

NARPM Webinar

BEFORE You Get Sued: Make Your Website ADA-Compliant



Q&A from the June 29, 2020 Webinar

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This webinar was prerecorded, with questions answered live by the speakers at the end of the presentation. Please consult your attorney in your area for legal advice related to this or any legal issue.

- Q. What should we be looking for in terms of website creator credentials so that we are certain they can assist us in making our sites compliant?**
- A. Unfortunately, there isn't yet an "official" certification for web developers. As a general rule, I would say to ask questions, such as how they implement certain guidelines and definitely ask about their process. I believe that an official certification will be available at some point down the line.
- Q. We are seeing complaints based on Fair Housing Law vs ADA. Does compliance apply there as well?**
- A. There hasn't yet been a black/white ruling about the Fair Housing Act and ADA website compliance, BUT it's my assumption that ADA website compliance is tied to this in some way. I know that national organizations (National Association of REALTORS®) support their agents making their websites compliant, most likely for this reason. But as of now, I haven't seen anything where the Fair Housing Act addresses website compliance. The Fair Housing Act addresses marketing and if you use your website for marketing then you have to be certain your website does not violate fair housing guidelines. In addition, your state may have added additional classes to the Fair Housing and ADA Guidelines that you need to follow. So be sure you understand what is expected from your state as well.
- Q. I presume these guidelines should also apply to designed email communications as well.**
- A. Yes, I would say that as well. I haven't seen where emails are as scrutinized as websites, however, if you can make them compliant, definitely do so.
- Q. What things have you found you need to edit for Internet Data Display (IDX) Broker feeds?**
- A. We've been able to edit items such as color contrast and keyboard functionality, i.e., the ability to tab through content on a page.
- Q. Who do you recommend for least amount of adjusting on the IDX to be in compliance? I use iHomefinder currently.**
- A. In our experience, Diverse Solutions has been the easiest to customize. We also prefer Diverse Solutions for search engine optimization (SEO) purposes.
- Q. How does ADA Compliance affect Facebook business pages?**
- A. Since Facebook is its own platform, it is up to them to ensure that their content is compliant. However, there are things you can do as a page owner to make it more compliant. I wrote a blog post about just this subject if you want to check it out! It has some helpful tips.
<https://www.atilus.com/how-to-make-your-social-media-more-accessible/>



- Q. I have an 88 accessibility score on my Lighthouse report (free ADA compliance checker tool), yet I am the lucky recipient of one of these lawsuits. The three main issues that were in the complaint are my logo did not have alt text, the photo did not have alt text and the social media icon links did not have alt text. I removed my social media links and the logo!!! I only have the photo remaining without the alt text. Should adding this alt text be the website developer's responsibility or my personal responsibility?**
- A.** It really depends on the relationship you have with your web developer. I know that for us we have various service agreements in place, some of which we do ADA monitoring and ADA maintenance. In that case, it would fall on us to take care of that. I would say look at any of your service agreements that you have. Ask your developer what they might be doing on a monthly basis. We have some clients where we simply host their website and we would, in that case, not be responsible for that at all. So it really depends on the agreement you have with your existing web developer / web company.
- Q. Is the website designer liable because they made the site?**
- A.** Great Question! It's not so black and white. Again it depends on the relationship you have with your web developer. One of the reasons for that is ADA compliance did not become such a big issue until 2014-2016 or so. Although ADA compliance has been around since early 2000, no one was paying attention to it until recently. So many developers and designers may not even be aware of this, just so you know, and lots of people are still learning this. Let alone, having a full agreement in place for them to have ADA compliance. About three years ago, we started implementing, as part of our agreements, that we are not responsible for ADA compliance unless you have an agreement in place with us for ADA compliance. Because ADA compliance has changed and the complexity of ADA compliance all depends on the Content Management System (CMS) you use, the kind of theme you are using or how the website was built and more. There's a lot of different pieces that go into being fully ADA compliant. So many times, I would say the designer, most likely, is NOT responsible. But again, depending on the agreement you have, and the relationship you have, and if that is something you agree that you have from the get go, then yes. But if not, that's going to fall on you. And that's something you might have to talk with them about and try to get it solved.



- Q. So even if you use a plugin to make accommodations so someone would be able to access the content it “doesn’t count” because it’s not hard-coded?**
- A.** Yes, this is one where it gets very in the gray and it’s not so black and white either. A plugin technically sits on top of your website to make it so that... Assistive technology or whatever the system someone is trying to access your website with, that system is able to provide based on what that plugin provided. You don’t have access to the hard code itself so the web developer will have to use a plugin or a third party system to make your website semi-compliant. The same thing for many of the IDX systems. Some of them are more critical because they allow the developer to tap into the source code and save the information and make the website fully compliant. Many of the IDX systems are not in compliance, so a third party software plugin, again, would be the route to go. It all depends on the plugin you are using and how the plugin presents the information. It’s not so black and white and you wouldn’t be able to know until you have the information in front of you.
- Q. Is there a way to test your site independent of your web designer to check if they did it correctly?**
- A.** That’s sort of a loaded question because there are several tools available. I know that a couple of people have dropped WAVE in the chat. There’s also WebAIM, another one that is commonly used. So I would say that you could start by using some of those. WAVE is one of the most common ones. Many law firms that submit requests and try to sue some of these companies, use WAVE the most. WAVE can miss some errors. For a website to be in compliance, there are four different levels: blocks, errors, warnings, and alerts. Anything that is a block you must fix it because this shows that no one can access the website; even with a keyboard sometimes a person cannot access some or most of the information on your website because it is blocked. An error is something you also want to fix. A warning is something you want to fix, but is something you can live without fixing. The alert is something that needs to be fixed because it will become an error eventually. So WAVE does a pretty good job at giving you an idea of where you stand, but I have seen where WAVE has missed some errors. If you use two different tools, it might be helpful for you to get a different assessment. Again, ADA compliance is fairly new and many web designers don’t care or even know about it so you might want to talk to them. And the guidelines mentioned earlier are very, very extensive. It is more than a dozen pages. There are a lot of different ways ADA compliance can pop into your website. So different tools can help you and WAVE is definitely one of the most common tools for non-technical people.

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Q. I'd love to know where to look to get an audit done. How expensive is an audit?

A. There are many companies out there that can offer a quick scan of your website. As an agency, this is a service we also provide to our clients for anybody who is interested. So generally, if you want to go the route of testing with an automatic scan, you could do that. But unless you have some technical web development knowledge, I wouldn't recommend it because you may understand the guidelines, but you may not necessarily know how to adjust the code on your own website, making it a little bit difficult. Check around for digital agencies that can provide those scans for you.

Another hard question to answer is how expensive an audit is. That's because it really depends on a number of factors, so it can be the template on which the website was built. I saw people were asking about Wix and we have not personally audited, looked at or done ADA compliance on a Wix website and same thing for AppFolio. The cost of the audit really depends on how old your website is, how many pages it has and any sort of special functionality. So for this audience here with an IDX listing of some kind, that might increase the price. It will vary and it's not that these audits cost \$500 and you're out the door. So it really depends on your website.

Q. What platform do you prefer to build on?

A. WordPress

Q. Could you give us a cost range?

A. We worked with a REALTOR® client and the original audit we estimated for him was \$1,500. The actual work to get it compliant was more, which is dependent upon the cost to do the remediation to fix what is found in the audit. From then on, if you're going to invest the time and money to do the initial work, we would recommend doing monthly audit and maintenance, too.

Q. How can I get captioning on my virtual tours?

A. You can use a tool called Rev.com. You can upload your video or send them a YouTube link and they'll send you a captions file within a few hours or a day. So then you can upload that with your video to your website and now you have closed captioning. It's very inexpensive too; it's around \$1.25 per minute for the video.