

- Welcome back. This is Ability Radio, You and Your Life and we have our guest today, Joe Zesski. And Joe, we're just talking about parking and we have a lot of parking permit issues and parking issues in the Virgin Islands for sure.

- And there are parking issues and I have to say it's not just a Virgin Islands issue. You know, that's, that happens in, all over I think and, you know, I was just talking about employers and, you know, that gives me a chance here, let me sort of bring the two of those things together because there are different requirements under the ADA, there are sometimes employees that need parking as in a combination, accessible parking spaces, then there are also business obligations. If you're a business open to the public, you might have to look at parking concerns for both of those things. So let me, let me first just quickly talk about from an employer point of view. It's a very common accommodation and that kind of accommodation should go through the same process like you do for other work-related reasonable accommodations. So someone should disclose or say that they have a disability or a condition and that there is, they need an accommodation or some sort related to that so that they can do their job. So for example, someone may have a heart condition and because of that heart condition, they can't walk distances or far distances so they might come to you as an employer and say, "I would like a designated accessible parking space because I can only walk, whatever, 200 feet, let's say, with my condition." As an employer, you need to look at, you know, can you provide that accommodation? Now come down to do you provide employee parking, if you have an employee parking area, then you need to look at can you make the accommodation happen? And as an employer, your obligation is to provide something, an accommodation that must be effective. So it must meet the need and in this situation, typically there won't be an alternative that you could use and so you would need to look at, you know, designating a specific space for that employee even if typically there isn't reserved parking for an individual. You need to make that the person can park close or you may make an accessible parking space in your lot for that employee. Again, there has to be a related reason, a need for that accommodation and the person might need to give you medical documentation. As an employer, you do have the right to ask for documentation. So keep that in mind. But then you also have an obligation possibly as a business. Let's say you're a local bar or a restaurant. Yeah, you might have an employee who might need an accessible parking space but as a business, you have to offer accessible parking to the public and there are specific number requirements under the ADA standards as well as local law and so you need to have a certain number of spaces and those spaces should be designed in a certain way depending on the number that you have to provide and I won't go into it here but there are number ratios and various things that are required based on that little inside baseball, I don't wanna get bogged down and, for people but be aware that you do need to provide accessible parking spaces, even if you only have four parking spaces, one should be accessible I think and one parking space for the first twenty-five must be accessible. So be aware of that. So it should be striped out the right way so it has an access aisle and why do accessible parking spaces have those access aisles? They're for people to be able to get out of their vehicle. Now, it may be that someone needs to be able to open their door fully, complete width, because maybe they're able to walk but maybe they struggle with being able to physically get up and down from a standing to a sitting position, so they need to be sure that they are able to swing their car door to the fully opened position. And there's also individuals who might have an adapted vehicle and that's a car or van that has a modification to it so that there is either a lift or a ramp for someone who uses a wheelchair or a scooter to move around to be able to get in and out of a vehicle and so they would use that aisle so they would have enough room to put down their ramp or their lift and get out. So it's important to know why the access aisle is there.

- Along that same thing, what if, we're talking about public accommodations in retail, how about architectural barriers as we, for those kind of businesses?

- Yeah. They often go together. You know, the parking issue is a, is a type of architectural issue, a design issue. Things like trying to have, make sure that you have curb cuts at your businesses or not have steps to enter a business or have an alternate way of getting into your business that doesn't involve using steps. Those are things that are important as well as having a wide enough doorway, enough room for someone to move around inside your business once they get in the front door, those are all important things and your focus should be from the outside in, so from wherever a person comes to your business, start there with getting in the front door, then look at, you know, the aisles of your business if there are

aisles or the layout to make sure there's enough room for people who might use a wheelchair to be able to get around, then look at, you know, after that, things like your accessible restrooms. If you offer a bathroom for the public to use, you can make sure that's accessible and so these obligations, you know, apply to all businesses and any time that you do a renovation to a building or do some new construction to your business, those elements, whatever that construction is or that renovation is, it has to be accessible and come into compliance with the ADA standards, the 2010 ADA Standards for Accessible Design.

- Which requires what of a small retail establishment?

- With a small retail establishment, it would require an accessible entry passage to the store and then accessibility in any other elements that are open to the public and where the public can travel within your business. If you're in an older building, you're still covered but unless you do renovations or alterations, you may not need to make any changes right away but as you go and make changes, you have to make sure whatever what you're altering, it's coming into compliance with current standards. There's ongoing commitment called Readily Achievable Barrier Removal, that's a term that comes from the Department of Justice and refers to a business making improvements, removing physical barriers whenever possible in their business. And so that applies whether you're a small business, you know, you own your own shop, or if you're a company, you know, that employees 50 employees, you're still covered by Title III of the ADA if you're open to the public for business.

- And one the biggest things in the Virgin Islands is accessible bathrooms. Yes.

- Yes. That's a challenge. It's hard depending on when your building was built because there are certain requirement in terms of width of a doorway, having room for someone who uses a wheelchair to be able to turn, it's called a turn radius inside the bathroom and, you know, depending on where you're at, you know, that might require long term planning to make an alteration, you know, something that you can build towards over a number of years because it can mean a lot of money if you're a small business to make that change, modification. So that might be something you might need to think about, long term planning and then look into, there are tax benefits for businesses to make changes and remove barriers for people with disabilities. So again, it takes planning, a little bit of research and fact finding and, but you, accessible bathrooms are important. You know, if someone can get into your business that is, that's obviously the most important, that someone using a wheelchair or crutches or a cane could get into your business, that's sort of number one responsibility and get to your, access your services. But the next step down the line is to make sure that, you know, if the people who come in your business can use your bathrooms, that someone who's using a wheelchair can do that too.

- Right. And in wanting to remind a business community, retailers, is ongoing obligation is not, has ended, it's changed to the extent that you have to, in years, maybe plan for it but is still required.

- Exactly. And it's something that you have to have good faith in trying to plan. You know, a lot of times people say well, my building, you know, it was built in 1960 or 1970, you know, it was before the ADA, aren't I grandfathered in? There's no grandfather clause in the ADA, so you're not exempt because you're in an old building, it just means that at the very minimum, you have to, whenever you make alterations and changes, they always have to come into compliance but there's that ongoing obligation and I think that, well, I can't speak for them in any capacity, you know, it's pretty clear in terms of the Department of Justice and things that they've been interested in that they consider, you know, time has now passed for people to be, to be starting to plan these things. The ADA has been around for over 25 years now, we're going into the 26th year of the ADA and so yes, while it may not be feasible to do something this year, people should be aware of their responsibility to, of the very least begin to plan because it's time to begin to make those changes.

- Right. And one of those things that comes up with business and we always have these questions in regard to service animals versus assistance animals and comfort animals. One is to sort of go through and break it down since there's like three separate laws that cover the, this aspect of assisting persons with disabilities.

- Yeah. And that's, I think one of the common errors of confusion because, and it's not, sometimes it's from a lack of information and it's not only from businesses but also actually from people who actually have their animals get confused or may not know if they have good information. You're right, there are three main laws that come into play here, the ADA, Americans with Disabilities Act, the Fair Housing Act, FHA, and then the Air Carrier Access Act, ACA. With the Americans with Disabilities Act, there's a specific term, service animals, and it has a very particular definition that, and it's different from the other laws. In terms of the ADA, you're looking at two parts of the law, what's called Title II and Title III. Title III refers to things related to state and local government and all their related entities, so not only your local courthouse or politician's office but also things like your public library or public schools. Title II covers businesses. The term is public accommodations under the law. Under these two titles of the ADA, individuals who have service animals have the right to bring their service animals wherever the public is permitted, generally permitted to go. So everyone is aware, a service animal definition from the Department of Justice is a dog that has been individually trained to perform a specific task. Now, there is one exception of an animal, that is a miniature horse, they're very, not very common in our area. I've never actually come across someone in our region with a miniature horse. However, so generally, you're looking at a dog that's been trained to do a specific task. So let's say someone has difficulty moving, let's say they have, they say they have a wheelchair, they're a user and their ability to pick objects from the ground, pick up objects from the grounds is affected, they may have a service dog that does that for them. It's not just what often think of seeing eye animals or animals that help people who are blind or very low vision. There are different types of services related to all different types of disabilities but the key thing is that the dog does a task, a specific thing, general emotional wellbeing, providing comfort, the Department of Justice does not recognize those things as being tasks, so an animal that does a very important thing, you know, provides emotional support to someone, it's not considered a service animal, it would be term, have a different term applied to it. So these animals can go, service animals can go into these places, government and businesses, and the businesses can ask, "Is this dog a service dog?" and, "What task or what job has it been trained to perform?" They cannot ask for a demonstration of it, they cannot ask for a special license or certification, quick side note too, there is no special certification or license for service animals under the ADA. There's not a federal registry or anything like that, so be aware not only are, as a business, you shouldn't really, you shouldn't ask that question. Be aware there's no document that has that legal weight and for the individuals with disabilities in the audience who might be listening, be aware of that too, there are companies out there who try to scam in a sense or take advantage of people who want the comfort of knowing they have a piece of paper that says their service animal is certified. You know, they may charge seventy-five, eighty, a hundred dollars and you fill out something and they'll send it to you...

- Along with the little vest that says service animal.

- Exactly, exactly. And so you get that and then they have your money. Now, I mean, you know, in practical terms, I mean, it can be helpful to have the little vest because then people may recognize, you know, it's not an animal that, your disability may not be one that might be more obvious, it might help them recognize it's a service animal but that, all that has no legal weight is the bottom line, so keep that in mind. So that's the ADA. So again, service animals get to go just about everywhere under that law. With the Fair Housing Act, that only applies to housing and they use, the Department of Housing and Urban Development uses a different term called an assistance animal, which is a different definition, it doesn't just have to be a dog or a miniature horse, assistance animal could be a bird, could be a cat, it also doesn't have to be trained and it doesn't have to do a specific job, a specific task. What an assistance animal has to do is be needed because of a disability and a related disability need. So if you're someone who has depression and you have a service animal, or excuse me, an assistance animal or an animal that provides comfort or emotional support, that is, it could be considered an assistance animal. And so in housing, if you have a landlord or you're part of a condo association, that landlord or condo association could ask you or you could ask them for an accommodation where you need to provide documentation. You have to say "I have a disability and my animal is needed because of it." and you have to get that verification from a professional, so it could be a doctor, a counselor but essentially a written document saying that yes, you have disability and the animal is needed because of that. So again, a little bit different and that only applies in housing, so even though you have emotional support or a

comfort dog, people use the terms, you know, mixed up together, so that's why there's also some confusion around it but they are all assistance animals. You can have that in housing but you might not be able to bring that with you when you go to a restaurant for dinner unless it does, it qualifies as a service animal. And...

- So in the aspect of it is that they have to have some sort of professional documentation that...

- Exactly.

- ...that's performing...

- Yeah. You can have your family, friend or someone just in the community verify, you know, put their name on a piece of paper and say "Yeah, this person has a disability and they need this dog because of it." It does need to be from a professional, it just, it's not limited to being a doctor, so it could be a counselor, psychologist, someone involved in vocational rehabilitation, could be a vocational counselor, there are different people who could provide that documentation but it does have to be a professional.

- Well, I have actually have a niece who has a comfort animal. We go back and forth all the time. She has it for house and, so when she comes to the restaurant with this little toy dog in a bag, I always her on it and she always has a whole bunch of different excuses but, you know, but that is not a service animal.

- Right. Technically, yeah, it's not. And, you know, that's, you know, if people do have restaurants and bars and I encourage [ inaudible ] call with questions because a lot of times there's confusion around that. Service animals are allowed there in restaurants but if it's not a service dog, they don't have to allow it there and just a side note, it's something that I've gotten questions from different restaurants is, you know, I've asked well, can the service dog be at the table, it should never be on an eating surface, just as a side note, because I've gotten that question several times, the dog should be on the floor unless it's held in a pouch, you know, by the person. You know, sometimes people have diabetes and there are actually dogs that are trained to detect changes in blood sugar in which case, they actually are generally held in a pouch close to the person. If that's the case, then they can maybe have them next to them on their seat but a dog should never be feed at table in a restaurant and certainly should never be on, in contact with the dining surfaces, so...

- Or just wandering around at the feet of the tables, right?

- Exactly. A part of being a service animal handler and owner is that the dog must be under your control at all times, so often that involves being tethered but sometimes people aren't physically able to hold on to a tether and in those cases, it just needs to be always under control and at the person's side but an animal should not be wandering around, certainly should never be, you know, bothering guests or other patrons. If that happens for some reason, if a dog is, let's say starts to bark at a restaurant, at someone, you know, at another table, you can ask the handler to take their service animal outside. Now, you can't ask the person to leave but you can ask them to have their animal go outside and not be in the restaurant if it acts inappropriately.

- What about the third area, when people are traveling under the Air Carriers Act?

- Yeah, and I'm sure that it comes up a lot here with all the tourism that comes to Saint Croix and Saint Thomas. Under the Air Carrier Access Act, people are permitted to travel with animals, assistance animals, you know, as well as emotional support and service animals and the airlines are required to make accommodations for those animals and in that process, I recommend to people, first of all, that you always contact the airline ahead of time. Often when you're making your reservations for tickets, there's areas on the, if you're doing it through the web to check that you need accommodations or do you have a service animal, I really recommend contacting the airline ahead of time just to make sure that the process goes smoothly. You may need to bring documentation that a animal is necessary because of a disability. So you wanna have that prepared ahead of time to make sure that travel goes smoothly. When traveling, the animal generally needs to be under the seat in front of you. Now, if you have a large dog, a large

animal, you might need to buy an additional seat if your dog is too large to fit under a seat. So be aware of that too in terms of space when you're traveling and making your travel plans but there is a right to bring those animals when you fly.

- And also, with the aspect that the airport and airlines have different obligations because there's hardly any airport you go to that does not have a retail establishment inside the airport on the way to entering the plane.

- Exactly. And that's a good point I didn't, I didn't bring out that the Air Carrier Access Act, that applies to the airlines themselves and flying on the planes. Airports are usually gonna be covered under the ADA, the other law as seen either from Title II which, that state local government or if it's a private airport under Title III, they're gonna be covered under different sections of the law. So they each have their own requirements that they have to follow and it makes the law a little bit tricky, so you sort of have to plan it in your head ahead of time if you're a traveller with a disability using an animal to assist your disability in some way, you know, where can I go, what do I need to do to be prepared and a lot of planning can be involved and so you just need to think about those things before heading out.

- Also when, Joe, just wanna remind you to give us contact information for the Northeast ADA Center again?

- Yeah, let me do that. Again, probably the easiest way's our 800 number, 1-800-949-4232 and we do have a website, [www.northeastada.org](http://www.northeastada.org), Northeast ADA is just spelled out, and we also have an email address where you can send your questions which is, [northeastada...](mailto:northeastada@northeastada.org)

- Hold on. Yes. And what are your plans for the future with regard to your five-year [ inaudible ] that's coming out?

- Well, we have a lot of things in the works. First, we're going to be coming here to the islands more than we have been. We've usually been coming once a year, we're gonna up that to twice a year for coming here to the islands to make sure that we work on building stronger and closer ties to the community. We have the [ inaudible ] Virgin Island affiliate here of course. But we also wanna get our mainland center staff more connected too to the local community, so we'll be here more often. We are going to be working, in general on developing partnerships, what we're calling service agreements with small employers, as well as healthcare providers and facility access professionals to improve their services and to allow us to help understand more issues in the field and do some research. We also are continuing a project called the ADA Trainer Network where we train local individuals to teach about the Americans with Disabilities Act. Actually, we provide all the content that they use to teach a curriculum and then they use that information to either do trainings for local businesses and government entities and agencies. So those are things we're going to be continuing to do and of course, our technical assistants which is very important to what we do in our regular basis as well as our research.

- Any last words for our listening audience on what you would like to see as we progress in the Virgin Islands along these lines for accessibility and more opportunities for persons with disabilities and employment.

- There are. There's a whole range of connected issues that go together that I know from talking to people here in Saint Croix, where I'm visiting currently, there are issues with transportation which affects employment. If someone cannot get to a job, they can't hold a job. So issues of physical access, being able to move along sidewalks and enter businesses and establishments, being able to get there, those are all important and then it's important too to educate each other about how disability affects someone about how it's simply another part of someone's identity and just someone's way of life and understanding and having that conversation so that misconceptions or misunderstandings don't happen and that provided with support and leadership hopefully from government and from businesses that are willing to be sort of leaders in the field will help lead to greater employment and participation for people with disabilities in the community and of course also bring about that vision of the ADA of equal opportunity, equal access and, to community living.

- Okay, Joe. This, again this has been Joe Zesski of Northeast ADA Center. Archie Jennings, I'm the host today, brought to you by the Disability Rights Center of the Virgin Island and just would like people know, we are on Saint Thomas at 776-4303, Saint Croix at 772-1200 and our website is [www.drcvi.org](http://www.drcvi.org). and this particular broadcast as well as others can be found on our website. So if you want more information or, just start at our website and progress into the Northeast ADA Center, you can pick up a lot of information and follow up and again pay attention to the websites because training events will be broadcast or listed on those websites as well.

- The, we have a list of upcoming events on our website as well, trainings and if you're an organization who might be interested, contact us and, you know, let us know and we also have web events. So even though we may not always be able to physically be here on the Island, we do have a lot of web-based things that are offered. So please visit us for that information.

- Again, thank you, Joe. And we didn't get to say but Katie Stygard is also here with you from the, Ithaca, New York and so...

- Yes, indeed.

- ...it's been a great visit for you I'm sure.

- It has been. It's been wonderful, I've had a chance to, she and I have had a chance to meet so many wonderful people both in the community and also from people who were at the Ag Fair last weekend and organizations like the University of the Virgin Islands and...

- The Center for Independent Living.

- Center for Independent Living.

- You had your little town hall here.

- And yes, town hall meeting there and the JFL Hospital and Medical Center, we've talked to the staff there and the folks over at the library for the blind, so we've had a wonderful time here and we've gotten to share and learn a lot about, you know, what's important here, what's sort of happening here and thank you everyone for sharing and coming up to us and meeting with us, it's been a wonderful experience and we've learned a lot and thank you for your time and thanks, Archie, for having us here on the radio.

- Oh, Joe, we're gonna have you come back again. Don't worry about that.

- Any time. I'm always glad. Always glad to do that.

- All righty, then. Take care. And that's it for disability rights, You and Your Life, Ability Radio. See you next week.