

SWIMMING UPSTREAM –

Americans With Disabilities Act (ADA) Requirements For Swimming Pools

As of January 31, 2013, all existing pools located at “public accommodations” must meet ADA standards. This requires the installation of a fixed lift for the pool areas. This short article attempts to answer some of the frequently asked questions with regard to whether a pool is subject to the ADA requirements and what happens if the new standards are not met.

Who has to comply, and when? Generally, anyone with a pool made available to the public had to install a lift by January 31, 2013. This would include hotels and other



By John E. Haller

organizations such as athletic clubs. Some pools are generally not covered by the ADA such as those within privately owned apartment complexes, but these might be subject to the ADA Standards if they sell passes to non-residents to use the pool or rent the pool to the public. Apartment complexes have their own standards under the Fair Housing Act that must be met.

The hotel industry had been working with the Department of Justice to extend the deadline beyond January 31, 2013, but was unsuccessful. Whether the deadline will be



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extended is not something one can count on at this point. You should also be aware that tax credits are available with regard to the costs incurred.

What standards do I have to meet?

The requirements are set out in the 2010 ADA Standards for Accessible Design. A government document is available online to assist in answering frequently asked questions concerning the ADA Standards (http://www.ada.gov/qa_existingpools_titleIII.htm).

What should a hotel owner do?

You should get your pool in compliance with the standards as soon as possible. We know from talking with our clients that there is a backlog on installations of these mainly due to the fact that the installation is somewhat specialized because not all pool decking is the same. This means that there are not a large number of companies that can do the installation correctly. We have seen 60-75 days from placing the order until installation.

What can happen if I do not have the lift installed yet?

You can be sued. One of our clients was sued in Indiana recently because a pool lift had not been installed (it was thereafter installed). The same plaintiff who sued our client filed 20 other lawsuits against other hotels in the same area on the same day he sued our client. The suits all seek class action status and the recovery of the plaintiff’s attorney fees. If you are a Shumaker client and you are sued, you need to let us know as soon as possible. We expect that hundreds of lawsuits have been or will be filed in the very near future that are similar to the one involving our client.

What about a portable lifts?

If you purchased a complying lift before March 15, 2012, it might be acceptable. Otherwise, you need to install one if your pool falls under the definition of pools that need to be in compliance.

At Shumaker, we are familiar with these and other ADA issues. Please get in touch with your Shumaker contact and he or she will be able to get you in touch with the attorneys having expertise in this area.