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# HCD Item #1 / DSA Item #2.09

# and DSA Item #11B-16

Date: April 28, 2020

To: Members, California Building Standards Commission

Mia Marvelli, Building Standards Commission

Ida Clair, Division of the State Architect

Kyle Krause, Department of Housing & Community Development

From: California Building Industry Association

American Institute of Architects, California

California Apartment Association

California Association of Realtors

California Business Properties Association

Building Owners and Managers Association of California

Re: **Coalition SUPPORT** for the Proposed Changes to the

**DSA and HCD Definition of “Public Housing”**

Please be advised that groups cited above, hereafter referred to as the “Coalition,” strongly supports the proposed change to the HCD and DSA definition of “Public Housing” and DSA’s amendment to §11B-233.3.2.1 for the reasons explained below.

# HCD Item #1 / DSA Item #2.09: Definition of “Public Housing”

The changes proposed by DSA and jointly adopted by HCD represent three years of extensive input and discussion by a very diverse set of stakeholders. From the Coalition’s perspective, we understand and are sympathetic to DSA’s longstanding desire to reduce confusion in the field. At the same time, we were just as concerned that the inclusion of language which could be viewed as vague or ambiguous could potentially result in the misapplication of DSA’s regulations to dwellings never intended to be covered by DSA. To that end, the Coalition was pleased to see DSA remove the undefined term “housing program” from the body of the definition and replace it with *“…****as part of a public entity’s program to provide housing pursuant to United States Code of Federal Regulations, 28 CFR Part 35, Section 35.102(a)…****”.*

Also, the Coalition strongly supports the inclusion of the “***Note***” which provides critically needed guidance from the agency to the code-user regarding what is and is not, “public housing.” While this is far from an exhaustive list, it does provide the code-reader much-needed clarification. And, as opposed to having the Note located in a separate guidance document, placing it directly below the actual definition will have the most significant impact on providing much-needed clarity in the field.

In closing, this has been a long time coming. The Coalition applauds DSA and HCD for coming together to propose the joint adoption of this proposal and, we thank the stakeholders for their time and patience on this project.

The Coalition strongly supports your approval of this joint HCD/DSA proposal.

# {Reprint of DSA/HCD proposal}

**PUBLIC HOUSING. [DSA-AC, HCD 1-AC]** Housing Facilities ~~owned, operated, or~~ constructed *or altered* by, for, or on behalf of a public entity*, or constructed or altered* *as part of a public entity’s program to provide housing pursuant to United States Code of Federal Regulations, 28 CFR Part 35, Section 35.102(a),* including but not limited to the following:

1. ~~Publically owned and/or operated one~~ *One*-or two-family dwelling units, or congregate residences;
2. ~~Publically owned and/or operated buildings~~ *Buildings* or complexes with thre or more residential dwelling units:
3. ~~Reserved~~

*~~4.~~ 3. ~~Publically owned and/or operated~~ ~~homeless~~ Homeless shelters, group homes, halfway houses and similar social service establishments;*

*~~5.~~4. ~~Publically owned and/or operated~~ ~~transient~~ Transient lodging, such as hotels, motels, hostels and other facilities providing accommodations of a short term nature of not more than 30 days duration;*

*~~6.~~5. Housing at a place of education ~~owned or operated by a public entity~~, such as housing on or serving a public school, public college or public university ~~campus;~~.*

*~~7. Privately owned housing made available for public use as housing.~~*

***Note****: A public entity’s program to provide housing may include but is not limited to: the allocation of local, state, or federal financial assistance, Community Development Block Grants, and Low Income Housing Tax Credits, the California Multifamily Housing Program, loan agreements and housing bonds. Examples that are not considered a public entity’s program to provide housing may include but are not limited to: density bonuses, the receipt of public funds for the installation of energy efficiency features, seismic strengthening, water conservation and fire safety features. For additional information see “Guide to Public Housing Regulated in Chapter 11B of the California Building Code” and the “California Access Compliance Advisory Reference Manual” available on the Division of the State Architects’ website.*

# {DSA Item # 11B-16}

***11B-233.3.2.1 Buyer identified residential dwelling units for sale.*** *The requirements of Section 11B-233.3.2 also apply to housing programs that are operated by public entities where design and construction of particular residential dwelling units take place only after a specific buyer has been identified. In such programs, the covered entity must provide the units that comply with the requirements for accessible features to those pre-qualified buyers with disabilities who have requested such a unit.*

The Coalition strongly supports this change. This is the second time this DSA proposal was heard by the BSC Accessibility Code Advisory Committee. When this item was heard eighteen months ago, some members of the committee were concerned that this was not an adopted federal standard. However, it should be noted that **the language being proposed by DSA is almost identical to the language found in the federal accessibility standards adopted by the US Department of Justice [ADA Title II §35.151(j)(2)].** This federal language provides clarity in an area that has lacked clarity for some time, specifically, the application of disabled accessibility standards in dwelling units operated by public entities and offered for sale to individual buyers.