

Dimitri Hatzifotinos

Proponent Testimony HB 271

House Civil Justice Committee

September 20, 2017

Chairman Butler, Vice Chair Hughes, Ranking Member Boggs, and members of the House Civil Justice Committee our office represents the interests of the Ohio and Columbus Apartment Associations. My practice focuses on the multi-family community in Central Ohio and around the State. Our office represents approximately 70,000 residential rental units in Central Ohio and surrounding areas. The Ohio Apartment Association is representative of over 500,000 residential rental units throughout Ohio. As a consequence of the fact that our office represents this volume of multi-family operators in the State, we deal with landlord and tenant issues constantly.

Many of my clients and the constituency of OAA and CAA also owed commercial retail shopping centers. Over the years I have had personal occasion to defend dozens of "Drive By" ADA (Americans with Disabilities Act) lawsuits. While the ADA has many valid and empowering provisions, the individuals who have filed these "Drive-By" lawsuits have used the provisions of the ADA as a sword to obtain a windfall of money.

In my experience, attorneys (generally from Miami, Florida) partner with a plaintiff suffering from an ambulatory disability to drive around and search for technical outdoor violations of the ADA. Once a technical outdoor violation such as a missing railing, an improperly marked parking spot, or a ramp not up to grade are found, the attorney will file a lawsuit in Federal Court against the owner of the shopping center.

I have been involved in cases where tenants of the shopping center are guilty of violations but only the owner of the center is sued. This happens because the attorney's, plaintiffs and experts are interested in using these lawsuits to obtain quick settlements rather than enforce the provisions of the ADA.

Once a defense attorney makes an appearance in the lawsuit, the attorney representing the plaintiff will demand \$15,000.00 to \$20,000.00 (comprised mostly of attorney's fees and expert costs) in order to dismiss the case. While the attorneys will feign requiring an owner to retrofit their retail shopping center to make it accessible for

individuals with disabilities, the attorneys will not really even require retrofitting as a part of the settlement.

Instead, they require payment for their fees and an agreement to retrofit in one (1) to five (5) years. No attorneys representing any plaintiff in any case I have ever defended of the "Drive-By ADA" variety has ever come back to inspect to determine if a retrofit has occurred. They simply want to make money.

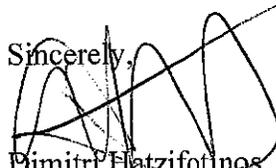
If you search the Federal Court website in Columbus under the named plaintiffs in these cases you will find literally hundreds of filings.

My clients simply want to be compliant and accessible to individuals with disabilities. If my clients make their centers accessible more customers will patronize their tenants who will in turn be able to afford to pay more rent.

Each and every time any of my clients has ever received notice of technical non-compliance with the ADAAG, my clients have uniformly taken immediate steps to fix the problem if it has been readily achievable. This is a valuable piece of legislation that will help OAA and CAA members who own places of public accommodation divert funds used to pay "Drive-By ADA" attorneys in order to spend money making their centers accessible for individuals with disabilities.

I appreciate the opportunity to discuss this matter with you.

Sincerely,



Dimitri Hatzifotinos