

Extra! Extra! Read All About It. California Leases Require Update

Mar 13 2017

Posted By: Chris A. Jenny & William R. West

Practice Area: Real Estate & Retail Real Estate

In 2013 we authored a *Law Update* on the California disability access law. Among other changes, the 2013 California law required that a commercial property owner or landlord state on every lease form or rental agreement executed after July 1, 2013, whether the property being leased or rented has undergone inspection by a Certified Access Specialist (CAsp). A CAsp is an individual certified by the State of California to inspect construction-related access to public accommodations by persons with disabilities. A CAsp has knowledge regarding state and federal accessibility laws including the ADA.

In a continuing effort to reduce the number of accessibility lawsuits, California Assembly Bill 2093 was signed into law in September 2016 and became effective January 1, 2017. The new law is intended to encourage the disclosure of any accessibility concerns between a landlord and tenant during lease negotiations. The new law expands on the 2013 law by requiring additional disclosures and lease agreement provisions. The specific disclosures required by the new law include:

- If the commercial premises has undergone a CAsp inspection, then a copy of all reports must be provided to the tenant at least 48 hours prior to execution of the lease. The report is to remain confidential except to the extent necessary to remedy any identified deficiencies. The property owner must also state that no alterations have been completed since the inspection that impact compliance with accessibility standards.
- If the CAsp inspection identifies any needed alterations to comply with accessibility standards, then it is presumed that the landlord is responsible for any such alterations unless landlord and tenant agree otherwise.
- If the CAsp report does not identify any needed alterations, the landlord must provide a copy of the disability access inspection certificate.
- If the landlord has not had a CAsp inspection performed, then the landlord must notify the tenant in the lease that an inspection has not been performed and that the tenant has the right to perform an inspection. The parties must agree on the arrangements for the time and manner of the inspection, payment of the fee, and the cost of making repairs. The specific language is set forth in the law.

It is of particular note that the new law does not require a CAsp inspection. An inspection remains voluntary. However, landlords need to ensure that their California leases comply with the mandates of the new law.

von Briesen & Roper Legal Update is a periodic publication of von Briesen & Roper, s.c. It is intended for general information purposes for the community and highlights recent changes and developments in the legal area. This publication does not constitute legal advice, and the reader should consult legal counsel to determine how this information applies to any specific situation.

