

ACCESS ALERT

Regulatory and Litigation Update

1. U.S. Department of Transportation Adopts the "New ADAAG"

The U.S. Department of Transportation has adopted the "New ADAAG," i.e. the ADAAG issued by the federal Access Board in 2004. The 2004 ADAAG is now the enforceable, federal accessible design standard for newly constructed and altered facilities funded by the U.S. Department of Transportation. The 2004 ADAAG is also the enforceable, federal accessible design standard for GSA and US Postal Service facilities.

Until the U.S. Department of Justice adopts the "New ADAAG," however, the 1992 ADAAG remains the enforceable, federal accessible design standard for educational, commercial, institutional, recreational, and government facilities.

2. Fair Housing Act Settlements

The recent settlement (October 2006) of the Legend/Austin Communities Federal Fair Housing case is significant in the level of specificity of the consent order. In addition to the extensive detailing of barriers to be removed, the schedule for barrier mitigation includes contingencies for units where tenant turn-over does not occur. The settlement also requires tenants to be compensated for "undue inconvenience" - defined as having to vacate their units for more than 24 hours. If you would like to receive a copy of the consent order, please contact David Kessler (dkessler@kmaccess.com).

3. www.kmaccess.com

We are pleased to announce the launch of our new, accessible website. You can use our website to:

- o Test your knowledge of accessible design and construction requirements with our "ADA Accessibility Test"
- o Find accessible and universal design information sources
- o Download our firm profile and resumes to include in proposals

The website was designed by Jon Sachs, whom we would highly recommend for his rare combination of expertise in design, business, and website construction: www.jonsachs.com.

Kessler McGuinness & Associates, LLC, is a nationally known firm that specializes in accessibility compliance planning through access audits, access master plans, architectural plan review, accessible design review protocols, training and resource development. We also serve as expert witnesses for plaintiffs and defendants. Clients include airports, commercial property owners, educational institutions, government agencies, architects, and attorneys.