

**IN UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,

Plaintiff,

CIVIL ACTION NO.

v.

JOHN LONGACRE; SOUTH
PHILADELPHIA
TAP ROOM; LONGACRE HOLDINGS,
LLC;
LPMG MANAGEMENT COMPANY;
LPMG CONSTRUCTION
MANAGEMENT LLC;
LPMG FINANCIAL; LONGACRE
PROPERTY MANAGEMENT GROUP;
CITYWIDE PROPERTIES ONE, INC.,

Defendants.

COMPLAINT

Plaintiff the United States of America (the “United States”), by its attorney Zane David Memeger, United States Attorney for the Eastern District of Pennsylvania, alleges as follows:

1. This is a civil action to redress discrimination on the basis of disability in violation of Title III of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12181-12189 (“ADA”), and its implementing regulations, 28 C.F.R. Part 36.
2. The United States brings this civil action pursuant to Section 12188(b)(1)(B) of the ADA and 28

C.F.R. § 36.503 because the United States has reasonable cause to believe that the South Philadelphia Tap Room has discriminated against people with disabilities by failing to remove barriers to accessibility as required by the ADA.

PARTIES

3. Plaintiff is the United States of America.
4. Defendant South Philadelphia Tap Room is a bar and restaurant located at 1509 Mifflin Street, Philadelphia, PA 19145 (“Tap Room”).
5. Defendant Longacre Holdings, LLC (“Longacre Holdings”) is a company also with a business address at 1509 Mifflin Street, Philadelphia, PA 19145.
6. Defendant LPMG Management Company (“LPMG Management”) is a company with business addresses at 1621 McKean Street, Philadelphia, PA 19145 and 1928 S. Bancroft Street, Philadelphia, PA 19145.
7. Defendant LPMG Construction Management LLC (“LPMG Construction”) is a company with a business address at 1621-23 McKean Street, Philadelphia, PA 19145.
8. Defendant LPMG Financial (“LPMG Financial”) is a company with a business address at 1826 Ridge Avenue, 2nd Floor, Philadelphia, PA 19140.
9. Defendant Longacre Property Management Group (“Longacre Property Management”) is a company also with a business address at 1826 Ridge Avenue, 2nd Floor, Philadelphia, PA 19130.
10. Defendant Citywide Properties One, Inc. (“Citywide”) is a company also with a business address at 1826 Ridge Avenue, 2nd Floor, Philadelphia, PA 19130.
11. Upon information and belief, defendant John Longacre (“Longacre”) is the President and/or Owner of the Tap Room, Longacre Holdings, LPMG Management, LPMG Construction, LPMG Financial, Longacre Property Management, and Citywide.
12. Upon information and belief, defendants Longacre, Tap Room, Longacre Holdings, LPMG Management, LPMG Construction, LPMG Financial, Longacre Property Management, and Citywide

own and operate the Tap Room and the building in which the Tap Room operates at 1509 Mifflin Street, Philadelphia, PA 19145.

13. The Tap Room facility is a “place of public accommodation” within the meaning of Title III of the ADA because its operations affect commerce and, among other things, it is “a restaurant, bar or other establishment serving food or drink.” 42 U.S.C. § 12181(7)(B); *see* C.F.R. § 36.104. Defendants Longacre, Longacre Holdings, LPMG Management, LPMG Construction, LPMG Financial, Longacre Property Management, and Citywide are therefore “public accommodation[s]” within the meaning of Title III of the ADA. *See* 42 U.S.C. §§ 12181(7)(B), 12182(a); 28 C.F.R. § 36.104.
14. Upon information and belief, 1509 Mifflin Street was renovated by defendants in 2003 for its current use as the Tap Room.
15. Defendants’ renovation of 1509 Mifflin Street in 2003 was an “alteration” as defined by the ADA. *See* 28 C.F.R. § 36.402(b).

JURISDICTION AND VENUE

16. This Court has jurisdiction over this action pursuant to § 12188(b)(1)(B) and 28 U.S.C. §§ 1331 and 1345.
17. Venue lies in this District pursuant to 28 U.S.C. § 1391(b). The acts of discrimination alleged in this Complaint occurred in this District, and the Tap Room is situated in this District.

FACTUAL ALLEGATIONS

The Compliance Review and the Government’s Attempts to Contact the Tap Room

18. Section 12188(b)(1)(A)(i) of the ADA provides that the “Attorney General . . . shall undertake periodic reviews of compliance of covered entities under this Title.”
19. On March 11, 2015, the United States Attorney’s Office for the Eastern District of Pennsylvania announced an ADA compliance review of certain restaurants in this District pursuant to Section 12188(b)(1)(A)(i) of the ADA.

20. The Tap Room was one of the restaurants included in the compliance review.
21. As part of the compliance review, the United States Attorney's Office mailed survey forms concerning ADA compliance to the Tap Room on March 6, 2015. A United States Postal Service certified mail return receipt form shows that the survey was received and signed for by someone at the Tap Room address on March 9, 2015. Defendants did not respond to the survey.
22. On April 16, 2015, the United States Attorney's Office redelivered the survey and letters to the Tap Room via hand delivery. The survey and letters were received and signed for on that day by a Tap Room employee. Although the letter accompanying this delivery requested that defendants respond by April 21, 2015, defendants did not respond to the survey.
23. On May 8, 2015, an Assistant United States Attorney spoke to defendant Longacre regarding the survey and previous correspondence. Defendant Longacre requested that the Government forward the previous correspondence and survey to him via email. An email attaching the survey and the letters was sent to defendant Longacre that same day. Defendant Longacre never responded, and no representative of the Tap Room responded. Defendant Longacre also did not respond to a second email sent on June 3, 2015.
24. The United States Attorney's Office sent a letter to defendant Longacre at LPMG Management on August 18, 2015 listing some of the barriers to accessibility and informing him that defendants were required to remove the architectural barriers to access. The letter was hand delivered and signed for by an LPMG Management employee. Defendants did not respond.
25. The United States Attorney's Office sent the August 18, 2015 letter to defendant Longacre via email on September 11, 2015. Defendants did not respond.
26. As set forth more fully below, the United States Attorney's Office's has information and belief that defendants are operating the Tap Room facility in violation of the ADA.

The Tap Room's Barriers to Accessibility

27. The Tap Room is a one-story restaurant with upper and ground level dining areas. The two dining area levels are connected by stairs within the restaurant.

28. Numerous architectural barriers at the Tap Room prevent or restrict access by individuals with disabilities. 42 U.S.C. § 12182(b)(2)(A); 28 C.F.R. § 36.304.
29. Barriers to access that exist within the Tap Room include, but are not limited to, the following:
 - a. The main customer entrance to the Tap Room is a corner entry facing South Hicks Street and Mifflin Street. This entrance is one step up (approximately 6 inches) from the sidewalk. There is also no signage indicating an accessible entrance to the Tap Room. *See* 1991 Standards, §§ 4.1.2(7)(c), 4.1.6(1)(h), 4.30.1, 4.30.2, 4.30.3 and 4.30.5; *see* 2010 Standards, §§ 202.3, 206, 216.6 and 703.5.
 - b. The entrance door facing South Hicks Street and Mifflin Street does not provide a clear width of 32 inches minimum. *See* 2010 Standards §§ 206.4, 206.5.1, 404.2.3.
 - c. The entrance door has a thumb latch which is not easy to grasp with one hand and which requires tight grasping and tight pinching contrary to §§ 4.1.3(7) and 4.13.9 of the 1991 Standards and contrary to §§ 206.5.2, 404.2.7 and 309.4 of the 2010 Standards. Handles, pulls, latches, locks and other operable parts on doors must operate with one hand and not require tight grasping, pinching or twisting of the wrist. *See* 2010 Standards §§ 206.5.2, 404.2.7, and 309.4.
 - d. The women's and men's toilet rooms lack a permanent room identification sign identifying the toilet rooms in raised characters and Braille at 48 inches minimum height next to the doors of the toilet rooms. *See* 1991 Standards §§ 4.1.3(16)(a), 4.30.1, 4.30.4, 4.30.5 and 4.30.6; *see* 2010 Standards §§ 216.2 and 703.1-703.5.
 - e. The clear opening width of the entrance doors to both the women's and men's toilet rooms is less than 32 inches. *See* 1991 Standards §§ 4.1.3(7)(b), 4.13.5 and Fig. 24(a); *see* 2010 Standards §§ 206.5.2 and 404.2.3.
 - f. The entry door hardware on both the men's and women's toilet room doors consists of knobs which require tight grasping, pinching, or twisting of the wrist. *See* 1991 Standards §§ 4.1.6(b) and 4.13.9; *see* 2010 Standards §§ 206.5.2, 404.2.7 and 309.4.

- g. Both the men's and women's toilet rooms lack a minimum of 60 inches deep by 18 inches wide of maneuvering clearance on the latch side of the door for a forward approach to pull open the doors. *See* 1991 Standards §§ 4.1.3(7)(b), 4.13.6 and Fig. 25(a); *see* 2010 Standards §§ 206.5.2 and 404.2.4.
 - h. A minimum 60-inch diameter or a T-shaped turning space is not provided inside either of the men's or women's toilet rooms. *See* 1991 Standards §§ 4.1.3(11), 4.22.3, 4.2.3 and Fig. 3; *see* 2010 Standards §§ 213.2, 603.2.1 and 304.
 - i. The clearance around the toilet in both the women's and the men's toilet rooms is not at least 48 inches measured perpendicular from the side wall and 66 inches measured perpendicular from the rear wall. *See* 1991 Standards §§ 4.1.3(11), 4.22.3, 4.22.4, 4.16.2 and Fig. 28.
 - j. The bottom edge of the reflecting surface of the mirrors in both the men's and women's toilet rooms is more than 40 inches above the finish floor. *See* 1991 Standards §§ 4.1.3(11), 4.22.6, 4.19.6 and Fig. 31; *see* 2010 Standards §§ 213.3.5 and 603.3.
 - k. The hot water supply and drain pipes under the sinks in the men's and women's toilet rooms are not insulated or otherwise configured to prevent contact. *See* 1991 Standards § 4.1.3(11), 4.22.6, and 4.19.4; *see* 2010 Standards §§ 213.3.4 and 606.5.
 - l. An accessible water closet with clear floor space and grab bars is not provided. *See* 1991 Standards §§ 4.1.3(11), 4.22.4, 4.16 and 4.26; *see* 2010 Standards §§ 213.3.2, 604 and 609.
 - m. An accessible lavatory (sink) with front approach clear floor space is not provided. *See* 1991 Standards §§ 4.1.3(11), 4.22.4, 4.19 and Fig. 31; *see* 2010 Standards §§ 213.3.2, 305, and 606.
30. It would be readily achievable for defendants to remove some or all of the barriers to access at the Tap Room.
31. Defendants have failed to remove some or all of the barriers to access at the Tap Room.
32. To the extent that some it is not readily achievable to remove some barriers at the Tap Room,

Defendants have failed to make the Tap Room facility's goods and services available through alternative methods that are readily achievable. 42 U.S.C. § 12182(2)(A)(v); 28 C.F.R. § 36.305.

33. The barriers to accessibility at the Tap Room facility cause the Tap Room facility's elements, spaces or common areas and the paths of travel to these areas to fail to be readily accessible to and usable by individuals with disabilities to the maximum extent feasible. 42 U.S.C. § 12183; 28 C.F.R. §§ 36.402-406.

CAUSE OF ACTION

34. Plaintiff repeats paragraphs 1 through 34 as if set forth fully herein. Defendants, by and through their actions and omission, have discriminated, on the basis of disability, in the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations, by:

- a. failing to remove architectural barriers to access where it is readily achievable to do so;
and
- b. making alterations that are not readily accessible to and usable by individuals with disabilities.

35. Defendants' failure to remove the barriers to access constitutes unlawful discrimination against a person or group of persons that raises an issue of general public importance within the meaning of 42 U.S.C. § 12188(b)(1)(B)(ii) and 28 C.F.R. § 36.503(b).

PRAYER FOR RELIEF

WHEREFORE, the United States prays that this Court enter judgment:

- A. Declaring that Defendants have violated Title III of the ADA and its implementing regulation;
- B. Ordering Defendants to remove all violations of Title III of the ADA at the Tap Room, including but not limited to, the violations set forth above;
- C. Compensating persons aggrieved, and assessing a civil penalty against Defendants in an amount authorized by 42 U.S.C. § 12188(b)(2)(C); 28 C.F.R. § 36.504(a)(3), to vindicate the public interest;
and

D. Granting such other relief as the interests of justice may require.

By: / s/ Vanita Gupta

VANITA GUPTA

Principal Deputy Assistant Attorney

General

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/s/ Zane David Memeger

ZANE DAVID MEMEGER

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