and welfare dependent minority.

REGRETTABLY, OPPONENTS of a strong and effective ADA are claiming that it will impose backbreaking costs and lawsuits on business. THESE CLAIMS ARE GROUNDLESS. They reflect the same obsolete attitudes, unfounded fears and doomsday predictions that have greeted all previous extensions of basic civil rights protections.

ADA, AS PASSED BY THE SENATE and endorsed by President Bush, strikes a careful balance between the elimination of discrimination and the interests of business. It provides for a gradual transition to an opportunity society, requiring that only new facilities be fully accessible. It specifies that no “significant difficulty or expense” be imposed on businesses. Virtually all of its requirements have been tested for many years under existing federal and local statutes - with no excessive costs or litigation.

IT IS THE PROPOSED WEAKENING AMENDMENTS that are unaffordable. President Bush has estimated that excluding 2/3 of working age people with disabilities from the workforce costs America \$300 billion per year.

ADA WILL FREE MILLIONS OF AMERICANS from the bondage of welfare dependency, enabling them to become employees, taxpayers and customers. It will be remembered with the Emancipation Proclamation and the Civil Rights Act of 1964 as an historic progress toward the fulfillment of the American dream.

ADA MUST BE PASSED PROMPTLY. THERE MUST BE NO WEAKENING AMENDMENTS. An ADA which legalizes discrimination in any area of society would be intolerable to Americans with disabilities and to every American who believes in liberty and justice for all.

WE WILL REMEMBER THE PATRIOTS WHO VOTE FOR JUSTICE NOW.

“ADA is about unleashing the talents, skills, enthusiasms and commitment of 43 million Americans who want to contribute but cannot.” Senator Tom Harkin

TASK FORCE ON THE RIGHTS AND EMPOWERMENT OF AMERICANS WITH DISABILITIES

Justin W. Dart, Chairperson
907 6th Street, S.W., Suite 516C, Washington, D.C., 20024
(202)488-7684 Voice (202)484-1370 TDD (202)863-0010 Fax

Appointed by Congressman Major R. Owens, Chairman, House Subcommittee on Select Education

tfagenda

Meeting of the Task Force, February 15, 1990, 3-5:30 pm EDT, President's Committee on Employment of People with Disabilities, 1111 20th Street, NW, Suite 636, Washington, DC 20036. Tel. 202-653-5044, TDD 202-653-5050, Fax 202-653-7386

AGENDA

Welcome by Chairperson

Introduction of those on site and by teleconference

Old business

Review and approval of the minutes of July 18 and September 18 meetings.

Summary report and introduction of agenda by chairperson and cochairperson.

Assessment of status of ADA and recommendations by Congressional staff and advocacy leadership

Discussion

In December the Task Force voted by telephone to put off its final report until Congress completes its current consideration of ADA. This would probably allow our final report to include an assessment of ADA as passed and brief suggestions for implementation and further action. We also voted to send a brief message to Congress, along with some updated questions and answers regarding proposed weakening amendments in the areas of transportation and public accommodations.

Discussion of final report and possible interim statements

Comments by Task Force membership, poll of members

Other old business

New business

Site and time of next meeting, with suggestions from the members

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Appointed by Congressman Major R. Owens, Chairman, House Subcommittee on Select Education

January 10, 1989

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Dear Rep. Ackerman:

The Task Force commends the House Education and Labor Committee on its November 14th approval of the Americans with Disabilities Act by a vote of 35-0. Through the good efforts of Congressmen Steny Hoyer, Steve Bartlett, Gus Hawkins, Major Owens, Steve Gunderson and others, certain language was clarified in ways that do not violate the principle of equality.

The Task Force has voted to issue its concluding report after Congress completes its current deliberations on ADA, so that we can include an assessment of the Act in its final form, as well as suggestions for implementation and for further action by government.

The members of the Task Force continue to be concerned about misinformation being circulated by opponents of an effective ADA. Enclosed are brief discussions of assertions which have been made about the sections of the Act which cover transportation and public accommodations.

The Task Force would like to reiterate its appeal to the members of Congress to act promptly to complete action on ADA. ADA in its final form must provide equal or greater protection for people with disabilities as S-933, passed by the Senate and endorsed by the President. There must be no weakening amendments that would legalize current discrimination, and perpetuate its devastating human and economic costs.

As we applaud the dismantling of a wall that blocked the freedom of 17 million East Germans, let us have the courage and the integrity to dismantle the walls that confine 43 million citizens with disabilities in this nation.

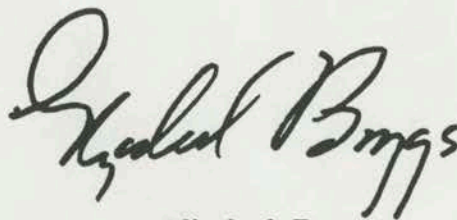
The members of the Task Force appreciate your support for people with disabilities in the past. We stand ready to cooperate with you and your staff in any way possible.

Sincerely,



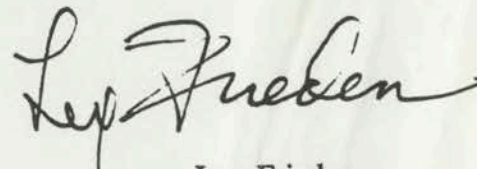
Justin Dart

Chairperson



Elizabeth Boggs

Co-chairperson



Lex Frieden

Coordinator

PRESIDENT BUSH HAS ESTIMATED THAT IT COSTS AMERICANS \$300 BILLION PER YEAR TO EXCLUDE ABOUT TEN MILLION PEOPLE WITH DISABILITIES FROM THE WORKFORCE.

EQUAL ACCESS TO THE AMERICAN DREAM