

From: HollLynn
To: CBSC@DGS
Subject: FW: [CDR-X] Public Comments on DSA Proposed Disabled Access Title 24 Code Changes
Date: Monday, October 22, 2018 4:14:14 PM

Dear Commissioners: People with disabilities have many obstacles that prevent them from making comments on DSA's proposed changes to CA Building Code accessibility standards. Several people have asked me to forward to you their support of the comments made by Connie Arnold. Please see the email chain below. The people supporting Connie's comments include Peter Mendoza, Ruthee Goldkorn, Kathleen Barajas, Diane Moore (may be a duplicate).

Please let me know that these comments have been accepted.

I notice that my comments are not listed on the web site. Please let me know if my comments have been received.

Thank you for your consideration.

Sincerely,
HolLynn D'Lil

From: CDR-MembersXchange@yahoogroups.com [mailto:CDR-MembersXchange@yahoogroups.com]
Sent: Monday, October 22, 2018 8:31 AM
To: CDR-MembersXchange@yahoogroups.com
Cc: CDR Executive Committee <cdrexecomm@yahoogroups.com>
Subject: Re: [CDR-X] Public Comments on DSA Proposed Disabled Access Title 24 Code Changes

Please add my name as well.

Thanks so much, Peter

Peter T. Mendoza

Sent from my iPad
This email was typed using voice activated software.
Please forgive typographical and syntax errors.

Affiliations:

Disability Action Coalition - Chairperson
California State Independent Living Council - Vice Chairperson
California Olmstead Advisory Committee - Consumer Representative
Marin Operational Area Disaster and Citizen Corps Council (DC3)
Access and Functional Needs Representative

On Oct 22, 2018, at 6:32 AM, Ruthee Goldkorn knowbarriers@yahoo.com [CDR-MembersXchange] <CDR-MembersXchange@yahoogroups.com> wrote:

people. tell Hol'Lyn to add your name. I made the suggestion but CDR is not doing this. individuals must ask Hol'Lyn herself.

Ruthee

On Sunday, October 21, 2018 6:09 PM, "Kathleen Barajas kdbarajas@icloud.com [CDR-MembersXchange]" <CDR-MembersXchange@yahoogroups.com> wrote:

Please add my name as well, as I have not had time to submit anything.

Thanks so much, HolLynn!

Kathleen D. Barajas
Disability Rights Advocate
Ms. Wheelchair California 2016 (MWCF)

Chief Financial Officer
Pushrim Foundation, Inc
www.pushrim.org

Treasurer, Web Mistress, Newsletter Editor
Californians for Disability Rights
www.disabilityrights-cdr.org

On Oct 21, 2018, at 5:39 PM, Diane Moore geodian@sbcglobal.net [CDR-MembersXchange] <CDR-MembersXchange@yahoogroups.com> wrote:

I already sent my own comment, but if I can also have my name added to Hol'lyn's, please add it.

Diane Moore

On 10/21/2018 10:44 AM, Ruthee Goldkorn knowbarriers@yahoo.com [CDR-MembersXchange] wrote:

Ã ,
To simplify this and maximize our effect and affect, I

think everyone should contact Hol'Lyn and ask that their name beÃ„ added to her missive.

Hol'Lyn, I have been chocked with an MS exacerbation and I would appreciate it if you would add my name.

Ruthee

On Saturday, October 20, 2018 9:59 AM, "Susan Chandler Barnonhill@aol.com [CDR-MembersXchange]" <CDR-MembersXchange@yahoogroups.com> wrote:

Ã„

Folks these are the combined comments of HolLynn DÃ„ cÃ„, cLil and Connie Arnold re the Title 2 code changes that you need to send to the BSC Building Standards Commission that are due by tomorrow night!

Susan Chandler, President
CDR (Californians for Disability Rights)
1193 17th St
Los Osos, CA 93402
805 528-4695
Cell 805 441-8031
www.disabilityrights-cdr.orgÃ„,

Begin forwarded message:

From: "Connie Arnold ihss_advocate@yahoo.com [CDR-MembersXchange]" <CDR-MembersXchange@yahoogroups.com>
Date: October 15, 2018 at 10:00:12 PM PDT
To: Berkeley-disabled <berkeley-disabled@yahoogroups.com>,Ã„ ADAPT-CAL <adapt-cal@yahoogroups.com>
Cc: Connie A <ihss_advocate@yahoo.com>
Subject: [CDR-X] Fw: Public Comments on DSA Proposed Disabled Access Title 24 Code Changes
Reply-To: CDR-MembersXchange@yahoogroups.com

Ã„

Dear Friends, Advocates, and

Colleagues:

I sent in my public comments to the California Building Standards Commission with some additional comments. HolLynn suggested that I let everyone know that you are all free to use or adapt in your letters regarding the Division of the State Architect (DSA) proposed building code changes to Title 24, California Disabled Access Regulations, for your comments being sent to:Â , cbsc@dgs.ca.gov before 10/22/18 (do it this week). My changes to the letter are in yellow highlights below..

Thanks, Connie Arnold

From: Connie Arnold
[\[mailto:ihss_advocate@yahoo.com\]](mailto:ihss_advocate@yahoo.com) Â, Â,

START COPING BELOW AND ADD YOUR NAME & ADDRESS AT THE END

To:Â, cbsc@dgs.ca.gov

Subject:Â, Re: Public Comments on DSA Proposed Disabled Access Title 24 Code Changes

Â,

Dear Members of the CA Building Standards Commission:Â,

Please accept the following comments for your review of the Division of the State Architect's proposed access standard changes to CA Title 24 for your consideration during the 45-day comment period ending Monday, October 22, 2018.Ã , Ã , Thank you.

PREFACE NOTE:Ã , Before I begin my comments, I would like to bring your attention to the position that DSA has taken regarding violations of Government Code 4459.Ã , DSA attorney Kevin Dollison during a March meeting of DSA's Access Code Collaborative made several unsubstantiated statements that the ADA is the fundamental law guiding DSA and that state laws need not adhered to as long as the ADA standard is met.Ã , **This patently wrong and counter to federal law.**

These statements will be challenged at the next Commission meeting. I ask that you hold any judgement of my comments regarding conflicts of the proposed standards with Government Code 4459 until these legal controversies have been reviewed and resolved.Ã , This may entail disapproving or at the least sending back some of DSA's proposed code changes for "Further study."

Ã , **Item 11B.02.Ã ,**
11B-206.2.19.Ã , Restoring the Scoping Requirement for Curb Ramps.Ã ,
Position:Ã , Approve as amended.

Rationale: The deletion of the requirement for curb ramps was approved by the Commission in 2013. This code change will restore the requirement and bring CA Title 24 Building Code into compliance with state and Federal laws.

Proposed Amendment: An amendment to the proposed code change is needed in order to insure, that persons with visual impairments and who use wheelchairs are not endangered by being led by diagonal curb ramps into traffic. Persons with mobility impairments who need curb ramps must not be endangered by not having an answering curb ramp across the street. Curb ramps must be required on both sides of the street. We submit the proposed wording: (Begin underline new text)

A curb ramp or blended transition shall be provided wherever the pedestrian access route crosses a sidewalk/street transition, including intersections, mid-block crosswalks, medians and islands traversed by crosswalks, alleys, accessible parking aisles, passenger loading zones, and locations where the public sidewalk ends and pedestrian travel continues in the roadway. EXCEPTION: A curb ramp or blended transition is not required where the pedestrian access route crosses a driveway and the elevation of the pedestrian access

route is maintained.

Curb ramps or blended transitions shall be constructed at each corner of street intersections and where a pedestrian way crosses a curb. Built-up curb ramps shall be located so that they do not project into vehicular traffic lanes. The preferred and recommended location for curb ramps or blended transitions is in the center of the crosswalk of each pedestrian access route. Curb ramps or blended transitions must be provided on each side of the street in order to provide directionality. Curb ramps or blended transitions must not be placed outside of the pedestrian access route, which would require the pedestrian to travel in the street to access the opposite corner curb ramp or blended transition where there is no marked pedestrian access route.Ã , (End underline.)

BSC Criteria:Ã, This code change with the amendment is in compliance with the Nine Point Criteria of the BSC, specifically Criteria 3Ã, in that "the public interest requires the adoption of the building standard."Ã , It does not conflict with CA GC 4459 in that it provides greater safety and is not an enhancement of access that is not already provided, that is, access between the street level and the sidewalk.Ã,

Item 11B.03

11B-207.1.Ã, Eliminating an accessible exit from existing buildings.

Position: Disapprove.

Rationale: This proposed code change is in violation of GC 4459. The DSA bases this change upon a model code section. The model code, written by a private organization cannot take precedence over state law. In addition, this change endangers people with disabilities in times of emergencies and puts them at risk of losing their lives. Although existing buildings do not require architectural egress, a programmatic evacuation plan is required by the ADA. Adopting the proposed language without modification would expose businesses to tremendous liability. **As a person with a disability, I hold my life and safety in high regard, and that of other persons with disabilities, and I oppose eliminating an accessible exit from existing buildings for that reason. The model code should not be considered as a reason for eliminating important living saving emergency egress, and this proposal treats persons with disabilities as second-class citizens.**

BSC Criteria: This code change proposal is in conflict with Criteria 2 in that the proposed building standard is NOT within the parameters established by enabling legislation, and is, in fact in violation of enabling legislation, CA Government Code 4459. It conflicts with Criteria 3 because the public interest is not protected by the adoption of the

building code change proposal.Ã, The proposed building standard is in conflict with Criteria 4 because it is unreasonable, arbitrary, unfair, or capricious, in whole or in part as it unreasonably endangers members of the public; arbitrarily gives the model code precedence over state law, i.e. CA GC 4459 and others; unfairly puts people with disabilities at greater risks than others during emergencies; and is a capricious response to input from the public without due consideration given to the welfare and safety of people with disabilities.Ã, Ã,

Ã, Item 11B.04

Eliminating the requirement for roll-in showers in hotels with one guest room.Ã, Current code requires that hotels with 1 to 25 guest rooms provide a minimum of one roll-in shower, meaning that if the hotel has one guest room, it must provide a roll-in shower in that guest room.Ã,

The proposed code change allows hotels with one guest room to provide a tub or a 36 x 36 inch shower, called the Ã¢â,¬Ã“transfer type shower compartment.Ã¢â,¬ii;½

Position:Ã, Disapprove

Rationale:Ã, In his Statement of Reasons, the state architect states, "CBSC-CAC Action: Further study.

DSA Response to CAC: Accepted.

DSA has studied this item and has determined that no additional amendment to the table is necessary. DSA is aware that transient lodging

facilities where only one guest room is provided are not the norm. The amendment to the table for requirements addressing facilities with one guestroom is in alignment with the table in the 2010 ADA Standards for Accessible Design.Ã , Ã , Ã ,

The state architect is operating under the assumption that CA access standards must conform with the lesser requirements of the ADA where the CA standard provides greater accessibility.Ã , 42 USCÃ , 12201 which states Ã , Ã , Ã¢â,¬Ã“***Nothing in the Act shall...invalidate or limit the remedies, rights and procedures of anyState...that provides greater or equal protection...Ã¢â,¬i;½***

Research is needed to demonstrate that a 36" x 36" shower compartment provides more access than or is equal to a 30" x 60" shower or a 36 by 60 shower compartment.Ã , A study that includes many people in wheelchairs is necessary to demonstrate that allowing more applications of the transfer type of shower stall will provide equal accommodation to what is required in current code to determine if the proposed change does not violate GC 4459. **While homelessness is a growing problem, and the aging population of seniors is increasing, and greater numbers of persons with disabilities need unobstructed access, this DSA proposal reduces disabled access and removes stepless roll-in shower provisions forÃ , transient lodging facilities where only one guest room is provided. California has been the**

benchmark for disabled access with stronger provisions than the ADA, and DSA again proposes to reduce accessibility for millions in California and is counter to the ADA allowing stronger standards to remain in effect.Ã, Ã,

BSC Criteria:Ã, This code change proposal is in conflict with Criteria 2 in that the proposed building standard is NOT within the parameters established by enabling legislation, and is, in fact in violation of enabling legislation, CA Government Code 4459.Ã, It conflicts with Criteria 3 because the public interest is not protected by the adoption of the building code change proposal.Ã, The proposed building standard is in conflict with Criteria 4 because it is unreasonable, arbitrary, unfair, or capricious, in whole or in part as it unreasonably discriminates against a minority group of the public; arbitrarily gives the model code precedence over state law, i.e. CA GC 4459 and others; unfairly puts people with disabilities at greater risks due to inadequate bathing facilities; and is a capricious response to input from the public without due consideration given to the welfare and safety of people with disabilities.Ã, Ã, Further, this proposed change violates Criteria 7 in that it is contrary to the ADA, specifically, 42 USCÃ , 12201 which states Ã, Ã¢â,¬Ã“*Nothing in the Act shall....invalidate or limit the remedies, rights and procedures of anyState....that provides greater or equal protection...Ã¢â,¬i½*

Item 11B.12

202, 11B-249, 11B-813 Adult Changing Tables.

Position:Ã, Approve..

Rationale:Ã, This code change provides much needed access for persons with disabilities.Ã, It is not in conflict with CA GC 4459 in that it does not enhance access, but meets

enabling legislation and regulation requirements to provide access to toileting facilities for persons with disabilities.Ã,

BSC Criteria: A, This proposed code change meets the Commission's criteria.

Item 11B.17, Item 11B.18, Item 11B.19

11B-608.2.1, 11B.608.3, 11B.608.4, \AA , Dimensions for transfer type showers, plus other requirements for the 36 x 36 inch transfer type shower.

Position: \tilde{A} , Disapprove.

Rationale: In his Statement of Reasons, The state architect states, "DSA is proposing this code change in response to users of mobility devices who prefer this type of shower stall. By not allowing the use of a transfer shower, in facilities regulated by Chapter 11B, persons with disabilities are denied an option that may better meet their needs"

He has taken this position without any study of the broad spectrum of disability needs.Ã, Relying solely on the word of a few wheelchair users, without conducting any formal study, the state architect is providing dimensions and requirements for the ÃfÃ¢Ã¢â€šÃ¬Ã...â€œTransfer Type Shower Compartments, in violation of CA GC 4459 and the ADA.Ã, This type of so-called accessible shower is only 36Ã , inches by 36 inches.Ã, The Initial Statement of Reasons states, ÃfÃ¢Ã¢â€šÃ¬Ã...â€œDSA is proposing

this code change in response to users of mobility devices who prefer this type of shower stall. By not allowing the use of a transfer shower, in facilities regulated by Chapter 11B, persons with disabilities are denied an option that may better meet their needs. The transfer type shower stall allows for the mobility device to be placed outside of the wet area while using the shower compartment and provides for controls that are within reach range when seated. This amendment, if approved, will align the provisions for a transfer type shower compartment in Chapter 11B with the 2010 ADAS."

No research was done to verify that a 36 x 36 inch shower provides the same access as a roll-in shower that is 36 x 60 or 30 x 60 inches. In addition, the Statement of Reasons is totally misleading, as controls must be placed within reach range in the roll-in shower also, and there is sufficient room in roll-in showers to push the "mobility devise" out of range of the wet area. *Personal experience as a traveler with a motorized wheelchair who travels with another person who uses a motorized wheelchair who puts his shower bench in the roll-in shower, must back up his wheelchair, reach adjacent shower controls, and be able to transfer back into his/our wheelchairs, this 36 x 36 roll-in*

Personal experience as a traveler with a motorized wheelchair who travels with another person who uses a motorized wheelchair who puts his shower bench in the roll-in shower, must back up his wheelchair, reach adjacent shower controls, and be able to transfer back into his/our wheelchairs, this 36 x 36 roll-in

shower will actually deny access to roll-in shower facilities for end users who need to be able to use a roll-in shower. Without research, again, DSA and the State Architect, Chester Widom, are reducing greater accessibility that allows us to shower while traveling. This is unethical, immoral, absurd, and totally wrong.Ã

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BSC Criteria:Ã, This code change proposal is in conflict with Criteria 2 in that the proposed building standard is NOT within the parameters established by enabling legislation, and is, in fact in violation of enabling legislation, CA Government Code 4459.Ã, It conflicts with Criteria 3 because the public interest is not protected by the adoption of the building code change proposal.Ã, The proposed building standard is in conflict with Criteria 4 because it is unreasonable, arbitrary, unfair, or capricious, in whole or in part as it unreasonably discriminates against a minority group of the public; arbitrarily gives the model code precedence over state law, i.e. CA GC 4459 and others; unfairly puts people with disabilities at greater risks due to inadequate bathing facilities; and is a capricious response to singular input from the public without due consideration given to the welfare and safety of people with disabilities.Ã, Further, these proposed changes are in conflict with Criteria 7 in that it is contrary to the ADA, specifically, 42 USCÃ, 12201 which statesÃ, Ã¢â,¬Ã“Nothing in the Act shall...invalidate or limit the remedies, rights and procedures of anyState...that provides greater or equal protection...Ã¢â,¬i;½Ã, Ã,

Item 11B.20

11B.609.5.Ã, Control standards for the Transfer Type Shower that is only 36 inches by 36 inches are placed opposite the seat require the

user to lean forward to operate the controls.Ã, Those with spinal cord disabilities and others typically have balance limitations. Falling forwards with an inability to use stomach muscles to re-balance one's trunk can mean suffocation and death for paralyzed persons, those with spinal muscular atrophy, and many disabilities. Side adjacent controls are easy to use and don't risk a chance of death for persons with severe disabilities.

Position:Ã, Disapprove.

Rationale:Ã, This code change will create an unsafe condition.Ã, In addition, a standard that the maximum force of 5 lbs. is required to operate the water control is not provided.Ã, However, The state architect is providing these requirements for ÃfÃ¢Ã¢â€¢Ã¬Ã...Ã¢Transfer Type Shower Compartments in violation of CA GC 4459 and the ADA.Ã, In addition, no research has been done to determine the usability of this small shower and the dimensions are far smaller than what has always been required in CA for ÃfÃ¢Ã¢â€¢Ã¬Ã...Ã¢users of mobility devicesÃfÃ¢Ã¢â€¢Ã¬Ã¬Ã¢Ã½ for many years.Ã,

BSC Criteria:Ã, This code change proposal is in conflict with Criteria 2 in that the proposed building standard is NOT within the parameters established by enabling legislation, and is, in fact in violation of enabling legislation, CA Government Code 4459.Ã, It conflicts with Criteria 3 because the public interest is not

protected by the adoption of the building code change proposal. The proposed building standard is in conflict with Criteria 4 because it is unreasonable, arbitrary, unfair, or capricious, in whole or in part as it unreasonably discriminates against a minority group of the public; arbitrarily gives the model code precedence over state law, i.e. CA GC 4459 and others; unfairly puts people with disabilities at greater risks due to inadequate bathing facilities; and is a capricious response to singular input from the public without due consideration given to the welfare and safety of people with disabilities.. Further, this proposed change conflicts with Criteria 7 in that it is contrary to the ADA, specifically, 42 USC 12201 which states "Nothing in the Act shall...invalidate or limit the remedies, rights and procedures of anyState...that provides greater or equal protection..."

Item 11B.21, Item 11B.22

28. 608.7, Shower Thresholds; 11B-610.3 Shower compartment seats.

Position: Disapprove.

Rationale: A two-inch high threshold discriminates against many users of wheelchairs. As an end-user who travels with another motorized wheelchair user, any threshold which is two inches in height bars any ability to roll into a shower compartment to transfer onto a seat when a person cannot stand, walk, or ambulate, and creates grave difficulties obstructing one's ability to take a shower. The state architect is providing dimensions for "Transfer Type Shower Compartments in violation of CA GC 4459 and the ADA. In addition, no research has been done to determine the usability

of this small shower and the dimensions are far smaller than what has always been required in CA for users of mobility devices.

BSC Criteria. This code change proposal is in conflict with Criteria 2 in that the proposed building standard is NOT within the parameters established by enabling legislation, and is, in fact in violation of enabling legislation, CA Government Code 4459. It conflicts with Criteria 3 because the public interest is not protected by the adoption of the building code change proposal. The proposed building standard is in conflict with Criteria 4 because it is unreasonable, arbitrary, unfair, or capricious, in whole or in part as it unreasonably discriminates against a minority group of the public; arbitrarily gives the model code precedence over state law, i.e.. CA GC 4459 and others; unfairly puts people with disabilities at greater risks due to inadequate bathing facilities; and is a capricious response to singular input from the public without due consideration given to the welfare and safety of people with disabilities. Further, this proposed change conflicts with Criteria 7 in that it is contrary to the ADA, specifically, 42 USC 12201 which states

Nothing in the Act shall...invalidate or limit the remedies, rights and procedures of anyState...that provides greater or equal protection...

Thank you for your consideration.

Sincerely,

YOUR NAME HERE

YOUR ADDRESS HERE

Posted by: Peter Mendoza <thatmendozaguy@gmail.com>

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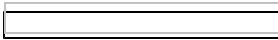
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