

ACCESS INSIDER

A newsletter by Access.Architectural, LLC

Summer 2013

Failure to Remove Barriers can be costly

Many business and commercial property owners believe that they do not have to take any action simply because they have owned a building for a long time. This is where many businesses get caught by surprise by a disability access lawsuit.

It is a common belief that if a business owner does not make any improvements, he does not have to address architectural barriers. THIS IS NOT THE CASE.

Barrier removal is incumbent on all businesses regardless of modifications. Under the ADA, "existing facilities" must remove architectural barriers "where such removal is readily achievable," meaning "easily accomplishable and able to be carried out without much difficulty or expense." This means that you MUST remove architectural barriers unless it is a hardship.

If removal of architectural barriers from an existing facility is not readily achievable, the facility must make its goods and services available to people with disabilities through "alternative methods if such methods are readily achievable."

If you cannot remove an architectural barrier because of a physical or financial difficulty, you are strongly advised to request a waiver from your local building department.

Please be aware that if you choose to use financial hardship as a reason to avoid barrier removal, your financial records can be requested by a court of law if you get sued.

Your best defense against access lawsuits is compliance.

"In over two decades of providing architectural and ADA related services, I have come to know many design professionals and consultants that provide similar services. Access.Architectural is among the most proficient, well researched and knowledgeable in the implementation of the American's with Disabilities Act."

- Jorge G. Abril, RA



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Accessible? Rollercoasters?

Summer is upon us and what does that mean? For me and my family it will likely include a theme park or two. My favorite part has always been the rollercoaster. A daunting task, or a challenge to get into and out of... but no more.



Many years ago I rode Disney's Rock-n-Rollercoaster and found it very difficult, even with help, to experience. But today, you go through the regular queue or through the Fastpass line like everyone else.

Now you get to experience their new "Accessible" Rollercoaster.

First of all, you can try out the new ride at a practice vehicle where you can check everything out to make sure that you can get in and out of the car, etc. Then, if you think you can manage the transfer a Cast Member will take you to the exit area, to embark on your ride.

If you think you need a little extra help you can use a transfer device which makes the transition in and out so much easier. It's basically a small stool that hooks onto the side of the ride vehicle allowing most wheelchair users an easy transfer from chair, to the stool, then onto the side of the ride vehicle, and then to the seat inside.

Before we pulled back up to where everyone else loads onto the ride the Cast Member asked if we wanted to ride twice. I was still so excited and impressed with their new adapted accessible rollercoaster, that I immediately said, "yes." I was not disappointed.

Of course, none of this awesome experience could have occurred without the Cast Members at Rock 'n' Roller Coaster. They made me and my family feel very welcome, and were exceptionally accommodating. They explained the entire process so well and made me feel so comfortable about the whole ride. They were super patient when I was getting in and out that I felt no pressure to hurry.

Although an adapted ride like the Rock-n-Rollercoaster and Expedition Everest (also at Disney) are rare, they may become much more prevalent. The 2010 American's with Disabilities Act (ADA) includes provisions for Amusement Rides that regulate wheelchair spaces and transfer options.

A2 in the News

Recipient of the 2013 Tempe Disability Award

On April 25th the Owner of Access.Architectural, Peter Fischer was honored by the City of Tempe with the 2013 Accessibility Award. At a ceremony held at the Tempe Historical Museum, Mayor Mitchell presented this award with kind words and encouragement.

It is a huge honor to be nominated by Kelsey Bocken of the Virginia G. Piper Sports and Fitness Center, as well as Linda Leszynski of Stryker.

Mr. Fischer stated, "Receiving this Award presented by the Tempe Mayor's Commission on Disability Concerns reminds me of how important it is to serve our community, and to always include those with disabilities."



Mayor Mitchell presents the 2013 Disability Award to Peter Fischer, Owner of Access.Architectural

Access.Architectural provides business and commercial property owners with the information they need to transform their facility into accessible destinations. Our inspectors are knowledgeable, efficient, and friendly.

When you work with us, you will receive a thorough, confidential inspection tailored to your exact requirements. A report, including color photos, diagrams, and detailed evaluations will be produced. You can begin the process of protecting your business assets right away.

**Call today:
480.577.1271**

Are you vulnerable to an ADA lawsuit?

ADA Lawsuits are reaching epidemic levels. Nearly every day, more businesses are served with lawsuits, and settlement demands that usually range between \$5,000 and \$35,000 dollars or more. **No buildings are grandfathered.** And a recent inspection by a city or county building inspector is no guarantee that you are ADA compliant.

When you have your business inspected by us, and perform the upgrades as outlined in the inspection report, you will be issued a certificate of compliance. This provides you protection from lawsuits or money demands.

You have to act before you get sued.

You will most likely never have seen the person who is suing you. Some lawsuits are valid due to a business owner's complete disregard for the ADA. But most of these lawsuits are "drive-by" lawsuits brought by people who simply observe obvious violations from the exterior of your business. It may be incorrect ADA parking signs, a non-compliant door handle, or narrow aisles.

Unless you have had your business evaluated by **Access.Architectural**, you very well may be targeted for one of these lawsuits. And it can be over something as simple as an incorrect type of door knob, faded parking lot paint, a loose door mat, or lack of an "Accessible" sign near your front door. A single bathroom can add up to \$12,000, \$16,000 even \$24,000 for simple items that are inches out of place. "Close enough" can cost you thousands.

Minimizing Risk of Litigation

How can facility executives avoid ADA litigation? Truthfully, nothing can guarantee that an organization will not be sued under the ADA. But doing nothing certainly increases the odds of getting sued. When a complaint is filed (either in court or with DOJ), facility executives may not have control over the barrier removal process; it may well be dictated by the courts or DOJ.

Taking proactive steps

Help keep facility executives ahead of that curve. Here are some such steps:

1. If a facility executive performed a comprehensive ADA evaluation of a building previously, that's good. Now it's time to take it off the shelf, read it and ask the following questions:

- Have "readily achievable" barriers been identified and removed?
- Were these changes documented in the ADA compliance plan?
- Was a plan developed to address barriers requiring capital expenditures?
- Is that plan being followed?
- Are all renovations, alterations and new construction required to comply fully with ADA requirements?
 - Was this requirement specifically stated in contracts for all professional services, including architects, engineers and contractors?

See "Litigation" on the back page.

Litigation - from previous page

If there are more “no” answers than “yes,” it’s time to get to work.

2. If a comprehensive ADA evaluation of the facility has not been performed, now is the time to do it. Having an outside professional perform the evaluation provides a second set of eyes and professional experience in ADA compliance.

Some facility executives wonder why they have to do this. There are several reasons. The biggest one is simple: **It’s federal law.** If an organization that is not in compliance with ADA has not been sued yet, it may be only a matter of time. The ADA is not going away.

According to the U.S. Department of Labor, people with disabilities have \$175 billion in discretionary income, four times the spending power of tweens (8- to 14-year-olds). An Open Doors Organization study estimated in 2003 that diners with disabilities spent \$35 billion in restaurants that year. As baby boomers age, more and more seniors will become disabled as ailments and the natural course of aging challenge their bodies. They will seek out level entrances, wide automatic doors and single-level living as they try to avoid stairs and revolving doors. Surprisingly, families with young children also seek these features. Given that all these people with money are looking for easy access to the businesses they patronize, the market is beginning to change.

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Contact Us

Give us a call for more information about our services and your ADA needs.

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Visit us on the web at:

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“Making commercial enterprises accessible to people with disabilities is smart business.”

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