

Premises liability

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See also: [Premises](#)

Main article: [Duty of care](#)

Premises liability is the liability for a landowner for certain [torts](#) that occur on the [real property](#). This can range from things from "injuries caused by a variety of hazardous conditions, including open excavations, uneven pavement, standing water, crumbling curbs, wet floors, uncleared snow, icy walks, falling objects, inadequate security, insufficient lighting, concealed holes, improperly secured mats, or defects in chairs or benches". In sum:

Premises liability law is the body of law which makes the person who is in possession of land or premises responsible for certain injuries suffered by persons who are present on the premises.

— ExpertLaw website^[1]

For premises liability to apply:

1. The defendant must possess the land or "[premises](#)".^[1]
2. The plaintiff must be an [invitee](#) or, in certain cases, a [licensee](#).^[1] Traditionally, [trespassers](#) were not protected under premises liability law.^[1] However, in 1968, the California Supreme Court issued a vastly influential opinion, *Rowland v. Christian*, 69 Cal.2d 108 (1968), which abolished the significance of legal distinctions such as invitee, licensee, or trespasser in determining whether one could hold the possessor of a premises liable for harm. This opinion led to changes in the law in many other states in the United States, and is viewed as a seminal opinion in the development of the law of premises liability.
3. There must be [negligence](#)—a breach of the [duty of care](#)—or some other [wrongful act](#). In recent years, the law of premises liability has evolved to include cases where a person is injured on the premises of another by a third person's wrongful act, such as an assault. These cases are sometimes referred to as "third party premises liability" cases and they represent a highly complex and dynamic area of tort law. They pose especially complex legal issues of duty and causation because the injured party is seeking to hold a possessor or owner of property directly or vicariously liable when the immediate injury-producing act was, arguably, not caused by the possessor or owner.

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Common law of premises liability [\[edit \]](#)

At common law, in the case of landowners, the extent of their duty of care to those who came on their premises varied depending on whether a person was classified as a [trespasser](#), [licensee](#), or [invitee](#). This rule was eventually

abolished in some common law jurisdictions. For example, England enacted the [Occupiers Liability Act 1957](#). Similarly, in the 1968 landmark case of *Rowland v. Christian*,^[2] the [Supreme Court of California](#) replaced the old classifications with a general duty of care to *all* persons on one's land, regardless of their status. After several highly publicized and controversial cases, the [California Legislature](#) enacted a statute in 1985 that partially restored immunity to landowners from some types of lawsuits from trespassers.^[3]

Colorado's highest court adopted the *Rowland* unified duty of care analysis in 1971. The resulting explosion of lawsuits against Colorado landowners caused the state legislature to enact the Colorado Premises Liability Act in 1986, which enacted a cleaned-up statutory version of the common law classifications *and* simultaneously expressly displaced all common law remedies against landowners in order to prevent state courts from again expanding their liability.^[citation needed]

In the [Republic of Ireland](#), under the Occupiers' Liability Act, 1995, the duty of care to trespassers, visitors and "recreational users" can be restricted by the occupier; provided reasonable notice is given, for which a prominent notice at the usual entrance to the premises usually suffices.^[4]



Premises liability case law of the United States [edit]

This section needs expansion. You can help by [adding to it](#). (February 2014)

In [United States law](#), premises liability law is highly developed and can differ from state to state. This section includes some cases as examples of how premises liability applies.

Lai Chau v. Southstar Equity Limited Co. and Brookside Properties Inc. [edit]

Lai Chau, a former [University of South Florida](#) student, survived a violent [abduction](#) in her North [Tampa](#) apartment complex in 2001. Two men sneaked past the complex's security gate, and shot the 20-year-old student three times in the head. The landmark negligent security case won Chau \$15.7 million in damages in 2004.^[5]

New York case law [edit]

Morales v. Lia^[6] is the leading modern case in [New York](#) law. A pedestrian who was hit by a car in the [parking lot](#) of a [strip mall](#) was unable to get payment for his injuries from the mall owner because the driver and owner of the vehicle were 100% liable for [plaintiff's](#) injuries.^[6]

In another case, *Peralta v. Henriquez*,^[7] New York's highest court, the [New York Court of Appeals](#), held that a landowner has a duty to provide lighting, when "defendants created the dangerous condition that led to the accident, [and] notice was not at issue"; in this case, it was lack of illumination that caused plaintiff's injuries when she walked into a bent car antenna in the darkened parking lot of defendant's premises.^[7] Both the intermediate court, the [Appellate Division](#), and the N.Y. Court of Appeals cited prior precedent,^[8] that when "the general public is invited into stores, office buildings and other places of public assembly, the owner is charged with the duty of providing the

public with a reasonably safe premises, including a safe means of ingress and egress."^[7] *Peralta* has been cited itself as precedent in at least one other department's decision.^[9] *Peralta* was distinguished in those instances where the landlord had no notice of a dangerous situation, e.g. a tenant's prior criminal propensity to commit arson.^[10]