Architects and the Americans with Disabilities Act:

Why It Pays to Comply with the Law

When designing a building, one has to consider many factors such as owner’s requirements, the intended use of the building, and how it will fit into its surroundings. In addition to these, there are legal factors, such as how a building is zoned and what building code is to be followed. All of these factors vary, depending on where or for whom the building is built. All buildings, however, must comply with the Americans with Disabilities Act (ADA) because it is a federally enacted law. The ADA, enacted in 1990, makes it illegal for entities to discriminate based on a person’s disability. It is divided into five parts, the third of which deals with public and commercial facilities. It is important for owners, architects and contractors of buildings to be familiar with its provisions, because conforming to this regulation is required in new buildings and alterations of existing buildings. Just barely conforming to the standards set forth by the ADA has proven to be costly for several large commercial businesses such as the owners of the MCI center in Washington DC. In the long run, it is more cost effective for an owner not only to comply with the ADA, but also to finance a building that goes beyond the standards to provide a disability-friendly building. There are many prime examples of this, but a prominent one involves the Days Inn America company. Days Inn was required to invest more money into remodeling its hotels after it was found that many of their facilities were inadequately accessible for the disabled.

Title III of the ADA sets forth the requirements to be met for public accommodations and corporate facilities. By this, new public buildings and any
alterations to existing public buildings must conform to the ADA standards. All existing public buildings must go through changes that are “readily achievable” for the owner. This means that the owner must make all modifications that are easily accomplished with a minimum expense. Examples of these modifications are: curb cuts and ramps for accessibility, removing carbon dioxide from the air for acceptable air quality, telecommunication devices for communication, widening doors and pathways for easy passage and Braille signs in elevators. A specific example of a readily achievable modification may be a chair lift for vertical conveyance, which would cost about $20,000. An elevator, designed for the same purpose, may not be readily achievable due to the higher cost of installation, of at least $136,000, according to an RS Means handbook, a well-known estimating tool.

Because corporate facilities are for the more exclusive purpose of accommodating employees of a certain company instead of providing a public service, existing corporate buildings do not have to complete “readily achievable” modifications. Nevertheless, they must accommodate any employees that may have a disability on a per person basis. Also, by Title I of the ADA, they must not discriminate upon employing. Of course, all new corporate buildings and all alterations to existing buildings must conform to the ADA.

Though the law seems explicit for the construction of new buildings, the example of the MCI Center proves that complying with the bare minimum standards can be costly as well. Seating for disabled persons was dispersed around the arena in accordance with the codes and the ADA requirements, but these areas only conformed to the lines of sight requirement for seated persons. Because the MCI Center is home to basketball and
hockey teams in addition to hosting concerts in the Washington, DC area, the spectators here were expected to stand during events for which the center was designed. Thus, when the spectators stood for the duration of an event, disabled persons could not see the game or performance for which they had paid to see.

While the architects, Ellerbe Beckett, provided enough disabled seating and dispersed it properly according to the ADA requirements, they were still sued because they did not take into consideration the standing spectators. They should have taken standing spectators into consideration, first of all, because it would be beneficial for disabled persons, and catering to these disabled persons might help them garner more business in the future if they are known to be sensitive to disability issues. Secondly, they spent more money and time in litigation costs trying to prove that it was not their responsibility to provide this accommodation. In an arena of that size, it would not have been particularly difficult to add a few seats at a raised elevation prior to construction, and avoid the large cost to defend their position in court. It would also have avoided the embarrassment caused by the decision that Ellerbe Beckett received when they were subsequently required to make every new arena designed by them conform to the higher lines of sight that disabled persons need.

Another angle to this case was that the architect was sued, not just the owner. This proves that architects or designers can be held liable for buildings that do not conform to the ADA requirements. Usually owners are sued because it is assumed that they are responsible for making sure the building conforms to the requirements. But in this situation, it was a good idea for the Paralyzed Veterans of America, the group that initially brought the case to court, to sue the architects as well because they are the ones
ultimately responsible for the correct design of the building. The designers, more than
the owners, should be more aware of the ADA requirements for buildings. This case is a
good example to remind architects that they are ultimately responsible for the correct
design of their buildings.

Now, for the construction of a new building or the alteration of an existing
building, the law is fairly clear as is seen previously: the building must conform to the
ADA standards. However, it is unclear to what extent an existing building with no
modifications should be modified to meet the law. What is “readily achievable”? This
term is rather vague, and can be construed in many ways. Perhaps a wealthy company
has the means to install an elevator in their building, while a smaller company does not
have enough money. Because the term is so vague, this larger company may try to get
away with not installing the elevator by claiming that the modification was not easily
achievable for the inexplicit reason that it might disrupt business or some such claim.

A good example of this kind of company is Days Inn of America. Days Inn was
sued for not complying with the ADA in construction of new hotels, like the MCI center
was sued for inadequate lines of sight. But an 18-month survey of their entire chain of
hotels revealed that many hotels were not up to standards, especially in the areas of
accessible parking, accessible walkways and entrances, and accessible guestrooms
(which, for a non-disabled person, includes most amenities that are expected for a hotel).

In a simple cost comparison, Days Inn may have spent two million dollars on
litigation over the four years they fought in court. They had to pay a fifty thousand dollar
fine to the US government as well. To top this off, they agreed to set aside four point
seventy-five million dollars for interest-free loans to franchisees so that they could
remodel their hotels to conform to the standard. This is just the money that Cendant Corporation, Days Inns’ parent company will have to put forth. This does not include the money that will have to be spent by the franchisees for each of their own hotels even with the interest free loans. In contrast, it would not have cost that much for each Days Inn to complete a few simple renovations. Two handicapped accessible parking spaces would have cost sixteen hundred dollars to add. Widening pathways would have been forty-two hundred dollars. A new concrete ramp would cost nineteen thousand dollars, and a remodeled accessible guest room and bath would be thirteen thousand dollars. These figures are again according to the RS Means handbook. Cendant Corporation could have avoided the extra six point eight million dollars that they will have to spend if they had made an active effort to ensure that their franchisees complied with the ADA. Also, accessible parking, accessible walkways, accessible guestrooms would have been much cheaper to construct originally in the hotels. In summary, Days Inn could have saved a great deal of money by complying with the law initially, and the franchisees should have recognized the problems in their hotels and corrected them with “readily achievable” modifications.

These examples are for the purpose of making owners and architects aware that it pays to comply with or exceed the laws, in the original design of a building or the remodeling of a building. While disabled persons may not be the first concern of an owner, they need to realize that any and all people may use their building, and it is definitely cost effective to cater to special needs initially, as demonstrated in the two examples cited above. Not only must the ADA be followed; measures must be taken to ensure that special needs are taken into consideration. It is a good idea for owners and
architects to become familiar with the ADA, its requirements and its enforcement procedures, such that buildings constructed in the future will be more than adequate to accommodate persons with disabilities.