

United States Senate

WASHINGTON, DC 20510

March 7, 2012

The Honorable Eric H. Holder, Jr.
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

The Honorable Thomas Perez
Assistant Attorney General
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

Re: New ADA Title III Requirements for Accessible Pool and Spa Entries.

Dear Attorney General Holder and Assistant Attorney General Perez:

We are writing to you about an urgent matter which will affect every hotel, motel and lodging establishment with a pool or spa on their premises on March 15, 2012. On January 31, 2012, the U.S. Department of Justice's Civil Rights Division published a document entitled "ADA 2010 Revised Requirements: Accessible Pools Means of Entry and Exit." This revised document sets forth new requirements of lodging facilities beyond those contained in the Final Rule issued on September 15, 2010, that appreciably change the obligations of the entire lodging industry and other public facilities to comply with the original rule.

Entities covered under the initial 2010 rule have been working in good faith to bring their facilities up to the new standard by the March 15, 2012 deadline. However, because the rule has been updated at this late date, compliance will be virtually impossible by the deadline, placing most covered hotel and motel pools and spas in violation of the new regulations next week.

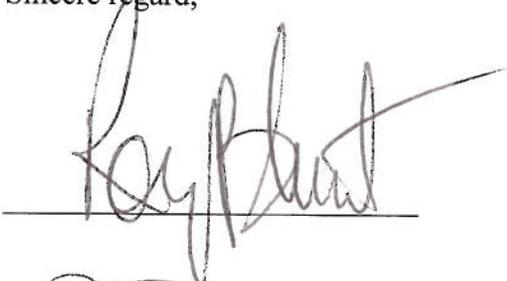
We strongly urge you to exercise your legal discretion in your capacity as the Attorney General under 5 U.S.C. § 705 to stay the compliance date indefinitely. Additionally, please direct the Department of Justice Civil Rights Division to notice and engage an official comment and rulemaking process to determine if the new requirements, handed down in the revised document on January 31, 2012, should actually be adopted. This move would be in accordance with the D.C. Circuit Court ruling in *Appalachian Power Co. v EPA*, 208 F. 3d 1015, 1022-24 (D.C. Circuit 2000) which invalidated EPA guidance that changed and expanded the monitoring obligations of regulated entities without following notice and comment procedures. If these new regulations are not stayed, and the final rule is not revised in line with the final rule issued in September 2010, the entire lodging industry's compliance costs will essentially double.

Additionally, pool lift manufacturers have stated that even if the September 2010 rule had contained an explicit requirement that all pools and spas at lodging establishments be outfitted with fixed-entry lifts, 18 months of lead time would have been insufficient to produce the number required to bring the entire industry into compliance. Production of the same required number of lifts in the shorter six week window, resulting from the update to the Final Rule, is clearly impossible.

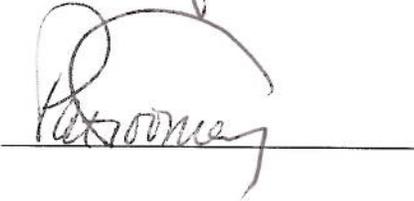
In closing, we once again urge the Department of Justice to stay the compliance date until a full notice and comment procedure has taken place regarding the updated rule and its efficacy.

Thank you for your consideration. We look forward to your prompt response.

Sincere regard,



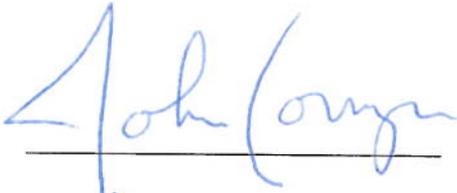
Roy Blunt



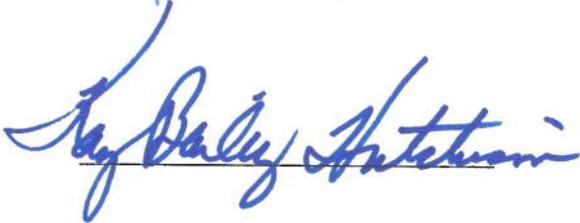
Pat Romney



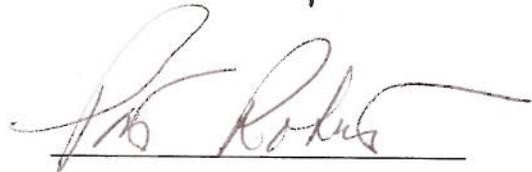
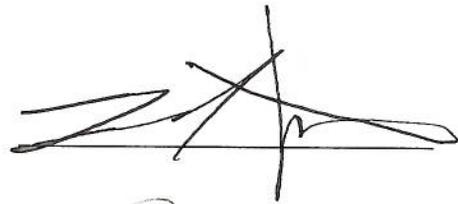
Mitt Romney



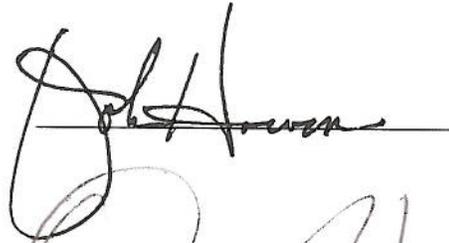
John Conyer



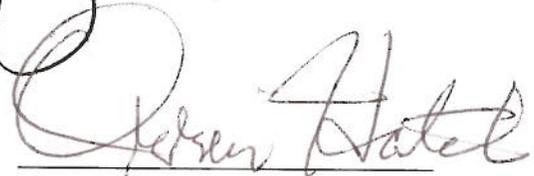
Kay Bailey Hutchison



Bob Roberts



John Herrera



Deborah Hatala



Mike

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