

New legislation puts teeth into state's accessibility laws

When I make presentations to groups on the Americans with Disabilities Act (ADA) and the Texas Architectural Barriers Act, at some point during my talk I hold up for my audience to see a small yellow pamphlet which I received in



Engineering Plans

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1977 titled, "The Texas State Program for Preventing Architectural Barriers."

It was prepared by the Texas State Building Commission and inside the front cover it says, "These standards are intended as a guide to aid in the design and construction of all buildings and facilities within the state of Texas."

The whole pamphlet contains ten pages.

Then I hold up a copy of the state's current design standards called the Texas Accessibility Standards (TAS) which is bound, indexed and contains 113 pages of technical standards, details and appendix. And that doesn't count the numerous Technical Memorandums which have been issued to further define and clarify particular areas of concern.

The field of 'accessibility' in the country, and in Texas in particular, has become quite complicated and now commercial building owners and architects frequently require the assistance of a new type of professional, one which will soon be called a "Texas accessibility specialist."

Here are some of the developments which are bringing new concerns and interests to this special area:

Remodeling

Most commercial building owners and architects are aware of and are complying with the Texas Architectural Barriers Act which requires that any commercial project over \$50,000 be reviewed for compliance with the TAS.

One of the provisions of TAS, and of the ADA for that matter, is that on alteration and remodeling projects, areas of the build-

ing outside the scope of the project may also be required to be made accessible and required to comply with the new standards. Typically, these are the parking, rest room facilities, drinking fountains and telephones, along with the path or route from these facilities to the remodeled area.

Though these requirements are mentioned in the plan review, they frequently are not addressed or are overlooked.

Inspection Delays

State law also requires that, once a project has been finished, it be inspected to ensure that it was constructed in accordance with the approved plans and review comments.

It is usually during this phase of the project that the building owner is made aware of "violations" and given 90 days to "bring the facility into compliance" - frequently an expensive and unexpected development.

The situation is further complicated because the Texas Department of Licensing and Regulation (TDLR), the agency charged with enforcing state accessibility laws, is understaffed and it may be years before they get around to following up with properties which have either not been inspected or which have outstanding inspection "violations."

However, the TDLR is working toward bringing all projects into compliance. TDLR is working to streamline the entire plan review and inspection process. TDLR management has said that their goal is to free up staff from handling the details and concentrate more on enforcement.

New law

A bill recently signed into law has added to the list of items required by the city of San Antonio in order to obtain a building permit. State Bill 484, sponsored by Sen. Robert Duncan, R-Lubbock, requires municipalities - for commercial building projects over \$50,000 - to verify that the project has been registered with TDLR prior to accepting an application for a building construction permit.

State law has, for several years, required that architects, interior designers, landscape architects and engineers submit their

construction documents for review when the project cost is over \$50,000. Yet many projects locally and all over the state have been constructed without going through the plan review process.

With the new law in effect and the city's change in policy, it now levels the playing field for all designers, builders and building owners. In the past, numerous projects were constructed which did not comply in some way with the minimum building standards set to provide an accessible building for persons with disabilities.

Sometimes owners work directly with contractors to construct projects. And in many cases, these projects have not been reviewed for compliance with TAS. Design professionals who do not submit plans run the risk of being referred to their respective licensing body for disciplinary action.

With the new law, municipalities will become the new "gatekeeper" to ensure plans are reviewed. Once a project is registered and reviewed, it's in the system. Compliance can be assured because the state has the authority to fine building owners up to \$1,000 per violation per day.

Sophisticated commercial building buyers are now researching the status of TDLR projects as part of the due diligence process. Due to the time delays in dealing with TDLR, it is not uncommon to find numerous past projects that have not been inspected or projects which have been inspected with "violations" which have not been addressed. These are not the sort of things the prospective building owner wants to learn about after closing on a building.

The area of accessibility will continue to require higher levels of knowledge. This would not have been necessary if more had been done to address the concerns and needs of the disabled community in the past. But it is with us now and the more you know, the less likely you will be surprised with expensive corrective construction.

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