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DISABILITY



BOMA INTERNATIONAL

Guide to the 2010 ADA Standards

Lawrence G. Perry, AIA



BOMA International: Guide to the 2010 ADA Standards

Meeting the Title III provisions of the Americans with Disabilities Act of 1990 for Public Accommodations and Commercial Facilities (ADA), as established by the 2010 ADA Standards for Accessible Design, published in the *Federal Register* on September 15, 2010.

Disclaimer

The subject matter contained in this *Guide* is taken from U.S. Department of Justice final rules implementing Title III of the ADA (28 CFR Part 36, July 26, 1991) and DOJ final rules adopting the 2010 ADA Standards (published in the *Federal Register* September 15, 2010) which includes the 2004 Americans with Disabilities Act Accessibility Guidelines (ADAAG – 36 CFR part 1191, appendices B and D, July 23, 2004). BOMA International has taken extreme care and imposed high procedural standards in developing this *Guide*. It is offered as a useful service to the commercial real estate industry and to the public. The contents are presented with no warranty either expressed or implied, and BOMA officers, staff, and/or retained consultants assume no legal responsibility for the accuracy of the presentations, comments or other information contained herein. Neither is liability assumed for the outcome of decisions, contracts, commitments or obligations made on the basis of information contained in this *Guide*.

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U.S. Access Board

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Mr. Perry has a proven track record presenting the broad, comprehensive provisions of the Americans with Disabilities Act in a manner that is clear and easy to understand for both technical and non-technical audiences, and has conducted dozens of ADA Title III compliance seminars for architects, development and construction firms, and building owners and managers. He was the primary author of BOMA's 1991 *ADA Compliance Guidebook* and 1992 *ADA Answer Book*. A member of the ICC/ANSI A117 Standards Committee since 1991, he also served on the U.S. Access Boards' ADAAG Review Federal Advisory Committee, whose Final Report served as the basis of the new ADA Standards.

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Introduction

BOMA International developed this *Guide* to the 2010 ADA Standards in an effort to promote voluntary compliance within the commercial real estate community with Title III of the Americans with Disabilities Act (ADA). Published in the Federal Register on September 15, 2010, the 2010 ADA Standards include both revised regulations from the U.S. Department of Justice (DOJ) and revised scoping and technical requirements, developed by the U.S. Access Board. The 2010 ADA Standards are the first comprehensive update to federal accessibility standards since the initial ADA Standards were issued in 1991.

This *Guide* provides a comprehensive update to BOMA's 1991 publication *ADA Compliance Guidebook, A Checklist for Your Building*.

BOMA is fully committed to the goal of making buildings more accessible. A primary element of that commitment is to assist BOMA members and the entire commercial real estate industry in understanding and complying with the revised regulations that will further enhance commercial building accessibility for persons with disabilities. We have worked closely with the DOJ and the U. S. Architectural and Transportation Barriers Compliance Board (Access Board) since the ADA Accessibility Guidelines (ADAAG) went into effect in 1991, and we continue to participate in the ongoing development of accessibility standards, codes and regulations in both the public and private sector. BOMA supports, and has worked with federal agency officials as well as representatives of disabled advocacy organizations and other interested parties, to shape reasonable rules that will promote accessibility in buildings.

This *Guide* addresses Title III requirements for accessibility in buildings. Title III prohibits discrimination on the basis of disability in the activities of places of public accommodation (businesses that are generally open to the public and that fall into one of 12 categories listed in the ADA, such as restaurants, movie theaters, schools, day care facilities, recreation facilities, and doctors' offices) and requires newly constructed or altered places of public accommodation—as well as commercial facilities (privately owned, nonresidential facilities such as factories, warehouses, or office buildings)—to comply with the ADA Standards. Certain other portions of Title III, dealing with policies and procedures, and exams and courses, are not covered in this *Guide*.

Understanding the events that can trigger mandatory compliance with the requirements in the 2010 ADA Standards and the effective dates for mandatory compliance is critical. DOJ's 2010 revised rules include a broad "grandfather" clause that exempts all building elements constructed or altered in compliance with the 1991 regulations, which is in effect until those elements are subject to a planned alteration. This grandfather clause also applies to the "path of travel" to an area constructed or altered in compliance with the 1991 regulations. The revised regulations do not become mandatory until March 15, 2012. Until that date, projects may be designed and constructed in compliance with the current 1991 ADAAG or the revised 2010 regulations (including the 2004 ADAAG). BOMA urges that projects in design or under construction prior to March 15, 2012 consider compliance with the 2010 ADA Standards as this will in many cases make later alterations easier and less expensive without adding significantly to the cost of current projects.