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Disability Housing Cases Q&A's
March 22, 1999

Q: What is the Administration doing to ensure that builders comply with the Fair Housing Act amendments requiring that new multifamily dwellings be accessible to persons with disabilities?

A: The enforcement of the Fair Housing Act Amendments of 1988 -- which require that new multifamily dwellings be accessible to persons with disabilities -- is a top priority of the Administration. The Department of Justice has filed 14 cases against builders who have violated this provision of the Fair Housing Act and settled seven of these cases. In addition, the Department of Housing and Urban Development is investigating over 150 cases of violations of this law; conducting a \$1 million nationwide study to determine the reasons for widespread noncompliance; and providing \$2 million to disability groups to assist in enforcement.

"All the News
That's Fit to Print"

The New York Times

MONDAY, MARCH 22, 1999

VOL. CXLVIII, No. 51,469

DEVELOPERS FAIL TO MEET MANDATE ON HOUSING ACCESS

DISABLED FILE LAWSUITS

It Is Time to Enforce Widely
Ignored Rules, Advocates
and U.S. Agency Say

By STEVEN A. HOLMES

WASHINGTON, March 20 — Eight years after a Federal law went into effect requiring new multifamily dwellings to be accessible to people with disabilities, the measure has been widely ignored, say the Justice Department and advocates for the disabled.

There are no nationwide figures on how many of the more than two million apartments and condominiums that have been constructed since the law went into effect in 1991 comply with the regulations.

The law requires, among other things, that common areas and first-floor apartments and condominiums be accessible to people who use wheelchairs or walkers. But surveys conducted by advocates for the disabled across the country indicated that only a small percentage of the multifamily buildings in their communities were in compliance.

In suburban Chicago, for example, advocates for the disabled found that of 50 multifamily developments constructed since 1991, 49 had not followed Federal law. In Baltimore, a similar survey found that 75 percent of 59 new apartment and condominium complexes were not in compliance. Arizona advocates found that 75 percent of the new multifamily buildings in Tucson and 50 percent in Phoenix had not followed the law.

"The Justice Department and disability rights advocates in Chicago, Baltimore, Cleveland, Miami, Las Vegas, Nev., and Cocoa Beach, Fla., have begun suing architects and developers to force them to conform to the law."

"They are popping out all over the place," said Chris Brannett, a lawyer from Pescadero, Calif., said of the suits. On behalf of disabled individuals, he has sued a developer of condominiums in Billings and Missoula, Mont., over the lack of accessibility. "People are no longer willing to say it's a new law, let's give people an opportunity to comply. There is a feeling that this law has been on the books for a long time and it's time to start pushing."

Plaintiffs in lawsuits against builders and architects generally do not seek the complete reconstruction of apartment and condominium complexes. Rather, they ask the courts to order developers and architects who have violated the law to rebuild the common areas to make them accessible.

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And the Oscar Winners Are...



Best Actress
Gwyneth Paltrow
"Shakespeare in Love"



Best Actor
Roberto Benigni
"Life Is Beautiful"



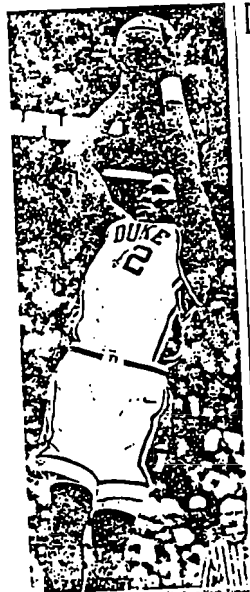
Supporting Actress
Dame Judi Dench
"Shakespeare in Love"

Supporting Actor
James Coburn
"Affliction"

Foreign Language Film
"Life Is Beautiful"
Director, Roberto Benigni

Costume Design
"Shakespeare in Love"

The Academy Awards ceremony had not ended when this edition went to press. Article, page B1.



Baron Sherman, The New York Times
Eton Brand scored 21 points in Duke's 85-64 victory against Temple yesterday to put the Blue Devils in college basketball's national semifinals. Duke will play Kentucky, 73-66, Connecticut and Ohio State will play in the other semifinal after winning their games on Saturday.

WEEKENDS' FINAL FOUR

St. Petersburg, Fla.

FIRST GAME
5:42 P.M. Eastern



OHIO STATE VS. CONNECTICUT

SECOND GAME



MICHIGAN STATE VS. DUKE

OPECs Poised To Cut Output, Lift Oil Prices

By YOUSSEF M. IBRAHIM

VIENNA, March 21 — As they slipped out of their black limousines into luxury hotels dotting the contours of Vienna's graceful Stadtpark tonight, officials of OPEC, the nearly moribund oil cartel, were stirring with new life, ready to jolt oil prices back up.

If all goes well at an emergency meeting set for Tuesday here, the Organization of Petroleum Exporting Countries, in partnership with major oil producers like Mexico and Norway who are not members of the group, will take more than 2 million barrels of oil a day out of world markets, starting in April.

It would mark the first time in 13 years that the cartel has taken such a drastic measure, largely because of the pressing needs of the largest producer, Saudi Arabia, and other producing countries to generate more revenue, experts say.

Anticipation of the move — which has emerged as OPEC officials formulated it in secret and in public talks in Riyadh, The Hague, Dubai, London and other places in the last four weeks — has already pushed prices up 20 percent, bringing the American benchmark brand known as West Texas Intermediate to \$15 a barrel.

This has halted, for a while at least, the steady fall in prices that devastated the world energy industry in the last year.

Part of the impact reflects optimism in the oil industry that salvation is on the way. In the last decade, globalization, competition from new oil suppliers and disputes within OPEC combined to send prices into a seemingly endless tumble to a point where gasoline and other fuel prices today are, in inflation-adjusted terms, the lowest since the end of the World War II.

Now, a confluence of new circumstances may help the cartel reverse some of those trends. Among other things, the Asian economic crisis, which erased more than 1.5 million

Continued on Page A6

Productivity Gains Help Keep Economy on a Roll

By LOUIS UCHITELLE

DES MOINES — At the Maytag Corporation factory in nearby Newton, four young people stand around a large lazy susan, as if it were a coffee bar, assembling washing-machine doors. As the plastic door molds circle slowly by, each worker adds one metal part, and every 37 seconds a finished door comes off the revolving table.

The lazy-susan system is a triumph of productivity. The same four workers produce 90 more doors every hour than they used to, roughly a 15 percent improvement. Until last fall, each had assembled an entire door, one after another, in a much slower process. "I had to keep a full set of parts at every station," said

Diana Brown, who now delivers them only to the central system.

Ms. Brown's pay, \$18 an hour after 23 years at the plant, is nearly double that of her younger colleagues, and at 48 she sees herself as their "mother hen." Seniority indeed sets her apart. New hires now must start below union scale, marching to full pay through semiannual raises that show up in the nation's pay statistics, but without squeezing Maytag's profits. As veterans like Ms. Brown retire, the new hires represent a larger share of the plant's 2,800 workers. The shift in the work force holds down the average wage, and Maytag's total labor costs.

"We are flattening our labor costs," said Leonard A. Hadley, chairman of Maytag. "It is problem-

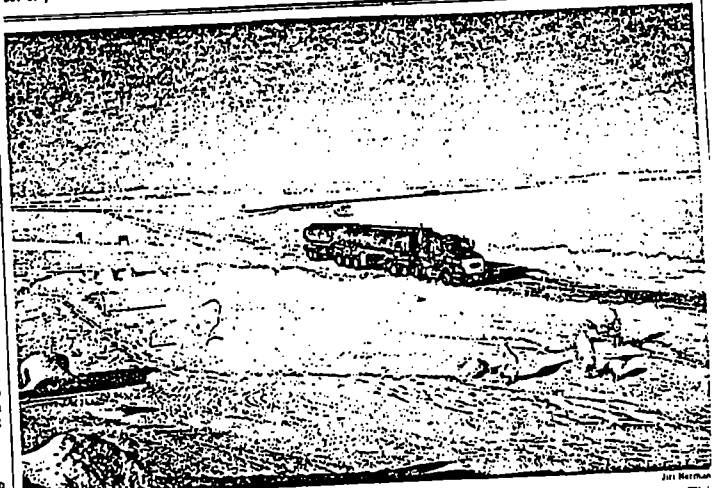
atic whether we can flatten labor costs over the long term. But short term, we are."

Maytag's experiences, like those of many corporations, help to explain the central puzzle of today's economy. Eight years into the current expansion, labor shortages and rising wages should be raising the annual inflation rate or shrinking profits. Yet neither is happening.

The annual inflation rate is only 1.6 percent, in sharp contrast to the last growth cycle, in the 1980's, when the rise in the Consumer Price Index reached 4.6 percent a year.

Nor are profits suffering noticeably, despite somewhat slower gains recently. By past standards, profits

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In the Northwest Territories this time of year, the trucks abandon the highways and take to the ice. The mammoth rig is following an ice road between Yellowknife and the diamond mine at Ekati.

Big Rigs Out on the Ice, Holding Their Breath

By ANTHONY DEPALMA

ON THE YELLOWKNIFE- EKATI MINE ICE ROAD, Northwest Territories, March 15 — He wants to hear what the ice says, so no matter how low the temperature gets, Peter Paul leaves his truck window open.

The sound changes. Sometimes it is like a real hard snap, he says, a cold thunder fired through the blue Arctic ice. Sometimes it is more brittle, like the dry crack of an ice cube when it breaks.

"That means it's O.K.," said Mr. Paul, who has been driving huge loads — like the 25-foot-wide, 118,000-pound dump truck bed lashed to his rig — up and down the Yellowknife ice road for 15 years. "It's when you don't hear anything that you start to worry."

During the coldest part of the tough winters here in Canada's remote Northwest Territories, when the crazy quilt of big lakes and small ponds in the region freezes over but the mines keep digging, men like Mr. Paul take their trucks off the regular road and onto a blue highway that

bleached-out tundra.

This road is itself a metaphor for Canada: this is the wild cold that novelists use to paint the country's dreamscape; the hard work of rugged people who, together, turn the great cold to their own advantage.

The road is also about money — the millions it costs to create, the many millions more it allows the mining companies to save by bringing in heavy equipment on trucks rather than in planes.

The season is short, from early February, when the ice turns solid down four feet, to late March or, if they are lucky, the first week in

April, when the ice goes spongy, as silent.

But while the ice road is open these tundra trucks will carry more than 1,200 heavy loads north. For the last two years, most have taken fuel and heavy equipment the Ekati mine near Lac de Gr. Canada's first diamond mine.

Mr. Paul said the prospector found the diamonds advised him long ago to invest in the mine. Paul did not. "I'm not a gambler," said. "That's why I didn't do it."

He does not gamble on the ice.

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Mayor Flawed in Diallo Case, Pataki Hits

With the grand jury investigation of the Amadou Diallo case wrapping up and the daily protests over Mr. Diallo's slaying in a hail of police gunfire gathering momentum, Gov. George E. Pataki described the case yesterday as horrific and suggested that the Giuliani administration was not "responding appropriately to criticism" over the matter.

most pointed to date on the case came as former Mayor Edward Koch, State Comptroller H. Kucell and the Bronx Borough President, Fernando Ferrer, said planned to be arrested outside P. Headquarters today to protest shooting and the administration's

THE NEW YORK TIMES
March 22, 1999
354617

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In suburban Chicago, for example, advocates for the disabled found that of 50 multifamily developments constructed since 1991, 49 had not followed Federal law. In Baltimore, a similar survey found that 75 percent of 59 new apartment and condominium complexes were not in compliance. Arizona advocates found that 75 percent of the new multifamily buildings in Tucson and 50 percent in Phoenix had not followed the law.

The Justice Department and disability rights advocates in Chicago, Baltimore, Cleveland, Miami, Las Vegas, Nev., and Cocoa Beach, Fla., have begun suing architects and developers to force them to conform to the law.

"They are popping out all over the place," said Chris Brancart, a lawyer from Pescadero, Calif., said of the suits. On behalf of disabled individuals, he has sued a developer of condominiums in Billings and Missoula, Mont., over the lack of accessibility. "People are no longer willing to say it's a new law, let's give people an opportunity to comply. There is a feeling that this law has been on the books for a long time and it's time to start pushing."

Plaintiffs in lawsuits against builders and architects generally do not seek the complete reconstruction of apartment and condominium complexes. Rather, they ask the courts to order developers and architects who have violated the law to rebuild the common areas to make them acces-

sible and to set up an escrow fund so that individual owners and tenants can make the necessary improvements, if they so choose.

The defendants have settled nearly every lawsuit because they cannot dispute the fact that they have designed or built a building that violates the law.

"You can measure something and see if it's in compliance, as opposed to a typical race discrimination case, which is a 'he said, she said' situation," said Lauren E. Willis, a lawyer in Baltimore who has sued the developers of six projects in Maryland on behalf of various disabled individuals.

Representatives of the home build-

***A groundbreaking
law for the disabled
that has gone
unenforced.***

ing industry agree that many architects and developers have not complied with Federal regulations. But they say that the reason is a lack of familiarity with the law's provisions, rather than a deliberate effort to evade their responsibilities.

"There's no reason for builders and architects not to comply with these requirements," said Rhonda Daniels, a lawyer with the National Association of Home Builders. "They were not properly educated on what the requirements are. Our association attempted to educate our members. But everybody is not a member of our association, or if they are, they may not have been paying attention at the time when the law was passed."

Last Monday, a Federal judge in Baltimore ruled that architects and builders of a condominium development in Anne Arundel County, Md., had violated the law by making the residence inaccessible to people who use wheelchairs or walkers. It was the first ruling in favor of disabled plaintiffs who cited violation of the law, though the Justice Department and advocates for the disabled have reached settlements in a number of cases.

The judge, Walter E. Black Jr., ruled that the architect and developer had failed to provide enough handicapped parking spaces; that walkways from the parking lot to

condominiums contained needless steps; that people had to climb one step to enter ground-floor dwellings and descend one step to reach balconies; that interior doorways were too narrow for wheelchairs, and that there was insufficient clearance in bathrooms and kitchens for people in wheelchairs to maneuver.

The suit was brought by Kevin Beverly, a 39-year-old man who uses a wheelchair and who had gone to the condominium development as an interested buyer. But Mr. Beverly found he could not even get into the sales office.

"Being a person who is disabled, to see new construction going up and to see that folks are still ignoring a law that says an individual like me has a right to live here — it makes you feel bad," he said. "My wife and I were out looking for a place to raise our children. To run into a place like this, which is brand-new, which is optimum in all other ways, is disheartening."

Judge Black has scheduled a trial to determine the extent of damages that the architects and builders of the development, known as Lions Gates Garden Condominiums, must pay.

The seemingly widespread violation of the Federal regulations and the resulting spate of litigation is an example of how a groundbreaking law, passed with much fanfare, is often ignored.

Pressed by disability rights advocates and the Bush Administration, Congress amended Federal fair housing laws in 1988, requiring for the first time that multifamily buildings with at least four apartments or condominiums be accessible to people with physical disabilities. The measure required such accessibility in all first-floor apartments and condominiums built after March 13, 1991, in buildings without elevators, and in all apartments and condominiums in buildings with elevators.

The law gives people with disabilities the right to sue architects and builders if a building is in violation. People who are able-bodied when they rent an apartment or purchase a condominium and then later become disabled, or who have disabled relatives or friends who cannot visit or live with them, can also sue.

But Congress did not require that the municipal agencies that issue building permits enforce the law. As a result, many architects and developers were not told of the Federal requirements by the only governmental agency, a municipal planning department, that approves their blueprints.

"There was a big defect in the law when it was passed and nobody realized it at the time," said Ms. Daniels

of the National Association of Home Builders. "When they get their permits they think they're in compliance with all rules and regulations. But these Federal requirements stand outside of the normal local building requirements."

Some advocates for the disabled and fair housing are not completely sympathetic to this argument, however. Advocates in Baltimore, for example, noted that a local fair housing organization called Baltimore Neighborhoods had been offering seminars to architects and developers to acquaint them with the law. Until the lawsuits started being filed, few showed up.

"We're skeptical about the claim that people didn't know about it," said Joan Magagna, chief of the Housing and Civil Enforcement Section of the Justice Department's Civil Rights Division. "There has been a lot of information out there about it."

Thea Spires, the special assistant on disability policy for Housing Secretary Andrew M. Cuomo, said in a statement that the department was carrying out more than 150 investigations into violations of laws requiring accessibility. The department has set aside \$1 million for a nationwide study of compliance with accessibility requirements and provided \$2 million to disability groups to assist in enforcement.

Some reluctance to comply with the law may have to do with costs. Though complying with the Federal regulations adds only about one-

Lawsuits seek to force developers to conform to an 8-year-old mandate.

quarter of 1 percent to the cost of building an apartment or condominium, requiring ramps, handrails and other features adds 6.4 percent to the costs of exterior improvements, according to a study by Steven Winter, an architect in Norwalk, Conn., who is an expert in designing accessible buildings.

Still, Mr. Winter and others say it is much cheaper to conform to the regulations when the building is being constructed than to have to go back and make the improvements later. "To tear down walls and rebuild them, and rip apart bathrooms and redo them, there is no question that that is more expensive," Mr. Winter said.

3/22/99

Joan Magallon 814-473

Filed 14 cases

7 cases settled, most cases are settled.

Ken Zimmerman
- John Gowing

How have we been under Fair Housing Office
How doing a study & why? - the technical assist

Not alot of ^{count} decisions

Office of Policy Development - scope
of non-compliance - some confusion
about ADA & Fair Housing
non-compliance

- Fairly wide-spread non-compliance
- Not know why non-compliance - Home builders are
doing education
- In early 1990s not much a building
- New builders ^{not know}
- ADA - ~~focused~~ ^{comes all business, so more focused} ~~not on~~ ^{there} much broader.

Fair Housing Act. amendment to accessible ^{home}
couple of years before ADA. Mult. Lvl. 4-unit
private ~~and~~ public - any new. Minimal level of
accessibility.
Kitchen size - ~~at~~ adaptable ^{whole} for chair
space & doorways, accessible hallways, VISIT people
That's why expanded.

(2)

Tha Spines - 708.0614 & 5491
Report due in July
75% to 99% of newly constructed
As a result of awareness not b/c of
lack of education, people don't want to do it.
Retrofit - very expensive.

more needs to be done - very popular area
Very easy to investigate
Huge need on disability on civil rights
Even at HUD, investigators don't get it
True advocates of disabled, getting tired ^{as}
~~staying~~ People want to move on. Get sued.
etc

We need more forward program change
Enforce the law in disability - AIDS having
~~segregated~~ segregated AIDS houses
Specialized housing for certain diseases.
b/c of industry

Cuomo has met w/ advocates re. financial interest.
Inaccessible issue people ~~into~~ understand. mental health
needs myth.

Group Population. Elderly - offered an array of services -

NY Times -
late on Friday

- lawsuit b/c of enforcement + policy b/c homeless services must
require services ~~not~~ not do
- Cannot suit SDP but not written well.

(3)

stop
Funding of thriving industry to vouchers tied to vouchers
~~to Medicaid~~ to Medicaid.

need
political will -

Disability are focused on housing. tried protesting. Litigation
next. Tried to get people motivated

State ~~one~~ afforded w/ \$4 million =

Important to enforce Fair Housing Act Amendments but need
to be concerned about low income.

\$ is needed to put stuff - Leathine to compliance
rather compliance.

Washington Post - 2 weeks ago on Sunday

Quote for NYT from
Thea Spires, Special Assistant to the Secretary for Disability Policy

As an American with a disability, I know that the Fair Housing laws are great equalizers in this Nation. Yet as Secretary Cuomo has often said, the Fair Housing laws are too often ignored and he has made it a top priority to crackdown on those who would deny people their rights out of ignorance or prejudice. Over the past two years, HUD has more than doubled the number of enforcement actions we've taken on accessibility violations, with over 150 ongoing investigations, and have won some landmark legal victories against the worst discriminators. Secretary Cuomo has been a real champion of disability rights, even at times drawing criticism from some in the housing industry who claim HUD has been too aggressive in enforcing the law.

Significant actions Secretary Cuomo has taken under the Fair Housing Act include:

- ◆ a first-ever one million dollar nationwide study of accessibility compliance;
- ◆ providing two million dollars to disability groups to assist in enforcement;
- ◆ winning a landmark decision, HUD v. Perland, in which Secretary Cuomo ordered that a developer who failed to comply with accessibility laws must retrofit even at significant cost to the developer; and
- ◆ more than doubling civil penalties and compensation from discriminators – from \$4.4 million to \$9.6 million.

Tom - here are my contact #s -

Ginny Terrano

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Tom Sharkey
I'm Bueno
Thanks