

section of

# individual rights and responsibilities newsletter

Vol. 3, No. 2  
Spring 1976

Published by the Section of Individual Rights and Responsibilities of the American Bar Association

## 'Access America'--

### Rights of physically disabled

By Charles D. Goldman

The mid-year meeting of the Council of the Section of Individual Rights and Responsibilities heard a brief presentation on the efforts of the Architectural and Transportation Barriers Compliance Board to provide an accessible America. Specific recommendations relating to the rights of the physically disabled have been referred to the Committee on the Disadvantaged and will be reported back to the Council at the May meeting in Washington.

The recommendations to be presented in May relate to the future participation of the American Bar Association in landmark accessibility litigation, the basic right of access and consideration of the needs of all attendees (including the disabled) in planning ABA functions, and the funding by the American Bar Endowment project on the rights of the physically disabled.

The ultimate objective of the Architectural and Transportation Barriers Compliance Board is to provide the liberty of an accessible nation where the opportunity for development accorded an individual harbors no partiality. The May meeting will provide the Council the opportunity to translate these recommendations into definite actions to provide liberty for the physically disabled.

The Architectural and Transportation Barriers Compliance Board was created in 1973 as section 502 of the Rehabilitation Act, P.L. 93-112, 29 USC 792, principally to ensure compliance with the Architectural Barriers Act of 1968, P.L. 90-480, 42 USC 4151 et seq. The Compliance Board was established as a quasi-independent agency, composed of the heads of nine Federal agencies. The Secretary of the Department of Health, Education, and Welfare serves by statute as Chairman of the Board. Other members are the heads of Departments of Transportation; Housing and Urban Development; Labor; Interior; Defense; General Services Administration; United States Postal Service; and the Veterans Administration. By statute the membership may be delegated to Executive IV level, effectively an Assistant Secretary or Deputy Administrator.

The Architectural Barriers Act, P.L. 90-480, authorizes the Administrator of General Services in consultation with the Secretary of Health, Education, and Welfare to prescribe such standards for design, construction, and alteration of buildings and facilities as may be necessary to ensure that physically handicapped persons have ready access to and use of such buildings.

In general, a public building is within the ambit of P.L. 90-480 if it is (a) constructed or altered by or on behalf of the United States; (b) leased in whole or in part by the United States after construction or alteration in accordance with the plans and specifications of the United States; or (c) to be

financed in whole or in part by grant or loan if the statute authorizing the grant or loan authorized the imposition of design and construction standards.

It should be observed that the term public buildings and facilities, while quite broad, does not presently encompass rolling stock such as airplanes, trains, or other public conveyances. See Sen. Rep. 91-568.

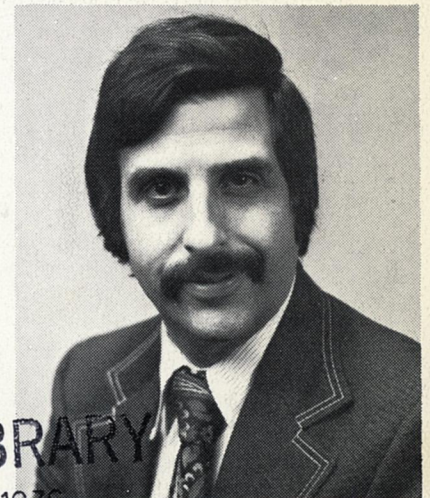
When Congress created the A&TBCB in 1973 it was well aware that, after enactment of the 1968 legislation, the General Services Administration had adopted the American National Standard Institute, or as it is popularly known, "ANSI", a basic code of specifications for making buildings and facilities accessible to and usable by the physically handicapped. (ANSI A-117.1 was first issued in 1961 and revised in 1971.) Congress was also aware that, while GSA, HUD and Defense in P.L. 90-480 had been directed to conduct surveys and investigations to ensure compliance with barrier-free standards, no meaningful compliance had been effected so as to facilitate the integration of the physically handicapped into the mainstream of American life.

Congress has defined a handicapped person for purposes of the A&TBCB in 1974, P.L. 93-516, as any person who (a) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (b) has a record of such an impairment, or (c) is regarded as having such an impairment. There is no doubt that this is a significant part of the populace.

A Department of Health, Education, and Welfare study utilizing a slightly different definition had estimated that there are 41 million handicapped people in the United States.

**Charles  
Goldman**

General Counsel,  
Architectural and  
Transportation  
Barriers Compliance  
Board, Washington



LAW LIBRARY  
MAY 5 1976  
UNIV. OF MICH.