Title III of the ADA: Overview of Architectural Requirements

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These slides provide an overview of the architectural provisions of Title III of the ADA. They are not meant to be a full recitation of the law – that would take way more slides than either of us have patience for. For homework, here are links to:

- the [statute](#);
- the Department of Justice [regulations](#); and
- the [1991](#) and [2010](#) DOJ Standards for Accessible Design
- the DOJ’s [Title III Technical Assistance Manual](#).

* I’m a lawyer; what did you expect?
Title III prohibits disability discrimination by "public accommodations"

- Restaurants, theaters, stores, professional offices. ([Full list.](#))
- Under the law, landlords and tenants both responsible.
- Requirements apply to
  - Physical premises
  - Communication
  - Policies
Buildings

• Built after 1/26/93: must comply with DOJ Standards for Accessible Design.

• Built before 1/26/93 but altered since: alterations must comply.

• Built before 1/26/93 but not altered: must remove barriers where “readily achievable.”
New Buildings

Must comply with the DOJ Standards. The Standards were revised in 2010. Here’s how to know which Standards apply:

<table>
<thead>
<tr>
<th>Built</th>
<th>Must comply with</th>
</tr>
</thead>
<tbody>
<tr>
<td>After 3/15/12</td>
<td>2010 Standards</td>
</tr>
<tr>
<td>Between 9/15/10 and 3/15/12</td>
<td>1991 or 2010 Standards</td>
</tr>
<tr>
<td>1/26/93 to 9/15/10</td>
<td>1991 Standards unless relevant 2010 Standard is lower</td>
</tr>
</tbody>
</table>
Alterations

• The altered area must comply with the Standards “to the maximum extent feasible.”

• If an area of primary function is altered, then the path of travel and amenities that serve that area must be brought into compliance if less than 20% of the total cost.
Area of Primary Function

- **Primary functions** are the major activities for which the facility is intended.
- Examples include:
  - the lobby of a bank;
  - the dining area of a cafeteria;
  - the meeting rooms in a conference center.
- Does not include alterations to windows, hardware, controls, electrical outlets, and signage.
Barrier Removal

• In buildings built before January 26, 1993, barriers must be removed where it is “readily achievable” to do so.

• **Readily achievable** considers:
  • The cost of barrier removal; and
  • The resources of the public accommodation.
Maintenance of Access

• Once the building is in compliance, the ADA requires that it be maintained that way.

• Exception for “isolated or temporary interruptions in service or access due to maintenance or repairs.”
Common Title III Myths

• **No building** is “grandfathered in.”
• **Approval by a building department does not constitute** compliance with ADA.
• It’s not OK to carry a person in lieu of a ramp.
• There is no “good faith” defense: access is mandatory.