



# AGENDA ITEM MEMORADUM

**Town Clerk**

**June White**

Department

Department Director

<b>COMMISSION MEETING DATE (*) - 7:00 PM</b>	<b>Deadline to Town Clerk</b>
<input type="checkbox"/> <b>March 27, 2012</b>	Mar 16

\*Subject to Change

- Presentation       Reports       Consent       Ordinance
- Resolution**       Quasi-Judicial       Old Business       New Business

**FY2012 DESIGNATED HIGH PRIORITY ITEM - PRIORITY TOPIC**

**SUBJECT TITLE:** Resolution 2012-18

**EXPLANATION:** At the March 13, 2012 Commission meeting the Commission was made aware of the difficulty most hotels and motels in Lauderdale-by-the-Sea will have in complying with Federal government requirements that they install a mechanical lift affixed to the pool deck to facilitate handicapped person's ability to enter swimming pools. It was stated that many hoteliers believe a portable lift would provide a safer and more workable alternative to a fixed lift.

There was Commission consensus to consider a resolution supporting our local hoteliers, asking the Department of Justice to allow portable lifts and to extend the compliance date.

Resolution 2012-14 states that the Town is opposed to the implementation of the Standards regarding pool access as proposed and urges Congressional Representatives to oppose the implementation and enforcement of the Standards in their current form. Resolution 2012-14 also requests the U.S. Department of Justice to adopt a six-month extension of the deadline and work toward a more feasible solution to pool access.

**RECOMMENDATION:** Resolution 2012-14 requires immediate consideration as Legislative Session is ending soon.

**EXHIBITS:** Resolution 2012-14

Reviewed by Town Attorney  
 Yes       No

Town Manager Initials JB

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**RESOLUTION 2012-18**

**A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, OPPOSING THE U.S. DEPARTMENT OF JUSTICE'S RULES IMPLEMENTING THE AMERICANS WITH DISABILITIES ACT PERTAINING TO TITLE III, READILY ACHIEVABLE BARRIER REMOVAL, URGING THE DEPARTMENT OF JUSTICE AND FEDERAL GOVERNMENT TO ALLOW PORTABLE LIFTS AS AN ALTERNATIVE TO FIXED LIFTS FOR POOL AND SPA ACCESS, AND SUPPORTING AN EXTENDED COMPLIANCE DATE; URGING MEMBERS OF THE U.S. CONGRESS, FLORIDA LEGISLATURE AND OTHERS TO JOIN IN THIS RESOLUTION; PROVIDING AUTHORIZATION AND DIRECTION TO THE TOWN CLERK TO TRANSMIT COPIES OF THIS RESOLUTION; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the Town of Lauderdale-By-The-Sea (the "Town") is supportive of efforts to make a wide range of handicapped facilities accessible to handicapped persons; and

**WHEREAS**, the Town relies on the tourism industry to support its local economy; and

**WHEREAS**, local hotels and motels, which have pools and spas, are major local contributors to the Town's tourism industry; and

**WHEREAS**, the revised Americans with Disabilities Act ("ADA") Standards ("Standards"), published January 31, 2012, require that every hotel/motel pool and spa have a fixed lift to address pool access for handicapped persons unless this is not "readily achievable" based on the "size" and "resources" of the business. The relevant guide defines "readily achievable" as easily accomplishable without much difficulty or expense; and

**WHEREAS**, hoteliers believe fixed lifts pose a safety hazard for children who may mistake or misuse the lift as a toy; and

**WHEREAS**, hoteliers believe a portable lift would provide a safer and more workable alternative to a fixed lift; and

**WHEREAS**, portable lifts are less expensive and could serve more than one pool or spa; and

**WHEREAS**, the White House issued a 60-day extension from the original compliance date of March 15, 2012, that will push the compliance date for the pool lift requirement to May 15, 2012; and

1           **WHEREAS**, the U.S. Department of Justice plans to publish a Notice of Proposed  
2 Rulemaking with a 15-day comment period on a possible six-month extension, in order to allow  
3 additional time to address misunderstandings regarding compliance with these ADA  
4 requirements; and

5           **WHEREAS**, requiring a fixed lift for the Town's and other hotels and motels is a heavy  
6 burden, in particular for small businesses already struggling in this difficult economy; and

7           **WHEREAS**, the Town supports local hoteliers in their contention that portable lifts  
8 should be allowed and the compliance date should be delayed.

9           **NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF**  
10 **THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA:**

11           **Section 1.** Each "WHEREAS" clause set forth is true and correct and herein  
12 incorporated by this reference.

13           **Section 2.** While the Town Commission generally supports the laudable goals of the  
14 ADA, in consideration of these strong concerns of local hoteliers and the associated financial  
15 costs, the Town Commission strongly opposes implementation of the Standards regarding pool  
16 access as proposed.

17           **Section 3.** The Town Commission urges Congressional Representatives to oppose  
18 implementation and enforcement of the Standards in their current form.

19           **Section 4.** The Town Commission requests the U.S. Department of Justice to adopt  
20 the proposed six-month extension of the deadline for implementation of the Standards, and work  
21 toward a more workable and feasible solution to pool access that will accomplish the same  
22 purpose, including the use of portable lifts.

23           **Section 5.** The Town Clerk is hereby directed to distribute this resolution to the  
24 Attorney General of the United States; the Governor of the State of Florida; the President of the  
25 Florida Senate; the Speaker of the Florida House of Representatives; the Broward Legislative  
26 Delegation; the Broward League of Cities; and the City Clerks of the municipalities in Broward  
27 County.

28           **Section 6.** This resolution shall become effective immediately upon its passage.

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30           **PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

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Mayor Roseann Minnet

Attest:

APPROVED AS TO FORM:

\_\_\_\_\_  
June White, CMC, Town Clerk

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Susan Trevarthen, Town Attorney

(CORPORATE SEAL)