

# PAA 2020 Trade Show & Education Conference

By Timothy J. Brennan, PE, Nave Newell, Inc.

## ADA Compliance: Protect your property from ADA violations and lawsuits

Parking lots, whether for offices, hotels, senior living facilities, retail stores, or restaurants, are prime sites for Americans with Disabilities Act (ADA) violations. Many times the property owner or manager thinks they're compliant, but they're not. As civil engineers, we frequently get calls from people hit with fines and lawsuits. Don't wait until it's too late



Timothy Brennan

for you.

As a property and business owner, you naturally want to do everything you can to provide an ADA compliant site to give people with mobility issues access to your business. You also want to be sure those out there targeting businesses for lawsuits don't pick you!

This article covers situations that can lead to non-compliance and steps to protect yourself.

### 1. Entrance Improvements or Minor Building Additions

A new entrance and lobby is a cost-efficient approach to

refresh a building's appeal. While local building permit approvals normally address ADA codes and compliance, the tight tolerances of ADA design can easily be missed on smaller projects. It's important to have a highly qualified contractor who fully understands ADA codes and construction.

Ensuring compliance is two-fold:

- Site design must lay out the optimal ADA parking, accessible path, signage, and pavement markings needed.

- During construction, it's just as important for the designer's surveyors to check the

form grades prior to pouring the concrete for the pavement, curbs, and ramps.

Taking it a step further, it also makes sense to have an ADA evaluation performed of the completed improvements prior to re-opening your site to ensure improvements were constructed correctly.

### 2. Minor Site Improvements Over Time

ADA exposure can also stem from gradual construction of improvements over time. For example, you may add a few new supplemental ADA accessible parking stalls to accommodate a change in numbers or

circulation. While these stalls may meet striping, geometry, and signing requirements, they may not have a visual nor direct accessible path to the entrance sidewalk, which can get you a municipal violation. In many cases, remediation can be as simple as restriping other stalls, and painting an accessible path across drive aisles.

### 3. Pavement Sealing

Annual maintenance such as simply sealing parking lot pavement poses problems for ADA compliance. There is often a tendency to restripe "to fit a few more spaces." Narrowing of spaces commonly leads to the shift of ADA stalls. While small shifts don't seem significant, the ADA compliance dimensions and grades are strict enough that they could expose you to the potential for violations. Besides ADA compliance, the narrowing of parking stall dimensions also increases risk for municipal zoning infractions.

### How to Protect Your Business and Yourself

While nothing can guarantee protection from lawsuits, there are steps you can take to reduce your exposure and make your site more welcoming to potential tenants and customers. **The best protection is to have an ADA expert perform an evaluation of your site.** They'll check parking spaces, ramps, signage, accessible paths, and more.

Surprisingly even new construction may not meet ADA thresholds. We've reviewed many new construction designs that have required additional steps or re-construction to protect them from potential lawsuits.

### What to Do If You Get an ADA Lawsuit or Violation

If you are hit with a lawsuit or violation fine, you should have an ADA expert examine the violations and site conditions, because they may not be identified correctly. In these cases, a simple site investigation and preparation of an exhibit can assist the defense, and explain how to achieve ADA compliance. In most cases a combination of selective line striping, regrading, and perhaps additional signage can help you reach compliance and avoid additional future lawsuits.

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