

Don't get caught without ADA plans

By David Kelly

2010 marks the 20th anniversary of the passing of the Americans with Disabilities Act (ADA). During these 20 years, Tahoe Area Coordinating Council for the Disabled (TACCD) has been working to encourage and assist businesses in complying with the ADA. Every year, TACCD requests the Ccty of South Lake Tahoe to name October as Disability Awareness Month to remind all our residents and visitors of the hardships and difficulties endured by seniors and persons with disabilities.

Every day, TACCD works hand-in-hand with government and other agencies to better the quality of life for seniors and disabled persons in a multitude of ways from housing to transportation to accessibility issues and more.



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Recently, businesses in our town have been under attack by a person or persons allegedly attempting to punish non-ADA-compliant locations while making a considerable amount of easy money in the process. This behavior is not supported by TACCD. We would much prefer to accomplish the same goals by cooperative instruction and encouragement for the businesses on the South Shore.

As little as a missing sign, a missing accessible parking space, a round door knob in a leasing office, or even

furniture placement in a first-floor commercial building might get the owner sued under the ADA. Fortunately, there is a new state law that provides those in business with a tool to reduce the risk of a lawsuit.

Any business that is open to the public, including landlords with leasing offices, apartment complexes, retail businesses, hotels, and motels, along with cities, counties and every kind of business that is available to the public is vulnerable to lawsuits under the federal ADA and state laws such as the Unruh Civil Rights Act. Many business owners don't even realize they are at risk because they're not aware of the issues that might cause their facilities to be inaccessible, putting them in a position to be sued. Senate Bill 1608, however, gives these owners power to protect their interests.

With SB1608, an inspector licensed and approved by California and known as a CASp or Certified Accessibility Specialty Inspector inspects a business or area accessible to the public for any kind of failure to comply with ADA law. After the inspection, the owner is able to obtain a state certificate that states this business has had a CASp inspection and is either in the process of completion or has finalized compliance with their accessibility issues. This allows the owner to come up with a timetable and plan of compliance, which is important in these tough economic times. The next step is to correct the findings.

Also with the certificate, the owner has the ability to lessen the possibility of a lawsuit. If the owner should be sued anyway, the lawsuit can be put on hold and have an early conference with a judge and the accuser. The CASp inspection can be a financial lifesaver for businesses as lawsuits can cost a non-compliant owner hundreds of thousands of dollars.

There may be tax credits available to offset the costs of inspection and correction. Federal Tax Code Section 44 could give a business owner a tax credit for making eligible access

expenditures. It is important to check with your tax advisor first, but it may be possible under certain circumstances to obtain a tax credit of up to 50 percent of such expenditures. The maximum credit is \$5,000 per year.

The problem the community has is business owners who settle a lawsuit before they have gone to court. The accuser then has the incentive to continue filing lawsuits, and the business is still at risk of being sued again in the future.

In the vast majority of cases, those who use a CASp Inspector find that pre-lawsuit compliance costs are minor compared to the cost of hiring an attorney and going to court. SB1608 is the way to help protect a business from consequences that can be avoided with a CASp inspection.

Compliance with the law is imperative, and the sooner the better. Business owners should know this problem is not going away, and could possibly increase over the next few years. TACCD will continue to remind business owners of their responsibility until all our public areas are accessible.”

Check the TACCD.org website for a licensed CASp inspector available for this area.

David Kelly is executive directory of Tahoe Area Coordinating Council for the Disabled.