



HAVA Rights Denied

By T.K. Small, Attorney at Law

Unlike some Americans, I take the right to vote very seriously. I feel that by casting my ballot, it gives me the right to complain and hold politicians accountable. Part of this inalienable right, is to cast one’s ballot, privately and independently. Once again, the NYC Board of Elections (BOE) staff has left me furious after attempting to vote. Following the passage of the Help America Vote Act in 2001, requiring time, training and money, to improve the election system, why are they still so incompetent?!

The BOE person at the first table, after looking at my name, promptly started to speak to the person behind me as if that was my keeper, when in fact it was just some other person from my neighborhood. Do I really need to scream “SPEAK TO ME DIRECTLY!?” Apparently, I do.....



At the second table, the first worker was obviously intelligent and competent, and she did a good job. However, the next person assisting me started by trying to push my wheelchair. Once again, I found myself having to scream “DON’T TOUCH MY WHEELCHAIR!” If I had asked for assistance, this would make sense. But I hadn’t and I didn’t. I can appreciate being pushy, but this was too much. Finally, when I got to the Ballot Marking Device (BMD), there was someone ahead of me and I patiently waited my turn. I explained to the person that tried to push my wheelchair, “I am an attorney; you don’t need to speak to me like an idiot.”

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He kept watching the person using the BMD and I told him he was compromising this person's privacy.

As the above-described situation was unfolding, I was also watching for the competence level of the person assisting with the BMD. Quickly, I realized that I needed to manage my expectations and figure out a backup plan. In the past, I have spent many hours trying to exercise my right to vote. For a number of reasons, I simply didn't have that much time on November 6.

While the other person was finishing with marking their ballot, I rolled over to the police officer and explained my situation. Basically, I did not have 3-4 hours to dedicate to holding the system accountable in exercising my franchise. Consequently, I asked the police officer to assist me if the BOE staff person couldn't make the BMD operational. As I approached the BMD and poll worker, I informed her that I would need to use the sip and puff connector, in order to mark my ballot. Quickly I could see the fear and lack of comprehension. I knew that she did not know anything about the equipment. Firmly I explained to her, "If you don't really know what you're doing, please don't waste my time. I will get the police officer to assist me." In very apologetic, but unacceptable terms, the BOE staffer explained that she didn't really know how to use the sip and puff equipment.

On almost every account, the NYCBOE failed this Election Day. The police officer easily assisted me in casting my ballot, but obviously, this was not a private or independent voting experience. I just can't understand this. I know that these workers were trained, because I participated in that training in the past. Very exasperating!

Update on Ted Galusha's Battle with the DEC

By Joe Adler

For nearly two decades Ted Galusha has been fighting for the establishment and upkeep of areas in the state's Adirondack forest preserve which are accessible both to persons with disabilities and the general public. During his battle, he has won some tactical skirmishes with the state DEC, but there have been many setbacks. In October, Galusha and his wife were in the news due to their efforts to put the state on trial for limiting motorized access to portions of the Adirondack forest. Galusha, now 53, is a disabled veteran who walks with the aid of a cane and braces, and drives around sites which he maintains lack disability and/or universal access.

Although Galusha won a lawsuit against the state in 2001 that required the DEC to provide improved access including roads, outhouses, camping and parking for persons with disabilities in a portion of the Lake George Wild Forest, he contends that the DEC has not met the terms of the judicial decision. More recently, in May 2010 the state closed a group of these same roads to general motor vehicle access due to "state budget issues," while leaving a few open for person with disabilities. Galusha challenged this closure as a violation of the Olmstead decision as interpreted by the courts, which have mandated universal access to public areas.

To test the legality of the road closings, and publicize the issue, Galusha and his wife have courted arrest this year by violating park traffic laws and refusing cooperation with park rangers. In October the (Glens Falls) Post Star editorialized that their efforts were well-intended but misguided, while John Landen of Channel 13, Albany, broadcast a more sympathetic story filmed on location.

NYSILC has supported Galusha at several points in his protracted struggle.

Disability Rights Movement at “Legislative Cross-Hairs”

By Joe Adler

The Disabilities Convention is an international treaty promoted by the United Nations “to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by people with disabilities, and to promote respect for their inherent dignity.” (Daniel Erchick, A Roadblock to Rights for the Disabled,” Baltimore Sun, 11/30/2012). The Convention extends to people with disabilities in 126 nations the civil rights embodied in the Americans with Disabilities Act (ADA). President Barack Obama signed a bill in 2009 authorizing American participation in this Convention; however, Senate approval was delayed for several years while the Senate Foreign Relations Committee studied the treaty and attached several amendments and reservations.

As we were completing this newsletter, the United States Senate finally began debate on the treaty. The document requires signatories to update their laws for persons with disabilities. The disability community actively supports the ratification of the treaty for these compelling reasons: (1) It will enable American participation in international forums on disability rights (2) By ratifying the treaty, the United States will be sending a strong message to countries which still discriminate against people with disabilities (3) The Convention will not require changes in U.S. law and there is no financial cost to ratifying it.

(4) Americans with disabilities, including 5.5 million veterans, deserve the same rights and freedoms found at home while living or traveling abroad. (Erchick, “Road Block,” Baltimore Sun, 11/30/2012).

A determined group of Republican Senators with Tea Party and Patriot Voices affiliations has been actively opposing ratification and disseminating misleading information. It is being falsely alleged that the CPRD will require funding of abortions, that it creates new entitlements, and will be harmful to the interests of persons with disabilities. These talking points, however, conceal a deeper and more troubling agenda: The Republican Right’s target is really the United Nations, (where the treaty originated) not the disability rights movement, “which is being used as a ploy.” (Conference call coordinated by National Council on Independent Living (NCIL), 11/29/2012)

An emergency conference call hosted by (NCIL) on November 29th, was attended by more than 160 stakeholders. We learned that opponents of the treaty are sparing no effort to oppose ratification of the treaty, which requires the approval of two-thirds of the Senate. A counter-strategy was outlined, which will culminate in a massive effort on Monday, December 3rd, which is designated as the International Day of the Disabled. Plans call for advocates to flood the Senate switchboard with calls at midday, and to reach legislators and voters by utilizing the social media. For further information, contact Joe at NYSILC, (518) 427 1060.

Happy Holidays!