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The Americans With Disabilities Act is a major piece of legislation, and buildings with commercial spaces are being caught up in lawsuits. How does this play out?

There has been an influx of cases of co-ops and condos being dragged into ADA lawsuits, mostly older buildings where the commercial space — a restaurant, art gallery, or storefront — doesn't have ramps and is not wheelchair-accessible. A lot of times, the sponsor still has control of the space, and when he gets sued, the co-op board is dragged in as well.

Are these lawsuits one-offs, or is something going on?

The joke among attorneys is that someone is wheeling people up and down the West Village and finding these buildings. A lot of times you simply don't know if someone has actually tried and failed to enter an establishment. All three parties — the sponsor, the business tenant, and the board — just get served with the lawsuit, and all three have to defend it. Bear in mind this is federal court, which is not as easy as New York State court.

Is there any way for a co-op or condo board to get around this, or is their only defense to comply with the law?

Some defense might be entailed in the lease that the sponsor has with the co-op or condo. You can argue that it predates the ADA, but for the most part, you're in the lawsuit, and you have to make some sort of reparations to fix the defect.

Are these suits sometimes scams that lawyers are running?

I don't like to use that word, because even if people are preying on these establishments, there are a lot of interior defects that they are responsible for, like bathrooms that are not

ADA-compliant, whether it's lower sinks or having elevators, since many restaurant bathrooms are located downstairs. Let's just say there are certain lawyers who have a knack for finding the right building.

Are you defending a lot of these cases right now?

We have about five active ones. We've defended some in the past, and the bigger ones have all been about accessibility.

To sum up, what would you advise a co-op or a condo board that has a commercial space that is not ADA-compliant? Should they take action proactively or wait for something to happen?

I would take action proactively and meet with the establishment about installing a temporary ramp if possible, which is easy to do. The courts may not be in favor of that, but a lot of times the other attorney or plaintiff's counsel will agree to it. I would get the temporary ramp — I think you can order them online — and have the restaurant's or the establishment's workers bring it out every time someone needs it.

So you don't have to build a permanent structure?

Sometimes you do, but not all the time. We've been able to resolve a lot of these cases with a temporary ramp. But the smart move is to get one before there's a problem. We've had some buildings with multiple commercial spaces where each one has been hit, and the co-op or condo board has been involved in each lawsuit. You want to cut it off at the pass. ■

