

IMPORTANT CHANGES ANNOUNCED FOR NEW LEASE DISCLOSURE REQUIREMENT LAWS



On July 1, commercial property owners were affected by two new lease disclosure requirements codified in California Civil Code Section 1938. Civil Code Section 1938 (part of SB 1186) is a Disability Access Disclosure,

implemented to limit unwarranted lawsuits brought under the Americans with Disabilities Act (ADA).

The disclosure requires that a commercial property owner shall state on every lease form or rental agreement executed on or after July 1, 2013 whether the property being leased has undergone inspection by a Certified Access Specialist (CASp). If this is the case, they must disclose whether the property has or has not been determined to meet all applicable construction-related accessibility standards pursuant to Section 55.53.

Along with the Disability Access Disclosure, the Building Energy Use Disclosure was set up using guidelines from the California Energy Commission's Nonresidential Building Energy Use Disclosure Program.



This law was originally passed in 2007 as AB 1103 and requires non-residential property owners to open an account on the U.S. Environmental Protection Agency's Energy Star Portfolio Manager website and upload, or cause its utility company to upload, benchmarking data and ratings from the prior 12 months to the account. Additionally, owners must disclose energy use reports to prospective Buyers, Lessees and Lenders prior to entering into a transaction.

Since July 1, the disclosures have been updated with the following changes:

- Industrial buildings used for manufacturing (as evidenced by an occupancy permit building use classification of Group F) will not be required to comply with the AB 1103 disclosure requirements.
- The CEC will require AB 1103 disclosures if there has been some energy use (such as security lighting and air conditioning) during the prior 12 months.
- If the original lease was executed before the AB 1103 disclosure requirements applied, AB 1103 disclosures to the tenant will be required upon a lease renewal.

For additional information, a summary of the disclosures prepared by the CED can be found at: http://www.energy.ca.gov/ab1103/documents/2011-09-12_workshop/2011-09-12_AB_1103_disclosure_process.pdf

DECLINING VACANCY LEVELS POINT TO POSSIBLE UPSWING IN LEASE PRICES AND RENEWALS



In the last quarter of 2007, leasing prices were at an all-time high. But due to California's struggling economy,

prices seemed to have bottomed out over the past two years, according to Dustin Wheelan, sales associate at GM Properties, Inc.

The news, however, is not all bad. Wheelan says that 2013 has already brought several record-breaking months for

number of units leased, which may lead to a gradual increase in leasing rates and renewals.

"Out of the 3 million square feet we handle (comprising over 1,000 individual units), our inventory levels have not been this low for years," Wheelan said. "But still, the demand for leasing is staying constant."

"So does this mean we can start raising rents? I remain cautiously optimistic on that but if things continue at this pace, we may begin to see lease rate and renewals steadily increase over time."



Tenant Spotlight

GABRIEL PLUMBING LEAKS THE SECRET TO AVOIDING BIG REPAIR BILLS

Over its 15-year history, Gabriel Plumbing has become one of the most trusted companies of its kind in Southern California, according to owner Gabriel Gastelum. The Whittier-based firm services residential, commercial and industrial facilities, providing everything from the installation of tankless water heaters to drain inspections to leak repairs.

Gastelum says Gabriel Plumbing's primary mission is to deliver prompt, high-quality service at affordable rates. He also strives to share secrets with commercial property owners about how to save money in the long term and avoid catastrophes.

"Regular inspections are the absolutely best way for landlords to avoid big plumbing repair bills," said Gastelum. "I recommend that property owners have a full inspection done at the beginning of every new lease. Tenants can be very hard on fixtures and



if they are not taken care of properly, they can deteriorate quickly. Additionally, most commercial buildings have hard water and that can erode fixtures and cause major problems."

During an inspection by Gabriel Plumbing, Gastelum says he or one of his employees will check every inch of a building for water hardness, as well as water pressure and leakages. At the conclusion of an inspection, the property owner will be presented with an itemized list of issues that need to be attended to in the immediate future, as well as down the road.

"In uncovering problems, we find there are a lot of things that do not need to be attended to immediately," said Gastelum. "But it's good for property owners to know what's going on with their investment so they can get things taken care of over time and stay on top of any potential problems."

According to Gastelum, a full building inspection can take between two and four hours. The price paid for this service can be put toward any repairs that need to be done, Gastelum said.

Along with inspections, Gabriel Plumbing specializes in laying copper water and gas pipes, locating and repairing slab leaks and drain and roofer cable cleaning. It serves the area within a 75-to 100-mile radius of Whittier.

"We'll travel quite a ways to care of a problem," Gastelum said.

RECENT WHITTIER-AREA COURT CLOSURES PROVING TO BE A NIGHTMARE, ATTORNEY SAYS



GM Properties recently caught up with its attorney Paul Bryan Gray for an update on the aftereffects of the court closures in Whittier and surrounding communities that happened on June 30.

The Rancho Cucamonga-based lawyer predicted landlords needing to evict a tenant would experience major hassles. He said their biggest problem would be long wait times for securing unlawful detainers in the Long Beach courthouse, which is where they are now being processed. According to Gray, the situation seems worse than expected.

GM: What is the average wait time for unlawful detainers in the Long Beach courthouse?

PBG: The length of the average unlawful detainer that goes to trial is about six to eight weeks.

GM: Is there anything landlords can do to help speed up this process?

PBG: Unfortunately, there is nothing landlords can do to speed up the process.

GM: In your estimation, do you think the wait time for unlawful detainers will decrease at some point as the Long Beach courthouse learns to adjust to dealing with so many filings?

PBG: The delay in processing eviction cases caused by cuts in funding and reductions in court personnel will be a permanent fact of life. As far as I can see, there is no sign of improvement on the horizon.

GM: In order to avoid having to file an unlawful detainer, what steps can a landlord take to ensure they rent to a stable tenant. PBG: I recommend doing a thorough background search to include an asset check, credit report and inquiry into past lawsuits. Usually, a professional property manager or lawyer has the means to do this. All you have to do is provide them with a person's name and social security number.

GM: Other than the long delays in securing unlawful detainers, what are one or two other problems that landlords are faced with because of the court closures?

PBG: Landlords who are witnesses in eviction cases will have to travel much further to court. Professional property managers and attorneys will charge additional fees for the loss of time involved in such travel.



At trial, cases which used to take one-half hour or so of waiting time to be heard, may now take up to two hours before the judge gets to them. After trial, a move-out by the sheriff, whose staff also has most likely been reduced, may take two or three weeks instead of the week or so it took in the past.

PROP. 13 LOOPHOLE CONTINUES TO BE A SORE SPOT FOR SOME LAWMAKERS

Rising taxes are inevitable but in 1978, California voters were successful in getting property taxes reduced through Proposition 13. Under Prop 13, which applies to homes, businesses and farms, property taxes were limited to 1 percent of the property's 1975 value and tax increases were limited to no more than 2 percent per year, providing a property was not sold. Once a property does change hands, it is reassessed at 1 percent of the sale price and the 2 percent yearly cap remains applicable.

The benefit of this reform is that it allows property owners to estimate the amount of their future property taxes and also determine the maximum amount they would pay as long as they own the property.

In 2012, the California Tax Reform Association began taking steps to have the law rewritten so that commercial property would be assessed at its current market value. Officials for the organization say they believe commercial building and land owners are taking advantage of a loophole that lets their property taxes be re-assessed only when a new owner acquires more than a 50 percent stake.

As an example, a recent article in the Los Angeles Times reported that billionaire computer magnate Michael Dell had avoided reassessment when he purchased a Santa Monica hotel for \$200 million by bringing in his wife and two business associates on the deal.

Under Proposition 13, property is reassessed only after a change in ownership. But Dell and his partners technically avoided such a change by keeping each of their ownership stakes in the hotel company below 50 percent.



Majority ownership by a single entity is the trigger for reassessment of business

property under the arcane rules adopted shortly after Proposition 13 passed.

A court found the maneuver to be legal, saving Dell and his partners more than \$1 million a year in taxes. Los Angeles County is appealing the ruling.

According to the L.A. Times article, real estate and taxation experts said the change-in-ownership loophole has been used in the past and estimate it costs the state tens of millions of dollars a year in revenue. Further, it has contributed to a slow shift in the tax burden from corporations to homeowners in the 35 years since Proposition 13 passed, they said. Democrats in the California Legislature have been attempting to close the loophole for several years but have met with strong opposition from businesses and taxpayer groups.

While it appears Prop. 13 will remain unchanged for the time being, a recent poll showed 58 percent of likely voters support the proposed changes pertaining to commercial property owners. Although the law is enshrined in the state Constitution, it could be amended by a majority vote.

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