From: Dan Miller
To: CBSC@DGS
Subject: DSA-AC amendments - Comments for May 6 meeting and 45 day comment period
Date: Monday, May 4, 2026 1:32:47 PM

Dear Commissioners,

Thank you for the opportunity to submit written comments regarding the Division of the State Architect's proposed amendments to Chapter 11B, scheduled for discussion at the May 6 Commission meeting. I apologize for the late submission; I was not familiar with the procedural timeline and was unaware that an additional opportunity to provide comments would be available. Please consider this comment for the 45day public comment period too.
Unfortunately, DSA did not address my concerns and retained the proposed amendments that, in my view, violate AB 130 and exceed DSA's authority. Additionally, several significant concerns raised during the CAC meeting were also ignored. I respectfully request that the Commission rejects the DSA package based on the following:

- Proposals do not comply with AB 130.
- Proposals exceed DSA authority.
- DSA disregarded the CAC recommendations.

Most of the proposed amendments are intended to incorporate technical requirements from UFAS, including forprojects that do not need to comply with UFAS. These proposals were either disapproved or designated for "further study" by the Access CAC. Instead of fixing the issues, DSA relocated the amendments without addressing the identified concerns in Sections 11B233.2 and 11B233.3. Section 11B233.2 now contains requirements applicable to public housing, and Section 11B233.3 is for residential facilities that are not public housing. The main concern here is that DSA lacks authority to mandate UFAS requirements for all public housing projects, and likewise lacks authority with respect to housing projects that do not qualify as public housing. DSA refers to several statutes and regulations in the ISOR, but none of them is related to DSA authority to propose such code changes.

DSA adopted the 2010 ADA Standards as a model code for Chapter 11B in 2013, and subsequently adopted more restrictive housingrelated requirements, claiming authority for public housing under Section 12955.1. Conversely, Section 12955.1 does not award DSA general authority for public housing; rather, it applies to covered multifamily dwellings. Section 12955.1(e) conditions that building standards imposed by this section must meet or exceed the requirements under the Fair Housing Amendments Act of 1988 and its implementing regulations. There are no obligations for DSA to adopt UFAS or Section 504. This likely explains why DSA deleted model code Section 233.2, which is for residential dwelling units provided by entities subject to HUD Section 504. DSA's proposals to adopt technical provisions from UFAS into the 2025 CBC exceed DSA's authority under Section 12955.1 and does not qualify under AB 130's exception, as the proposed standards are not necessary to incorporate updates aligning with minimum federal accessibility laws, standards, or regulations.

An alternative authority cited by DSA and a stakeholder at the CAC meeting is Government Code Section 4459(a), which requires DSA to develop amendments to ensure that accessibility requirements are modified only as necessary to(1) aligning with existing state regulations that provide greater accessibility, or (2) meeting federal minimum accessibility standards under the ADA, UFAS, and the Architectural Barriers Act. While this provision appears, at first glance, tosupport DSA's approach, it presents additional legal concerns.

1. DSA's authority under Section 4459 is limited to buildings, structures, sidewalks, curbs, and

related facilities, constructed in this state by the use of state, county, ormunicipal funds, or the funds of any political subdivision of the state (see Section 4450). This limitation conflicts, partially, with the CBC definition of public housing, because the definition does not restrict applicability to projects funded exclusively with public funds. Furthermore, Section 4451 limits application to buildings and facilities intended for use by the public. DSA's proposals are linked to housing, and it is ambiguous how housing can be used by the general public. Thus, the authority found in 4459(a) relating to UFAS should not be applied to housing. These amendments do not satisfy AB 130, as they are not necessary to align with minimum federal accessibility requirements.

2. Section 4459 was amended in 2024 with Assembly Bill No. 3281. Prior to this modification, DSA's authority to develop amendments for building regulations was to ensure that no accessibility requirements were neither all be enhanced or diminished except as necessary for (1) retaining existing state regulations that provide greater accessibility and features, or (2) meeting federal minimum accessibility standards of the ADA of 1990 as adopted by DOJ, the Uniform Federal Accessibility Standards, and the Architectural Barriers Act. To avoid this limitation, DSA adopted amendments in Chapter 11B alleging authority under Section 12955.1. If DSA now asserts that the authority to incorporate UFAS is in Section 4459, then all amendments in Chapter 11B adopted after 2013, that "enhance" the minimum federal accessibility standards, should be invalidated because DSA did not have the authority to propose such standards.

In addition to applying UFAS requirements broadly to public housing, DSA proposes amendments affecting student housing at private universities and private R2.1 occupancies, such as assisted living facilities classified as social service establishments. To justify this, DSA relies on Health and Safety Code Section 19955, which governs public accommodations used by the general public, including auditoriums, hospitals, theaters, restaurants, hotels, motels, stadiums, and convention centers. Student housing and assisted living facilities are not included within these categories. Moreover, private student housing and assisted living facilities that qualify as covered multifamily dwellings fall under the jurisdiction of the Department of Housing and Community Development pursuant to Government Code Section 12955.1. Chapter 11A of the California Building Code clarifies that covered multifamily dwellings may be subject to multiple jurisdictions or laws and may therefore be required to comply with each. HCD refers to the Joint Statement issued by the U.S. Department of Housing and Urban Development and the U.S. Department of Justice on April 30, 2013, which states that housing covered by the Fair Housing Act may also be subject to additional laws, including Section 504, the ADA, the Architectural Barriers Act, and applicable state or local laws. While Chapter 11B may apply to private student housing or assisted living facilities, its application should be limited to mobility and communication unit requirements. Adaptable unit requirements belong in Chapter 11A, not Chapter 11B. DSA lacks authority to propose regulations beyond those limits for these facilities.

Thank you again for the opportunity to provide a written comment.

Best Regards,

Dan Miller