

LEGISLATIVE DIGEST

(7/23/12 – Amended in Committee)

[Administrative and Campaign and Governmental Conduct Codes – Obligations of Landlords and Small Business Tenants for Disability Access Improvements]

Ordinance amending the San Francisco Administrative Code by adding Chapter 38, Sections 38.1 through 38.7, and amending San Francisco Campaign and Governmental Conduct Code Section 3.400, all to require commercial landlords leasing properties to small businesses for use as public accommodations to: 1) bring public restrooms, ground floor entrances to, and exits from, the building into compliance with applicable state and federal disability access laws or to disclose to tenants that the property may not currently meet all applicable construction-related accessibility standards, including standards for public restrooms and ground floor entrances and exits; 2) inform small business tenants that they may be legally and financially liable for failing to comply with those laws and offer such tenants copies of the Small Business Commission's access information notice; 3) include in any new or amended leases a provision addressing the respective obligations of the landlord and small business tenant to bring the leased premises into compliance with those access laws; (4) requiring the Small Business Commission, by January 1, 2013, to develop and distribute an access information notice in multiple languages regarding local, state, and federal disability access laws that may apply to businesses in San Francisco and to make that notice available for distribution through various other City departments; and 5) to require the City to give priority to building permit applications for work to bring space used by small businesses into compliance with those access laws, and making environmental findings.

Existing Law

The Administrative Code does not require commercial landlords to complete disability access improvements as a prerequisite to entering, or amending, leases with small business or to notify small business tenants whether such improvements are complete. Nor does the Administrative Code require commercial landlords to notify such tenants that they may be legally and financially liable for failing to make required access improvements or offer tenants information about access laws. The Administrative Code also does not require commercial leases to address the parties' respective disability access obligations or require City departments to provide information to small businesses regarding access laws. In addition, the Campaign and Governmental Conduct Code does not expressly state that disability access improvements constitute a public policy basis for priority processing.

Amendments to Current Law

Under the proposed Ordinance, commercial landlords, prior to entering or amending a lease with a small business tenant, must either (1) bring any public restrooms and ground floor entrances and exits into compliance with applicable disability access laws or (2) notify their

tenants that the property may not currently meet all applicable construction-related accessibility standards, including standards for public restrooms and ground floor entrances and exits. Commercial landlords must also notify small business tenants that they may be legally and financially liable for failing to comply with those laws and include in any lease the parties' respective disability access obligations. This Ordinance applies to new or amended small business leases of property of 7,500 to 5,001 square feet beginning January 1, 2013 and to new or amended small business leases of property of 5,000 square feet of space or less beginning June 1, 2013.

The Ordinance would require the Small Business Commission to develop and distribute an "Access Information Notice" in multiple languages regarding local, state, and federal disability access laws that may apply to businesses in San Francisco and to make that notice available for distribution through various other City departments, including the Planning Department, the Department of Building Inspection, the Department of Public Health, the Treasurer/Tax Collector, the Mayor's Office on Disability, and the Assessor-Recorder's Office. The Ordinance would also require commercial landlords to provide tenants with a copy of the Small Business Commission's Access Information Notice.

The Ordinance would allow the appropriate City departments to grant priority processing to building permit applications for disability access improvements by commercial landlords and small businesses.