

Pierre Grosdidier for Law360: Defining The Scope Of Property Improvements In Texas

May 15, 2017

PRACTICES Commercial Real Estate Leasing, Labor and Employment, Real Estate

The Texas Property Owner's Liability for Acts of Independent Contractors statute, Texas Civil Practice & Remedies Code Chapter 95 ("Chapter 95"), protects premises owners from negligence liability to a contractor or its employees if the injury arises from work on an improvement to real property. Section 95.003 states that an owner of real property that is used chiefly for commercial or business purposes

is not liable for personal injury, death, or property damage to a [contractor or its employee] who constructs, repairs, renovates, or modifies an improvement to real property, including personal injury, death, or property damage arising from the failure to provide a safe workplace unless

the owner controlled the work and had actual knowledge of the danger and "failed to adequately warn." The protection from liability applies to negligence claims

(1) against a property owner ... and

(2) that arise from the condition or use of an improvement to real property where the contractor or subcontractor constructs, repairs, renovates, or modifies the improvement.

Chapter 95 does not define the term "improvement," and Texas courts of appeals have split over its scope. For example, in the case of an employee working on a rooftop HVAC unit, is the improvement just the unit, the roof or the entire building? Chapter 95 applies if the HVAC unit electrocutes the employee, assuming other statutory provisions are met. But would it more broadly apply if the employee falls through a hidden hole in the roof while walking to and from the unit, or if the employee suffers injury from a falling ceiling lamp while signing service call papers inside the building? This is an important construction law issue for owners and contractors alike.

To read the full article, click [here](#).

[Originally published in Law360 \(subscription required\).](#)