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## THE AMERICANS WITH DISABILITIES ACT: THE TENANT'S PERSPECTIVE

BY TERRY L. BEAL AND RONALD R. POLLINA, PH.D.

*Title III of the Americans with Disabilities Act of 1990 ("ADA") is now fully effective with serious implications for landlords and tenants of commercial property. While much has been written about the ADA's impact on disabled individuals, property owners, real estate developers, and planning and design professionals, little of the literature has been specifically addressed to tenants. This article will consider the ramifications under the ADA upon how tenants use their space and will review how the Act ought to be addressed by tenants during lease negotiations.*

### *Uncertainty and Cost*

As civil rights legislation aimed at prohibiting discrimination against the disabled in many aspects of their daily lives, the ADA statute covers a broad range of access issues in the workplace and elsewhere. Nonetheless, the specific actions required of owners and tenants of commercial real estate to achieve this goal in any given circumstance remain somewhat uncertain for now. Despite the presence of governmental and industry guidelines and the high profile coverage and discussion of the possible repercussions of the ADA on corporate real estate, much remains unsettled as to what will ultimately be considered by the courts to be compliance and as to who will be held by the courts as responsible for this compliance. At this point, we cannot be sure whether current voluntary compliance programs will be deemed adequate or whether additional costs might result from court-mandated actions.

Although the minimum accessibility guidelines that have been promulgated by the Architectural and Transportation Barriers Compliance Board (as well as any state laws and local building codes that may be certified by the U.S. Attorney General) may provide some rudimentary confidence regarding the "nuts and bolts" of compliance, some uncertainty remains.

The extent of modifications required by the ADA to be made to a particular facility may be an open question in some instances due to flexibility built into the statute itself. The aim of the ADA is to protect disabled individuals from discrimination; however,



**Terry L. Beal, Esq.**  
Director, Corporate Services  
Pollina Corporate Real Estate, Inc.

Terry Beal, as a real estate broker and consultant, represents corporations in real estate matters on a national basis including facility relocations, lease renegotiations, property acquisitions, and surplus property dispositions. Mr. Beal is a graduate of the Loyola University of Chicago School of Law. He also has a Masters degree in business and a Bachelors in finance.



**Ronald R. Pollina, Ph.D.**  
President, Pollina Corporate Real Estate, Inc.

Dr. Pollina is a nationally recognized corporate real estate broker, consultant, and negotiator. In addition to representing some of the largest corporations throughout the United States, he has served on the faculties of two Universities and written over 40 articles and books. As a frequently quoted real estate economist, Dr. Pollina's opinions have appeared in the *Wall Street Journal*, *Business Week*, *Financial Times of London* and other business publications.