

FAQ 4.04.6: How to Save Money on a Property Inspection

Note: This document is intended to be read in conjunction with our other FAQs in the 4.04 series on property inspections, only some of which are available as www.CASpInspections.com.

Property inspections for disabled accessibility can cost hundreds, or even thousands of dollars. Paying more does not necessarily result in better value, but the experience, integrity and qualifications of the inspector are important (i.e., not all inspectors are alike).

While California has finally certified a group of inspectors and it would be difficult to justify using an inspector who is not CASp-certified (because of the important statutory protections such certification provides), CASp inspectors are not State employees and prices and experience vary greatly. We suggest calling a number of inspectors in your area and comparing rates, experience and availability; check with attorneys who regularly handle ADA/access lawsuits to learn about CASp inspectors they have retained for satisfied clients. If an inspector is recommended by a referral source, the potential for overall satisfaction and reduced expense is increased.

The most expensive way to get your property inspected is to set an appointment with an inspector to make a special trip to review your location at a particular time; the following are some suggestions of things we've seen defendants do to dramatically reduce the cost of their inspections:

1. **Negotiate for a number of properties at the same time:** If you can get a number of different businesses in your area to retain the same inspector, you may be able to negotiate a significantly lower the cost per property. We have seen significant discounts for as few as three businesses; few inspectors will feel comfortable inspecting more than 10 properties in a day, so you do not need many businesses to participate for substantial savings.

Sometimes a Chamber of Commerce or business league can get an inspector to offer a reduced rate for their members. If you own multiple properties, consider having them all inspected at once. If you can pool with neighboring businesses, the price can drop substantially. While you have only limited ability to reduce the amount of time the inspector spends at your location (as discussed below), you can dramatically reduce the driving expense by sharing it with others nearby.

This also helps accelerate the accessibility in your community and reduce the risk of lawsuits, as word spreads to help others avoid these claims.

2. **Allow flexibility on the inspection date:** The most costly arrangement is to have an inspector make a special trip to your property. Some businesses have saved considerably by advising the inspector that they are in a particular area and asking the inspector to come by when they already have other plans to be nearby.
3. **Make as many accessibility improvements as you feel comfortable making before the inspection**¹: The inspector will need to document every condition at your property which differs from established standards; but does it really help you to have a long list in circulation of conditions you will only change very soon, especially if you are ever sued in the future? Many think it makes more sense (and can also save money) to obtain informal guidance from an inspector or other source to make as many changes as possible, so that when the inspector finally prepares a report, it will identify as few issues as possible. Obviously, this requires much less documentation (and effort) by the inspector and produces a much more valuable result— ideally, an “all clear” confirmation, which can be valuable in litigation, financing, leasing and sale of the property. A list documenting improper conditions in a particular year could “haunt” you in the future.
4. **Get an estimate in advance; beware of hourly arrangements:** Many inspectors will offer a flat rate, based on the number of square feet at a business; others work hourly and will not limit expense. Generally, many inspectors accept that there will simply be a certain amount of work for a property of a particular size.

If you can't find an inspector who works at a flat rate, considering requesting a firm, written quotation in advance; if more money is later sought, ask what changed at the property from the condition at the time of the estimate. Generally, an experienced professional is in the best position to evaluate the amount of work involved in a project; unfortunately, some think an estimate is little more than a figure to induce a prospective customer, which can be exceeded for any of a pre-arranged set of excuses.

Make sure the inspector understands that you are relying on the estimated amount and if a higher amount were estimated, you would consider other providers. If nothing has changed at your business since the estimate and you are asked to pay substantially more than the estimate, ask the inspector to provide the names of at least ten (10) satisfied clients who were never asked to pay any more than the original estimate amount; assistance may be available in cases where an inspector makes a consistent business practice of exceeding written estimates.

¹ Consult a qualified attorney highly experience in ADA/access litigation before making any access changes at your location

5. **Consider a pre-inspection:** Another good reason to have the inspector visit the property informally before preparing the report is that many business and property owners (and, remarkably, a large number of contractors in the business of making accessibility renovations) make the changes improperly. Often, inspectors give clients a list of suggested changes, which are made incorrectly and never re-checked, so the business remains a “sitting duck” for further claims. By having a “pre-inspection” the inspector can alert you to conditions which would prevent an “all clear” report and potentially save you money in a number of different ways.
6. **Apportion costs between landlords and tenants:** We have seen single-tenant inspections run several thousand dollars, but when the tenants and landlord at a multi-tenant property divide and apportion the expense, the cost per-person can be as little as a few hundred dollars. A common rationale is that the property owner pays for inspection of all conditions which existed before the tenants occupied the property and the tenant(s) pay for the inspection of all items they have brought in or changed. Another is that all participants review online information about accessibility and make as many changes before the inspection as possible, then they divide the total expense according to the number of problematic conditions identified in the inspection, based on the responsibility for making the changes (i.e., each participant pays for the conditions they did not fix, divided by the total cost of the report).
7. **Learn as much as you can about accessibility issues before the inspector arrives:** Inspectors tell us that one of the largest uses of their time (and therefore a considerable portion of their expense) involves explaining relatively basic accessibility concepts to clients or discussing some of the abuses of private access lawsuits. Do you really want to pay an inspector to educate you about issues you can learn about for free on websites like www.ADA.gov and www.ADAabuse.com?

If you review the standards in advance of the inspection, then you may only have one or two questions most inspectors will be more than happy to answer. As California initially only certified about two dozen inspectors, you should assume that each will have a very full schedule and may not find a discussion of the basics as fascinating as someone discovering them for the first time.

Recall that many of these standards arose in 1992 and before; while many business and property owners scrambled to make changes, others ignored the requirement completely. The inspector is not the only source for good information about accessibility and the amount of time you take having him/her explain things you can learn elsewhere could either increase your bill or reduce the inspector’s time available to help others.

8. **Try not to distract or slow down the inspector:** One inspector told us he had to bring his wife on assignments because the clients would spend so much time talking that he could not concentrate on taking measurements and making notes, so he would have his wife keep the clients occupied so he could get his work done. We have often preferred to inspect properties late at night (i.e., without others around) because an entire inspection can take as little as 20 minutes, while a meeting during business hours, with landlord, tenant, staff and curious customers, can take several hours.

9. **Address the cost of follow-up visits in advance:** Some inspectors who bill hourly have claimed it was necessary to return to a property as many as three times, and the client was billed for each trip. An experienced inspector should be able to take enough photographs and measurements to complete the report on a single visit; ask the inspector if you will be charged for any visit made after the first.

10. **Always retain any inspector through your lawyer:** Unless you want your inspector to be called as a witness against you if you are ever sued, you should be sure a lawyer representing you retains the inspector and the report is addressed and sent to the lawyer first (these are commonly sent by email, and can therefore be forwarded almost instantly). Many lawyers will arrange this for their existing clients at no charge. But how could this save you money? First of all, if an inspection report is used against you in a current or future lawsuit, a plaintiff might be more able to substantiate costlier allegations of intentional discrimination. Secondly, you may not need to make every change identified in the report— over the years, we have seen tenants misread their leases and make improvements which were either not required or were the obligation of the property owner, etc. In other cases, costly changes were made to meet the “new construction” standard when the much lower “readily achievable” standard would have been sufficient.

In general, an access inspector will simply identify property conditions which differ from established standards, but the decision of which changes should actually be made at a property, by whom, and when, involves legal and financial advice few inspectors may be qualified to provide. Significant tax credits may be available, and renovations which are unaffordable may be spread over a reasonable period of time.

Nothing in this FAQ is intended, nor may be relied upon, as legal or tax advice, for your particular situation. Readers are advised to consult an attorney highly experienced in ADA/access litigation in California for all matters of legal significance.

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