

CHANGES TO CASP INSPECTION REQUIREMENTS

Commercial leases executed on or after January 1, 2017 are subject to new Certified Access Specialist (CASP) inspection disclosure requirements (Civil Code section 1938).

Since September 2012 every commercial property owner or lessor has had to disclose in a lease whether the premises had undergone a CASp inspection. Now, commercial property owners must also do the things outlined below – or risk the lessee rescinding the lease.

1. **Provide a copy of the CASp inspection report.** If there has been a CASp inspection and there have been no modifications or alterations that impact the premises' compliance with construction-related accessibility standards since the inspection, the owner must provide a copy of the CASp inspection report to the prospective lessee at least 48 hours prior to the execution of the lease. The lessee has to agree that the information in the report shall remain confidential except as necessary for the lessee to make the agreed-upon necessary repairs. If the lessee does not receive the existing report in a timely manner, it has the right – for 72 hours after execution of the lease — to rescind based on information contained in the report.
2. **Provide a copy of the disability access inspection certificate.** If a CASp report has been issued indicating that the premises meet applicable standards, the property owner shall provide a copy of the disability access inspection certificate and the inspection report to the lessee within seven days of the execution of the lease.
3. **Include required CASp inspection language in the lease.** If a CASp inspector has not issued a disability access inspection certificate for the premises, very specific language from the statute must be stated in the lease agreement.

These recent changes in the law create a presumption that the commercial property owner is responsible for making repairs or modifications to correct the construction-related accessibility violations unless otherwise mutually agreed upon by the parties to the lease.

Recommended Action Items for Commercial Landlords:

- Determine whether your property has been inspected by a CASp, and whether an inspection report or certificate has been issued.
- Review and revise current lease forms to ensure compliance with the new law.
- Review lease forms for other provisions, including risk and cost allocation between landlord and tenant related to disability access issues.

Our experienced real estate counsel can assist you with these issues and are happy to discuss.

Contact us.

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Sean Cottle is a real estate attorney who has practiced law for over 25 years and is well respected by his clients and many others in the business community. Sean's practice focuses on transactions involving the purchase, sale, and leasing of commercial, industrial, retail property, and residential developments, both in California and elsewhere throughout the country (as far away as Knoxville, Tennessee; Peoria, Illinois; and Forth Worth, Texas). Sean also advises landowners, developers, builders, and subcontractors on other aspects from entitlement, construction, and property related issues to post-sale issues and project advocacy. Sean has served and currently serves as outside general counsel to several contractors and suppliers.