

Readily Achievable

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ADA Compliance Standards

- Barrier Removal – Readily Achievable
- Alterations
- New Construction
- 2010 ADA Standards
- Safe Harbor

When does “Readily Achievable” apply?

- Only applies to “existing” building or facility – barrier removal

When does “Readily Achievable” not apply?

- Alteration:
 - Restripe parking lot
 - New flooring
 - Relocate/remove wall
 - Move door
- New construction
- 2010 ADA Standards

Existing Building

- Effective date of ADA: January 26, 1992 (1993)
- 2010 Standards Definition
- Existing facility means a facility in existing on any given date, without regard to whether the facility may also be considered newly constructed or altered under this part.

ADA Title III Regulations, Section 36.104 Definitions, 11B – 202 Definitions

Analysis

- **Can not be analyzed based solely on existing barriers**
- Case-by-case
- Relative to particular business, its resources and the existing barriers at the time

- Something readily achievable for one business may not be readily achievable for the one next door, because of more limited resources or more difficult physical constraints. And, what is readily achievable when a business is doing well may not be readily achievable in a down cycle when business is slow. A barrier that cannot be removed when business is slow should be re-evaluated when business improves. *US DOJ*

Readily Achievable

- The term “readily achievable” means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include... [36.104](#)

Readily Achievable Factors

- Nature and cost of the action;
- Overall financial resources of the facility or facilities involved;
- Number of persons employed at such facility;
- Effect on expenses and resources;
- Impact of such action upon the operation of the facility;
- Overall financial resources of the covered entity; and
- Overall size of the business of a covered entity with respect to the number of its employees.
- The number, type, and location of its facilities;
- Type of operation or operations of the covered entity, including composition, structure, and functions of the workforce of such entity; and
- Geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity.

[Colorado Cross Disability Coalition 264 F.3d 999 \(10th Cir. 2001\)](#)

Remember Other Concepts

- Technically infeasible
- Structurally impracticable
- Not structurally or operationally feasible – amusement rides

Technically Infeasible

- With respect to an alteration of a building or a facility, something that has little likelihood of being accomplished because existing structural conditions would require removing or altering a load-bearing member that is an essential part of the structural frame; or because other existing physical or site constraints prohibit modification or addition of elements, spaces, or features that are in full and strict compliance with the minimum requirements. *2010 ADA Standards, Section 106.5 Defined Terms, 11B – 202 Definitions.*

Structurally Impracticable

- Exception for Structural Impracticability:
 - Full compliance with the requirements of this section is not required where an entity can demonstrate that it is structurally impracticable to meet the requirements. Full compliance will be considered structurally impracticable only in those rare circumstances when the unique characteristics of terrain prevent the incorporation of accessibility features.
 - If full compliance with this section would be structurally impracticable, compliance with this section is required to the extent that it is not structurally impracticable. In that case, any portion of the facility that can be made accessible shall be made accessible to the extent that it is not structurally impracticable.
 - If providing accessibility in conformance with this section to individuals with certain disabilities (e.g. those who use wheelchairs) would be structurally impracticable, accessibility shall nonetheless be ensured to persons with other types of disabilities (e.g., those who use crutches or who have sight, hearing, or mental impairments) in accordance with this section.

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