

Minutes – Commission on Disabilities – June 10, 2009 – Nock School

All present except President Shawn Flaherty who was ill.

1. Meeting with Mark Tramontana, Manager of “The Upper Crust Pizzeria” (44 State Street, Newburyport, MA 01950) to discuss a request for a variance relative to the requirement for an elevator or lift for his two floor restaurant. The Commission voted unanimously that “compliance with 521 CMR would result in excessive and unreasonable costs without any substantial benefit to persons with disabilities.” --- 521 CMR 5.44

The direct cost of an elevator/lift installation would be \$43,500 according to Brett Murphy, Murphy Construction Company, Box 1510, Newburyport, MA 01950 – (986) 815-1042PO. In addition there would be substantial indirect costs. The Pizzeria would lose 16 seats from 37, a significant loss of potential customers. There is direct access to the Pizzeria from Inn Street; there is an accessible bathroom on the 1st floor; and all the service and foods are the same on the 1st and 2nd floors. There would be no advantage in gaining access to the 2nd floor and, furthermore, there is no accessible bathroom on the 2nd floor. The service on the 1st floor is equal to that on the 2nd and the 1st floor is more accessible than the 2nd.

The Commission is writing a supportive letter on behalf of Mr. Tramontana’s request for a variance

2. Secretary Tom Lyons announced that he will take a “year off” – a “sabbatical” starting this June. President Shawn Flaherty will step down from the Commission next November when his term is up, as the Presidency of the Newburyport Teachers’ Association takes a lot of time and he has growing interests in other city activities. Tom suggested the Commission elect replacements, but the Commissioners wished to think about the structure and possible officers and their duties over the summer.
3. Carla Trodella told the Commission of a bad experience she had when applying for a volunteer’s position at the Massachusetts General Hospital. The interviewer said she was not “normal” and could not fulfill the responsibilities of a volunteer working with school children. As a person with a lot of hospital experience she felt she was certainly qualified. The Commission members were appalled by her story. She was to see her doctor on Wednesday, June 11, at the General. She was to bring up the story of her experience with the hospital doctor. She has already spoken with occupational therapist.

Tom Lyons urged her write out the narrative of her experience with as much detail and precision as possible. As a teacher of many years he offered to assist her with any write up she makes. It seems to her supporters – all the Commissioners – that Carla would benefit from making careful notes of such experiences. He also urged Carla to call him Wednesday evening and relate her experience with the doctor so we might try to make a plan about how to proceed.

There are several institutions that can prove helpful. These organizations can be helpful for Carla, but I go into them in some detail as we can all benefit from the following information.

1. The Massachusetts Office on Disabilities (617) 727-7440)

Director Myra Berloff, tel. extension – 27317; I have dealt with Assistant Director Jeff Dougan (very helpful – tel. extension 27316); Advocacy Counsel Barbara Lybarger (tel. ext. 27215). The NBPT Commission had Director Myra Berloff spend an evening with us several years ago)

Services:

The Massachusetts Office of Disability has three main programs:

- The **Government Services Program** provides technical assistance and advice to state and local governments on all disability-related issues. MOD makes sure that government regulations and policies meet the requirements of the Americans with Disabilities Act. MOD offers guidance to public service agencies and makes public policy recommendations on behalf of residents with disabilities.
- The **Client Services Program** helps individuals who need help with disability-related problems. MOD operates an information and referral system to help residents find the services they need and learn about their legal rights. MOD also investigates complaints and helps correct civil rights violations. MOD's Client Assistance Program (CAP) helps residents who are having problems with federally funded vocational rehabilitation and independent living programs.
- The **Community Services Program** helps communities become more responsive to the needs of residents with disabilities. MOD trains individuals and community organizations to advocate for the rights of the disabled. MOD offers technical assistance and information about accessibility laws. The goal is to improve access to public and private places, programs, and services for people with all types of disabilities.

Contact Information:

- Massachusetts Office on Disability
One Ashburton Place, Room 1305
Boston, MA 02108

Telephone: 617-727-7440

2. Massachusetts Commission Against Discrimination:

1 Ashburton Pl. #601, Boston, MA 02108 (617) 994-6000;

Massachusetts Employment Discrimination Law, [G.L. c. 151B, 4, ¶ 16](#)

This law prohibits any employer in Massachusetts who employs six or more people from firing, refusing to hire or rehire, or otherwise discriminating against a qualified disabled person on the basis of disability. A “qualified” disabled person must be able to perform the essential functions of the job, with or without a reasonable accommodation. “Reasonable accommodations,” such as

a flexible work schedule or providing a reader, are adjustments an employer must make to enable a person with a disability to do a job. These accommodations are at the employer's expense as long as they do not create an undue hardship.

Enforcement: The Massachusetts Commission Against Discrimination (MCAD) is the enforcement agency for the statute. A complaint must be filed at an MCAD office within 300 days of the discriminatory act:

1 Ashburton Pl. #601, Boston, MA 02108
(617) 994-6000

3. Mass Disability Law Center

[Our Work](#) [Funding](#) [Priorities](#) [En Espanola](#) [Contact Us](#)

Celebrate Three
Decades
of Advocacy

Details Soon!

Are You A Person With A
Disability Who Has Had
Difficulty Accessing
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▶ Home

(DLC) is the Protection and Advocacy agency for Massachusetts. DLC is a private, non-profit organization responsible for providing protection and advocacy for the rights of Massachusetts residents with disabilities. DLC receives federal, state and private funding but is not part of the state or federal government.

Our Mission

To provide legal advocacy on disability issues that promote the fundamental rights of all people with disabilities to participate fully and equally in the social and economic life of Massachusetts.

What We Do

We provide information, referral, technical assistance and representation regarding legal rights and services for people with disabilities.

We provide legal services to eligible people and groups whose cases meet [DLC's priorities](#).

We seek to strike a balance between systemic advocacy and individual representation.

Our experienced lawyers and paralegals conduct trainings for community groups and other advocacy organizations.

Who We Serve

People with disabilities. DLC provides legal services to people in Massachusetts who have a wide range of physical, psychiatric, sensory and cognitive disabilities.

People with disability related problems. DLC serves individuals who experience discrimination, abuse or neglect or denial of services because of their disability. DLC does not handle general legal problems such as obtaining a divorce, filing for bankruptcy or trust & estate issues.

People with disabilities whose legal problem falls within a priority. Demand for DLC's services far exceeds our resources. DLC adopts annual priorities based on input from people with disabilities. Priorities are available upon request or can be seen on the DLC website.

People with disabilities whose case has merit and DLC has the staff time and resources necessary to resolve the issue. Given DLC's limited resources, DLC must concentrate staff time and funding on cases that meet our priorities and will make a significant impact for people with disabilities.

What Types of Problems Can We Help With?

DLC has experienced staff who provide services in the following issue areas. Please see DLC's specific priorities for each of the issue areas listed below.

Access to Community Services
Special Education
Health Care
Disability Benefits
Rights and Conditions in Facilities

We Seek Input On Our Priorities

In order to use our advocacy resources in the most effective way possible, DLC undergoes an annual priority setting process. An important part of that effort is to seek input from a broad range of people in the disability community. [Help us Shape our Priorities](#)

Client Grievance Procedure

We have a grievance procedure for all clients and prospective clients.

Tom Lyons, Secretary