

## ADA Alert continued from cover

“public accommodation” or a “commercial facility” under the American with Disabilities Act of 1990 (ADA).

The new 2010 Standards impose both technical requirements, (i.e. the specifications a property must meet to be fully accessible), and scoping requirements (i.e. the number of rooms or elements in a facility which must be fully accessible).

**The new 2010 Standards affect all U.S. hotels, financial institutions, shopping centers, retail stores, recreational facilities, and other properties such as restaurants that are classified as a “public accommodation” or a “commercial facility.”**

Existing property owners will need to review their facilities to ensure they are in compliance with the appropriate standards (either the 1991 or the 2010 Standards) and retrofit where necessary to meet them. Developers of new hotel properties will need assurance from their design and construction companies that these new obligations and restrictions will be worked into their plans. Among other things, the 2010 Standards will require that most recreational facilities and the primary path of travel in employee work areas be accessible — and this is just the tip of the iceberg. The 2010 Standards may well require changes to ATM machines and other bank facilities.

Similarly, all public accommodations must review their policies and procedures, auxiliary aids and

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## Area Planning Commissions Need Help by Benjamin M. Reznik

In the City of Los Angeles we have seven Area Planning Commissions (known as “APCs”), each consisting of five volunteer members appointed by the Mayor and covering a distinct geographical part of the city. These APC commissioners need not and, in fact, do not possess any special training, knowledge or experience in land use matters, and certainly are not familiar with the body of land use and zoning laws applicable to many of their decisions. Pursuant to the city charter and zoning code, the APCs are empowered to decide many important cases. In many instances, the decision of the APC is final — meaning there is no further right of appeal to the City Council. The only remedy left is litigation and that, all too often, is too expensive for modest projects. The impact of a negative APC decision can be devastating to an applicant, as it can result in significant financial losses — sometimes millions of dollars. Yet, despite all this, the City of Los Angeles does not provide legal counsel to guide APCs during the hearing and in their deliberations on the merits of a case. Planning Department staff is present at the hearings, but no one from the City Attorney’s Office is present to make sure that the law is followed.

The results in many instances are predictable. Decisions have been rendered which are not supported by the evidence, which are contrary to the law, and which — in some circumstance — are “results oriented.” This is extremely unfair and prejudicial to people who purchase properties in reliance on what the law permits them to build, only to be told by an APC that their application is denied. I have firsthand knowledge of many such unfortunate experiences involving clients. In a recent case, one of the APCs ignored the advice of the Department of Building & Safety and of the Planning Department, where a restaurant was permitted to use the

existing “grandfathered” number of parking spaces for this site. Statements made by some of the commissioners at this hearing demonstrated that they did not care what the law was or how the city has always applied it because they, the commissioners, did not like the result. So this APC ruled that the building permit must be revoked. JMBM filed a lawsuit and the court ruled in our client’s favor. Now our client is able to proceed against the city for damages caused by the illegal revocation of the building permit.

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The reason that the City Attorney does not provide the APCs with legal support at the hearings is due to budgetary constraints; however, one has to wonder whether in the long run it may be less costly for the city to provide the attorneys. ■

*Our team has experience representing a wide range of industries, businesses, trade groups and individuals at every level of government, particularly in the state of California. Our political and regulatory background means we understand how government works, making us effective advocates for our clients’ interests.*

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