

Design - June 2005

New Guidelines for Texas Accessibility Standards

By Dean Barone

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Changes to the Texas Accessibility Standards provide some needed relief for some building owners. Many proposed amendments have been outlined by the Texas Department of Licensing and Regulation and are currently being considered. As of February 1, a few key changes went into effect.

Texas Accessibility Standards are the state building standards established in 1994 as an addendum to the original Texas Architectural Barriers Act, which was created to outline standards that ensure the public's safety and promote a fair and competitive business environment. Compliance with TAS is separate from compliance with ADA. TDLR enforces the Texas Architectural Barriers Act and administers TAS.

The basic guidelines of TAS do not require the removal of existing barriers in commercial buildings if no new remodeling or construction takes place. To promote conversions of existing buildings, all new construction must be accessible. Plans and specifications for construction or substantial renovation, modification or alteration of a building or facility more than \$50,000 must be submitted for review by the TDLR. Projects less than \$50,000 are not required to submit, however, they are not exempt from compliance. Tenants are responsible for their workplaces and building owners are responsible if a tenant remodels a lease space triggering changes to support elements. These might include parking, restrooms and drinking fountains. Typically, a building owner is responsible for removing architectural barriers within the common areas of their facility.

What are TAS exemptions? Building owners may apply to TDLR for variances in three circumstances: When it's impractical to make an alteration because of an existing structural condition; when expenditures are more than 20 percent of the planned project cost; and if the TAS-aligned alteration would violate other building codes.

Once a variance, always a variance? In many cases, the same variance has to be applied whenever TAS is triggered. Each time a tenant renovates, for example, the owner has to shell out \$300 to re-secure the same exemption. With the latest revisions, one less variance will have to be repeated. One of the specifications of TAS is that parking garages must provide van-accessible parking within the facility. Parking garages generally need more clearance and larger spaces to meet the needs of accessible-vans. However, rebuilding parking garages developed before 1994 is not feasible. The new amendment allows building owners to secure a permanent variance on parking garages built before April 1, 1994, when TAS went into effect.

How is compliance assured and when are the submissions due? Compliance begins with the decision to upgrade or remodel a business' work environment. Prior to the start of construction, documents outlining the action are to be submitted to TDLR for compliance review of accessibility standards. The timing of these submissions has often been confusing. TDLR has clarified this point in a new amendment: architects and designers have five days to submit their drawings to the state beginning at the moment they submit for a building permit.

TDLR regulates Registered Accessibility Specialists to provide consultation, plan review and inspection services in conjunction with the state agency. Working with an RAS often expedites the process.

Once the plans are reviewed by an RAS, a set of comments are returned to the applicant with approval status providing an opportunity to make corrections or modifications. Construction may proceed during the approval phase. While this rule defines the timeline, working well in advance of this deadline is advised. Modifications made while construction is under way can result in expensive additions to the budget. Incorporating TDLR's changes into plans prior to handing it to the contractor, while not required, saves money and time. When construction is completed, TDLR inspects the facility to ensure that it was built as presented and in compliance with the reviewer's comments.

What happens if a tenant or the owner is in violation? Non-compliance may result from a construction or procedural error. If violations are brought to the attention of an inspector, they are reported to the state. The Texas Board of Architectural Examiners may revoke/suspend a professional license, reprimand or assess an administrative penalty.