



Appendix 6.7

*Physical
Structures
Leased/Rented
Space
Frequently Asked
Questions*

Below is a list of frequently asked questions about the unique considerations for accessibility in leased or rented spaces. This document does not replace legal counsel. Work closely with your compliance, legal, risk, and buildings departments to ensure your specific legal obligations are met. For questions about your legal obligations under the Americans with Disabilities Act (ADA), please contact your regional ADA Center: <https://adata.org/find-your-region/>.⁷

1. Who is responsible for accessibility upgrades in leased or rented spaces?

Generally speaking, the legal responsibility is shared between the tenant and landlord. It is a common belief that the tenant or landlord can assign legal responsibility for ADA compliance to the other party in the lease. This is largely not true. Contracts between landlord and tenant may establish responsibility for who will *pay* for construction upgrades and maintenance, but regardless of what the contract says, one cannot contract out their responsibility for providing accessible physical structures.

2. Who is responsible for creating and maintaining accessible physical structures and features in common spaces?

The landlord and tenant share responsibility for the accessibility of common areas such as elevators, parking lots, public toilet rooms, common entry areas, and other shared facilities. Generally, a tenant's decision to continue leasing a space carries an obligation to address any existing non-compliance in common areas. In cases where a landlord is unwilling to provide accessibility upgrades that are required by law, the tenant may need to either pay for the upgrades themselves, or pursue other properties.

3. How does a tenant address inaccessibility in common spaces?

Ideally, addressing non-compliance is a collaborative effort between tenant and landlord. Some steps a tenant may take could include:

1. Reach out to the landlord to determine if they are aware of deficiencies
2. Negotiate a landlord/tenant split on corrective work
3. Survey and evaluate existing conditions
4. Develop budgets
5. Perform barrier removal

4. What should be considered when searching for a new space to lease?

When considering new leased space, consider performing an accessibility survey of the property, whether vacant, currently occupied, or brand new. The survey may be brief and will inform real estate/buildings/facilities leadership about corrections that must be made prior to occupying the building.