

## Is your facility *prepared* for claims against ADAAG?

### What We've Seen Recently as ADA Experts...

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There are teams of handicapped individuals, primarily from the mainland, who travel nation-wide with a singular purpose; to discover and document violations of ADA regulations in order to file lawsuits against property Owners.

One group of Plaintiffs we reviewed stayed at as many as 20 well-known Honolulu and Outer Island accommodations and found thousands of alleged violations during their short stays. For them, the winnings can be huge. They brought a team with them that documented hundreds of pages of alleged violations. Their documentation was quite extensive with lengthy descriptions, dimensions, photographs to support their claims and convince the Courts that these facilities have not been sincere in an endeavor to reach compliance any time soon.

Aiello Consultant Group has been engaged, by Owners and Attorneys alike, to review many of these cases. The *“unprepared”* facility Owner is usually faced with coughing up a large cash settlement *plus* millions in Court mandated facility modifications. To the contrary, we've seen *“prepared”* facility Owners successfully pass through the Court's gauntlet with little or no settlements at all.

Why is there a difference? Through preparation...the *“prepared”* Defendant is able to provide evidence to the Court that clearly demonstrates its conscious effort towards reaching compliance with the federal act.

In the world of *“existing structures”* the Courts often use great discretion when viewing these ADA lawsuits. A *“well-prepared”* Owner is often granted leniency by the Court for providing evidence that it is diligently working towards compliance. The prize for this preparation often yields hundreds-of-thousands, if not millions, of dollars saved in attorney fees and settlement costs while at the same time is extended the ability to negotiate better control of its retrofit construction schedule. The Court's dim view of the *“unprepared”* Defendant comes with great cost.

Aiello Consultant Group can quickly and efficiently craft a facility plan that can stand up to the scrutiny of the Plaintiffs' legal representation and help convince the Court of its sincerity to comply with Title II. Acting as *Experts - Certified Forensic Architects*, we assist our clients in the creation of an up-to-date facility survey of potentially damaging violations prioritized in order of severity. Additionally, we provide an assumption of costs for each item and work with Facility Management to generate a realistic effective retrofit schedule that works best for you. In addition to our clients that we've *“prepared”* before the lawsuit, we work with facilities that have already been *“thrown under the bus”* in a lawsuit. Acting as the Architect of Record, we generate *after-the-fact solutions* for Court man-



### Did you know...?

**703.3.1 Braille Dimensions and Capitalization.** Braille dots shall have a domed or rounded shape. The indication of an uppercase letter or letters shall only be used before the first word of sentences, proper nouns and names, individual letters of the alphabet, initials, and acronyms.

**Check your Braille**



## What We've Seen, Continued from Pg. 1

dated modifications. Expert Witnesses since 2003, our understanding how the Court reacts to these kinds of lawsuits, gives our clients a leg-up at reaching a more equitable settlement.

An excellent example: A recent after-the-fact engagement required that we, as Architects, find a solution for a facility lacking a compliant access route into the existing building. Aiello Consultant Group initially acted as a Forensic Expert Witnesses on this case to review and offer counter-data to hundreds of Plaintiff's claims. Following our written responses, the Court charged us with the responsibility to solve one last condition – find an access route into the lobby.

The building was originally designed and built in the late 1960's for the original Owner - before Title II became law. Back then, design considerations were devoid of most of the current requirements for ramps, inclined access pathways, signage and security, which caused problems for the present Owner. Getting into the building from off-site became a "potential claim" when the Act became law. Onward marched the Plaintiffs...declaring big time that the inclines of pathways exceeded regulations through no fault of the present Owner.

Aiello Consultant Group was asked to prepare and submit to the Court several schematic solutions to this mandate. Now the Architect of Record, we sourced-out appropriate construction systems, hired engineers, produced construction documents, solicited bid from Trades and

managed the entire construction effort from soup-to-nuts.

Existing non-compliant pathways and the Porte-cochère were resurfaced with new slope adjusting concrete overlays, new ramps, signage and a new mechanical wheelchair lift. The facility now meets ADAAG Access Route requirements. The photos above depict a visual indication of that effort.

For noise and dust generating tasks, the construction retrofit schedule was limited to 30 days in order to minimize disruption of operations. When completed, the construction costs were 20% less than estimated. Our client successfully fulfilled the Court's mandate in a timely manner and now operates without fear of future reprisal.

It would be my pleasure to meet with your facility's management to determine the nature of existing problems, if any, and propose cost effective solutions for your review. Please feel free to contact me, Peter Aiello, at your earliest convenience. I am certain our insight in these matters can be beneficial to you and your clients. Please use the contact information below. Thank you for your time and Aloha.



Forming and placement of concrete to adjust grades



Completed grade adjustments that meet ADAAG regs.

