

Leasing Accessible Space From the Military: The Application of Federal Accessibility Laws to Federal Lessors

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Abstract

When the federal government leases buildings to a civilian tenant, for example in the process of military base closure, both the federal lessor and the civilian tenant have a duty to make that space accessible to persons with disabilities. The Americans with Disabilities Act of 1990 does not apply to the federal government, but would cover the civilian lessee -- so long as that entity was an employer, a state or local government, or a private entity operating a place of public accommodation. The Architectural Barriers Act of 1968 would cover the federal building that is leased out. Arguably, even those buildings not previously required to be accessible may be required to meet current accessibility standards when they are leased out by the DoD. Additionally, the Rehabilitation Act of 1973 would cover federal programs and activities and recipients of federal financial assistance, which would apply where the DoD leased out at below market value. The responsibilities of the lessor and tenant to comply with federal accessibility standards should be allocated in the leasing agreement itself.