

A Long Battle for Dignified Access

Given Hong Kong's ageing population, accessibility is everyone's issue. Accessibility is a common type of non-employment-related complaint received under the Disability Discrimination Ordinance (DDO).

The Complaint

Tina used a wheelchair as a result of cerebral palsy and global developmental delay. Now in her 20s, she had been residing in the building since birth.

Each time Tina entered or exited the building, her elderly mother needed to pull both her and her wheelchair up/down five steps. Tina's mother had made requests to the Incorporated Owners (IO) of the building in writing for accessible facilities for wheelchair users. Although the building had undergone renovations twice, her mother received no response from the IO regarding her requests.

Tina's mother complained to the EOC, requesting a ramp or a stair-lift.

What the EOC did

Under the DDO, it is unlawful to discriminate against persons with disabilities in relation to the provision of means of access to a premise. Accessible facilities, such as access ramps, also benefit other residents, such as baby pram users or elderly who use wheelchairs.

The EOC case officer, after investigation, attempted to facilitate conciliation between the parties, but was unsuccessful. The IO later installed a stair-climber at the building's entrance. However, the stair-climber did not meet Tina's needs. On three separate occasions

she tried the stair-climber, but found it to be, respectively, out of battery, out of order, and unsuitable due to its backward tilt and potential for loss of balance.

Tina's mother sought technical advice, and was told that a ramp or a stair-lift would be a feasible solution and might be better than a stair-climber in providing access. Tina and her mother then requested legal assistance from the EOC, which was given.

The trial was scheduled for mid-2011. During the pre-trial review hearing, the IO consented to install a ramp or stair-lift within the agreed timeframe. The case was thus settled.

Points to Note:

- It is important for facility managers or owners to strive to address the genuine needs of all users, including people with disabilities, for independent, unassisted and barrier-free means of access, as well as to ensure that any such facility is actually usable. In many instances, physical barriers continue to exist even in places where measures have seemingly been taken to improve access features.
- Independent access to premises should be provided, unless such provisions would cause unjustifiable hardship to facility managers or owners. Reasonable accommodation refers to any modification or adjustment to the environment that makes it possible for an individual with disability to enjoy equal access.
- The EOC advocates the mainstreaming of Universal Design concepts. Everyone stands to gain from environments and products that are planned, with respect to individual human needs, to be usable by all people regardless of their age and disabilities to the greatest extent possible, without requiring expensive adaptation or specialised design in later years.