

## THE LEGAL REALITY

### No way out

by Helen Russon, Esq., and Bob Pike, Esq.

Meredith has just started law school and, like every other first-year law student, she is overwhelmed with how much she needs to study. She was even poring over her class notes as she grabbed a meal in the food court during a quick shopping trip to the mall.

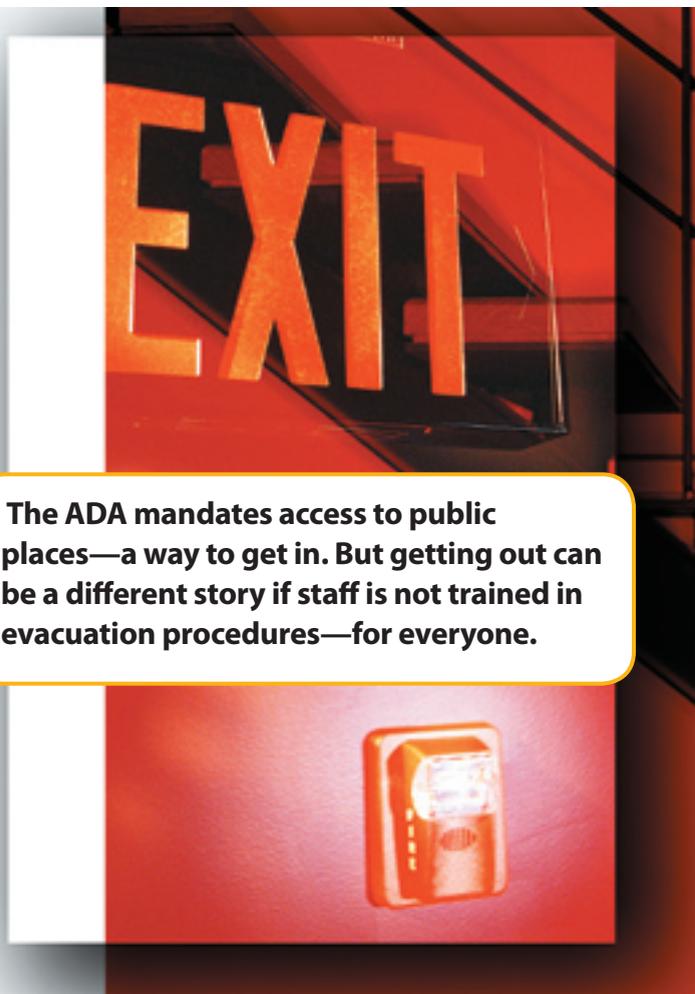
As she began to shove her notes and textbook back into her backpack, she heard a loud emergency alarm. She looked up, saw the flashing lights of the visual strobes and heard a voice on the loudspeaker: “Ladies and gentlemen, we must evacuate the mall. Please make your way quickly and calmly to the emergency exits. If you are unable to evacuate using the emergency exit stairs, please proceed to the emergency exit stairwell or the elevator lobby and wait for further instructions. Do not attempt to use the elevators, as they do not operate during an emergency.”

Meredith told herself not to panic, but she truly did not know what to do. Although she was not using a wheelchair at the time, she did have a cane and she knew there was no way she could walk down five flights of stairs with her unreliable coordination.

Below the food court there were two levels of stores and two parking levels before street level. She could see groups of people walking quickly, some even trotting, toward the emergency exits. As she stood up, using her cane to steady herself, she asked one of the mall employees, “What happens to those of us who aren’t able to walk down the stairs?”

“Uhhmm ...,” the employee stammered, “I’m sure they’ll announce something for you guys.” He avoided her eyes and quickly began walking toward an exit.

Just then, the loudspeaker boomed: “Ladies, and gentlemen, no need to evacuate. It was a false alarm.” The mall began to fill up again, with some



**The ADA mandates access to public places—a way to get in. But getting out can be a different story if staff is not trained in evacuation procedures—for everyone.**

people chuckling and others grumbling. Meredith, however, was shaking.

#### What her research showed

That evening, still on edge about the incident, she began doing some research. She was sure that the Americans with Disabilities Act (ADA) required all new construction—including the newly constructed mall—to follow the ADA Accessibility Guidelines. And if ADA gave people with disabilities access into the mall, then ADA must also require that they can evacuate safely in the event of an emergency ... right?

Astonishingly, the courts have been slow to address this seemingly straightforward issue. But Meredith took heart when she read about a 2004 Maryland case in which a woman who was a



wheelchair user was required to exit into an underground area during an emergency evacuation of a department store.

There were no accessible exits in the shopping mall that housed the department store. Katie Savage, the plaintiff, was trapped in the underground area for an hour because the elevators were not working. She was alone. All of the employees abandoned her. After this chilling experience, she sued both the department store and the mall, claiming that

both had violated Title III of the ADA.

In a groundbreaking decision, the court ruled in Ms. Savage's favor. To drive home the point, the judge wrote, "[A] store's nationwide evacuation procedures would certainly constitute a public accommodation's 'policies.'" And "it is certain that Title III of the ADA does apply to this situation."

**Savage v. City Place Ltd. Partnership, Md. Cir. Ct., December 20, 2004. Not Reported in A.2d, 2004 WL 3045404**

Thus, the court verified something that had seemed obvious to many: Title III of the ADA **does** require places of public accommodation (including shopping malls, restaurants, museums, movie theaters, etc.) to accommodate people with disabilities in the development and implementation of their emergency evacuation procedures.

### Obeying the law means knowing the law

Meredith was certainly relieved to learn that the law was on her side, but it didn't change the fact that in that place and on that day, the mall employee did not know (and did not try to find) the answer to what was certainly a critical question. In this case, as in so many others, the legal reality is that if people are not educated about the law, the law is meaningless. If companies fail to institute training programs for employees about critical ADA policies and procedures, the law will not fulfill its promise of equal access for all people.

With that in mind, Meredith began writing her letter to the mall's legal department, in which she will ask for assurance that employees will receive training in emergency evacuation procedures. ■

Has your office held a fire drill that included provisions for people with disabilities? Visit [nationalMSsociety.org/momentum](http://nationalMSsociety.org/momentum) and let us know.

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### The tax man cometh

"The hardest thing in the world to understand is the income tax"—Albert Einstein

"Smart Tax Prep for People with MS" at [nationalMSsociety.org/taxprep](http://nationalMSsociety.org/taxprep) is a good place to start your preparations for the April 15th income tax deadline. For more detailed information visit [www.irs.gov](http://www.irs.gov), or call 800-829-3676 and ask for IRS Publication 907, "Tax Highlights for Persons with Disabilities."  
—Greta Herron, publications associate