

COMMISSIONERS
DOUG LITTLE – Chairman
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TOM FORESE
ANDY TOBIN



05635193

PATRICIA L. BARFIELD
Director
Corporations Division

ARIZONA CORPORATION COMMISSION

Date 08/29/2016

MAIN STREET REAL ESTATE GROUP LLC
637 E MAIN STREET
MESA, AZ 85203

Dear Sir or Madam:

Enclosed is a copy of the following document(s) that were served upon the Arizona Corporation Commission on 08/25/2016 as agent for MAIN STREET REAL ESTATE GROUP LLC :

Case caption: **ADVOCATES FOR INDIVIDUALS WITH DISABILITIES FOUNDATION INC. v. MAIN STREET REAL ESTATE GROUP LLC ,**
Case number: **CV2016-006791** Court: **MARICOPA COUNTY, SUPERIOR COURT**

- ☒ Summons
- ☒ Complaint
- ☐ Subpoena
- ☐ Subpoena Duces Tecum
- ☐ Default Judgment
- ☐ Judgment
- ☐ Writ of Garnishment
- ☐ Motion For Summary Judgment
- ☐ Motion for
- ☒ Other **CERTIFICATE OF ARBITRATION**

Sincerely,

A handwritten signature in black ink, appearing to read "Lynda B. Griffin".
Lynda B. Griffin
Custodian of Records

Initials **GM**

File number **L-1558719-5**

COMMISSIONERS
DOUG LITTLE – Chairman
BOB STUMP
BOB BURNS
TOM FORESE
ANDY TOBIN



JODI JERICH
Executive Director

PATRICIA L. BARFIELD
Director
Corporations Division

ARIZONA CORPORATION COMMISSION

CERTIFICATE OF MAILING

The undersigned person certifies the following facts:

On **08/25/2016**, **GEORGE MOYA**, an employee of the Arizona Corporation Commission ("ACC"), received on behalf of the ACC service of the following documents upon the ACC as agent for **MAIN STREET REAL ESTATE GROUP LLC**.

Case caption: **ADVOCATES FOR INDIVIDUALS WITH DISABILITIES FOUNDATION INC.**
v. **MAIN STREET REAL ESTATE GROUP LLC**,
Case number: **CV2016-006791**
Court: **MARICOPA COUNTY, SUPERIOR COURT**

- | | |
|---|--|
| <input checked="" type="checkbox"/> Summons | <input type="checkbox"/> Default Judgment |
| <input checked="" type="checkbox"/> Complaint | <input type="checkbox"/> Judgment |
| <input type="checkbox"/> Subpoena | <input type="checkbox"/> Writ of Garnishment |
| <input type="checkbox"/> Subpoena Duces Tecum | |
| <input type="checkbox"/> Motion For Summary Judgment | |
| <input type="checkbox"/> Motion for | |
| <input checked="" type="checkbox"/> Other CERTIFICATE OF ARBITRATION | |

On **08/29/2016**, the undersigned person placed a copy of the above listed documents in the United States Mail, postage prepaid, addressed to the entity at its last known place of business address, as follows:

MAIN STREET REAL ESTATE GROUP LLC
637 E MAIN STREET
MESA, AZ 85203

OR

The undersigned was unable to mail the above listed documents to

because that entity is not a registered corporation or limited liability company in the State of Arizona, and the Arizona Corporation Commission has no record of its known place of business.

I declare and certify under penalty of perjury that the foregoing is true and correct.

Printed name: **GEORGE MOYA**

Date: **08/29/2016**

Signature: _____

1 Peter Strojnik, State Bar No. 6464
2 **STROJNIK P.C.**
3 1 EAST WASHINGTON STREET, SUITE 500
4 PHOENIX, AZ 85004
5 (774) 768-2234
6 Attorney for Plaintiff
7 Case Specific Email Address:
8 637EMainSt@aadi.org
9 www.aid.org

10
11 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
12 **IN AND FOR THE COUNTY OF MARICOPA**

13 Advocates for Individuals with Disabilities,
14 Foundation, Inc.,

15 Plaintiff,

16 vs.

17 MAIN STREET REAL ESTATE GROUP
18 LLC

19 Defendants.

Case No: CV2016-006791

SUMMONS

IF YOU WANT THE ADVICE OF A LAWYER, YOU MAY
WISH TO CONTACT THE LAWYER REFERRAL SERVICE AT
602-257-4434 OR ONLINE AT WWW.LAWYERSFINDERS.ORG
LRS IS SPONSORED BY THE MARICOPA COUNTY
BAR ASSOCIATION.

20 **TO THE ABOVE NAMED DEFENDANT(S):**

21 **YOU ARE HEREBY SUMMONED** and required to appear and defend, within the time
22 applicable, in this action in this Court. If served within Arizona, you shall appear and
23 defend within 20 days after the service of the Summons and Complaint upon you,
24 exclusive of the day of service. If served out of the State of Arizona – whether by direct
25 mail, by registered or certified mail, or by publication – you shall appear and defend
26 within 30 days after the service of the Summons and Complaint upon you is complete,
27 exclusive of the day of service. When process is served upon the Arizona Director of
28 Insurance as an insurer's attorney to receive service of process against it in this State, the
insurer shall not be required to appear, answer or plead until the expiration of 40 days of
such service upon the Director. Service by registered or certified mail without the State
of Arizona is complete 30 days after the date of filing the receipt and affidavit of service
with the Court. Service by publication is complete 30 days after the date of first
publication. Direct service by mail is complete when made. Service upon the Arizona
Motor Vehicle Superintendent is complete 30 days after the Affidavit of Compliance and
return receipt of Officer's Return. RCP 4.1 and 4.2; A.R.S. §§ 20-222, 28-502, 28-503.

1 **YOU ARE HEREBY NOTIFIED** that in case of your failure to appear and defend
2 **within the time applicable, judgment by default may be rendered against you for the**
3 **relief demanded in the Complaint. YOU ARE CAUTIONED** that in order to appear
4 **and defend, you must file an Answer or proper response in writing with the Clerk**
5 **of the Court, accompanied by the necessary filing fee, within the time required, and**
6 **you are required to serve a copy of any Answer or Response upon Plaintiff's**
7 **attorney, or if Plaintiff is not represented by counsel, upon Plaintiff.**

8 A request for reasonable accommodations for persons with disabilities must be made to
9 the division assigned to the case by the parties at least three (3) days before the scheduled
10 court proceeding.

11 The name and address of Plaintiff is:

12 Advocates for Individuals with Disabilities Foundation, Inc.
13 40 North Central Avenue, Suite 1400
14 Phoenix, AZ 85004

15 SIGNED AND SEALED this date:

16 JUN - 9 2016



17 MICHAEL K. JEANES, CLERK

18 DEPUTY CLERK

19 Clerk of Court

1 Peter Strojnik, State Bar No. 6464
2 **STROJNIK P.C.**
3 1 EAST WASHINGTON STREET, SUITE 500
4 PHOENIX, AZ 85004
5 (774) 768-2234
6 Attorney for Plaintiff
7 Case Specific Email Address:
8 637EMainSt@aid.org

9 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
10 **IN AND FOR THE COUNTY OF MARICOPA**

11 ADVOCATES FOR INDIVIDUALS
12 WITH DISABILITIES FOUNDATION,
13 INC., a charitable non-profit foundation,

14 Plaintiff,

15 vs.

16 MAIN STREET REAL ESTATE GROUP
17 LLC;

18 Defendant.

Case No: CV2016-006791

**FIRST AMENDED
VERIFIED COMPLAINT**

19 Plaintiff alleges:

PARTIES

- 20 1. Plaintiff, Advocates for Individuals with Disabilities Foundation, Inc.
21 ("Foundation") is a non-profit charitable foundation and performs the functions of
22 a traditional association representing individuals with disabilities. See
23 www.aid.org.
24 2. Defendant, MAIN STREET REAL ESTATE GROUP LLC, owns and/or operates
25 a business located at 637 E Main St Mesa AZ 85203 which is a place of Public
26 Accommodation pursuant to 42 U.S.C. § 12181(7).

27 **INTRODUCTION**
28

Payment Details

Filing Type	General Civil - Superior Court
Jurisdiction	Maricopa - Superior Court
Form Set #	1878772
Case #	CV2016-006791
Keyword/Matter #	
Submission Name	Advocates For Individuals With Disabilities Founda
Transaction Date	07/28/2016 11:34 AM MST
Transaction #	0D028491AH612114Y
Payment Status	Paid
Paid By Credit Card	Visa Nickname: AID
Service	e-File

Provider Fee	\$ 6.00
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Total	\$ 6.00
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[Print Payment Details](#) [Close Window](#)

- 1 3. Plaintiff brings this action against Defendant, alleging violations of Title III of the
2 Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq., (the “ADA”) and its
3 implementing regulations and A.R.S. Title 41, Chapter 9, Article 8, §§41-1492 et
4 seq. and its implementing regulations, R10-3-401 et seq. (the “AzDA”)
- 5 4. Plaintiff is a charitable non-profit foundation. Plaintiff is known to have past,
6 present and future relationships or associations with individuals with disabilities as
7 defined in 28 CFR § 36.205. In connection with 28 CFR §36.205, and generally
8 relating to third-party standing, Plaintiff alleges:
- 9 a. Plaintiff has a close relationship with former, current and future disabled
10 individuals who are directly protected by the ADA as discrete and insular
11 minorities. *See, e.g., www.aid.org.*
 - 12 b. Plaintiff’s association with former, current and future disabled individuals
13 arises from Plaintiff’s charitable acts of giving to the disabled community,
14 which are interests that are germane to the association’s purpose.
 - 15 c. Plaintiff’s close relationship to the third party disabled individuals is such
16 that a third party disabled individuals cannot be reasonably expected to
17 properly frame the issues and present them with the necessary adversarial
18 zeal to the Court. Third party disabled individuals are hindered to litigate by
19 virtue of their status as minors and/or their lack of mobility and/or financial
20 resources.
 - 21 d. David Ritzenthaler is a member of the Foundation by virtue of being
22 President, Director and Chairman and suffers from disability as this term is
23 defined in A.R.S. §41-1492(6) and interpreted pursuant to A.R.S. §41-
24 1492.12.
 - 25 e. Because only injunctive and declaratory relief is requested, participation in
26 the action by individual disabled individuals is not required.
- 27 5. Plaintiff brings this civil rights action against Defendant for failing to design,
28 construct, and/or own or operate Public Accommodations that are fully accessible
to, and independently usable by, individuals with disabilities. Plaintiff seeks a
declaration that Defendant’s Public Accommodation violates federal and state law

1 and an injunction requiring Defendant to install means of access in compliance
2 with ADA requirements so that their facility is fully accessible to, and independent
3 usable by, individuals with disabilities. Plaintiff further requests that, given
4 Defendant's historical failure to comply with the ADA's mandate, the Court retain
5 jurisdiction of this matter for a period to be determined to ensure that Defendant
6 comes into compliance with the relevant requirements of the ADA and AzDAA,
7 and to ensure that Defendant has adopted and is following an institutional policy
8 that will, in fact, cause Defendant to remain in compliance with the law.

- 9 6. In compliance with R10-3-405(H)(1), Plaintiff's address is 40 North Central
10 Avenue, Suite 1400, Phoenix, Arizona 85004

11 JURISDICTION AND VENUE

- 12 7. This Court has original jurisdiction over the AzDA claims by virtue of A.R.S. §§ 12-
13 123 and 41-1492.8 and concurrent jurisdiction over the ADA claims by virtue of
14 A.R.S. § 12-123 and Article 6, Section 14(1) of the Arizona Constitution gives the
15 superior court original jurisdiction of "[c]ases and proceedings in which exclusive
16 jurisdiction is not vested by law in another court."

17 THE ADA AND ITS IMPLEMENTING REGULATIONS

- 18 8. On July 26, 1990, President George H.W. Bush signed into law the ADA, a
19 comprehensive civil rights law prohibiting discrimination on the basis of
20 disability.
21 9. The ADA broadly protects the rights of individuals with disabilities in
22 employment, access to State and local government services, places of Public
23 Accommodation, transportation, and other important areas of American life.
24 10. Title III of the ADA prohibits discrimination in the activities of places of Public
25 Accommodation and requires places of Public Accommodation to comply with
26 ADA standards and to be readily accessible, and independently usable by,
27 individuals with disabilities. 42 U.S.C. §§ 12181-89.
28 11. Title III states, inter alia, that "[i]t shall be discriminatory to afford an individual
or class of individuals, on the basis of a disability . . . with the opportunity to
participate in or benefit from a good, service, facility, privilege, advantage, or

1 accommodation that is not equal to that afforded to other individuals." See 42
2 U.S.C. §12182(b)(1)(A)(ii). In addition, §12182(b)(1)(A)(iii) and
3 §12182(b)(1)(B)] are intended to prohibit exclusion and segregation of individuals
4 with disabilities and the denial of equal opportunities enjoyed by others, based on,
5 among other things, presumptions, patronizing attitudes, fears, and stereotypes
6 about individuals with disabilities. 28 C.F.R. pt. 36, app. C (2011).

7 12. On July 26, 1991, the Department of Justice ("DOJ") issued rules implementing
8 Title III of the ADA, which are codified at 28 CFR Part 36.

9 13. Appendix A of the 1991 Title III regulations (republished as Appendix D to 28
10 CFR part 36) contains the ADA standards for Accessible Design (1991 Standards),
11 which were based upon the Americans with Disabilities Act Accessibility
12 Guidelines (1991 ADAAG) published by the Access Board on the same date.

13 14. In 1994, the Access Board began the process of updating the 1991 ADAAG by
14 establishing a committee composed of members of the design and construction
15 industries, the building code community, and State and local governmental
16 entities, as well as individuals with disabilities.

17 15. In 1999, based largely on the report and recommendations of the advisory
18 committee, the Access Board issued a notice of proposed rulemaking to update
19 and revise its ADA and ABA Accessibility Guidelines.

20 16. The Access Board issued final publication of revisions to the 1991 ADAAG on
21 July 23, 2004 ("2004 ADAAG").

22 17. On September 30, 2004, the DOJ issued an advanced notice of proposed
23 rulemaking to begin the process of adopting the 2004 ADAAG.

24 18. On June 17, 2008, the DOJ published a notice of proposed rulemaking covering
25 Title III of the ADA.

26 19. The long-contemplated revisions to the 1991 ADAAG culminated with the DOJ's
27 issuance of The 2010 Standards for Accessible Design ("2010 Standards"). The
28 DOJ published the Final Rule detailing the 2010 Standards on September 15,
2010. The 2010 Standards consist of the 2004 ADAAG and the requirements
contained in subpart D of 28 CFR part 36.

1 **THE AZDA AND ITS IMPLEMENTING REGULATIONS**

2 20. The AzDA and its implementing regulations, §§41-1492 et seq. and R10-3-401 et
3 seq. provide similar prohibitions and remedies to the ADA and its implementing
4 regulations.

5 **ALLEGATIONS COMMON TO ALL COUNTS**

6 21. Pursuant to CFR 36-302(1)(ii) and otherwise, on or about 3/17/2016, Plaintiff,
7 who is known to have a relationship or association with individuals with
8 disabilities and directed by David Ritzenthaler, an individual with disabilities,
9 conducted an investigation of Defendant's Public Accommodation for purposes
10 of ascertaining whether it complies with the ADA and AzDA. Plaintiff's
11 investigation confirmed that Defendant's Public Accommodation was not
12 accessible to individuals with disabilities in the following particulars:

- 13 1. Violation of the 2010 ADA Standards of Accessibility Design §§216.5 and
14 502.6 in that it fails to identify van parking spaces by the designation "van
15 accessible" and or fails to maintain the minimum height of 60 inches (1525 mm)
16 above the finish floor or ground surface measured to the bottom of the sign

17 Plaintiff has actual knowledge of at least one barrier related to third party disabled
18 individuals as indicated in the preceding allegation. Therefore, third party
19 individuals with disabilities, including current and future members of the
20 association are currently deterred from visiting Defendant's Public
21 Accommodation by accessibility barrier(s).

22 22. Without the presence of adequate and or accessible parking spaces, sufficient
23 designation or signage and or sufficient disbursement of such parking spaces, third
24 party individuals with disabilities, including members of the Foundation, are
25 prevented from equal enjoyment of the Defendant's Public Accommodation.

26 23. As a result of Defendant's non-compliance with the AzDA and the ADA, third
27 party individuals with disabilities, including members of the Foundation, are
28 deterred from visiting Defendant's Public Accommodation in the future unless and
 until all AzDA and ADA violations have been cured.

- 1 24. The existence of barriers deters third party individuals with disabilities, including
2 members of the Foundation, from conducting business or returning to Defendant's
3 Public Accommodation.
- 4 25. As a result of Defendant's non-compliance with the ADA and AzDA, third party
5 disabled individuals, including members of the Foundation, unlike persons
6 without disabilities, are denied equal access.
- 7 26. Plaintiff verified that Defendant's Public Accommodation lacks the mandatory
8 elements required by the 2010 Standards to make their facility fully accessible to
9 and independently usable by individuals with disabilities, including members of
10 the Foundation.
- 11 27. Plaintiff has a keen interest in whether Public Accommodations are fully
12 accessible to, and independently usable by, individuals with disabilities, including
13 members of the Foundation, specifically including an interest in ensuring that
14 parking spaces comply with the 2010 Standards.
- 15 28. Third party disabled individuals have been injured by Defendant's discriminatory
16 practices and failure to remove architectural barriers to equal access. These
17 injuries include being deterred from using Defendant's facilities due to the
18 inaccessibility and/or insufficient designation of appropriate parking .
- 19 29. Without injunctive relief, Plaintiff and individuals with disabilities, including
20 members of the Foundation, will continue to be denied equal access and unable to
21 independently use Defendant's Public Accommodation under ADA and AzDA.

22 **COUNT ONE**

23 **(Violation of Title III of ADA and Title 41 of AzDA)**

- 24 30. Plaintiff incorporates all allegations heretofore set forth.
- 25 31. Defendant has discriminated against third party individuals with disabilities,
26 including members of the Foundation, in that it has failed to make its Public
27 Accommodation fully accessible to, and independently usable by, individuals who
28 are disabled in violation of AzDA, Article 8, Chapter 10 of Title 41 of the Arizona
Revised Statutes, A.R.S. §§ 41-1492 *et seq.* and its implementing regulations,
R10-3-401 *et seq.* and the ADA, Title III of the Americans with Disabilities Act,

1 42 U.S.C. §§ 12101 et seq., and its implementing regulations 28 CFR §§ 36.101
2 et seq.

3 32. Defendant has discriminated against third party individuals with disabilities,
4 including members of the Foundation, in that it has failed to remove architectural
5 barriers to make its Public Accommodation fully accessible to, and independently
6 usable by individuals who are disabled in violation of the AzDA and the ADA
7 and, particularly, 42 U.S.C. §12182(b)(A)(iv) and Section 208.2 of the 2010
8 Standards, as described above. Compliance with the requirements of section 208.2
9 of the 2010 Standards would neither fundamentally alter the nature of Defendant's
Public Accommodation nor result in an undue burden to Defendant.

10 33. Compliance with AzDA and the ADA is readily achievable by the Defendant due
11 to the low costs. Readily achievable means that providing access is easily
12 accomplishable without significant difficulty or expense .

13 34. Conversely, the cessation of compliance with the ADA law is also readily
14 achievable by redrawing the parking spaces to its original configuration and or
15 changing signage back to the same. Therefore, injunctive relief should issue
16 irrespective of Defendant's potential voluntary cessation pursuant to the Supreme
17 Court's announcement in *Friends of the Earth* case⁹.

18 35. Defendant's conduct is ongoing, Plaintiff invokes Plaintiff's statutory right to
19 declaratory and injunctive relief, as well as costs and attorneys' fees, both pursuant
20 to statute and pursuant to the Private Attorney General doctrine .

21
22 ⁹ *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs., Inc.*, 528 U.S. 167, 189, 120 S.Ct.
23 693, 145 L.Ed.2d 610 (2000):

24 It is well settled that a defendant's voluntary cessation of a challenged practice does not
25 deprive a federal court of its power to determine the legality of the practice. If it did, the
26 courts would be compelled to leave the defendant free to return to his old ways. In
27 accordance with this principle, the standard we have announced for determining whether a
28 case has been mooted by the defendant's voluntary conduct is stringent: A case might
become moot if subsequent events made it absolutely clear that the allegedly wrongful
behavior could not reasonably be expected to recur. The heavy burden of persuading the
court that the challenged conduct cannot reasonably be expected to start up again lies with
the party asserting mootness.

1 36. Without the requested injunctive relief, specifically including the request that the
2 Court retain jurisdiction of this matter for a period to be determined after the
3 Defendant certifies that it is fully in compliance with the mandatory requirements
4 of the AzDA and ADA that are discussed above, Defendant's non-compliance
5 with the AzDA and ADA's mandatory requirements may be or are likely to recur.

6 **COUNT TWO**

7 **(Violation A.R.S. Title 41, Chapter 9, Article 8, §§41-1492 et seq. AND**
8 **Implementing Regulations)**

9 37. Plaintiff realleges all allegations heretofore set forth.

10 38. Plaintiff and third party individuals with disabilities, including members of the
11 Foundation, have been damaged and injured by the Defendant's non-compliance
12 with the AzDA.

13 39. Pursuant to A.R.S. § 41-1492.08, and §41-1492.09, Plaintiff has the right to
14 enforce the AzDA by the issuance of injunctive relief.

15 40. Pursuant to A.R.S. § 41-1492.08, Plaintiff is entitled to preventive and mandatory
16 relief.

17 41. Mandatory relief includes relief mandated by A.R.S. § 41-1492.09 obligating the
18 Office of the Attorney General to take actions specified therein.

19 42. Pursuant to A.R.S. § 41-1492.09(B)(2), Plaintiff is further entitled to such other
20 relief as the Court considers appropriate, including monetary damages in an
21 amount to be proven at trial, but in no event less than \$5,000.00.

22 43. Pursuant to A.R.S. § 41-1492.09(F), Plaintiff is entitled to attorney's fees and costs
23 in an amount proven but in no event less than \$5,000.00.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- 26 a. A Declaratory Judgment that at the commencement of this action Defendant
27 was in violation of the specific requirements of Title III of the ADA described
28 above, and the relevant implementing regulations of the ADA, in that
Defendant took no action that was reasonably calculated to ensure that its

1 Public Accommodation was fully accessible to, and independently usable by,
2 individuals with disabilities;

- 3 b. Irrespective of Defendants "voluntary cessation" of the ADA violation, if
4 applicable, a permanent injunction pursuant to 42 U.S.C. § 12188(a)(2) and
5 28 CFR § 36.504(a), which directs Defendant to take all steps necessary to
6 bring its Public Accommodation into full compliance with the requirements
7 set forth in the ADA and its implementing regulations, so that the facility is
8 fully accessible to, and independently usable by, individuals with disabilities,
9 including members of the Foundation, specifically Sections 208.2 of the 2010
10 Standards, and which further directs that the Court shall retain jurisdiction
11 for a period to be determined after Defendant certifies that its facility is fully
12 in compliance with the relevant requirements of the ADA to ensure that
13 Defendant has adopted and is following an institutional policy that will in
14 fact cause Defendant to remain fully in compliance with the law;
- 15 c. Irrespective of Defendants "voluntary cessation" of the ADA violation, if
16 applicable, payment of costs of suit, expenses of suit and attorney's fees;
- 17 d. Order closure of the Defendant's place of Public Accommodation until
18 Defendant has fully complied with the ADA and AzDA;
- 19 e. A Declaratory Judgment that at the commencement of this action Defendant
20 was in violation of the specific requirements of AzDA;
- 21 f. Irrespective of Defendants "voluntary cessation" of the ADA violation, if
22 applicable, a permanent injunction pursuant to AzDA which directs
23 Defendant to take all steps necessary to bring its facility into full compliance
24 with the requirements set forth in the AzDA, and its implementing
25 regulations, so that the facility is fully accessible to, and independently
26 usable by individuals with disabilities, including members of the Foundation,
27 specifically including ensuring parking spaces comply with the 2010
28 Standards as required by law, and which further directs that the Court shall
retain jurisdiction for a period to be determined after Defendant certifies that
its facility is fully in compliance with the relevant requirements of the AzDA

- 1 to ensure that Defendant has adopted and is following an institutional policy
2 that will in fact cause Defendant to remain fully in compliance with the law;
3 g. For damages authorized by § 41-1492.09(B)(2) in an amount no less than
4 \$5,000.00;
5 h. Irrespective of Defendants "voluntary cessation" of the ADA violation, if
6 applicable, payment of attorneys' fees pursuant to 42 U.S.C. § 12205, 28
7 CFR § 36.505 and A.R.S. § 41-1492.09(F) and other principles of law and
8 equity and in compliance with the "prevailing party" and "material
9 alteration" of the parties' relationship doctrines¹⁰ in an amount no less than
10 \$5,000.00; and,
11 i. The provision of whatever other relief the Court deems just, equitable and
12 appropriate.

13 **DEMAND FOR JURY TRIAL**

14 Pursuant to Rule 38 of the Arizona Rules of Civil Procedure, Plaintiff
15 hereby demands a jury trial on issues triable by a jury.

16 RESPECTFULLY SUBMITTED this Friday, July 22, 2016.

17 **STROJNIK P.C.**

18 /s/ Peter Strojnik
19 Peter Strojnik (6464)
20 Attorney for Plaintiff

21 **VERIFICATION COMPLIANT WITH R10-3-405**

22 I declare under penalty of perjury that the foregoing is true and correct.

23 DATED this Friday, July 22, 2016.

24 /s/ David Ritzenthaler

25 By: David Ritzenthaler, Director
26 Advocates for Individuals with Disabilities Foundation, Inc.

27 ¹⁰ As applicable to ADA cases, see *Coppi v. City of Dana Point*, Case No. SACV 11-1813 JGB (RNBx)
28 (February, 2015)

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EXHIBIT 1



Americans with Disabilities Act

ADA Business BRIEF:

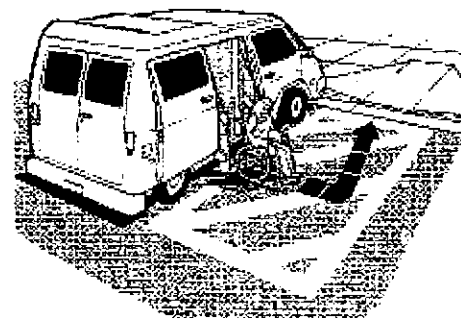
Restriping Parking Lots

Accessible Parking Spaces

When a business restripes a parking lot, it must provide accessible parking spaces as required by the ADA Standards for Accessible Design.

In addition, businesses or privately owned facilities that provide goods or services to the public have a continuing ADA obligation to remove barriers to access in existing parking lots when it is readily achievable to do so. Because restriping is relatively inexpensive, it is readily achievable in most cases.

This ADA Business Brief provides key information about how to create accessible car and van spaces and how many spaces to provide when parking lots are restriped.



One of eight accessible parking spaces, but always at least one, must be van accessible.

Accessible Parking Spaces for Cars

Accessible parking spaces for cars have at least a 60-inch-wide access aisle located adjacent to the designated parking space. The access aisle is just wide enough to permit a person using a wheelchair to enter or exit the car. These parking spaces are identified with a sign and located on level ground.

Van-Accessible Parking Spaces

Van-accessible parking spaces are the same as accessible parking spaces for cars except for three features needed for vans:

- a wider access aisle (96") to accommodate a wheelchair lift;
- vertical clearance to accommodate van height at the van parking space, the adjacent access aisle, and on the vehicular route to and from the van-accessible space, and
- an additional sign that identifies the parking spaces as "van accessible."

Minimum Number of Accessible Parking Spaces
ADA Standards for Accessible Design 4.1.2 (5)

Total Number of Parking Spaces Provided (per lot)	Total Minimum Number of Accessible Parking Spaces (60" & 96" aisles)	Van-Accessible Parking Spaces with min. 96" wide access aisle	Accessible Parking Spaces with min. 60" wide access aisle
Column A			
1 to 25	1	1	0
26 to 50	2	1	1
51 to 75	3	1	2
76 to 100	4	1	3
101 to 150	5	1	4
151 to 200	6	1	5
201 to 300	7	1	6
301 to 400	8	1	7
401 to 500	9	2	7
501 to 1000	2% of total parking provided in each lot	1/8 of Column A*	7/8 of Column A**
1001 and over	20 plus 1 for each 100 over 1000	1/8 of Column A*	7/8 of Column A**

* one out of every 8 accessible spaces

** 7 out of every 8 accessible parking spaces

Location

Accessible parking spaces must be located on the shortest accessible route of travel to an accessible facility entrance. Where buildings have multiple accessible entrances with adjacent parking, the accessible parking spaces must be dispersed and located closest to the accessible entrances.

When accessible parking spaces are added in an existing parking lot, locate the spaces on the most level ground close to the accessible entrance. An accessible route must always be provided from the accessible parking to the accessible entrance. An accessible route never has curbs or stairs, must be at least 3-feet wide, and has a firm, stable, slip-resistant surface. The slope along the accessible route should not be greater than 1:12 in the direction of travel.

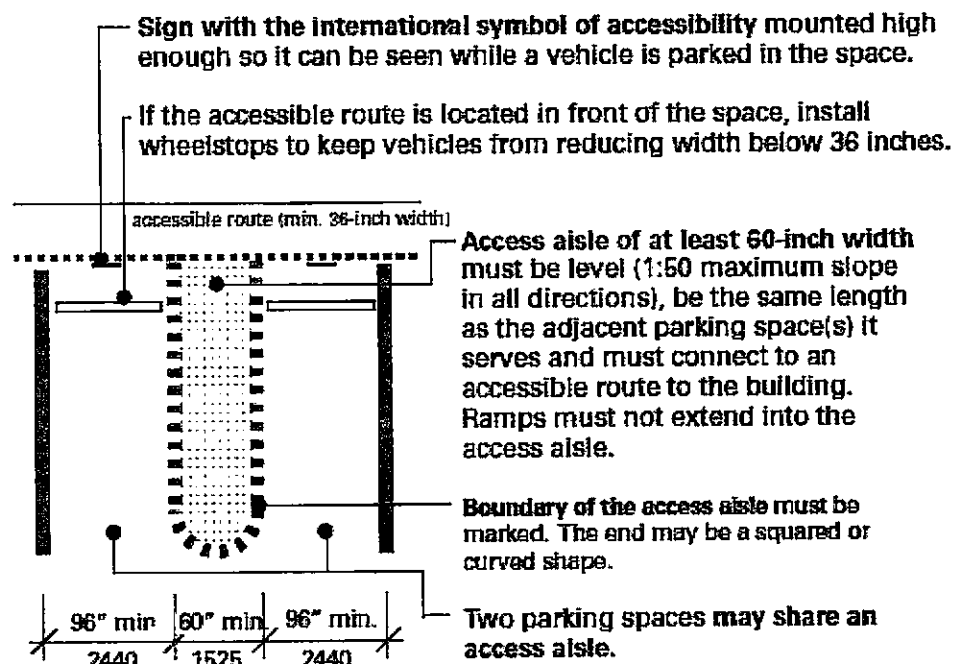
Accessible parking spaces may be clustered in one or more lots if equivalent or greater accessibility is provided in terms of distance from the accessible entrance, parking fees, and convenience. Van-accessible parking spaces located in parking garages may be clustered on one floor (to accommodate the 98-inch minimum vertical height requirement).

Free Technical Assistance

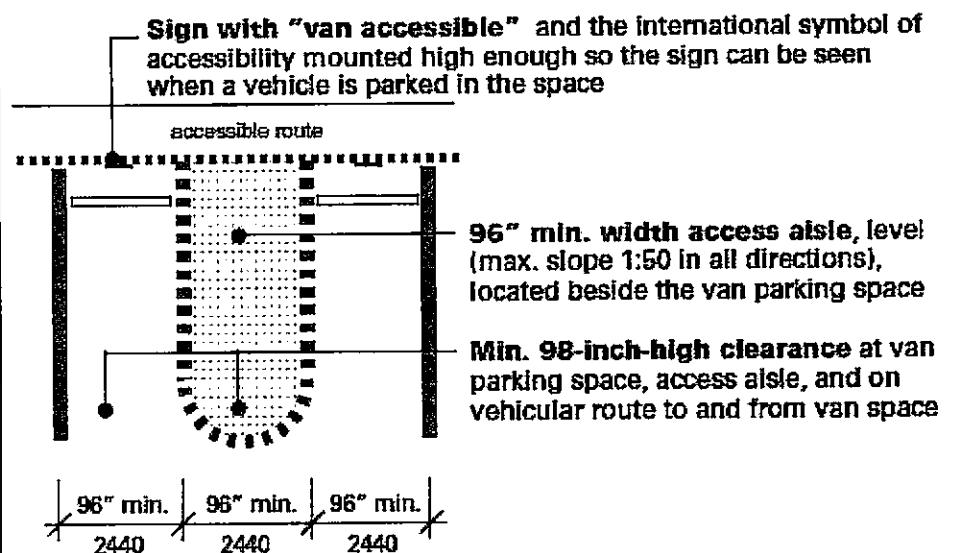
Answers to technical and general questions about restriping parking lots or other ADA requirements are available by telephone on weekdays. You may also order the ADA Standards for Accessible Design and other ADA publications, including regulations for private businesses, at any time day or night. Information about ADA-related IRS tax credits and deductions is also available from the ADA Information Line.

Department of Justice
ADA Information Line
800-514-0301 (voice)
800-514-0383 (TTY)

Features of Accessible Parking Spaces for Cars



Three Additional Features for Van-Accessible Parking Spaces



ADA Website and ADA Business Connection

You may also view or download ADA information on the Department's ADA website at any time. The site provides access to the ADA Business Connection and the ADA design standards, ADA regulations, ADA policy letters, technical assistance materials, and general ADA information. It also provides links to other Federal agencies, and updates on new ADA requirements and enforcement efforts. www.usdoj.gov/crt/ada/adahom1.htm

Reference:

ADA Standards for Accessible Design (28 CFR Part 36):
§ 4.1.6 Alterations; § 4.1.2 Accessible Sites and Exterior Facilities: New Construction; § 4.6.1 Parking and Passenger Loading Zones, and
§ 4.3 Accessible Route.

Duplication is encouraged.

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EXHIBIT 2

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U.S. Department of Justice

Civil Rights Division

Disability Rights Section



Americans with Disabilities Act

ADA Compliance BRIEF:

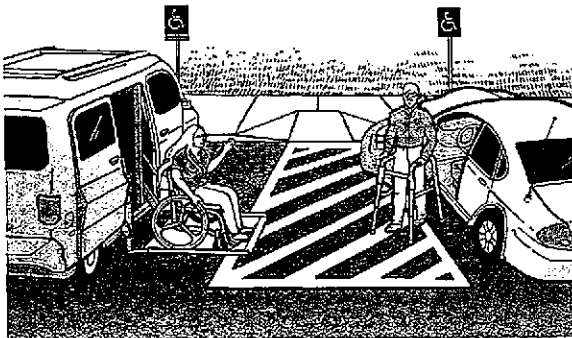
Restriping Parking Spaces

Accessible Parking Spaces

When a business or State or local government restripes parking spaces in a parking lot or parking structure (parking facilities), it must provide accessible parking spaces as required by the 2010 ADA Standards for Accessible Design (2010 Standards).

In addition, businesses or privately owned facilities that provide goods or services to the public have a continuing ADA obligation to remove barriers to access in existing parking facilities when it is readily achievable to do so. Because restriping is relatively inexpensive, it is readily achievable in most cases. State and local government facilities also have an ongoing ADA obligation to make their programs accessible, which can require providing accessible parking.

This compliance brief provides information about the features of accessible car and van parking spaces and how many accessible spaces are required when parking facilities are restriped.



One of six accessible parking spaces, but always at least one, must be van-accessible.

The required number of accessible parking spaces must be calculated separately for each parking facility, not calculated based on the total number of parking spaces provided on a site. One of six (or fraction of six) accessible parking spaces, but always at least one, must be van accessible.

Parking for hospital outpatient facilities, rehabilitation facilities, outpatient physical therapy facilities or residential facilities have substantially different requirements for accessibility (see 2010 Standards 208.2).

**Minimum Number of Accessible Parking Spaces
2010 Standards (208.2)**

Total Number of Parking Spaces Provided in Parking Facility (per facility)	(Column A) Minimum Number of Accessible Parking Spaces (car and van)	Minimum Number of Van-Accessible Parking Spaces (1 of six accessible spaces)
1 to 25	1	1
26 to 50	2	1
51 to 75	3	1
76 to 100	4	1
101 to 150	5	1
151 to 200	6	1
201 to 300	7	2
301 to 400	8	2
401 to 500	9	2
500 to 1000	2% of total parking provided in each lot or structure	1/6 of Column A*
1001 and over	20 plus 1 for each 100 over 1000	1/6 of Column A*

*one out of every 6 accessible spaces

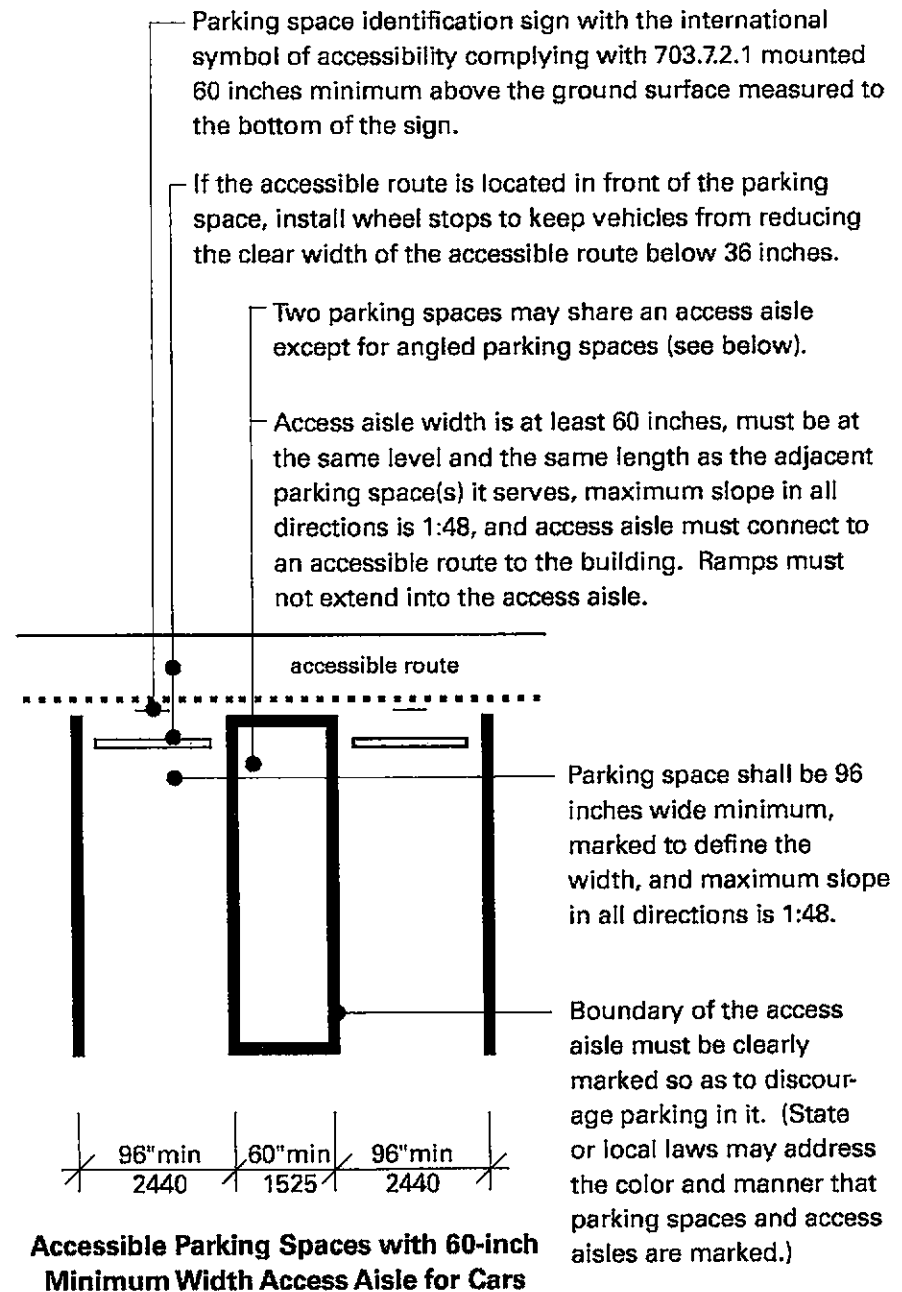
Location

Accessible parking spaces must be located on the shortest accessible route of travel to an accessible facility entrance. Where buildings have multiple accessible entrances with adjacent parking, the accessible parking spaces must be dispersed and located closest to the accessible entrances.

When accessible parking spaces are added in an existing parking lot or structure, locate the spaces on the most level ground close to the accessible entrance. An accessible route must always be provided from the accessible parking to the accessible entrance. An accessible route never has curbs or stairs, must be at least 3 feet wide, and has a firm, stable, slip-resistant surface. The slope along the accessible route should not be greater than 1:12 in the direction of travel.

Accessible parking spaces may be clustered in one or more facilities if equivalent or greater accessibility is provided in terms of distance from the accessible entrance, parking fees, and convenience. Van-accessible parking spaces located in parking garages may be clustered on one floor (to accommodate the 98-inch minimum vertical height requirement).

Features of Accessible Parking Spaces



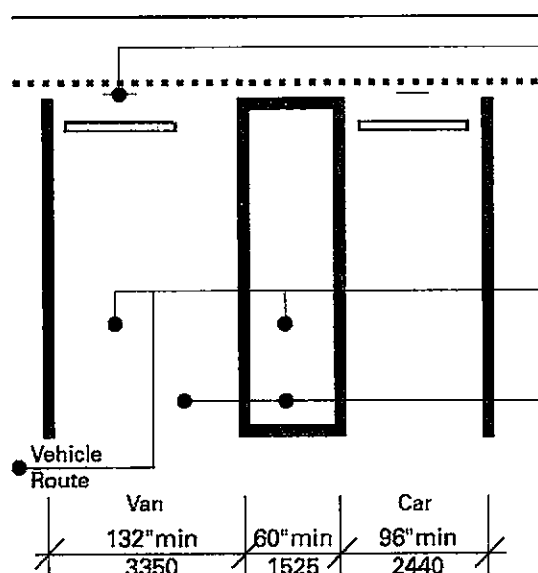
Additional Notes:

Where parking spaces are marked with lines, width measurements of parking spaces and access aisles are to centerlines, except for the end space which may include the full width of the line.

Access aisles may be located on either side of the parking space except for angled van parking spaces which must have access aisles located on the passenger side of the parking spaces.

Additional Features of Van-Accessible Parking Spaces

Van-accessible parking spaces incorporate the features of accessible parking spaces on the previous page and require the following additional features: a "van accessible" designation on the sign; different widths for the van parking space or the access aisle; and at least 98 inches of vertical clearance for the van parking space, access aisle, and vehicular route to and from the van-accessible space. The first image below shows a van-accessible space with a 60-inch minimum width access aisle. The second image shows a van-accessible space with a 96-inch minimum width access aisle. Both configurations are permitted and requirements for van-accessible signage and vertical clearance apply to both configurations.

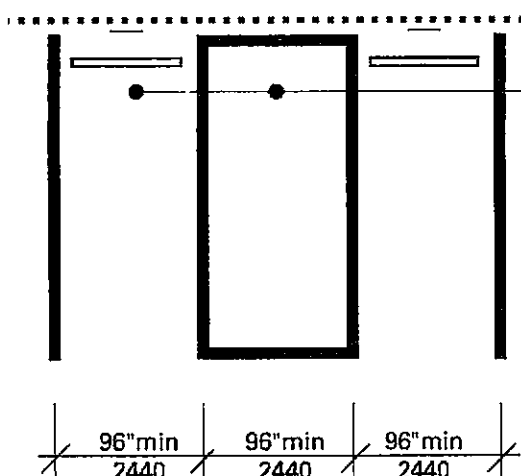


Van-Accessible Parking Space with 60-inch Minimum Width Access Aisle

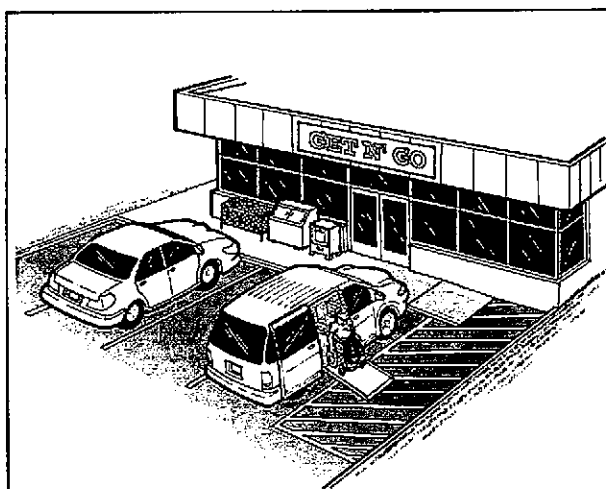
Parking space identification sign with the international symbol of accessibility and designation, "van accessible." Note, where four or fewer parking spaces are provided on a site, a sign identifying the accessible space, which must be van-accessible, is not required.

Vertical clearance of 98 inches minimum to accommodate van height at the vehicle parking space, the adjacent access aisle, and on the vehicular route to and from the van-accessible space.

Van parking space must be 132 inches wide minimum with an adjacent 60-inch wide minimum access aisle. A van parking space of 96 inches wide minimum with an adjacent 96-inch wide minimum access aisle is also permitted (see below).



Van-Accessible Parking Space with 96-inch Minimum Width Access Aisle



Where four or fewer parking spaces are provided on a site, signage identifying the van-accessible parking space is not required.

COPY

JUN - 9 2016



MICHAEL K. JEANES, CLERK
DEPUTY CLERK

Peter Strojnik, State Bar No. 6464
STROJNIK P.C.
1 EAST WASHINGTON STREET, SUITE 500
PHOENIX, AZ 85004
(774) 768-2234
Attorney for Plaintiff
Case Specific Email Address:
637EMainSt@aadi.org
www.aid.org

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

ADVOCATES FOR INDIVIDUALS
WITH DISABILITIES FOUNDATION,
INC., a charitable non-profit foundation,

Plaintiff,

vs.

MAIN STREET REAL ESTATE GROUP
LLC;

Defendant.

Case No: CV2016-006791

VERIFIED COMPLAINT

Plaintiff alleges:

PARTIES

47. Plaintiff, Advocates for Individuals with Disabilities Foundation, Inc. ("Foundation") is a non-profit charitable foundation. See www.aid.org.

48. Defendant, MAIN STREET REAL ESTATE GROUP LLC, owns and/or operates a business located at 637 E Main St Mesa AZ 85203 which is a place of public accommodation pursuant to 42 U.S.C. § 12181(7)(A) which offers public lodging services.

INTRODUCTION

1 49. Plaintiff brings this action against Defendant, alleging violations of Title III of the
2 Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq., (the "ADA") and its
3 implementing regulations and A.R.S. Title 41, Chapter 9, Article 8, §§41-1492 et
4 seq. and its implementing regulations, R10-3-401 et seq. (the "AzDA")

5 50. Plaintiff is a charitable non-profit foundation. Plaintiff is known to have past,
6 present and future relationships or associations with individuals with disabilities as
7 defined in 28 CFR § 36.205. In connection with 28 CFR §36.205, and generally
8 relating to third-party standing, Plaintiff alleges:

- 9 a. Plaintiff has a close relationship with former, current and future disabled
10 individuals who are directly protected by the ADA as discrete and insular
11 minorities. *See, e.g., www.aid.org.*
- 12 b. Plaintiff's association with former, current and future disabled individuals
13 arises from Plaintiff's charitable acts of giving to the disabled community,
14 which are interests that are germane to the association's purpose.
- 15 c. Plaintiff's close relationship to the third party disabled individuals is such
16 that a third party disabled individuals cannot be reasonably expected to
17 properly frame the issues and present them with the necessary adversarial
18 zeal to the Court. Third party disabled individuals are hindered to litigate by
19 virtue of their status as minors and/or their lack of mobility and/or financial
20 resources.
- 21 d. Because only injunctive and declaratory relief is requested, participation in
22 the action by individual disabled individuals is not required.

23 51. Plaintiff brings this civil rights action against Defendant for failing to design,
24 construct, and/or own or operate public accommodations that are fully accessible
25 to, and independently usable by, disabled people. Plaintiff seeks a declaration that
26 Defendant's public accommodation violates federal law and an injunction
27 requiring Defendant to install means of access in compliance with ADA
28 requirements so that their facility is fully accessible to, and independent usable by,
disabled individuals. Plaintiff further requests that, given Defendant's historical
failure to comply with the ADA's mandate, the Court retain jurisdiction of this

1 matter for a period to be determined to ensure that Defendant comes into
2 compliance with the relevant requirements of the ADA, and to ensure that
3 Defendant has adopted and is following an institutional policy that will, in fact,
4 cause Defendant to remain in compliance with the law.

5 52. In compliance with R10-3-405(H)(1), Plaintiff's address is 40 North Central
6 Avenue, Suite 1400, Phoenix, Arizona 85004

7 JURISDICTION AND VENUE

8 53. Jurisdiction in this Court is proper pursuant to 28 U.S.C. §§ 1331 and 42 U.S.C. §
9 12188.

10 54. Plaintiff's claims asserted herein arose in this judicial district and Defendant does
11 substantial business in this judicial district.

12 55. Venue in this judicial district is proper under 28 U.S.C. § 1391(b) and (c) in that
13 this is the judicial district in which a substantial part of the acts and omissions
14 giving rise to the claims occurred.

15 THE ADA AND ITS IMPLEMENTING REGULATIONS

16 56. On July 26, 1990, President George H.W. Bush signed into law the ADA, a
17 comprehensive civil rights law prohibiting discrimination on the basis of
18 disability.

19 57. The ADA broadly protects the rights of individuals with disabilities in
20 employment, access to State and local government services, places of public
21 accommodation, transportation, and other important areas of American life.

22 58. Title III of the ADA prohibits discrimination in the activities of places of public
23 accommodation and requires places of public accommodation to comply with
24 ADA standards and to be readily accessible, and independently usable by,
25 individuals with disabilities. 42 U.S.C. §§ 12181-89.

26 59. Title III states, inter alia, that "[i]t shall be discriminatory to afford an individual
27 or class of individuals, on the basis of a disability . . . with the opportunity to
28 participate in or benefit from a good, service, facility, privilege, advantage, or
accommodation that is not equal to that afforded to other individuals." See 42
U.S.C. §12182(b)(1)(A)(ii). In addition, §12182(b)(1)(A)(iii) and

1 §12182(b)(1)(B)] are intended to prohibit exclusion and segregation of individuals
2 with disabilities and the denial of equal opportunities enjoyed by others, based on,
3 among other things, presumptions, patronizing attitudes, fears, and stereotypes
4 about individuals with disabilities. 28 C.F.R. pt. 36, app. C (2011).

5 60. On July 26, 1991, the Department of Justice ("DOJ") issued rules implementing
6 Title III of the ADA, which are codified at 28 CFR Part 36.

7 61. Appendix A of the 1991 Title III regulations (republished as Appendix D to 28
8 CFR part 36) contains the ADA standards for Accessible Design (1991 Standards),
9 which were based upon the Americans with Disabilities Act Accessibility
10 Guidelines (1991 ADAAG) published by the Access Board on the same date.

11 62. In 1994, the Access Board began the process of updating the 1991 ADAAG by
12 establishing a committee composed of members of the design and construction
13 industries, the building code community, and State and local governmental
14 entities, as well as individuals with disabilities.

15 63. In 1999, based largely on the report and recommendations of the advisory
16 committee, the Access Board issued a notice of proposed rulemaking to update
17 and revise its ADA and ABA Accessibility Guidelines.

18 64. The Access Board issued final publication of revisions to the 1991 ADAAG on
19 July 23, 2004 ("2004 ADAAG").

20 65. On September 30, 2004, the DOJ issued an advanced notice of proposed
21 rulemaking to begin the process of adopting the 2004 ADAAG.

22 66. On June 17, 2008, the DOJ published a notice of proposed rulemaking covering
23 Title III of the ADA.

24 67. The long-contemplated revisions to the 1991 ADAAG culminated with the DOJ's
25 issuance of The 2010 Standards for Accessible Design ("2010 Standards"). The
26 DOJ published the Final Rule detailing the 2010 Standards on September 15,
27 2010. The 2010 Standards consist of the 2004 ADAAG and the requirements
28 contained in subpart D of 28 CFR part 36.

THE AzDA AND ITS IMPLEMENTING REGULATIONS

1 68. The AzDA and its implementing regulations, §§41-1492 et seq. and R10-3-401 et
2 seq. provide similar prohibitions and remedies to the ADA and its implementing
3 regulations.

4 **ALLEGATIONS COMMON TO ALL COUNTS**

5 69. Pursuant to CFR 36-302(1)(ii) and otherwise, on or about 3/17/2016, Plaintiff,
6 who is known to have a relationship or association with individuals with
7 disabilities, conducted an investigation into Defendant's public accommodation
8 for purposes of ascertaining whether it complies with the ADA. Plaintiff's
9 investigation confirmed that Defendant's public accommodation was not
accessible to individuals with disabilities in the following particulars:

10 1. Violation of the 2010 ADA Standards of Accessibility Design §§216.5 and
11 502.6 in that it fails to identify van parking spaces by the designation "van accessible"
12 and or fails to maintain the minimum height of 60 inches (1525 mm) above the finish
13 floor

14 Plaintiff has actual knowledge of at least one barrier related to third party disabled
15 individuals as indicated in the preceding allegation. Therefore, third party
16 individuals with disabilities are currently deterred from visiting Defendant's
17 public accommodation by accessibility barrier(s). Upon information and belief,
18 there are other potential violations and barriers to entry that will be discovered and
disclosed during the discovery and disclosure process.

19 70. Without the presence of adequate handicapped parking spaces, sufficient
20 designation or signage and or sufficient disbursement of such parking spaces, third
21 party individuals with disabilities are prevented from equal enjoyment of the
22 Defendant's Public Accommodation.

23 71. As a result of Defendant's non-compliance with the AzDA and the ADA, third
24 party individuals with disabilities will avoid and not visit Defendant's Public
25 Accommodation in the future unless and until all AzDA and ADA violations have
26 been cured.

27 72. The existence of barriers deters third party individuals with disabilities from
28 conducting business or returning to Defendant's Public Accommodation. Upon

1 information and belief, other disabled persons are also deterred from visiting there
2 or otherwise precluded from frequenting Defendant's Public Accommodation due
3 to its non-compliance with the AzDA and the ADA .

4 73. As a result of Defendant's non-compliance with the ADA, third party disabled
5 individuals, unlike persons without disabilities, are denied equal access.

6 74. Upon information and belief, though Defendant may have centralized policies
7 regarding the management and operating of its hotel, Defendant does not have a
8 plan or policy that is reasonably calculated to make its entire facility fully
9 accessible to and independently usable by, disabled people.

10 75. Plaintiff verified that Defendant's Public Accommodation lacks the mandatory
11 elements required by the 2010 Standards to make their facility fully accessible to
12 and independently usable by disabled people.

13 76. Plaintiff has a keen interest in whether public accommodations are fully accessible
14 to, and independently usable by, individuals with disabilities, specifically
15 including an interest in ensuring that parking spaces comply with the 2010
16 Standards.

17 77. Third party disabled individuals have been injured by Defendant's discriminatory
18 practices and failure to remove architectural barriers to equal access. These
19 injuries include being deterred from using Defendant's facilities due to the
20 inaccessibility and/or insufficient designation of appropriate parking .

21 78. Without injunctive relief, Plaintiff and others will continue to be unable to
22 independently use Defendant's Public Accommodation under ADA and AzDA.

23 **COUNT ONE**
24 **(Violation of Title III of ADA)**

25 79. Plaintiff incorporates all allegations heretofore set forth.

26 80. Defendant has discriminated against third party disabled individuals and others in
27 that it has failed to make its public accommodation fully accessible to, and
28 independently usable by, individuals who are disabled in violation of AzDA,
Article 8, Chapter 10 of Title 41 of the Arizona Revised Statutes, A.R.S. §§ 41-
1492 *et seq.* and its implementing regulations, R10-3-401 *et seq.* and the ADA,

1 Title III of the Americans with Disabilities Act, 42 U.S.C. §§ 12101 et seq., and
2 its implementing regulations 28 CFR §§ 36.101 et seq.

3 81. Defendant has discriminated against third party disabled individuals in that it has
4 failed to remove architectural barriers to make its Public Accommodation fully
5 accessible to, and independently usable by individuals who are disabled in
6 violation of the AzDA and the ADA and, particularly, 42 U.S.C. §12182(b)(A)(iv)
7 and Section 208.2 of the 2010 Standards, as described above. Compliance with the
8 requirements of section 208.2 of the 2010 Standards would neither fundamentally
9 alter the nature of Defendant's Public Accommodation nor result in an undue
burden to Defendant.

10 82. Compliance with AzDA and the ADA is readily achievable by the Defendant due
11 to the low costs. Readily achievable means that providing access is easily
12 accomplishable without significant difficulty or expense .

13 83. Conversely, the cessation of compliance with the ADA law is also readily
14 achievable by redrawing the parking spaces to its original configuration and or
15 changing signage back to the same. Therefore, injunctive relief should issue
16 irrespective of Defendant's potential voluntary cessation pursuant to the Supreme
17 Court's announcement in *Friends of the Earth* case³.

18 84. Defendant's conduct is ongoing, Plaintiff invokes Plaintiff's statutory right to
19 declaratory and injunctive relief, as well as costs and attorneys' fees, both pursuant
20 to statute and pursuant to the Private Attorney General doctrine .

21
22 ³ *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs., Inc.*, 528 U.S. 167, 189, 120 S.Ct.
23 693, 145 L.Ed.2d 610 (2000):

24 It is well settled that a defendant's voluntary cessation of a challenged practice does not
25 deprive a federal court of its power to determine the legality of the practice. If it did, the
26 courts would be compelled to leave the defendant free to return to his old ways. In
27 accordance with this principle, the standard we have announced for determining whether a
28 case has been mooted by the defendant's voluntary conduct is stringent: A case might
become moot if subsequent events made it absolutely clear that the allegedly wrongful
behavior could not reasonably be expected to recur. The heavy burden of persuading the
court that the challenged conduct cannot reasonably be expected to start up again lies with
the party asserting mootness.

1 85. Without the requested injunctive relief, specifically including the request that the
2 Court retain jurisdiction of this matter for a period to be determined after the
3 Defendant certifies that it is fully in compliance with the mandatory requirements
4 of the AzDA and ADA that are discussed above, Defendant's non-compliance
5 with the AzDA and ADA' mandatory requirements may be or are likely to recur.

6 **COUNT TWO**

7 **(Violation A.R.S. Title 41, Chapter 9, Article 8, §§41-1492 et seq. AND**
8 **Implementing Regulations)**

9 86. Plaintiff realleges all allegations heretofore set forth.

10 87. Plaintiff has been damaged and injured by the Defendant's non-compliance with
11 the AzDA.

12 88. Pursuant to A.R.S. § 41-1492.08, and §41-1492.09, plaintiff has the right to
13 enforce the AzDA by the issuance of injunctive relief.

14 89. Pursuant to A.R.S. § 41-1492.08, Plaintiff is entitled to preventive and mandatory
15 relief.

16 90. Mandatory relief includes relief mandated by A.R.S. § 41-1492.09 obligating the
17 Office of the Attorney General to take actions specified therein.

18 91. Pursuant to A.R.S. § 41-1492.09(B)(2), Plaintiff is further entitled to such other
19 relief as the Court considers appropriate, including monetary damages in an
20 amount to be proven at trial, but in no event less than \$5,000.00.

21 92. Pursuant to A.R.S. § 41-1492.09(F), Plaintiff is entitled to attorney's fees and costs
22 in an amount proven but in no event less than \$5,000.00.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- 25 j. A Declaratory Judgment that at the commencement of this action Defendant
26 was in violation of the specific requirements of Title III of the ADA described
27 above, and the relevant implementing regulations of the ADA, in that
28 Defendant took no action that was reasonably calculated to ensure that its
Public Accommodation was fully accessible to, and independently usable by,
individuals with disabilities ;

- 1 k. Irrespective of Defendants "voluntary cessation" of the ADA violation, if
2 applicable, a permanent injunction pursuant to 42 U.S.C. § 12188(a)(2) and
3 28 CFR § 36.504(a) which directs Defendant to take all steps necessary to
4 bring its public accommodation into full compliance with the requirements
5 set forth in the ADA and its implementing regulations, so that the facility is
6 fully accessible to, and independently usable by, disabled individuals,
7 specifically Sections 208.2 of the 2010 Standards, and which further directs
8 that the Court shall retain jurisdiction for a period to be determined after
9 Defendant certifies that its facility is fully in compliance with the relevant
10 requirements of the ADA to ensure that Defendant has adopted and is
11 following an institutional policy that will in fact cause Defendant to remain
12 fully in compliance with the law;
- 13 l. Irrespective of Defendants "voluntary cessation" of the ADA violation, if
14 applicable, payment of costs of suit, expenses of suit and attorney's fees;
- 15 m. Order closure of the Defendant's place of public accommodation until
16 Defendant has fully complied with the ADA and AzDA;
- 17 n. A Declaratory Judgment that at the commencement of this action Defendant
18 was in violation of the specific requirements of AzDA;
- 19 o. Irrespective of Defendants "voluntary cessation" of the ADA violation, if
20 applicable, a permanent injunction pursuant to AzDA which directs
21 Defendant to take all steps necessary to bring its facility into full compliance
22 with the requirements set forth in the AzDA, and its implementing
23 regulations, so that the facility is fully accessible to, and independently
24 usable by, disabled individuals, specifically including ensuring parking
25 spaces comply with the 2010 standards as required by law, and which further
26 directs that the Court shall retain jurisdiction for a period to be determined
27 after Defendant certifies that its facility is fully in compliance with the
28 relevant requirements of the AzDA to ensure that Defendant has adopted and
is following an institutional policy that will in fact cause Defendant to remain
fully in compliance with the law;


- 1 p. For damages authorized by § 41-1492.09(B)(2) in an amount no less than
2 \$5,000.00;
- 3 q. Irrespective of Defendants “voluntary cessation” of the ADA violation, if
4 applicable, payment of attorneys’ fees pursuant to 42 U.S.C. § 12205, 28
5 CFR § 36.505 and A.R.S. § 41-1492.09(F) and other principles of law and
6 equity and in compliance with the “prevailing party” and “material
7 alteration” of the parties’ relationship doctrines⁴ in an amount no less than
8 \$5,000.00; and,
- 9 r. The provision of whatever other relief the Court deems just, equitable and
appropriate.

10 **DEMAND FOR JURY TRIAL**

11 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff
hereby demands a jury trial on issues triable by a jury.

12 RESPECTFULLY SUBMITTED this Friday, June 3, 2016.

13 **STROJNIK P.C.**

14 
15 _____
16 Peter Strojnik (6464)
Attorneys for Plaintiff

17 **VERIFICATION COMPLIANT WITH R10-3-405**

18 I declare under penalty of perjury that the foregoing is true and correct.

19 DATED this Friday, June 3, 2016.

20 *Fabian Zazueta*

21 By: Fabian Zazueta, Authorized Agent
22 Advocates for Individuals with
23 Disabilities Foundation, Inc.
24
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26

27 ⁴ As applicable to ADA cases, see *Coppi v. City of Dana Point*, Case No. SACV 11-1813 JGB (RNBx)
28 (February, 2015)

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EXHIBIT 1



Americans with Disabilities Act

ADA Business BRIEF:

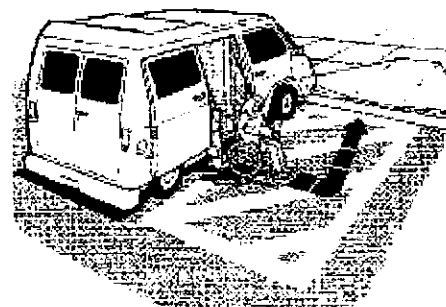
Restriping Parking Lots

Accessible Parking Spaces

When a business restripes a parking lot, it must provide accessible parking spaces as required by the ADA Standards for Accessible Design.

In addition, businesses or privately owned facilities that provide goods or services to the public have a continuing ADA obligation to remove barriers to access in existing parking lots when it is readily achievable to do so. Because restriping is relatively inexpensive, it is readily achievable in most cases.

This ADA Business Brief provides key information about how to create accessible car and van spaces and how many spaces to provide when parking lots are restriped.



One of eight accessible parking spaces, but always at least one, must be van accessible.

Accessible Parking Spaces for Cars

Accessible parking spaces for cars have at least a 60-inch-wide access aisle located adjacent to the designated parking space. The access aisle is just wide enough to permit a person using a wheelchair to enter or exit the car. These parking spaces are identified with a sign and located on level ground.

Van-Accessible Parking Spaces

Van-accessible parking spaces are the same as accessible parking spaces for cars except for three features needed for vans:

- a wider access aisle (96") to accommodate a wheelchair lift;
- vertical clearance to accommodate van height at the van parking space, the adjacent access aisle, and on the vehicular route to and from the van-accessible space; and
- an additional sign that identifies the parking spaces as "van accessible."

Minimum Number of Accessible Parking Spaces
ADA Standards for Accessible Design 4.1.2 (5)

Total Number of Parking Spaces Provided (per lot)	Total Minimum Number of Accessible Parking Spaces (60" & 96" aisles)	Van-Accessible Parking Spaces with min. 96" wide access aisle	Accessible Parking Spaces with min. 60" wide access aisle
Column A			
1 to 25	1	1	0
26 to 50	2	1	1
51 to 75	3	1	2
76 to 100	4	1	3
101 to 150	5	1	4
151 to 200	6	1	5
201 to 300	7	1	6
301 to 400	8	1	7
401 to 500	9	2	7
501 to 1000	2% of total parking provided in each lot	1/8 of Column A*	7/8 of Column A**
1001 and over	20 plus 1 for each 100 over 1000	1/8 of Column A*	7/8 of Column A**

* one out of every 8 accessible spaces

** 7 out of every 8 accessible parking spaces

Location

Accessible parking spaces must be located on the shortest accessible route of travel to an accessible facility entrance. Where buildings have multiple accessible entrances with adjacent parking, the accessible parking spaces must be dispersed and located closest to the accessible entrances.

When accessible parking spaces are added in an existing parking lot, locate the spaces on the most level ground close to the accessible entrance. An accessible route must always be provided from the accessible parking to the accessible entrance. An accessible route never has curbs or stairs, must be at least 3-foot wide, and has a firm, stable, slip-resistant surface. The slope along the accessible route should not be greater than 1:12 in the direction of travel.

Accessible parking spaces may be clustered in one or more lots if equivalent or greater accessibility is provided in terms of distance from the accessible entrance, parking fees, and convenience. Van-accessible parking spaces located in parking garages may be clustered on one floor (to accommodate the 98-inch minimum vertical height requirement).

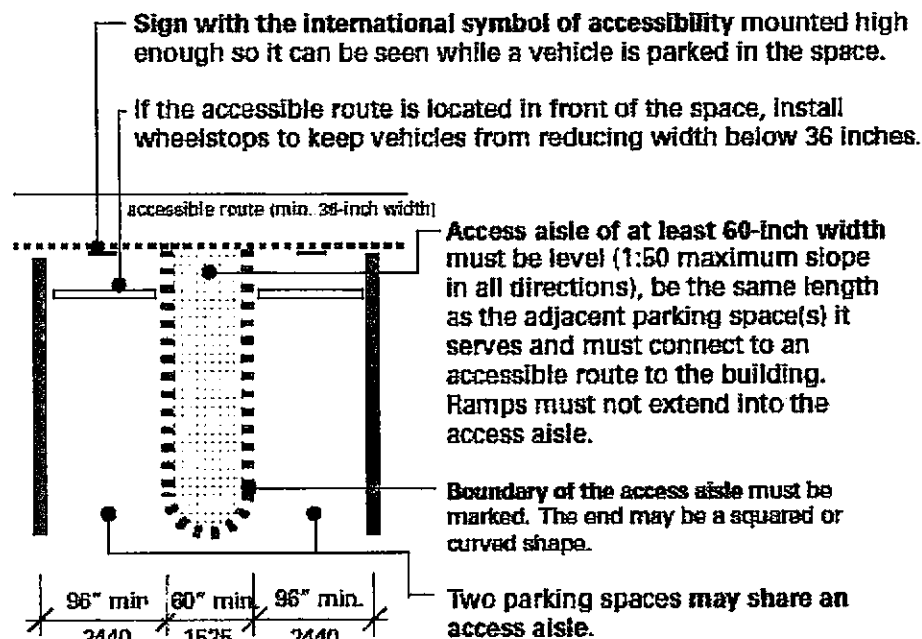
Free Technical Assistance

Answers to technical and general questions about restriping parking lots or other ADA requirements are available by telephone on weekdays. You may also order the ADA Standards for Accessible Design and other ADA publications, including regulations for private businesses, at any time day or night. Information about ADA-related IRS tax credits and deductions is also available from the ADA Information Line.

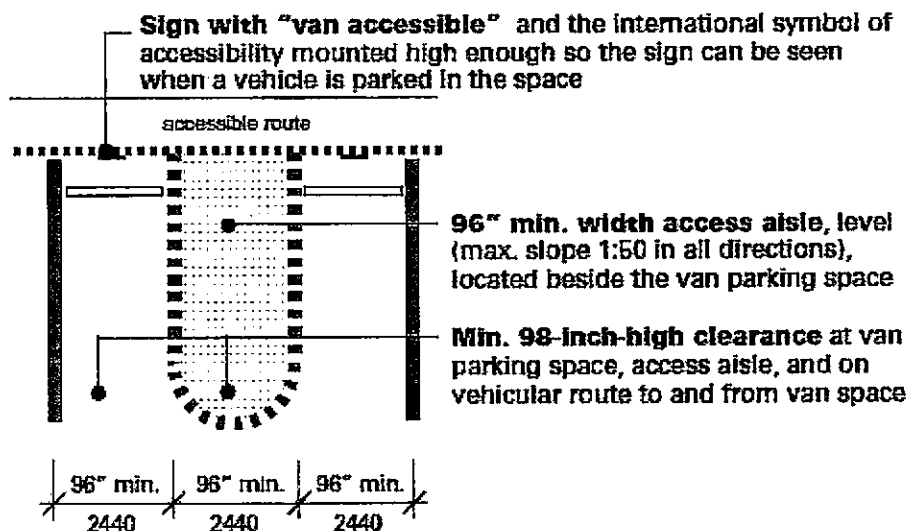
Department of Justice
ADA Information Line

800-514-0301 (voice)
800-514-0383 (TTY)

Features of Accessible Parking Spaces for Cars



Three Additional Features for Van-Accessible Parking Spaces



ADA Website and ADA Business Connection

You may also view or download ADA information on the Department's ADA website at any time. The site provides access to the ADA Business Connection and the ADA design standards, ADA regulations, ADA policy letters, technical assistance materials, and general ADA information. It also provides links to other Federal agencies, and updates on new ADA requirements and enforcement efforts. www.usdoj.gov/crt/ada/adahom1.htm

Reference:

ADA Standards for Accessible Design (28 CFR Part 36):
§ 4.1.6 Alterations; § 4.1.2 Accessible Sites and Exterior Facilities: New Construction; § 4.6.1 Parking and Passenger Loading Zones, and
§ 4.3 Accessible Route.

Duplication is encouraged.

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EXHIBIT 2



ADA Design Guide

1

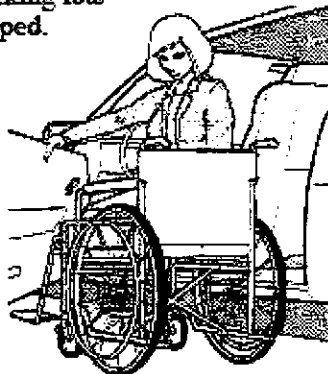
Restriping Parking Lots

Accessible Parking Spaces

When a business, State or local government agency, or other covered entity restripes a parking lot, it must provide accessible parking spaces as required by the ADA Standards for Accessible Design. Failure to do so would violate the ADA.

In addition, businesses or privately owned facilities that provide goods or services to the public have a continuing ADA obligation to remove barriers to access in existing parking lots when it is readily achievable to do so. Because restriping is relatively inexpensive, it is readily achievable in most cases.

This ADA Design Guide provides key information about how to create accessible car and van spaces and how many spaces to provide when parking lots are restriped.



Accessible

Parking Spaces for Cars

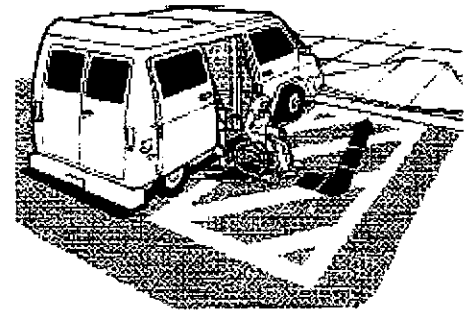
Accessible parking spaces for cars have at least a 60-inch-wide access aisle located adjacent to the designated parking space. The access aisle is just wide enough to permit a person using a wheelchair to enter or exit the car. These parking spaces are identified with a sign and located on level ground.

Van-Accessible Parking Spaces

Van-accessible parking spaces are the same as accessible parking spaces for cars except for three features needed for vans:

- a wider access aisle (96") to accommodate a wheelchair lift;
- vertical clearance to accommodate van height at the van parking space, the adjacent access aisle, and on the vehicular route to and from the van-accessible space; and
- an additional sign that identifies the parking spaces as "van accessible."

One of eight accessible parking spaces, but always at least one, must be van-accessible.



Minimum Number of Accessible Parking Spaces

ADA Standards for Accessible Design 4.1.2 (5)

Total Number of Parking spaces Provided (per lot)	Total Minimum Number of Accessible Parking Spaces (60" & 96" aisles)	Van Accessible Parking Spaces with min. 96" wide access aisle	Accessible Parking Spaces with min. 60" wide access aisle
Column A			
1 to 25	1	1	0
26 to 50	2	1	1
51 to 75	3	1	2
76 to 100	4	1	3
101 to 150	5	1	4
151 to 200	6	1	5
201 to 300	7	1	6
301 to 400	8	1	7
401 to 500	9	2	7
501 to 1000	2% of total parking provided in each lot	1/8 of Column A*	7/8 of Column A**
1001 and over	20 plus 1 for each 100 over 1000	1/8 of Column A*	7/8 of Column A**

* one out of every 8 accessible spaces

** 7 out of every 8 accessible parking spaces

Location

Accessible parking spaces must be located on the shortest accessible route of travel to an accessible facility entrance. Where buildings have multiple accessible entrances with adjacent parking, the accessible parking spaces must be dispersed and located closest to the accessible entrances.

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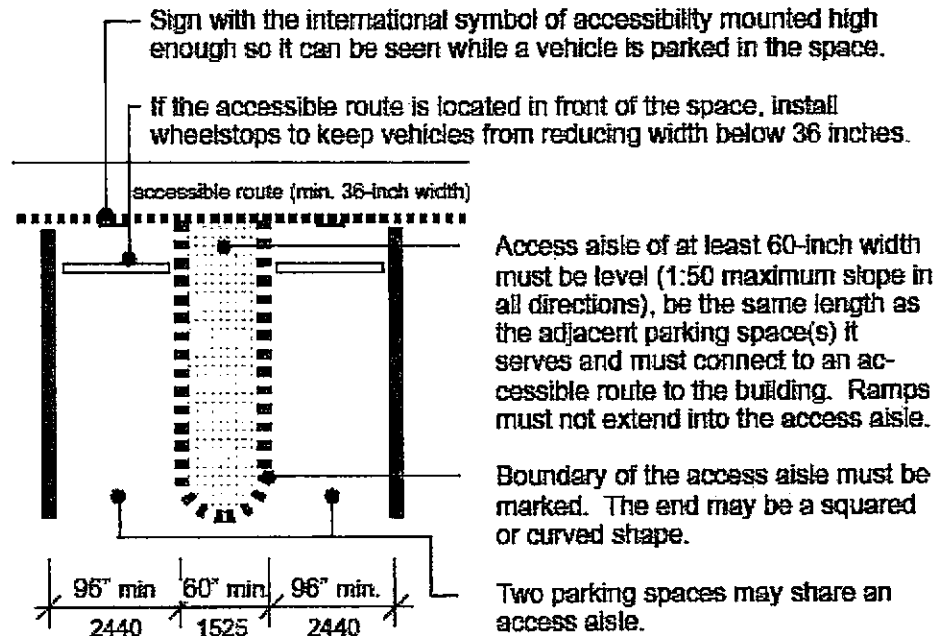
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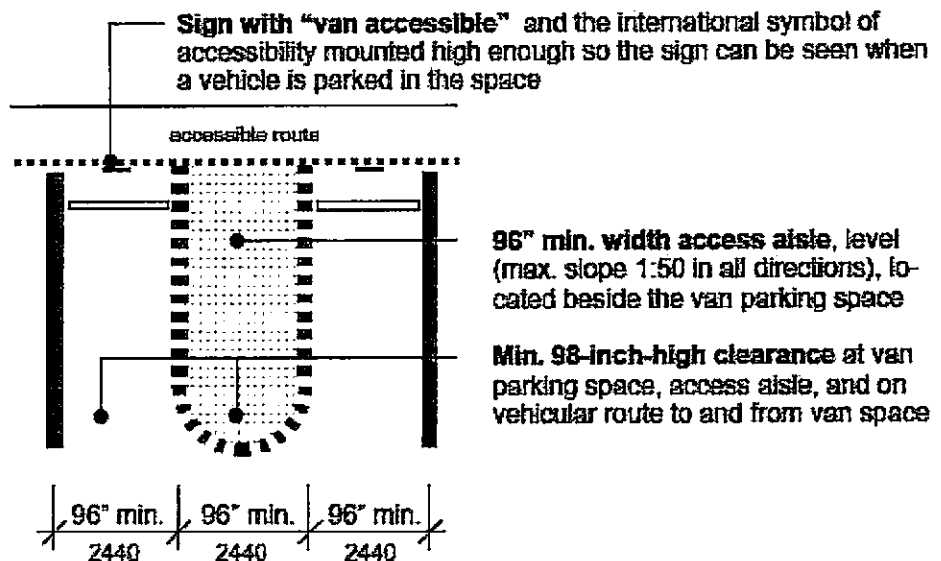
Department of Justice
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Features of Accessible Parking Spaces for Cars



Three Additional Features for Van-Accessible Parking Spaces



Internet

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www.usdoj.gov/crt/ada/adahom1.htm

Reference:

ADA Standards for Accessible Design (28 CFR Part 36):

- § 4.1.6 Alterations;
- § 4.1.2 Accessible Sites and Exterior Facilities: New Construction, and
- § 4.1.6 Parking and Passenger Loading Zones.

1 Peter Strojnik, State Bar No. 6464
2 **STROJNIK P.C.**
3 1 EAST WASHINGTON STREET, SUITE 500
4 PHOENIX, AZ 85004
5 (774) 768-2234
6 Attorney for Plaintiff
7 Case Specific Email Address:
8 637EMainSt@aadi.org
9 www.aid.org

COPY

JUN - 9 2016



MICHAEL K. JEANES, CLERK
DEPUTY CLERK

7 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
8
9 **IN AND FOR THE COUNTY OF MARICOPA**

10 Advocates for Individuals with Disabilities
11 Foundation, Inc.,

12 Plaintiff,

13 vs.
14

15 MAIN STREET REAL ESTATE GROUP
16 LLC

17 Defendant.

Case No. **CV2016-006791**

**CERTIFICATE OF
ARBITRATION**

18 The above cause is not subject to compulsory arbitration.
19

20 RESPECTFULLY SUBMITTED this Friday, June 3, 2016.
21

22 Peter Strojnik, State Bar No 6464
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1 Peter Strojnik, State Bar No. 6464
2 **STROJNIK P.C.**
3 1 EAST WASHINGTON STREET, SUITE 500
4 PHOENIX, AZ 85004
5 (774) 768-2234
6 Attorney for Plaintiff
7 Case Specific Email Address:
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10
11 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
12
13 **IN AND FOR THE COUNTY OF MARICOPA**

14 Advocates for Individuals with Disabilities,
15 Foundation, Inc.,

16 Plaintiff,

17 vs.

18 MAIN STREET REAL ESTATE GROUP
19 LLC,

20 Defendants

Case No: CV2016-006791

DISCOVERY REQUEST NO 1

21 **TO: DEFENDANT(S)**

22 **INSTRUCTIONS FOR USE**

- 23 A. All information is to be divulged which is in the possession of the individual or
24 corporate party, his attorneys, investigators, agents, employees or other representatives
25 of the named party.
- 26 B. When an individual interrogatory calls for an answer which involves more than one
27 part, each part of the answer should clearly set out so that it is understandable.
- 28 C. When the terms "you", "Plaintiff" or "Defendant" are used, they are meant to include
every individual party and include your agents, employees, your attorneys, your
accountants, your investigators, anyone else acting on your behalf. Separate answers
should be given for each person named as the party, if requested.

- 1 D. When the term "document" is used, it is meant to include every "writing", "recording"
2 and photograph" as those terms are defined in Rule 1001, Ariz. R. Evid.
3 E. Where the terms "claim" or "claims" are used, they are meant to mean or to include a
4 demand, cause of action or assertion for something due or believed to be due.
5 F. Where the terms "defense" or "defenses" are used, they are meant to mean or to include
6 any justification, excuse, denial or affirmative defense in response to the opposing
7 party's claim.
8 G. Where the term "negotiation(s)" is used, it is meant to mean or to include
9 conversations, discussions, meeting, conferences and other written or verbal exchanges
10 which relate to the contract.
11 H. Where the term "ADA" is used, it refers to Title III of the Americans with Disabilities
12 Act, 42 U.S.C. §§ 12101 et seq., and its implementing regulations 28 CFR §§ 36.101
13 et seq.
14 I. Where the term "AzDA" is used, it refers to A.R.S. §§ 41-1492 et seq. and its
15 implementing regulations, R10-3-401 et seq.
16 J. Where the term "Standards" is used, it refers to 2010 Standards of Accessibility Design
17 promulgated by the United States Department of Justice.
18 K. Where the term "Public Accommodation" is used it refers to the facility referenced in
19 the Verified Complaint, its management and ownership.

20 Pursuant to Arizona Rules of Civil Procedure, Rules 26 through 37, please provide
21 the following discovery:

22 UNIFORM CONTRACT INTERROGATORIES

23 Please answer Uniform Contract Interrogatories 1, 2, 4, 5, 6, 7, 8, 9, 10 and 11.

24 REQUESTS FOR ADMISSIONS

- 25 1. Admit that the public accommodation which is the subject matter of the Verified
26 Complaint was in violation of the AzDA, the ADA and the Standards.

27 ADMIT _____

28 DENY _____

1 2. Admit that the public accommodation which is the subject matter of the Verified
2 Complaint does not have policies regarding the operation and management of the
3 Public Accommodation.

4 ADMIT _____ DENY _____

5 3. Admit that the Public Accommodation which is the subject matter of the Verified
6 Complaint does not have a plan or policy that is reasonably calculated to make its entire
7 public accommodation fully accessible to and independently usable by disabled
8 individuals.

9 ADMIT _____ DENY _____

10
11 **NON-UNIFORM CONTRACT INTERROGATORIES**

12 **(If spaces provided below are insufficient to fully disclose requested information,
13 please attach additional sheets referencing the proper interrogatory)**

14 1. If you did not unconditionally admit each of the Requests for Admission above, please
15 state all facts and legal considerations for your denial.
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1 2. Please describe all actions you or anyone on your behalf have/has taken since 1991 to
2 comply with the AzDA, the ADA and the Standards.

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15 3. Please describe in detail any actual or suspected non-compliance of the Public
16 Accommodation with the AzDA, the ADA or the Standards.

1 4. Please identify the person or entity responsible for the Public Accommodation's
2 compliance with the AzDA, the ADA and the Standards.

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12 5. Please identify by name, address, telephone number, e-mail address any and all tenants
13 who rent or lease space at the Public Accommodation.

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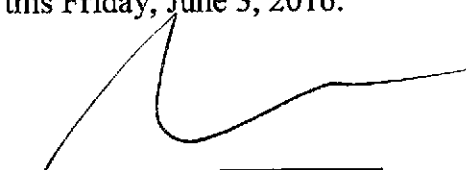
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REQUEST FOR PRODUCTION OF DOCUMENTS

1. Please produce any and all policies regarding the operation and management of the Public Accommodation, including, without limitation, any plan or policy that is reasonably calculated to make its entire public accommodations fully accessible to and independently usable by disabled individuals.
2. Please produce any and all architectural drawings, plats, maps and schematics for the Public Accommodation.
3. Please produce any and all rental or lease agreements for any space within the Public Accommodation effective on the date of the filing of the Verified Complaint until the present. Further produce all rental/lease applications and financial records of each renter or tenant.
4. If you claim that compliance with the AzDA, the ADA and/or the Standards is not readily achievable, please produce your complete financial records for the 5 years preceding the issuance of this Discovery Request No 1. These records include, without limitation, tax records, profit and loss statements, income statements, bank statements, credit applications,

RESPECTFULLY SUBMITTED this Friday, June 3, 2016.


Peter Strojnik, State Bar No 6464
Attorneys for Plaintiff

RUSH HOUR LEGAL SERVICE

P.O. BOX 30997

MESA, AZ 85275-0997

Date: Friday, June 3, 2016

480-797-9483

info@rushhourlegal.com

PROCESS SERVICE INFORMATION FORM

Case Number: CV2016-006791 Court: _____

Information About Person to be served: Petitioner/Plaintiff _____ or
Respondent/Defendant X

Owner Name: MAIN STREET REAL ESTATE GROUP LLC

Owner Address: 1125 E SANDPIPER DR Tempe AZ 85283

Stat Agent Name: SHAWN TOLOUI

Stat Agent Address: 637 E MAIN ST Mesa AZ 85203

Firm name: Stronjik, P. C

Contact: (774) 768-2234

Your Clients name: Advocates for American Disabled Individuals, LLC

Phone: (774) 768-2234

Email: 637EMainSt@aadi.org

Person Served: _____ Title: _____

Date Served: _____ Time Served: : _____

POA/POE Address: _____

M / F Age: _____ Height: _____ Weight: _____ Race: _____

Eyes: _____ Hair: _____ Server's Name: _____

Attempts: _____, _____, _____

_____, _____, _____

_____, _____, _____

STATEMENT FOR SERVICE OF PROCESS

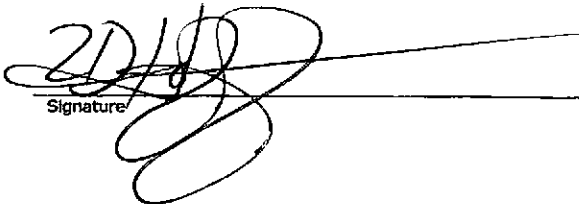
ENTITY NAME – give the exact name of the corporation or LLC as currently shown in A.C.C. records:

MAIN STREET REAL ESTATE GROUP LLC

A.C.C. FILE NUMBER: 415587195

Find the A.C.C. file number on the upper corner of filed documents OR on our website at: <http://www.azcc.gov/Divisions/Corporations>

By my signature below, **I certify under the penalty of perjury** that, upon information, knowledge, and belief, the above-named entity has either failed to appoint a statutory agent or failed to maintain a statutory agent at the statutory agent address on record with the Arizona Corporation Commission.


Signature

Russ Hoffman
Printed Name

8/24/16
Date

Service of process fee: \$25.00
All fees are nonrefundable.

Mail: Arizona Corporation Commission - Records Section
1300 W. Washington St., Phoenix, Arizona 85007
Fax: 602-542-3414

Please be advised that A.C.C. forms reflect only the **minimum** provisions required by statute. You should seek private legal counsel for those matters that may pertain to the individual needs of your business.
All documents filed with the Arizona Corporation Commission are **public record** and are open for public inspection.
If you have questions after reading the Instructions, please call 602-542-3026 or (within Arizona only) 800-345-5819.

CORPORATIONS DIVISION
RECORDS SECTION
1300 West Washington
Phoenix, Arizona 85007-2929

User Id: GMOYA
Invoice No.: 5151732

Check Batch:
Invoice Date: 08/25/2016
Date Received: 08/25/2016
Customer No.:

ATTN:
(CASH CUSTOMER)

Quantity	Description	Amount
1	SERVICE OF PROCESS L-1558719-5 MAIN STREET REAL ESTATE GROUP L.L.C.	\$25.00
Total Documents: \$		25.00
	CHECK 4315 PAYMENT	\$25.00
Balance Due: \$		0.00

RUSH HOUR LEGAL SERVICE

P.O. BOX 30997

MESA, AZ 85275-0997

Date: Friday, June 3, 2016

480-797-9483

info@rushhourlegal.com

PROCESS SERVICE INFORMATION FORM

Case Number: CV2016-006791 Court: _____

Information About Person to be served: Petitioner/Plaintiff _____ or
Respondent/Defendant X

Owner Name: MAIN STREET REAL ESTATE GROUP LLC

Owner Address: 1125 E SANDPIPER DR Tempe AZ 85283

Stat Agent Name: SHAWN TOLOUI

Stat Agent Address: 637 E MAIN ST Mesa AZ 85203

Firm name: Stronjik, P. C

Contact: (774) 768-2234

Your Clients name: Advocates for American Disabled Individuals, LLC

Phone: (774) 768-2234

Email: 637EMainSt@aadi.org

Person Served: _____ Title: _____

Date Served: _____ Time Served: : _____

POA/POE Address: _____

M / F Age: _____ Height: _____ Weight: _____ Race: _____

Eyes: _____ Hair: _____ Server's Name: _____

Attempts: _____, _____, _____

_____, _____, _____

_____, _____, _____

41

Corporate Maintenance

08/25/2016

State of Arizona Public Access System

1:49 PM

File Number: L-1558719-5

Corp. Name: MAIN STREET REAL ESTATE GROUP L.L.C.

Domestic Address

637 E MAIN ST

MESA, AZ 85203

Second Address

Agent: SHAWN TOLOUI

Status: APPOINTED 10/13/2009

Mailing Address:

637 E MAIN ST

MESA, AZ 85203

Agent Last Updated: 02/08/2010

Business Type:

Domicile: ARIZONA

County: MARICOPA

Corporation Type: DOMESTIC L.L.C.

Life Period: PERPETUAL

Incorporation Date: 10/13/2009

Approval Date: 12/15/2009

Last A/R Received: /

Date A/R Entered:

Next Report Due:

NO CORPORATIONS RECORD FOUND FOR THIS FILE NUMBER. (A010)

BREE HERNANDEZ

