



The Legal Landscape of Hospitality: Key Perspectives and Considerations

Part 2: ADA Title III Implications for Hotel and Lodging Businesses

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Seyfarth Shaw LLP

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Agenda

- 1 Do hotels have to provide lowered beds for guests with mobility disabilities?
- 2 What are the risks associated with using self-service kiosks that are not accessible to the blind?
- 3 What is the proper and compliant procedure for handling reservations for accessible rooms?
- 4 What do hotels need to know about website accessibility lawsuits?

Lowered Beds

- 2020-2024: 36 lawsuits alleging that hotels have overly high beds, in violation of ADA
- No standards in the 2010 Standards or regulations
- DOJ files Statement of Interest in *Migyanko v. Aimbridge* that hotels must provide “lowered” beds as a reasonable modification to normal policies, practice and procedures. Does not define “lowered” beds
- 4 decisions refusing to dismiss bed height cases
 - *Migyanko v. Aimbridge* (WDPA 2022)
 - *Eyler v. Liza* (WDPA 2022)
 - *Mullen v. Concord* (WDPA 2022)
 - *Benoit v. Forest* (WDLA 2023)

Lowered Beds

- State laws and 2017 ANSI further complicate matters by requiring space under bed for lifts in some accessible rooms with *varying requirements*
- Recommendation for beds in mobility accessible rooms:
 - open bed frame with at least 7” of under bed clearance
 - top height of mattress 21”-23” above the floor (can be achieved by replacing box spring with bunkie board)

Self-Service Kiosks

- Used for check in, convenience stores, ordering food
- Providing services using inaccessible self-service kiosks poses major liability risk;
- ***Davis v. Labcorp (C.D. 2024)*** – Ninth Circuit affirms certification of 2 classes of blind persons injured by inaccessible check-in kiosk; Petition for Cert. to be filed; case remanded to district court for further proceedings and court issued order for parties to file summary judgment motions;
- ***Vargas v. Quest Diagnostics (C.D. Cal 2023)*** – Court find after a trial that inaccessible check-in kiosk violates the ADA and issues limited injunction; Quest appealed, Vargas cross-appealed; Fee motion in excess of \$10M (lodestar method);
- Providing prompt employee assistance in lieu of accessible equipment may be acceptable but is high risk. Locate inaccessible kiosks in areas where there are employees trained to assist.

Handling Reservations for Accessible Rooms

Types of Complaints Filed with DOJ Concerning Lodging Industry	Risk Mitigation Steps
Guest does not get the accessible room they reserved upon check-in.	Review incoming accessible room reservations at least 14 days in advance and block rooms for the guest.
Hotel advertises higher rate (i.e. “surcharge”) for accessible rooms than for comparable non-accessible rooms	Review and ensure rates for accessible rooms are the same as for comparable non-accessible rooms
Some or all accessible rooms not shown on reservations system	Review and ensure all accessible rooms are on reservations system
Accessible rooms not available for loyalty redemption	Ensure that at least one mobility accessible room with roll-in shower and one hearing accessible room type is offered for loyalty redemption
Accessible rooms cannot be booked through OTAs	Ensure that all accessible rooms are being sent to major OTAs

Website Accessibility Lawsuits

- Websites and mobile apps must be accessible to people with disabilities under
 - WCAG 2.1 AA is the industry standard, but WC3 has issued version 2.2 has been issued.
 - Equal access is the legal question, not WCAG compliance
 - Most settlements in the \$10K-25K range
 - *Alcazar v. Fashionova* (NDCA) class action settlement (pending court approval)
 - \$5,150,000 damages fund
 - \$1,235,259.03 proposed fees/costs
 - Substantial compliance with WCAG 2.1 AA
- Include WCAG 2.1 AA compliance in contracts
- Add closed captioning for all videos
- Use accessibility tools on social media platforms (e.g. alt text).



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