ADA Defense Lawyer: ADA requires hotels to describe accessibility on website

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As ADA lawsuits continue target hotels, it is critical that hotel owners understand what the ADA requires during the online reservations process. Stuart Tubis of JMBM’s ADA Compliance & Defense Group, explains below.

ADA Requires Hotels To Describe Accessibility Features On Website
by
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Many hotels are not aware that the ADA imposes several requirements during the reservations process, including posting descriptions of the hotel’s physical accessibility features on its online reservations system. Starting around early 2018, serial ADA plaintiffs have filed significantly more lawsuits against hotels regarding this issue.

In addition to the many physical accessibility requirements at places of lodging (hotels), such as accessible parking and accessible guest rooms, the ADA also requires places of lodging to take certain actions during the reservations process to help individuals with disabilities obtain an accessible guest room. Specifically, places of lodging are required to do the following:

• Ensure individuals can reserve accessible guest rooms in the same manner and time as other guests;
• Provide descriptions of accessible features of the hotel and guest rooms as part of any reservations process (such as website booking);
• Ensure that the hotel’s accessible guest rooms are held for individuals with disabilities and not rented out to those not requesting an accessible room (unless all non-disabled rooms have been booked); and
• Once reserved, ensure that the accessible guest room is hard booked and not rented to anyone else.

These requirements derive from 28 C.F.R. § 36.302(e)(1), which is provided in full below.

Reservations made by places of lodging

A public accommodation that owns, leases (or leases to), or operates a place of lodging shall, with respect to reservations made by any means, including by telephone, in-person, or through a third party –

(i) Modify its policies, practices, or procedures to ensure that individuals with disabilities can make reservations for accessible guest rooms during the same hours and in the same manner as individuals who
do not need accessible rooms;

(ii) Identify and describe accessible features in the hotels and guest rooms offered through its reservations service in enough detail to reasonably permit individuals with disabilities to assess independently whether a given hotel or guest room meets his or her accessibility needs;

(iii) Ensure that accessible guest rooms are held for use by individuals with disabilities until all other guest rooms of that type have been rented and the accessible room requested is the only remaining room of that type;

(iv) Reserve, upon request, accessible guest rooms or specific types of guest rooms and ensure that the guest rooms requested are blocked and removed from all reservations systems; and

(v) Guarantee that the specific accessible guest room reserved through its reservations service is held for the reserving customer, regardless of whether a specific room is held in response to reservations made by others.

Courts are left to interpret the statute and determine exactly what accessibility description an online reservations system must provide to comply with the law. Significantly, a California federal court set precedent by following a Department of Justice guidance document titled “Americans with Disabilities Act Title III Regulations: Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities.” The court found that “For hotels that were built in compliance with the 1991 Standards, it may be sufficient to specify that the hotel is accessible and, for each accessible room, to describe the general type of room (e.g., deluxe executive suite), the size and number of beds (e.g., two queen beds), the type of accessible bathing facility (e.g., roll-in shower), and communications features available in the room (e.g., alarms and visual notification devices).” *Barnes v. Marriott Hotel Servs., Inc.*, No. 15-CV-01409-HRL, 2017 U.S. Dist. LEXIS 22588, 2017 WL 635474 (N.D. Cal. Feb. 16, 2017).

However, the Department of Justice also notes that “For older hotels with limited accessibility features, information about the hotel should include, at a minimum, information about accessible entrances to the hotel, the path of travel to guest check-in and other essential services, and the accessible route to the accessible room or rooms. In addition to the room information described above, these hotels should provide information about important features that do not comply with the 1991 Standards. For example, if the door to the “accessible” room or bathroom is narrower than required, this information should be included (e.g., door to guest room measures 30 inches clear). This width may not meet current standards but may be adequate for some wheelchair users who use narrower chairs. In many cases, older hotels provide services through alternatives to barrier removal, for example, by providing check-in or concierge services at a different, accessible location. Reservations services for these entities should include this information and provide a way for guests to contact the appropriate hotel employee for additional information.”

While this area of the law has not been fully clarified by the courts, the above precedent from the *Barnes v. Marriott Hotel* case should be considered an industry minimum.
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