



September 28, 2016

The Honorable Jeff Flake
413 Russell Senate Office Building
Washington, DC 20515

Dear Senator Flake,

On behalf of the members of the American Resort Development Association (ARDA), I write to express our strong support of “The ADA Education and Reform Act of 2015” and encourage you to introduce companion legislation to H.R. 3765 in the US Senate. By way of background, ARDA is the Washington, D.C. based professional trade association representing the interests of developers of timeshare, fractional and other vacation real estate products. Established in 1969, ARDA’s diverse membership includes over 1,000 member companies, ranging from small privately held firms to publicly-traded companies, and including major hotel and entertainment brands.

The timeshare industry strongly supports the spirit and intent of the Americans with Disabilities Act (ADA) and strives to remain fully accessible so that all of our customers can enjoy a full range of services and amenities. “The ADA Education and Reform Act of 2015” is a narrowly targeted proposal addressing an unintended consequence of the ADA – i.e., the practice, by certain attorneys, of filing or threatening to file “drive-by” lawsuits with the primary objective being a monetary judgement, not a “fix” to a barrier to access.

The intention of the ADA was to improve access to facilities, not to line the pockets of unscrupulous attorneys and their pool of plaintiffs. From 2013 to 2014 the number of ADA Title III lawsuits - - those dealing with public accommodation - - surged by more than 63%. In many cases, a single plaintiff filed dozens, even hundreds, of cases across a geographic area alleging violations under the ADA. Often without the resources to contest the suit or even verify the standing of the complainant, thousands of businesses are left paying significant settlements consisting mainly of attorney’s fees. Once the litigating party gets its payout, it moves on to the next property.

The bill recognizes that these pervasive suits and alleged ADA access violations could be addressed more effectively, thereby strengthening the ADA, by providing for a “notice and cure” provision. This simple, common sense approach would allow a business to actually identify and correct alleged violations before engaging in an unnecessarily lengthy and costly settlement process. By removing the incentives for charging upfront legal fees, the emphasis can once again be placed on compliance and improved access. If a business fails to correct, or make substantial progress in correcting an identified violation following this notice and cure period, all of a plaintiff’s legal rights for seeking legal recourse under the ADA still apply.

The timeshare industry is committed to creating a safe, welcoming environment for everyone and acknowledges the significant impact the ADA has made in achieving that goal. We believe “The ADA Education and Reform Act of 2015” is needed to ensure that resources are focused on improving access while protecting business from abusive lawsuits. Thank you for your leadership on this issue.

A handwritten signature in black ink, appearing to read "Sandra Yartin DePoy".

Sandra “Sam” Yartin DePoy
Senior Vice President, Federal & Regulatory Affairs

