

Campus Facilities

DOJ Joins U. of Mich. Stadium Suit Seeking Accessible Seating, Amenities

The U.S. Justice Department has joined a lawsuit seeking to make 1 percent of the seats in the University of Michigan football stadium accessible to people with disabilities.

Although the 80-year-old stadium has been renovated and altered several times since passage of the Americans With Disabilities Act (ADA), only 90 of its 107,501 seats are currently accessible to wheelchair users, and those are in the end zones. The university has claimed that accessibility standards only apply to new facilities, not older, existing ones.

The university's board of regents approved bids and awarded construction contracts in June for a three-year, \$226 million renovation that includes a 400,000-square-foot addition with about 70 sideline wheelchair positions and another 135 wheelchair places among 3,200 skybox club seats. When construction is complete in 2010, the stadium will have a total of 592 accessible seats, according to spokeswoman Kim Brockhuizen. The number of elevators will be increased from one to 16, and accessible restrooms, concession stands and a souvenir shop will be added.

See *Stadium Suit*, p. 6

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That is not enough, Justice insisted, joining a complaint filed in federal district court by the Michigan Paralyzed Veterans of America (MPVA) under Section 504 and the ADA to halt construction and block the university's federal funding. The lawsuit seeks 1,080 accessible seats available at various price ranges and spread throughout the stadium.

"Attending football games is a key element of campus life at the University of Michigan, both for students and alumni," said Rena J. Comisac, acting assistant attorney general for Justice's Civil Rights Division, in a press release. "We seek to ensure that the university's iconic football stadium, the largest stadium in the United States, has the accessible seating and amenities that federal law requires."

The requirements of Section 504 and the ADA apply to the stadium regardless of when it was built because of the extensive alterations and renovations it has undergone, Justice said. When it was passed, the ADA did not require that older buildings be retrofitted to make them accessible. Instead, it required that accessible features be added

when existing facilities underwent alterations, which were defined as something more than cosmetic fixes. The university claims that requirements for the number, location and dispersal of accessible seating only apply to the new facilities it is adding, not the rest of the stadium.

"It comes down to the real key issue of alterations versus repair," said Richard Bernstein, MPVA's attorney. "The university contends that you take each project individually. Our argument is that you put them all together and take the cumulative effect."

"They need to look at it in totality," he said. "If the University of Michigan gets away with [calling renovations] repairs and not alterations, developers all over the country will divide up projects over time and will get away with contending that they are repairs and not alterations."

The U.S. Department of Education investigated the situation and issued a formal finding Oct. 26, concluding that the university violated both Section 504 and the ADA. ED found that the stadium does not have enough wheelchair accessible seating and the accessible seats it does have are not dispersed throughout the facility. There also are no accessible ramps or routes into and around the stadium, accessible restroom facilities, concession stands, souvenir shops, parking or signage.

ED notified the university Nov. 9 that negotiations to achieve voluntary compliance had reached an impasse and referred the matter to Justice, which subsequently joined in the existing litigation. The addition of wheelchair seats to luxury boxes and suites as part of the multi-million-dollar renovation project does not resolve violation in the other sections of seating in the stadium, Justice said.

Moreover, the law requires that accessible seats be available for purchase at the ticket window, Bernstein noted. "You can't buy a seat in the skybox. They can't use those toward the 1 percent they are required to have in the whole stadium." 