

October 4, 2019

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Via Email

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Manning Law, APC
20062 SW Birch St., Suite 200
Newport Beach, CA 92660

Re: Dona Dugo v. Bay Bridge Inn (CGC-19-576311)

Hi Mr. Manning:

Mahesh Law Group with the Law Office of Darshan Patel, have been retained by INNsight.com, Inc. and Bridge BKD, LLC (owners of Bay Bridge Inn) to address the issues in this case.

Bay Bridge Inn (herein “BBI”) has spent much time and effort to create a hotel and a website that addresses the needs of individuals with disabilities. BBI’s website *Powered by INNsight* provides information to disabled individuals so that they may assess whether their hotel has the amenities that will hopefully meet their needs. It is shameful that even after all of these efforts that Manning Law, APC has decided to target BBI for a frivolous ADA violation lawsuit. BBI, with INNsight’s forensic support intends to fight this frivolous lawsuit with concrete evidence and in doing so looks forward to setting the standard for ADA compliance so that other hoteliers may learn from BBI’s example.

It is evident to the visitors of the BBI website that BBI and its software vendor, INNsight have put a lot of effort and have complied with the ADA rules and it is a shame that they are being victimized by the Manning Law, APC and Dona Dugo. BBI and INNsight have taken meticulous effort to improve the lives of individuals with disabilities and this frivolous lawsuit aims to thwart that progress. Accordingly, frivolous lawsuits such as this one, hinder the pioneering work of BBI and INNsight.

The evidence demonstrates that Bay Bridge Inn (herein “BBI”) complied with the requirements of the ADA Law (28 C.F.R Section 36.302(e)). As shown below, the breadth and depth of the evidence from March 3, 2019 (as shown in the March 3, 2019, www.archive.org website) clearly shows that BBI’s website was compliant with the ADA Law. You should “STOP and THINK” before continuing the currently pending suit.

In particular, BBI’s looks forward to the court clarifying the standard for ADA compliance to be the features that were or are provided by the BBI website. Furthermore, the court will provide much-needed clarity to a currently unadjudicated law to the hotelier. After

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providing you with the evidence and arguments below, your client's lawsuit against BBI is frivolous, may subject you to sanctions and Ms. Dugo may owe attorney's fees to BBI. BBI intends to pursue all attorneys' fees and punitive damages to the fullest extent of the law.

However, to settle this matter amicably, BBI offers Ms. Dugo, \$1 in total.

1.0 Section 36.302(e)

(1) Reservations made by places of lodging. A public accommodation that owns, leases (or leases to), or operates a place of lodging shall, with respect to reservations made by any means, including by telephone, in-person, or through a third party:

(i) Modify its policies, practices, or procedures to ensure that individuals with disabilities can make reservations for accessible guest rooms during the same hours and in the same manner as individuals who do not need accessible rooms;

(ii) Identify and describe accessible features in the hotels and guest rooms offered through its reservations service in enough detail to reasonably permit individuals with disabilities to assess independently whether a given hotel or guest room meets his or her accessibility needs;

(iii) Ensure that accessible guest rooms are held for use by individuals with disabilities until all other guest rooms of that type have been rented and the accessible room requested is the only remaining room of that type;

(iv) Reserve, upon request, accessible guest rooms or specific types of guest rooms and ensure that the guest rooms requested are blocked and removed from all reservations systems; and

(v) Guarantee that the specific accessible guest room reserved through its reservations service is held for the reserving customer, regardless of whether a specific room is held in response to reservations made by others.

2.0 BBI's Website is Compliant with Section 36.302(e)

In particular, 28 C.F.R Section 36.302(e) states that: A public accommodation that owns, leases (or leases to), or operates a place of lodging shall, with respect to reservations made by any means, including by telephone, in-person, or through a third party.

2.1.0 BBI modified its policies, practice, or procedures well before March 14, 2019, as shown below from evidence from archive.org.

Several dozen screenshots of webpages of BBI's website taken by archive.org from 3rd March 2019 show that the policies, practices, and procedures for BBI were changed to comply with the ADA law. These screenshots show that BBI's ADA compliance policy and features were in effect and visible even in the limited, scriptless, functionally crippled copy made by

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archive.org. Moreover, the "Single Queen Non-Smoking - Accessible" room was booked successfully through an online reservation as early as August 17, 2017 with dozens of bookings for this accessible guest room type fully processed by INNtelligence for BBI since the launch of BBI's website.

2.1.1 BBI ensured that individuals with disabilities could and did make reservations for accessible guest rooms during the same hours as individuals who do not need accessible rooms.

BBI's website (www.baybridgeinn.com) ensures that individuals with disabilities can make reservations for accessible guest rooms on the website during the same hours as individuals who do not need accessible rooms. (**Exhibit 1 – Website from archive.org from March 3, 2019**) If the website becomes inaccessible, it is inaccessible for the same number of hours for individuals with disabilities as individuals who do not need accessible rooms. If the accessible guest room is available, an individual with disabilities may reserve the accessible guest room online or explicitly request it as a walk-in. Similarly, individuals who do not need accessible rooms may reserve a non-accessible guest room online or request it as a walk-in. Thus, BBI ensured that the individuals with disabilities could make reservations for accessible guest rooms during the same hours as individuals without disabilities.

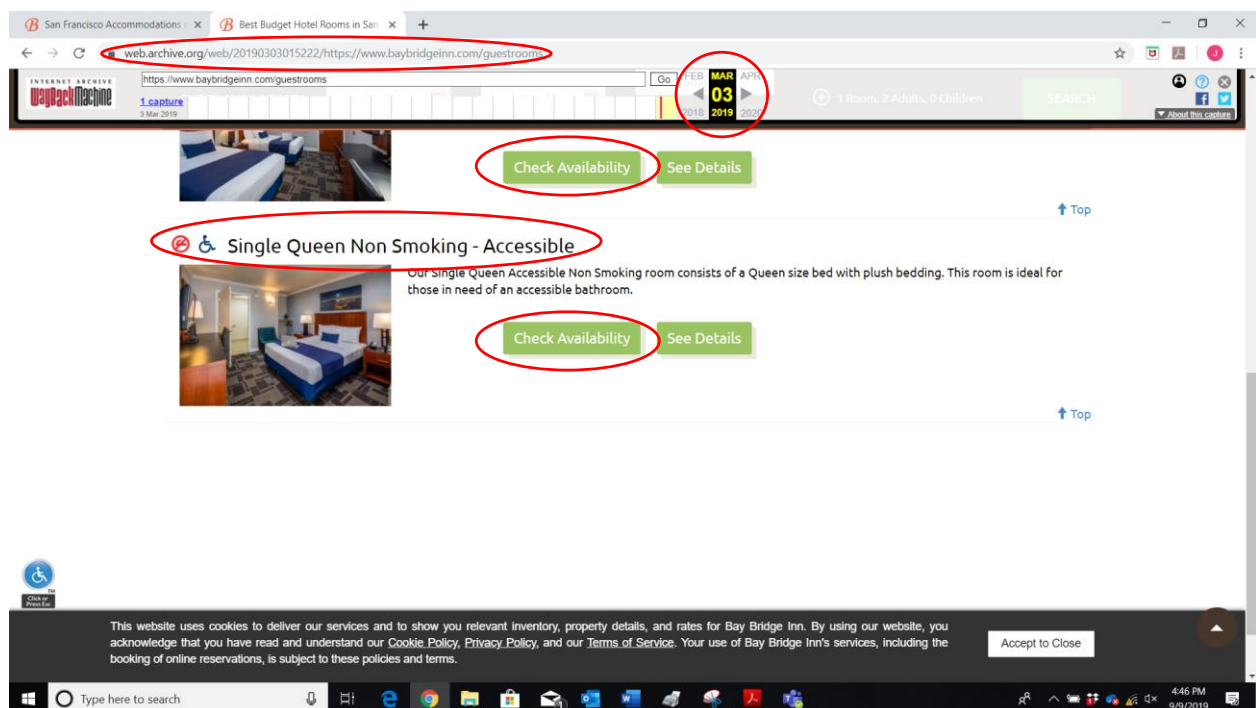


Exhibit 1

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2.1.2 BBI's website ensures that individuals with disabilities can make reservations for accessible guest rooms in the same manner as individuals who do not need accessible rooms.

BBI's website allows an individual with disabilities to reserve a guest room in exactly the **same manner** as an individual who does not need an accessible room. (See **Exhibit 2**) An individual with disabilities may reserve the accessible room by simply pressing "Select Room" tab, see Exhibit 2. Without any differences whatsoever, an individual who does not need an accessible room may also simply press "Select Room" tab, see Exhibit 3. The two reservations processes could not be more alike.

The screenshot displays a hotel booking interface. At the top, there's a navigation bar with 'CHECK AVAILABILITY', date selectors for 'Mar 16' and 'Mar 20', a 'Promo Code' field, and a search bar showing '1 Room, 2 Adults, 0 Children' with a 'SEARCH' button. The main content area features a room image on the left. To the right, a red-bordered box highlights the room title 'Single Queen Non Smoking - Accessible' with a wheelchair icon and the text 'Only 1 Room left'. Below this, a description states: 'Our Single Queen Accessible Non Smoking room consists of a Queen size bed with plush bedding. This room is ideal for those in need of an accessible bathroom.' The pricing section shows two options: 'Best Standard Online Rate' at \$316.50 per night and 'AAA' at \$284.85 per night, both excluding taxes and fees. Each option has a 'Select Room' button. A 'More Room Details' link is at the bottom.

Room Type	Rate	Per Night	Excluding Taxes & Fees	Action
Best Standard Online Rate	\$316.50	Per Night	Excluding Taxes & Fees	Select Room
AAA	\$284.85	Per Night	Excluding Taxes & Fees	Select Room

Exhibit 2: Single Queen Non-Smoking Accessible room type available

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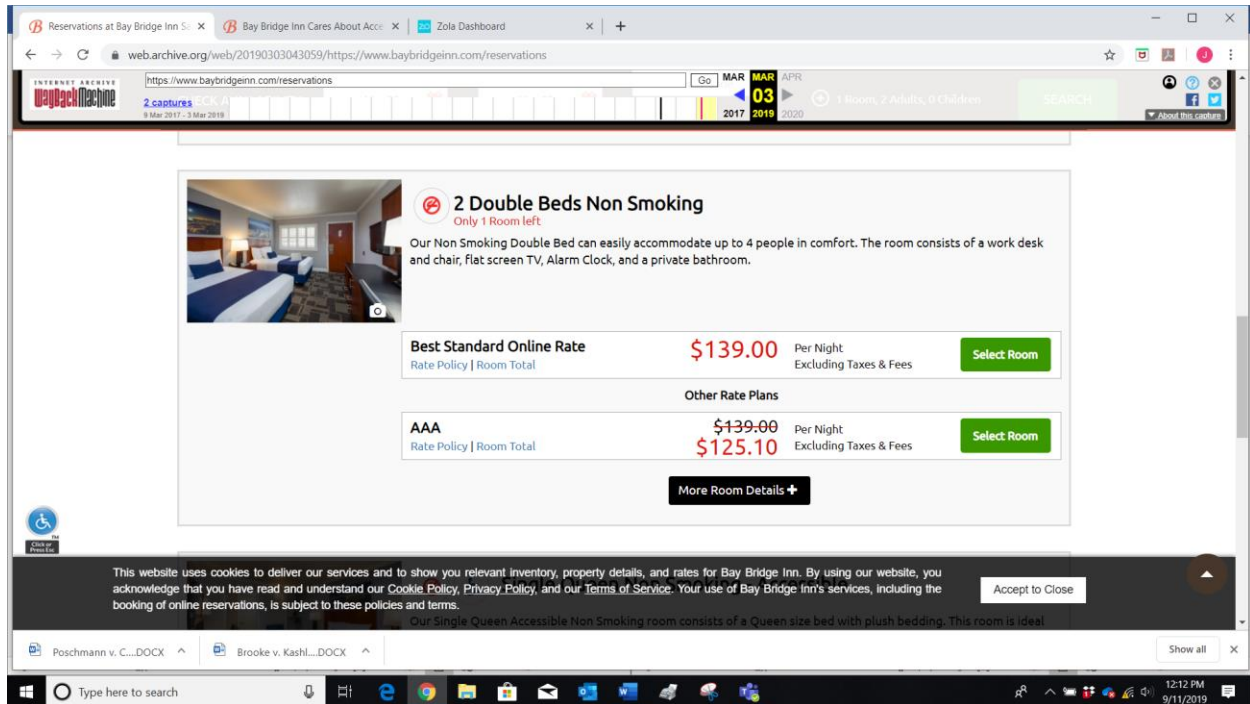


Exhibit 3: Example of non-accessible room availability

3.0 BBI's Website Identifies and Describes Accessible Features

3.1 BBI has explicitly identified and described accessible features in its hotels and guest rooms offered through its reservation service in enough detail to reasonably permit individuals with disabilities to assess independently whether a given hotel or guest room meets his or her accessibility needs.

3.1.1 BBI has explicitly identified and described accessible features in its hotels and guest rooms offered through its reservation service.

BBI has **explicitly identified** all of the details of the accessible features in its hotel and its accessibility rooms. Table 1 below shows a catalog of all accessibility features on the website: BayBridgeInn.com. Table 1 provides a description and hyperlinks to each area on the BBI's website where the accessible features are described in detailed. BBI provided clear and concise details about its accessibility features. In contrast to the defendant in *Poschmann v. Coral Reef of Key Biscayne Developers, Inc.*, 2018 U.S. Dist. LEXIS 87457 at 11, where the defendant offered no information on the accessibility features on its website, BBI's website offered extensive details regarding accessibility features.

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Table 1: Accessibility features for the hotel

Page Name	Description	URL
Dedicated Accessibility Page	Demonstrates all property level, guest room level, guest bathroom level accessibility features and stipulates that Bay Bridge Inn follows The Five Points of ADA Title III and its website also conforms to WCAG standards. Dynamically controlled by CMS. Link can be found persistently in website footer, sitemap, and also via the ADA Tray™ via button with universal handicap iconography.	https://www.baybridgeinn.com/ada-accessibility-amenities-services-facilities
Guest Rooms	Demonstrates all guest rooms in one easy to read page with ability to ‘Check Availability’ of that room type, plus the ability to drill down and see more details. Guests are able to review details about each room type, including seeing a list of regular room types and accessible room types. Iconography for Accessibility is clear and present.	https://www.baybridgeinn.com/guestrooms
Guest Room Details	Each room type has a dedicated guest room details page, which demonstrates all the features of the guest room including accessibility amenities and photo galleries. Iconography for Accessibility is clear and present.	https://www.baybridgeinn.com/guestrooms/single-queen-non-smoking-accessible
Property Overview	This proprietary page demonstrates property policies and overview of details and includes a section on Accessibility Features.	https://www.baybridgeinn.com/overview
Gallery	Photo Gallery Displays Images of Property Features including any images with descriptions of	https://www.baybridgeinn.com/gallery

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	accessibility features or images from which features can be ascertained visually.	
Street View on Map & Directions	The Street View allows the user to zoom in and take a virtual tour of the property and visually ascertain if property has van accessible parking, etc.	https://www.baybridgeinn.com/directions
Book It Now Flow	The Reservation Flow will continue to demonstrate accessibility features of the guest room if applicable room type is selected. Iconography for Accessibility is clear and present.	Shopping Cart Abandonment.
ADA Tray™	Patent-Pending Software Layer widget that helps further enhance the hotel's website's conformity to WCAG and layers on additional assistive technology including a screen reader.	Persistent on all pages.

Table 1: Accessibility features for the hotel

3.1.2. BBI provided enough detail regarding its accessibility features to reasonably permit individuals with disabilities to assess independently whether BBI's guest room meets his or her accessibility needs.

BBI's website has an accessibility tab on the website's footer, see Exhibit 4. The Accessibility tab can be easily located at the bottom of every page of BBI's website:

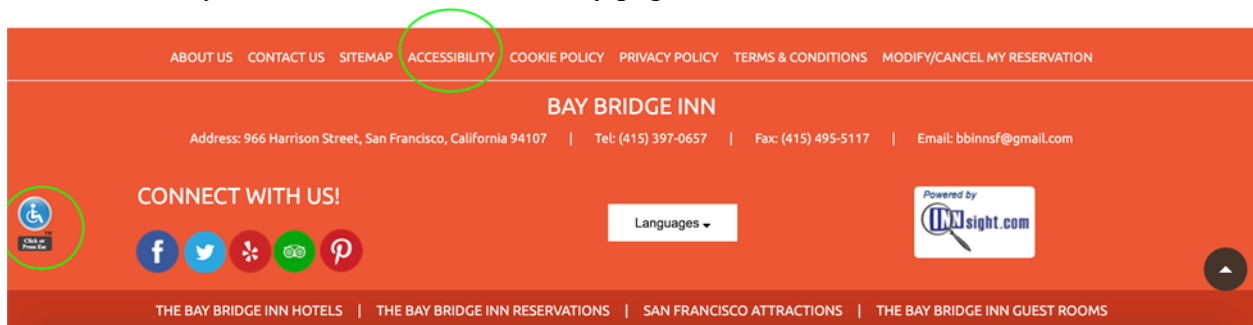


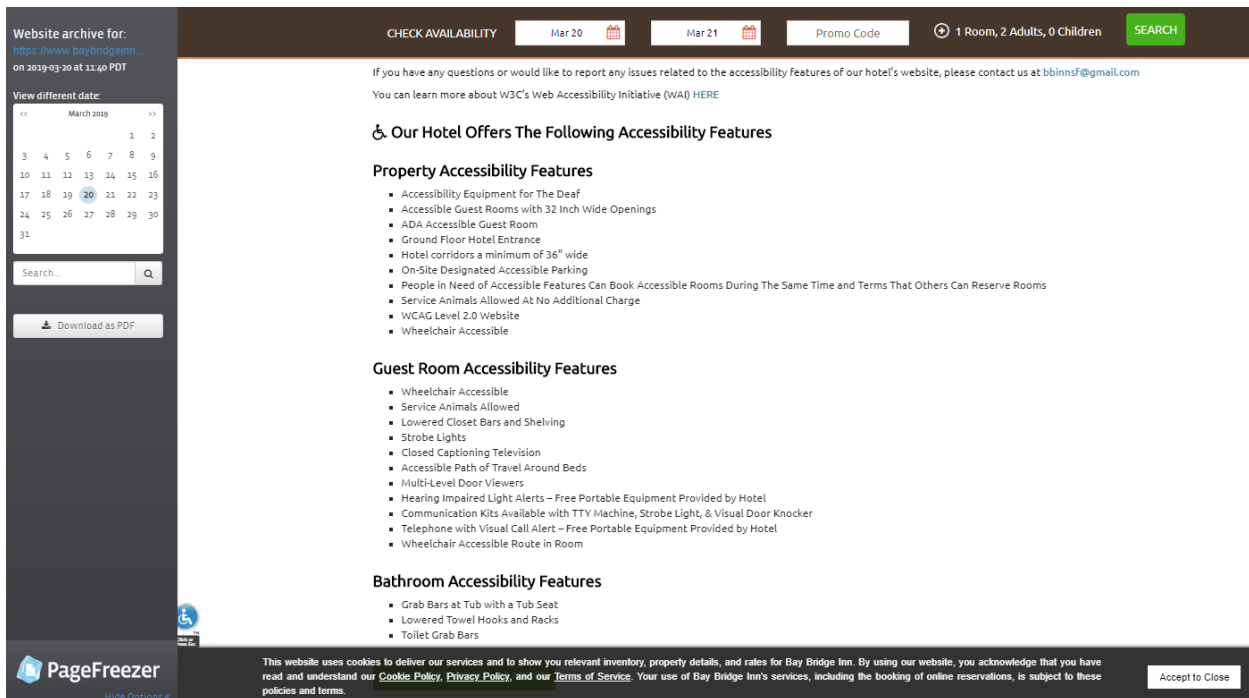
Exhibit 4: BBI's website footer displaying accessibility link.

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Clicking on the Accessibility tab opens an Accessibility page that is partially shown in Exhibit 5. The Accessibility page concisely discloses BBI's accessibility goals and accessibility policy. The page further lists the accessibility features of the property, the guest rooms, and the bathrooms. The page further lists the accessibility features of the website. As already stated, the link to this Accessibility page is on every page of BBI's website. It could not be easier for a prospective guest to quickly learn the accessibility features that are offered by BBI.

Exhibits 5 and 6 show that BBI provided and continues to provide extensive details concerning all the accessible features of the hotel. Exhibit 5 lists the accessibility features of the property and guest rooms in an easy to read bulleted format. Exhibit 6 lists the accessibility features of an individual room in the "Amenities" section of the page. Not only are the accessibility features immediately next to the other features, they are clearly demarked from the other features such that the accessibility features are easily found, easily read, and easily understood.



Website archive for:
<https://www.baybridgeinn.com>
on 2019-03-20 at 11:40 PDT

View different date:

March 2019


1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31

Search...

Download as PDF

CHECK AVAILABILITY Mar 20 Mar 21 Promo Code 1 Room, 2 Adults, 0 Children SEARCH

If you have any questions or would like to report any issues related to the accessibility features of our hotel's website, please contact us at bbinnsf@gmail.com
You can learn more about W3C's Web Accessibility Initiative (WAI) [HERE](#)

 Our Hotel Offers The Following Accessibility Features

Property Accessibility Features


- Accessibility Equipment for The Deaf
- Accessible Guest Rooms with 32 Inch Wide Openings
- ADA Accessible Guest Room
- Ground Floor Hotel Entrance
- Hotel corridors a minimum of 36" wide
- On-Site Designated Accessible Parking
- People in Need of Accessible Features Can Book Accessible Rooms During The Same Time and Terms That Others Can Reserve Rooms
- Service Animals Allowed At No Additional Charge
- WCAG Level 2.0 Website
- Wheelchair Accessible

Guest Room Accessibility Features

- Wheelchair Accessible
- Service Animals Allowed
- Lowered Closet Bars and Shelving
- Strobe Lights
- Closed Captioning Television
- Accessible Path of Travel Around Beds
- Multi-Level Door Viewers
- Hearing Impaired Light Alerts - Free Portable Equipment Provided by Hotel
- Communication Kits Available with TTY Machine, Strobe Light, & Visual Door Knockers
- Telephone with Visual Call Alert - Free Portable Equipment Provided by Hotel
- Wheelchair Accessible Route in Room

Bathroom Accessibility Features

- Grab Bars at Tub with a Tub Seat
- Lowered Towel Hooks and Racks
- Toilet Grab Bars

 PageFreezer

This website uses cookies to deliver our services and to show you relevant inventory, property details, and rates for Bay Bridge Inn. By using our website, you acknowledge that you have read and understand our [Cookie Policy](#), [Privacy Policy](#), and our [Terms of Service](#). Your use of Bay Bridge Inn's services, including the booking of online reservations, is subject to these policies and terms.

Accept to Close

Exhibit 5: Accessible features of BBI

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Website archive for:
<https://www.baybridgeinn.com>
on 2019-03-20 at 11:40 PDT

View different date:

<< March 2019 >>

			1	2		
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

Search...

Our Single Queen Accessible Non Smoking room consists of a Queen size bed with plush bedding. This room is ideal for those in need of an accessible bathroom.

› Capacity: 2 Persons › Non Smoking
› ADA Accessible Guest Room

Amenities				
General Services	› Ironing Board	› Heater	› Desk	› Daily Housekeeping Service
Bathroom	› Private Bathroom			
Technology	› LCD/LED TV › Electronic Locks	› Direct Dial Phone › Wireless Internet Access	› Cable TV	› Alarm Clock
ADA/Accessible Guest Room Features	› Wheelchair Accessible › Multi-Level Door Viewers	› Telephone with Visual Call Alert – Free Portable Equipment Provided by Hotel › Accessible Path of Travel Around Beds	› Communication Kits Available with TTY Machine, Strobe Light, & Visual Door Knocker › Closed Captioning Television › Lowered Closet Bars and Shelving	› Hearing Impaired Light Alerts – Free Portable Equipment Provided by Hotel › Strobe Lights › Service Animals Allowed › Wheelchair Accessible Route in Room
ADA/Accessible Bathroom Features	› Grab Bars at Tub with a Tub Seat	› Lowered Towel Hooks and Racks	› Toilet Grab Bars	

Exhibit 6: List of the accessible features in a room offered by BBI

In addition to lists of accessible features, an individual viewing the BBI website can also easily see images that show the implementations of those features on BBI’s webpage. Exhibits 7, 8A and 8B show the labeled images of an accessible room vs. the image of the non-accessible room. The images are taken from BBI’s webpage. The images show that BBI has complied with this statute by providing, at least the following:

- i) Lower shelves,
- ii) Grab handle in the bathroom, and
- iii) A wider bathroom door.
- iv) Various other features that are both listed.

The accessible features in BBI’s hotel and its accessibility rooms are evident to any person viewing the pictures of the accessible and non-accessible rooms in Exhibit 7. Exhibit 8A provides an individual with disabilities the option to view the accessibility features online. BBI provides about 22 different enumerated features for an individual with disabilities. Exhibit 8B below shows that the same image was available on the website on March 3, 2019.

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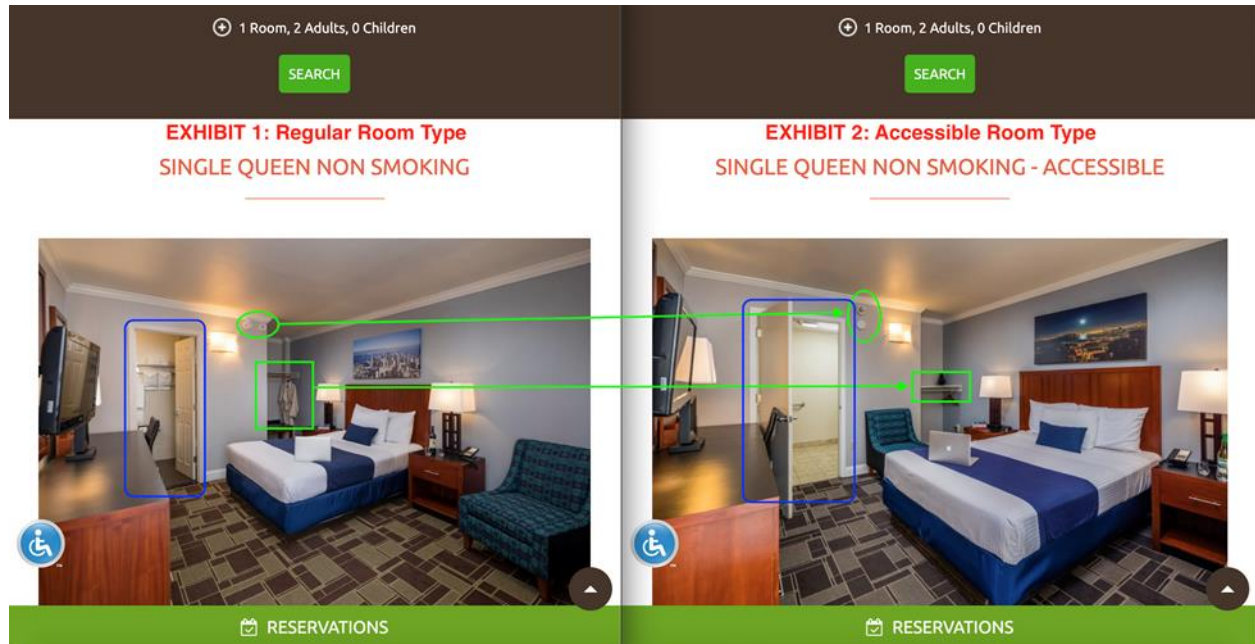


Exhibit 7: A comparison between the non-accessible room and the accessible room.

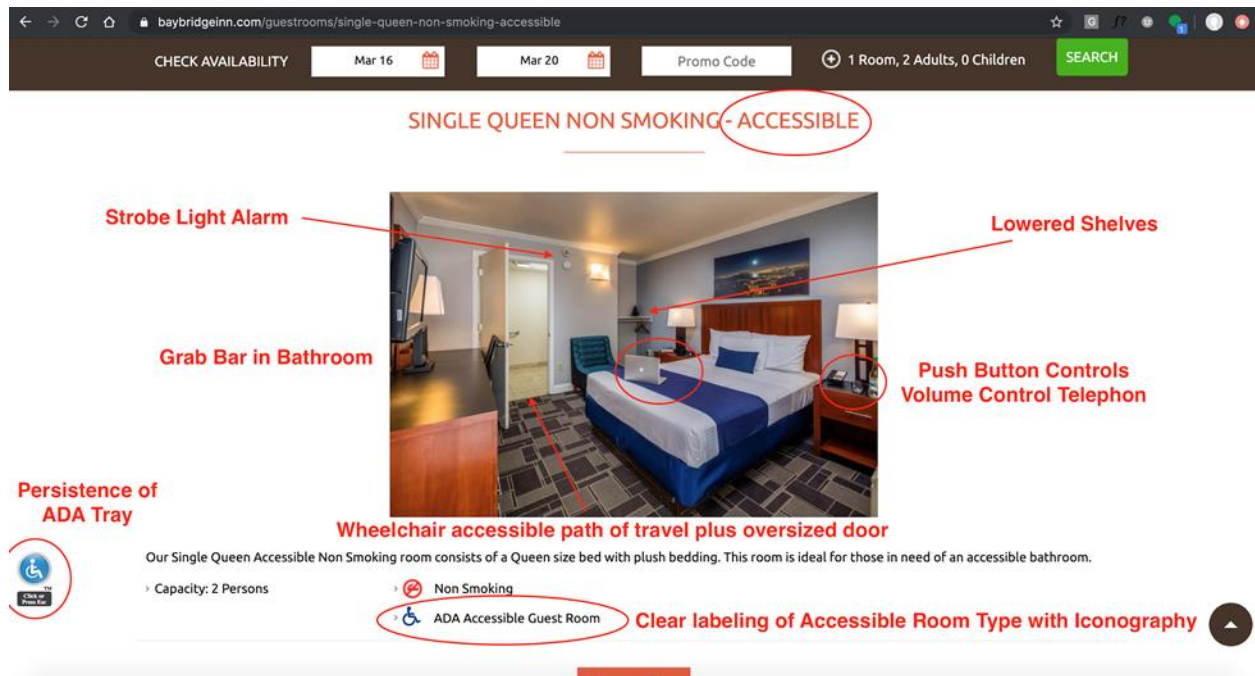


Exhibit 8A: Detailed description of the accessibility features in the accessible guest room.

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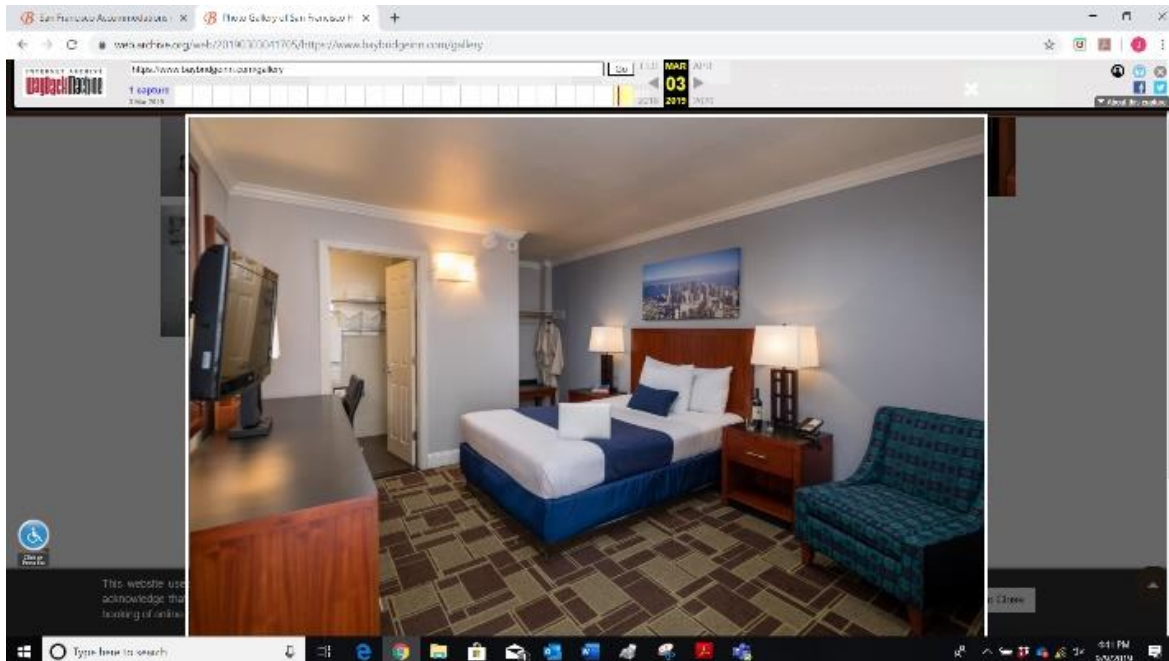


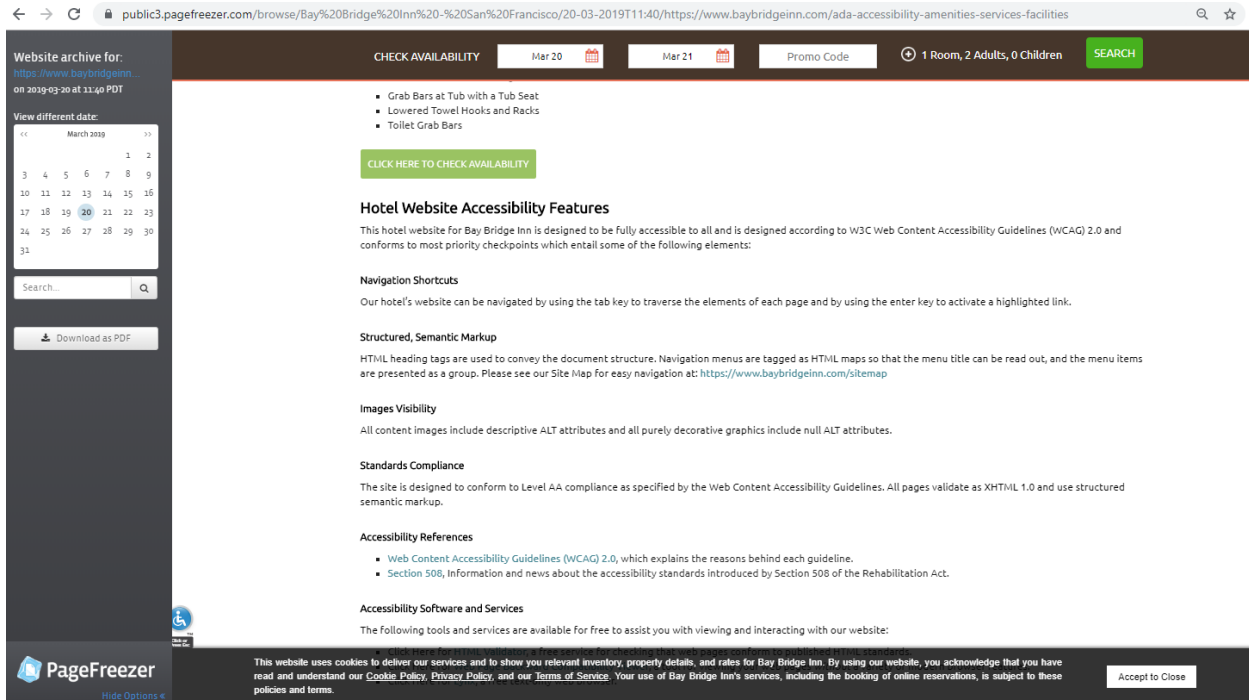
Exhibit 8B: Image from the archive.org accessibility page.

The ample details provided by BBI in Exhibits 3, 4, 5 and Table 1 are more than adequate for an individual with disabilities to ascertain whether his or her needs will be met. Additionally, BBI's website explicitly provides details about the accessible features on its website, see Exhibit 9.

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The screenshot shows a web browser displaying the Bay Bridge Inn website. The address bar shows the URL: <https://www.baybridgeinn.com/ada-accessibility-amenities-services-facilities>. The website has a dark header with a navigation bar containing links like 'CHECK AVAILABILITY', 'Mar 20', 'Mar 21', 'Promo Code', and a search bar. Below the header, there is a section titled 'Hotel Website Accessibility Features' which states: 'This hotel website for Bay Bridge Inn is designed to be fully accessible to all and is designed according to W3C Web Content Accessibility Guidelines (WCAG) 2.0 and conforms to most priority checkpoints which entail some of the following elements:'. Below this, there are sections for 'Navigation Shortcuts', 'Structured, Semantic Markup', 'Images Visibility', 'Standards Compliance', 'Accessibility References', and 'Accessibility Software and Services'. The footer contains a 'PageFreezer' logo and a cookie consent notice.

Exhibit 9: Accessible features on BBI's website

4.0 BBI ensures that accessible guest rooms are held for use by individuals with disabilities until all other guest rooms of that type have been rented.

BBI utilizes a system that ensures that the accessible guest rooms are held for use by individuals with disabilities until all other guest rooms of that type have been rented. The accessible guest room is available after all other non-accessible guest rooms are reserved. (See **Exhibit 10**) Exhibit 10 illustrates an implementation of BBI's reservation policy. An accessible room is available while the non-accessible room is reserved. As shown in Exhibit 10, an accessible room can only be reserved if an individual specifically reserves an accessible room. The system ensures that the accessible guest room is only offered to individuals looking for accessible rooms even as non-accessible rooms are fully booked.


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Step 1: Mix & Match Your Rooms

Click on 'Select Room' once you have made your room selection and Continue to Step 2

Room 1: 2 Adults, 0 Children




Single Queen Non Smoking - Accessible
Only 1 Room left

The Queen Accessible Guest Room features: wheelchair accessible path of travel, a variety of accessibility features in the guest room including multi-level amenities, A/V hearing kit, strobe light and a wheelchair accessible bathroom with grab bars, removable shower wand and shower seat.

Best Standard Online Rate <small>Rate Policy Room Total</small>	\$269.00 Per Night Excluding Taxes & Fees	Select Room
Other Rate Plans		
AAA <small>Rate Policy Room Total</small>	\$269.00 Per Night \$242.10 Excluding Taxes & Fees	Select Room

More Room Details +



Single Queen Non Smoking

Our Single Queen Accessible Non Smoking room consists of a Queen size bed with plush bedding. This room is ideal for those in need of an accessible bathroom.

⚠️ Sorry, this room type is Not Available for your selected dates. Please try another set of dates to check the availability of this room type.

Exhibit 10: Illustrates an example of a last room sold

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As shown below in Exhibit 11, the reservation system segregates the booking of accessibility rooms and non-accessible featured rooms to ensure that the accessible guest rooms are held for use by individuals with disabilities until all other guest rooms of that type have been rented. Accessible rooms will not be inadvertently offered to individuals attempting to rent non-accessible rooms.

	Sep 13 Fri	Sep 14 Sat	Sep 15 Sun	Sep 16 Mon	Sep 17 Tue	Sep 18 Wed	Sep 19 Thu	Sep 20 Fri	Sep 21 Sat	Sep 22 Sun
100										
105										
104										
103										
102										
101										
▼ 2 Double Beds Non Smoking										
204										
203										
202										
201										
▼ Single Queen Non Smoking - Accessible										
401										

Exhibit 11: Example of room inventory blocking

5.0 BBI provides reservations, upon request, accessible guest rooms or specific types of guest rooms.

BBI provides an individual with disabilities with the ability to reserve, upon request, accessible guest rooms or specific types of rooms. (See Exhibits 1 and 11 above). An individual with disabilities may either reserve the accessible room online or as a walk-in, or via telephone in the same manner as any other individual.

5.1 BBI ensures that the guest rooms requested are blocked and removed from all reservations systems.

BBI's system ensures that the accessible guest room, once requested, is blocked and removed from all reservations systems. The system safeguards requested accessible rooms two-

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fold. First, accessible guest rooms can only be reserved when a guest expressly requests an accessible room. Second, once requested, the accessible room cannot be reserved by anyone else. Exhibit 12 shows an example of room blocking. The accessible room, 401, is separate from the non-accessible guest rooms to ensure that it is available and/or blocked for an individual with disabilities. Individuals attempting to book non-accessible rooms will not be offered the accessible room.

	Sep 13 Fri	Sep 14 Sat	Sep 15 Sun	Sep 16 Mon	Sep 17 Tue	Sep 18 Wed	Sep 19 Thu	Sep 20 Fri	Sep 21 Sat	Sep 22 Sun
100										
105										
104										
103										
102										
101										
▼ 2 Double Beds Non Smoking										
204										
203										
202										
201										
▼ Single Queen Non Smoking - Accessible										
401										

Exhibit 12: Example of room inventory blocking

6.0 BBI's Website Guarantees that Accessible Rooms are held for Reserving Customers.

6.1. BBI guarantees that the specific accessible guest room that is reserved through its reservations service is held for the reserving customer, regardless of whether a specific room is held in response to reservations made by others.

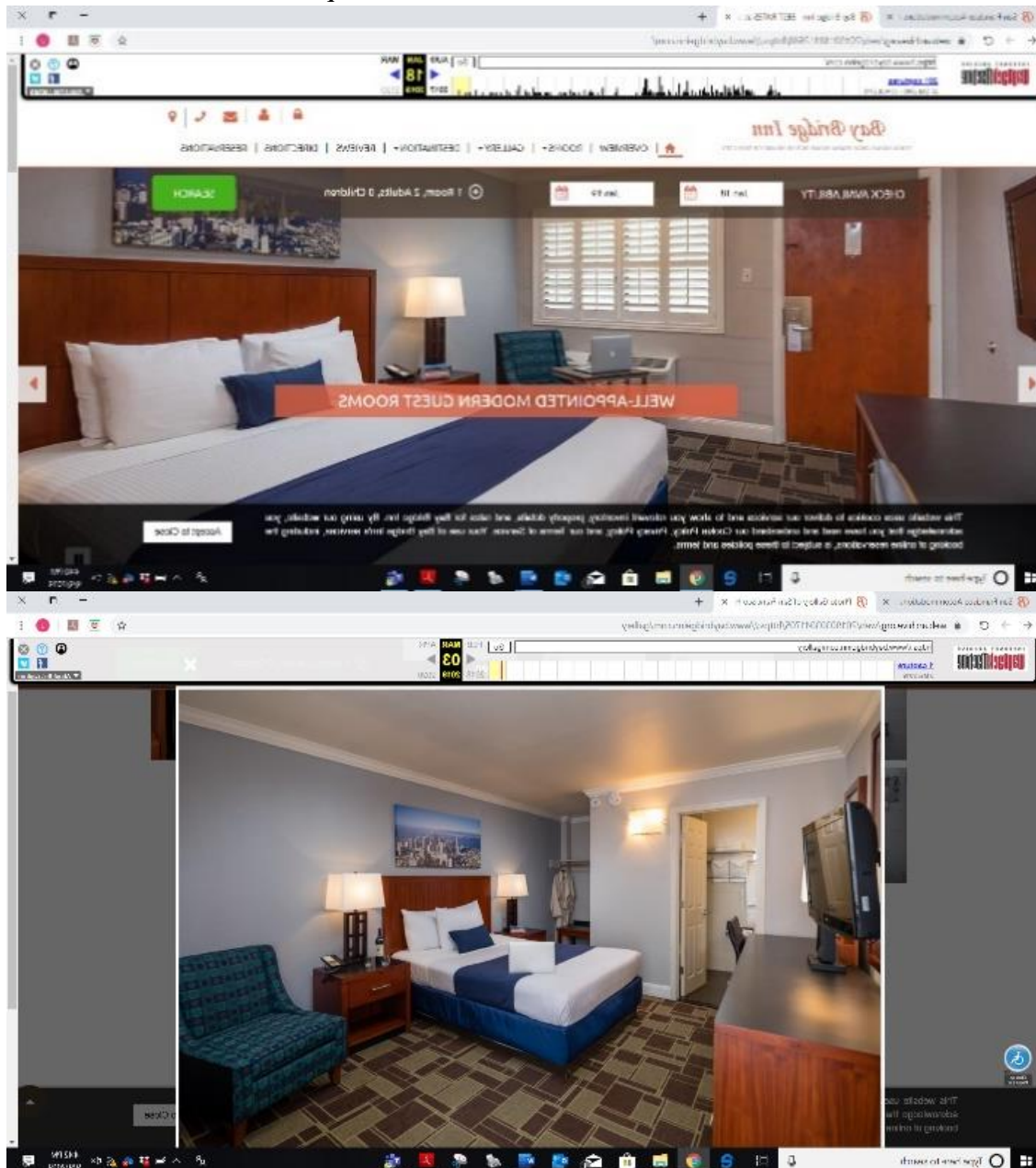
BBI's reservation system only offers accessible rooms to those expressly attempting to reserve an accessible room. Individuals cannot inadvertently reserve an accessible room by selecting a non-accessible room. Thus, BBI's system guarantees that its accessible rooms are reserved and held only for individuals who specifically reserve an accessible room.

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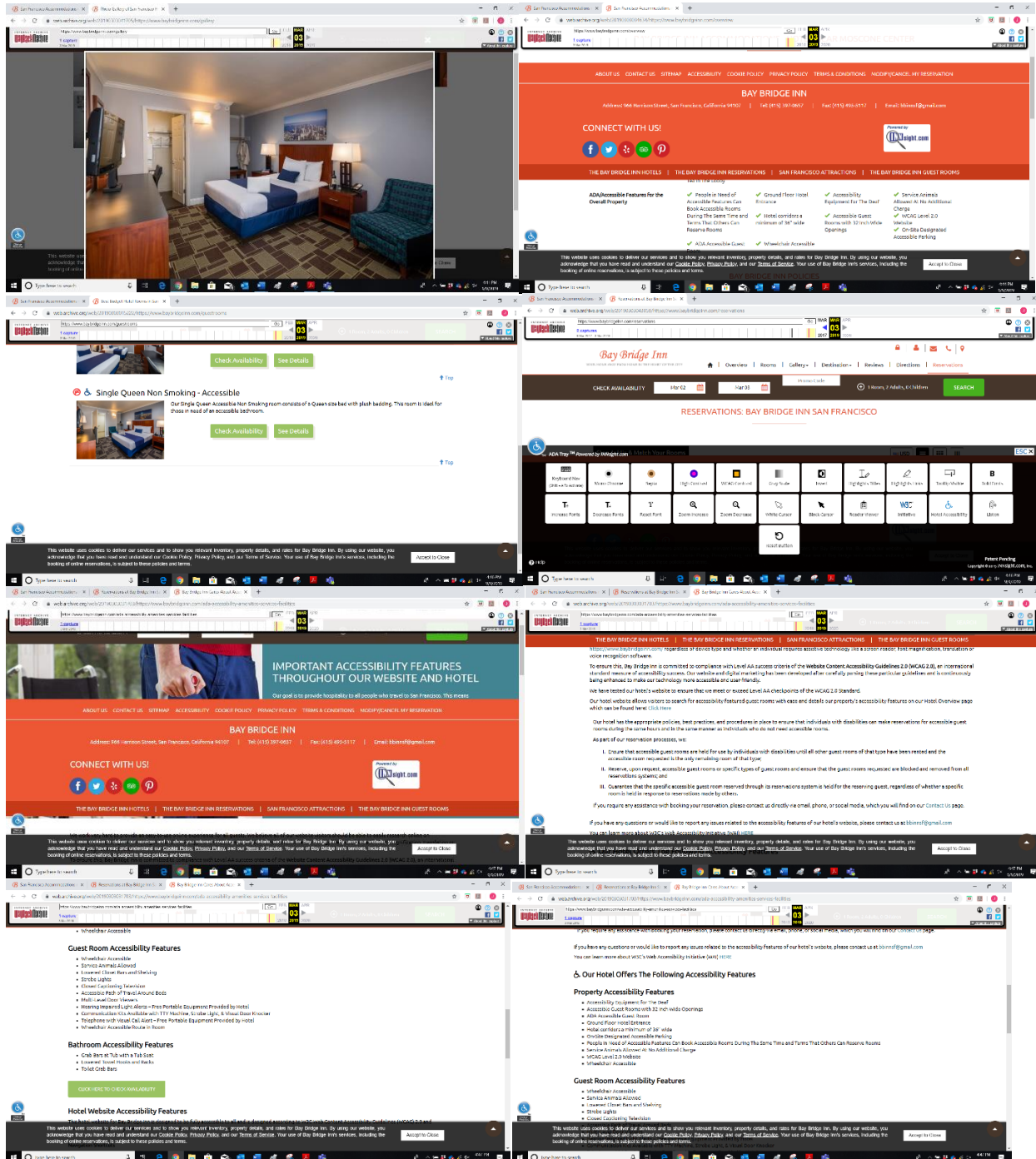
7.0 BBI's accessibility features have not changed since the plaintiff first accessed it.

The following are images from the Way Back Machine depicting BBI's website on March 3, 2019. A reasonable person would conclude that the website is exactly the same and that BBI met all of the ADA requirements above.



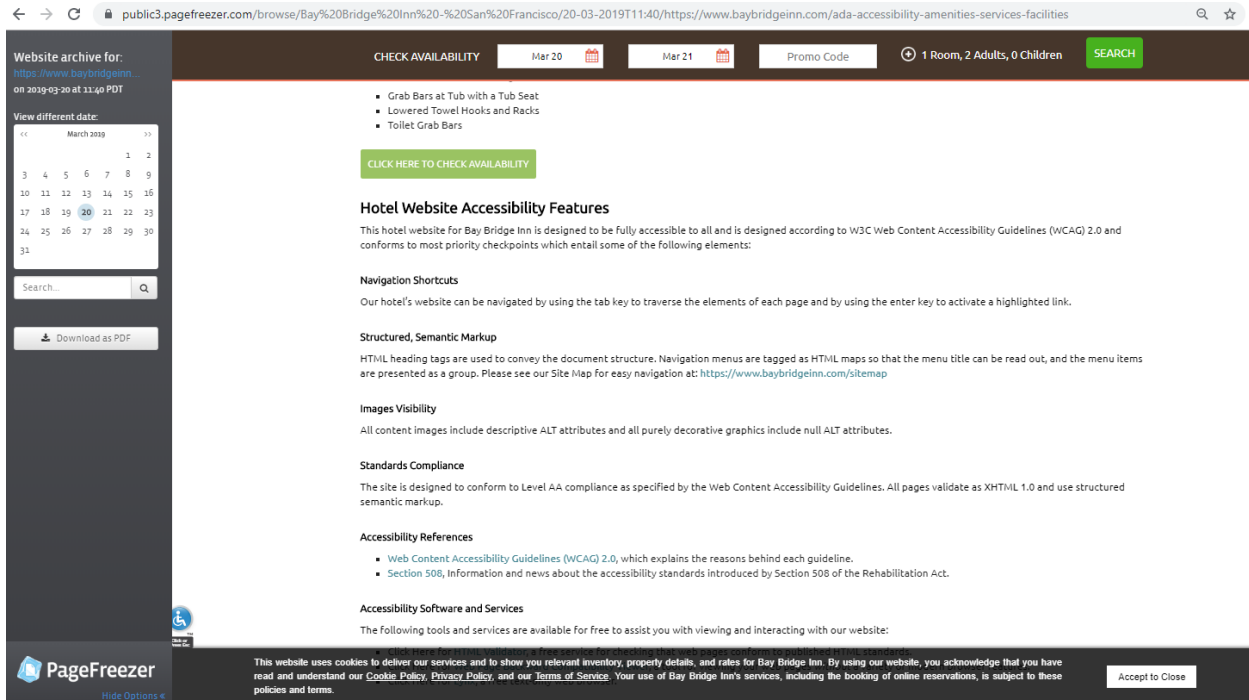
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The screenshot shows a web browser displaying a website archive for Bay Bridge Inn. The browser address bar shows the URL: <https://www.baybridgeinn.com/ada-accessibility-amenities-services-facilities>. The website has a dark header with a navigation bar containing links for 'CHECK AVAILABILITY', 'Mar 20', 'Mar 21', 'Promo Code', and a search bar. Below the header, there is a list of accessibility features: 'Grab Bars at Tub with a Tub Seat', 'Lowered Towel Hooks and Racks', and 'Toilet Grab Bars'. A green button labeled 'CLICK HERE TO CHECK AVAILABILITY' is present. The main content area is titled 'Hotel Website Accessibility Features' and includes sections for 'Navigation Shortcuts', 'Structured, Semantic Markup', 'Images Visibility', 'Standards Compliance', 'Accessibility References', and 'Accessibility Software and Services'. A sidebar on the left shows a calendar for March 2019, with the 20th highlighted. The footer contains a 'PageFreezer' logo and a cookie consent notice.

8.0 Conclusion

In conclusion, it is obvious to the visitors of the BBI website that BBI and INNsign have put a lot of effort and have complied with the ADA rules and it is a shame that they are being victimized by the Manning Law, APC and Dona Dugo. BBI and INNsign have taken meticulous effort, leveraging its own Subject Matter Expertise in the area of online ADA Accessibility, to improve the lives of individuals with disabilities and this frivolous lawsuit aims to thwart that progress. INNsign is experienced in online ADA compliance and is the market leader and subject matter expert in the space. Accordingly, frivolous lawsuits such as this one, hinder the pioneering work conducted by BBI and INNsign.

The webpages and analysis clearly demonstrate that BBI's website was compliant with the requirements of 28 C.F.R Section 36.302(e) at the time that Dona Dugo allegedly visited the website. During the discovery process we will be able to determine whether Ms. Dugo visited the BBI website. The above evidence shows that BBI's website was, and is, an exemplary application of modern accessibility standards. BBI is prepared to fully defend its application of the law and looks forward to proving the same in court. Accordingly, the Manning Law, APC and Dona Dugo should in turn be prepared to back up all elements of their claims. You should be prepared to submit evidence that justifies this lawsuit. You should be prepared to submit a

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full search history and your client travel history, airline flights, meals, credit card history that demonstrates your claims. If you choose to continue to pursue this case further, the precedent you will set will be to clarify that the BBI's website is the model for 28 C.F.R Section 36.302(e) compliance.

INN sight.com, Inc. will continue to back BBI in its efforts relating to this case. We look forward to hearing your client's response to our offer.

Sincerely yours,

MAHESH LAW GROUP, PC

/s/ Kumar Maheshwari
Kumar Maheshwari
Managing Partner