

BUILDING AND SAFETY SERVICES DIVISION
2600 FRESNO STREET • THIRD FLOOR • ROOM 3043
FRESNO, CALIFORNIA 93721-3604
(559) 621-8082 • FAX (559) 498-4357
www.fresno.gov

BRIAN T. LEONG, C.B.O.
BUILDING OFFICIAL

ADA, SB 1608, and the California Building Code: Guide for Small Businesses

The Americans with Disabilities Act (ADA) gives federal civil rights protections to individuals with disabilities similar to those provided to individuals on the basis of race, color, sex, national origin, age, and religion. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, State and local government services, and telecommunications.

ADA Title III obligations apply to “places of public accommodation” owned, leased, leased to or operated by a private entity. A place of public accommodation must fall within at least one of 12 categories including lodging, restaurants/bars, places of entertainment, places of public gathering, retail establishments, service establishments, medical facilities, public transportation, museums/galleries, private and public education spaces, day care centers, and places of recreation.

Both the landlord and the tenant have full responsibility for complying with all ADA Title III requirements applicable to that place of public accommodation and both can potentially be sued under the ADA for non-compliance. The Title III regulation permits the landlord and the tenant to allocate responsibility, in the lease, for complying with the particular provisions of the regulation. However, any allocation made in a lease or other contract is only effective as between the parties, and both landlord and tenant remain fully liable for compliance with all the provisions of the ADA relating to that place of public accommodation.

As many business owners and tenants may not be aware of their Title III responsibilities or may not be aware that their businesses are not accessible to people with disabilities, State law SB1608 amended by SB209, was enacted in 2008 to lessen the possibility of a lawsuit while increasing compliance with the requirements for accessibility. SB1608 establishes provisions for Certified Access Specialists (CASp) to survey a building or a site for accessibility compliance and then issue a confidential, detailed report to the owner or tenant indicating that either the facility is in compliance (CASp inspected) or noting any areas requiring correction (CASp Determination Pending) with complete descriptions and a schedule of completion for each correction within a reasonable timeframe. A certificate is then issued indicating the facility has been inspected by a CASp.

It is in the owner/tenant's best interest to obtain a CASp report prior to any notice of a lawsuit. Businesses that have been CASp inspected before being sued – and only those businesses – are entitled to request a 90-day stay of the lawsuit and an Early Evaluation Conference with a Superior Court Judge or Commissioner to evaluate the merits of the claim against them and determine whether further litigation is necessary.

Per SB1608 requirements, the City of Fresno Development and Resource Management Department provides consultations to permit applicants and members of the public on compliance with State construction related accessibility standards. CASp inspections are not provided by the Department. Consultations are by appointment and a fee of \$107.00 per hour shall be assessed and due at the time of the appointment. Appointments can be scheduled with the City of Fresno CASp by calling (559) 621-8082.

Any proposed improvements must be submitted to the City of Fresno Development and Resource Management Department, Building and Safety Services Division for plan review and permit issuance in compliance with the requirements of the California Building Code.

ADDITIONAL RESOURCES:

www.dgs.ca.gov/dsa/Programs/progAccess.aspx

www.ada.gov