

RISK MANAGEMENT BULLETIN

No. 83

April 19, 2002

American With Disabilities Act Enforcement

Is a municipality responsible for enforcing the provisions of the Americans With Disabilities Act (“the ADA”) with respect to new construction or renovations to which the ADA is applicable, for non-governmental facilities? Yes, although federal law does not impose such a requirement, state law does.

Md. Code 83B sec. 6-102 requires the Maryland Department of Housing and Community Development to establish by regulation minimum requirements for the accessibility and usability of buildings and facilities by the disabled. COMAR 05.02.02.06A provides that it is the responsibility of the local subdivision or other governmental unit having primary jurisdiction over a building, structure, facility, or site to enforce the Maryland Accessibility Code (COMAR 05.02.05), which in most respects (with some modifications) incorporates the provisions of the ADA and the Americans With Disabilities Act Accessibility Guidelines (“the ADAAG”), found at 28 CFR 36.

Therefore, Maryland law generally requires a municipality to enforce the requirements of the ADA against private entities seeking construction and occupancy permits.

This bulletin is intended to be merely informational and it is not intended to be used as the basis for any compliance with federal, state or local laws, regulations or rules, nor is it intended to substitute for the advice of legal counsel.