Americans with Disabilities Act

An important part of the "virtual" environment is ensuring that all individuals can access your services. When the Americans with Disabilities Act was adopted in 1990 the internet as we know it today was in its infancy and specific requirements of website accessibility were not included. As the internet has evolved, so has the role of the ADA in how websites should look and function. In the absence of federal guidance, the Web Content Accessibility Guidelines (WCAG) drafted by The Worldwide Web Consortium (www.w3.org) provide excellent guidance on website accessibility.

WCAG 2.1 is broken into four sections with recommendations:

Perceivable

- Provide text alternatives for non-text content.
- Provide captions and other alternatives for multimedia.
- Create content that can be presented in different ways, including by assistive technologies, without losing meaning.
- Making it easier for users to see and hear content.

Operable

- Make all functionality available from a keyboard.
- Give users enough time to read and use content.
- Do not use content that causes seizures or physical reactions.
- Help users navigate and find content.
- Make it easier to use inputs other than the keyboard.

Understandable

- Make text readable and understandable.
- Make content appear and operate in predictable ways.
- Help users avoid and correct mistakes.

Robust

- Maximize compatibility with current and future user tools.

In the spirit of the school year, I've created a few homework assignments for you to focus on making your website accessible and effectively communicate with all clients and consumers.

1. Take a 'listen' to your website. Use a screen reader to hear what your website sounds like to an individual who is visually impaired. Non-Visual Desktop Access (NVDA) uses the Windows operating system and has a free version of their screen reader available. Apple VoiceOver is built into all Apple tablets, phones desktops and laptops.

2. Provide text alternatives to the pictures on your website. The screen reader will read the text that you provide. This language should be clear and descriptive not vague or general.

3. Scroll through your website using only the keyboard, don't use a mouse or touch screen to navigate. Then scroll through using only a mouse or only a touch screen. Your website should be easy to navigate either way.

4. Remove any potentially seizure inducing flashing lights or images that blink more than 3 times per second.

5. Caption your videos! With over 75% of web traffic being devoted to videos and with video tours of properties increasing dramatically make sure that the videos you include are captioned. This can be done using the voice recognition technology that already exists within platforms like YouTube or Facebook or download a program.

6. Run the free Web Accessibility Evaluation Tool (www.wave.webaim.org) for a quick evaluation and recommendations for your site.

Real Estate Settlement Procedures Act

The Real Estate Settlement Procedures Act was adopted in 1974 with the goal of protecting consumers from high settlement charges and perceived abuses by segments of the real estate industry.

RESPA prohibits you, a real estate licensee, from receiving a "thing of value" for referring business to a mortgage or title company. There are five elements that must be present before a referral fee is considered illegal:

1. Thing of value

2. An agreement or understanding

3. Referral

4. Settlement service

5. Federally related mortgage.

Penalties for violating RESPA include imprisonment for up to one year, fines of up to $10,000 per infraction and treble damages.

The Sherman Act

Section 1 of the Sherman Act provides "Every contract combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among several states, or with foreign nations, is declared to be illegal."   In Standard Oil v. United States, the court opined that the restraint of trade language in the Sherman Act dealt only with those conspiracies that "unreasonably" restrained trade. This is referred to as the Rule of Reason.

The courts have also clarified that a conspiracy exists when "two or more separate business entities participate in a common scheme or plan and that the effect of the scheme is restraint of

trade."

The fines associated with violating the Sherman Act are large, for a corporation the potential fine is a million dollars and for a person the potential fine is $100,000 and a potential for three years in prison.

United States v. Foley

In September of 1974, John Foley, the President of Jack Foley Realty, Inc. had a dinner party that was attended by nine of the highest producing real estate incenses in Montgomery County Maryland. These licensees were with several of the largest real estate brokerages in the area. Following the meal, Foley gave a small speech ending with the comment that his company was raising the commission to 7% and he "didn't care what anyone else did."

Was this an anti-trust violation?

<u>The other "Final Four"</u>

There are four types of antitrust violations that have played a role in shaping the real estate industry and our risk management techniques:

1. Price Fixing

2. Boycotting

3. Allocation

4. Tying

Data Security

Zoom:

■ In December of 2019 had 10 million users- passed 200 million in beginning of April 2020

■ System weaknesses allowed an attacker to take over the microphone or camera on Mac/ios & steal passwords on windows. This was "patched" on 4/1/20

■ Zoom Bombing

    – *Use password protection for all meetings*

    – *Don't post the meeting on-line or through a social platform.*

■ Privacy Concerns

    – *Zoom has admitted it "incorrectly suggested" that they provide end-to-end encryption. (they don't)*

    – *If you're using the ios app- your info is shared with Facebook.*

> – *All you chats (public or private) through the platform during a session are made available to the host at the end.*

Google Duo: Allows up to 12 in the group chat and has end-to-end encryption.

Facetime: If everyone is an ios user, FT is available for up to 32 users and it encrypts. Doesn't have the option to share screen to 'walk through' a document.

Webex: Video calls up to 100 with end-to-end encryption and has a free option.

GoToMeeting: 14 day free trial than $12 a month w/up to 150 people. Is encrypted and allows you to share screen.

WhatsApp: End to end encryption is always on- it can't be turned off. Uses your data plan or wi-fi not cellular allows for video conferencing for small groups.

Conduct a Data Audit

1. As a Broker or Agent, what personally identifiable information do you have concerning your clients?
   a. Social Security Number?
   b. Photocopy of Driver's License
   c. Physical Address?
   d. E-mail Address?
   e. Social Media?
   f. Telephone?
   g. Birthdates?
   h. Earnest Money Check?
   i. Mortgage Application?
   j. Home Warranty Application?
   k. Employment History?
   l. Divorce Decree or Marriage License?
   m. Credit Card numbers?
2. Where is this data stored?
   a. Paper files in a filing cabinet?
   b. Digital files on an external storage device?
   c. Digital files in the cloud?
3. Who has access to this data?
   a. All employees and agents?
   b. Some employees and agents?
4. How is this data secured?
   a. Lock and key?
   b. Encryption?
5. Why are you keeping the data?
   a. Your accountant has recommended you do so?
   b. Your attorney has recommended you do so?
   c. State law or regulation requires you do so?
   d. For future use in data mining?

6. Lighten the load: Do not keep records you or your business are not required to keep that contain personally identifiable information.
7. Do Agents keep a separate set of records from the records maintained by the brokerage?
    a. Is there a data security policy in place that provides guidance to agents on how to protect the personally identifiable information that exists in those records?
    b. Are clients and customers informed that at a future date an agent may sell the personally identifiable information in those records?

Best Practices and Resources

Password protection on files and devices is an easy level of security to provide. Passwords should be unique and should not remain fixed.

This article in Wired magazine provides an excellent review of password storage programs in 2020. https://www.wired.com/story/best-password-managers/

Updates It's an important part of digital security to install updates when they are provided, these updates frequently contain security improvements that are necessary.

This article in Lifeware is a resource if you are interested in using a program to assist in keeping your software updated. https://www.lifewire.com/free-software-updater-programs-2625200

Prevention Software There are numerous programs available that provide varying levels of security for your devices. This is a breakdown of the top 10 for 2020: https://www.toptenreviews.com/best-antivirus-software