

FAQ 1.01: Grandfathering

Is my property “grandfathered” or otherwise exempt from compliance with laws for disabled access?

Many defendants have been incorrectly told that their properties are “grandfathered” or otherwise exempt from compliance with laws for disabled access, because of the age of their buildings. The Americans with Disabilities Act of 1990 (“ADA”) first became effective in 1992 and created immediate obligations for nearly every commercial property open to the public at the time; even higher standards applied to structures built *after* the ADA passed. Despite all this, more than 15 years after the ADA passed, many businesses have still made no changes. Many disabled have expressed frustration in that the only way to get some businesses to make changes is with a lawsuit.

One possible source of confusion is that many building codes do contain “grandfather” provisions, but the a majority of the 14,000 ADA/access lawsuits California has seen in recent years are based on civil rights laws, for which there is no “grandfathering” exemption. In fact, an overwhelming number of these suits have been filed against properties which might well be “grandfathered” under applicable building codes; to date, none we know of have been excused from compliance or relieved from liability based solely on the age of their structure(s).

If your business property is open to the public, it is probably subject to these laws. If you have not yet been sued, you have a priceless opportunity to avoid a lawsuit by having a qualified inspector review your property right away. We strongly suggest that you retain any access inspector you hire through your lawyer, so that the inspector’s findings can be protected from disclosure if you are ever sued.

Most small businesses can eliminate 90+% of their risk of ADA/access lawsuits with less than \$1,000 and a weekend afternoon (see the “Top 40” list available for download at LawyersAgainstLawsuitAbuse.com). Unless you have money you don’t need, what are you waiting for?