

Testimony of Lori Bongiorno  
House Bill 271  
Senate Judiciary Committee

September 25, 2018



Good morning Chairman Bacon and members of the Senate Judiciary Committee. My name is Lori Bongiorno and I am an Architect at M+A Architects, Inc. here in Columbus, specializing in Retail based Mixed-Use projects. Thank you for allowing me to appear today in support of House Bill 271.

House Bill 271 modifies the steps a plaintiff must undertake prior to filing a lawsuit alleging a violation of the accessibility provisions of the federal American with Disabilities Act (ADA). I have become increasingly aware of these types of lawsuits as I realized that despite our best efforts to ensure compliance with every aspect of the ADA, our clients were facing more and more ADA related lawsuits. Unfortunately, the ADA does not allow for any construction related tolerances and even the most minor difference can subject a property owner to being sued. The ADA was established to ensure access for all - something M+A Architects believes in fully. Unfortunately, instead of using these lawsuits to effect improvements to ensure compliance, some bad actors are just using the suits to force money settlements out of business owners without much care to whether accessibility is improved. In other words, they are using the ADA as a money-making scheme. The problem has become so widespread that both NPR and 60 Minutes have both recently done stories on the issue.

The best example of my experience with these types of lawsuits stems from the work my company did at The Shops at Worthington Place (formerly Worthington Square). As this was an existing center, the owner had a budget of approximately \$4.9 million to renovate the interior and exterior of the center. The client spent in excess of 20% of the budget on upgrades that reduced barriers including modifying grades leading to the accessible entrances, providing automatic door openers, leveling the interior floor to eliminate cross slopes, modifying restrooms, modifying slopes at accessible parking and the route to the entrances from the parking.

In spite of all this work, our client was hit with an ADA lawsuit the week that we started demolition. The plaintiff in the case had 17 open cases in Central Ohio at that time. It was clear that the plaintiff did not check the plans that were on file with the City of Worthington showing the scope of work to be done and which included a sheet labeled "ADA Compliance Plan" that spelled out in detail the planned upgrades. Our client had

to spend tens of thousands of dollars fighting the suit which, like most of these suits, eventually settled. M+A even spent over \$30,000 in fees to assist in this fight. This was a situation where work was in progress to ensure compliance – which is supposed to be the point of this suits – but the plaintiff sued anyway and took a settlement. I would note that once the case settled, there was no follow up from the plaintiff to ensure that changes were made.

We all want our projects to be accessible to everyone and we go beyond the usual measures to make sure this is the case. There are no variances allowed under the ADA. A mirror that is ¼” off the standard is a violation, yet it is within acceptable construction tolerances. While we are waiting for the federal government to pass common sense updates to the ADA, I would ask you to pass House Bill 271 to help ease the burden these nuisance lawsuits cause business owners. House Bill 271 does not impact anyone’s right to sue, but instead offers a property owner to address to bring properties into compliance. This is good for business and protects the true intent of the ADA.

I urge you to support HB 271. Thank you for your time and I would be happy to answer any questions.

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