



Final Transcript

STATE OF CA – DEPARTMENT OF GENERAL SERVICES: ACC Task Force Meeting

March 7, 2018/9:00 a.m. PST

SPEAKERS

Ida Clair
Gene Lozano
Lewis Springer
Dara Schur
Gary Layman
Kaylan Dunlap
Soojin Hur
Ernest Wuethrich
Arfaraz Khambatta
Bob Raymer
Jihee Lee
Carol Loeffler
Vidal Medina
Greg Bourne
Derek Shaw
Jessica Axtman
Debbie Wong
Susan Moe
Kevin Dollison
Stoyan Bumbalov

PRESENTATION

Some microphones were not as loud or clear as others making speakers difficult to hear. Background noise such as coughing, independent conversations, or shuffling of papers made some speakers difficult to hear. Participants speaking over one another made transcription difficult and is indicated by [speakers off mic]. The parts of conversation that were unable to be heard are indicated with an [audio disruption]. Not all spelling of names could be verified.

Moderator Ladies and gentlemen, thank you for standing by and welcome to the ACC Task Force Meeting call. At this time, all participants are in a listen-only

mode. As a reminder, this conference is being recorded. [Operator instructions].

I would now like to turn the conference over to our host, Ms. Ida Clair, principal architect. Please go ahead, ma'am.

Ida Thank you, Susan. Welcome, all, to the ACC Meeting. I think this is our fourth probably, so I appreciate you all being here on time and ready for a good day of work. A few introductions. Evelyn Santiempo [ph] from the Department of Rehabilitation is here.

[Speaker off mic].

Ida Sorry. Anayln [ph]. I apologize for that. Then, I think everyone else we know. We will be having a guest her from our legal office. He is actually delayed, so we may proceed with the agenda and fit him in when he gets here. He was having some car issues, so he could be here this morning, but just not right after the announcements.

Greg Ida, for whoever is on the phone, do you just want to go around and do introductions.

Ida Absolutely. We do have a couple individuals on the phone, as Greg mentioned. We do offer people the ability to listen in on our conversation, so I do want to make you aware of that. All of this, of course, is part of our code development, so it's good to have it recorded and receive a transcript and have others listen in so that when we actually go out to public meetings, they're informed if they want to see how these code developments progress.

A little bit on the activities that we had. We had a public meeting on February 22 and received a lot of good comments. Your package should reflect some changes regarding some of those comments which we will discuss further today. After today, as you well know, they may progress again with some changes and tweaks as based on your comments, and then we will have our next public meeting on April 12, and of course, when you participate here, we also encourage you to participate in that public meeting via teleconference or in person if you so choose.

Again, the work we do here today is really important because it is a representative stakeholder group, and so we do have a lot of interest from those at our public meetings who are interested in saying what the

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stakeholders are saying and what works on some of those comments. So, once we have this meeting completed, we will upload our transcript onto the ACC website to make available for everyone to read that at their leisure here but also members of the public prior to the April 12th meeting so that they can also be informed.

Hannah is unable to join us today. I believe that she said she might be able to listen in, so maybe she'll let me know when she's on just in case we have questions to ask of her.

Beyond that, we can start with introductions. Stoyan, I assume will be here shortly.

Susan Yes, he can't make it until this afternoon because he has work that he need to get done this morning. He said he will be here for the afternoon session.

Ida Okay. So, Gene, would you like to introduce yourself for those on the phone, please?

Gene Gene Lozano, one of the disability representatives with a focus on visual impairments.

Lewis I'm Lewis Springer. I'm an architect and a CASp, and I represent the design community.

Dara Dara Schur with Disability Rights California. I'm a disability advocate, nominated at the request of State Independent Living Centers, and my particular focus is housing issues.

Gary Gary Layman, chief building official for the City of Oroville and chair of the Accountable Access Committee, CASp, and on the code development.

Kaylan I'm Kaylan Dunlap, and I'm representing individuals with disabilities.

Soojin Hur. I'm representing the building and facility owners.

Ernest I'm Ernest Wuethrich, and I'm representing the certified access specialists.

Arfaraz I'm Arfaraz Khambatta with the city and county of San Francisco representing code enforcement officials.

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Bob Bob Raymer representing the construction industry.

Jihee Jihee Lee [ph], project manager from the University of California representing building owners.

Carol I'm Carol Loeffler [ph], and I'm represent individuals with disabilities.

Vidal I'm Vidal Medina representing disability advocates.

Greg Greg Bourne, facilitator.

Ida Again, for the record, not joining us this morning is Stoyan Bumbalov, ex officio member with the Department of Housing and Community Development. He will be here this afternoon and Hannah Barker who also represents individuals with disabilities who may be joining us on the telephone at some point today.

If I could have DSA staff introduce themselves.

Derek I'm Derek Shaw, senior architect with DSA.

Jessica Jessica Axtman, and I'm an analyst with DSA.

Debbie Good morning. Debbie Wong, senior architect, CASp with DSA.

Susan Susan Moe, senior architect, DSA.

Ida Thank you.

[Speaker off mic].

Greg Okay. Thanks, everybody. What I'd like to do now is just go through the agenda briefly so everybody has a sense of that and for those that are listening that may not have this in front of them. We do have a speaker coming momentarily. We have a couple things to do before he gets here. Kevin, what's Kevin's last name.

Ida Dollison.

Greg

Dollison. He'll be presenting on the DGS—he represents DGS legal, and he'll be talking about California statutes giving DSA the authority for accessibility regulations.

After he is with us and we have a little Q&A, we'll take a break, we'll move into then some of the code change proposals looking again at the adult changing facilities picking up from our last meeting. We'll take a lunch break around 12:00 for basically an hour unless we make a decision to shorten it for purposes of time to spend more time on our activities.

Then, we'll move into the housing code change proposals, again, kind of continuing from our previous conversations, and after break, then there's a host of other code changes that we hope to get to this afternoon.

So, that's pretty much the agenda. We'll try to have everybody out of here by 4:30, and the latter part of the day, if there's any parking lot topics related to the meeting that happened back in December, we can finish up on those and then talk about where we go from here and potential next meetings.

I'd like to just bring, as we talked about activities since the last meeting, I'd just like to point your attention to a couple things. Obviously, DSA has been working hard to take the comments that have come from the last couple meetings and looked to translate that into language, and so code change language, we'll be getting to that later.

We did make some final, we hope, modifications to the charter. We sent out both a final copy and also a tracked changes copy. I'm trusting that—well, first I'll just say that there were only a couple people who had comments on the charter from the last meeting, and I think as we said, we wanted to try to bring closure to that so we would not have to spend a lot of time at today's meeting, but I think for the sake of closing the loop on that, let's just look briefly at those changes and make sure nobody has any major concerns. We can hopefully do this in a short period of time.

I think the two major changes as we go through this document, for those that have a tracked changes version, under the ACC role, all we did there was simply move the number of representatives over into the organizational structure section. Very limited language changes to the organizational structure section.

The membership selection group section there was just some clarifying language put in to address some of the issues raised, and so it now reads, “DSA will accept applications for membership on the ACC on a continuous basis. Members of the ACC will be selected by DSA and representatives or a partner agency of the California Commission on Disability Access and the Department of Rehabilitation from the absent pool.”

Then, there was an additional sentence added that says, “Once an application has been submitted, it remains valid indefinitely, and the individual is eligible for consideration of membership. It is the responsibility of the applicant to submit updated contact information and relevant experience to DSA by submitting a new application.” So, if something major changed since you turned your application in, you would just simply update it if you think that’s relevant to you being accepted onto the membership of the ACC.

That’s the main change under—no, actually there’s one more. If you go to the last paragraph of that section, DSA thought it’d be helpful to clarify what happened if somebody could not complete their term of service. It basically adds, “They shall submit a letter of resignation to DSA. The resigning member may delegate an alternate to serve the remainder of the term providing the delegated alternate as an application for membership on file with DSA and is approved for membership by DSA.”

It goes on to say, “If the delegated alternate is selected for membership from the applicant pool, the individual is eligible for one term only having served the immediate preceding term.” That’s presuming somebody who was on filled in for someone else.

So, just efforts to clarify that and address one concern that was raised. So, I just want to ask for that section on the membership selection. Did those concerns get addressed, and are there any final comments or reactions to that? Yes, Dara.

Dara

I just had a question about updating the application. One of it looks like an address change or an email change. Do they need to submit a whole new application?

Ida

No. Ideally, it would nice if you could—we could try to do a PDF fillable, so that you can save it, or if you want you can just to do the change of

address only, and put that in, and then just send it to us via email so that we update it.

Dara Okay. Just trying to clarify exactly what you wanted there.

Greg Yes, that's good.

Ida The reason why we want the application, just to be clear, is that there are some kind of commitment goals that you're willing to work in a collaborative manner, you're willing to attend to meetings, and it's a signature, so having that application and having those boxes checked with a signature makes the individual accountable.

Greg So, is everybody good with that? Okay. Just a couple more, I think, that I want to highlight so that everybody is clear. If we go to the meeting section, there were some questions last time about having an alternate or an observer. So, I'd just like to read that section, that one paragraph rather, so it's clear.

“If an ACC member cannot participate in an ACC meeting, she or he may appoint an observer to attend. The observer may participate if adequately prepared to represent the ACC member, which includes having a depth of understanding of the issues. The observer has the responsibility to read the transcripts of prior meetings of the code development cycle prior to participating in the ACC meeting and agrees to abide by the ground rules of the ACC charter. The ACC member has the responsibility of reading the transcript of the missed meeting prior to participation in the following meeting.”

So, we were just trying to clarify, I think some of you were thinking it'd be nice to be able to have somebody be able to fill in and actually participate rather than just observe, so this was the language I think you all suggested on that. Is everybody okay with that? It's basically just having somebody prepped so that they really can participate, and we don't have to go back over issues already settled.

Okay, communication. Just a very minor change there. Just to make it clear, some people were asking about can you use the information in the DSA box, and it is public information, so that can be shared. It's just that you're not to share the link, which is meant to be only for the ACC. So, that was just clarified in the section under communication. Is that okay with everybody?

Ida That would require that you download whatever it is that you want to share, and then email it separately.

Greg Okay. Good. Code changes. Very minor changes there. There was one clarification under number four where it says, “DSA will request a meeting either in person or by teleconference to discuss a proposed code change with the proposer and DSA’s intended action.” Under C, it says, “The proposed code change will be considered for a future code cycle if the task force is necessary to be convened.”

I think that was really the only couple language changes under seven, but I don’t think anything critical there. We did clarify that anybody who has made an effort to provide a code change proposal would receive an acknowledgement or receive that within 30 days. It’s just so there’s a time limit aspect to that so people know their proposal was received.

The other thing was the decision to put, which I think is appropriate, to put the section removal from the ACC at the end, since we’re hoping that this doesn’t really have to be utilized at all, but there were a couple of changes there, just to read those for clarity.

Number two, “If the member misses more than one code development meeting and more than one pre-development workshop meeting in an 18-month cycle,” then the following constitutes what is a missed meeting. “Attendance via teleconference will be considered as a meeting in which the member was in attendance if the ACC member is engaged in the discussion.”

So, we had this discussion last time about whether you have to be in the room or could be on the phone or videoconferenced in. So, the idea is if you’re participating in the meeting via teleconference that still counts as a meeting.

Then, the new section says, “Attendance via videoconference will be considered as a meeting in which a member was in attendance,” presuming obviously you’ll actually be videoconferenced in. I don’t know how often that really happens, but we just wanted to differentiate the audio versus the video.

“Attendance by an observer selected by the ACC member at one meeting workshop will not be considered an absence, however subsequent

meetings attended by an observer selected by the ACC member will be considered a missed meeting or workshop.” So, that’s in addition because the idea was we don’t want to default to continuing to send an observer. So, once absolutely that counts as your participation. Subsequent meetings of you sending an observer will not count as you participating in the meeting. Is everybody good with that?

Okay. I think that’s it. So, if everybody is in agreement—yes, Gene.

Gene I believe under the removal, if the person that—well, DSA will offer the opportunity to meet with staff to discuss what the issues might be for the removal. Who’s ultimately making the decision to remove the person? Is it DSA or is it DGS?

Ida It would be DSA, but it would be forwarded on the way up the chain.

Gene I was just wondering if that could be put in [audio disruption].

Greg The phrase you said that DSA would make the decision but with concurrence by—okay.

Gene Thank you.

Greg Sure.

Carol Greg?

Greg Yes, Carol.

Carol Just a question. I thought we were discussing about if somebody was going to a meeting, what constituted the amount of time that would be accepted. So, for instance, if someone was going to be gone for four hours, does that count as a meeting of attendance or not, and if someone’s not here for an hour. For some reason, I thought we were discussing, and from what I was reading, if you’re present at all, it counts.

Greg It’s a good point. I don’t think we actually—

Ida I would say according to the provisions that are there, if you are present for half the meeting, and you have an observer for half the meeting, you are there, but if that happens repeatedly, the second time there’s an observer, it may not.

- Carol What if you don't have an observer? So, you're there for half of the meeting, but you don't have an observer for the other part.
- Greg So, clarifying that if you go for at least half the meeting, that counts as participation. Does that make sense?
- Carol I think that's appropriate because someone could come for an hour and not have someone be an observer or a participant for them.
- Ida We'll take a look at that.
- Carol Just what the options are.
- Greg Sure. Okay. Gene.
- Gene I would support the idea was whether you do or not have an observer that you at least minimum attend half the meeting, and it would count as being in attendance.
- Ida I think part of what I do want to clarify is that we have individuals coming from throughout the state from which we pay travel to be here. So, if we're paying for your travel to be here, there would be a problem with you attending half the meeting. So, giving that consideration to others who are local who do not have that expense, it would need to be the same expectation for everyone, so we will have to clarify what that is.
- Greg Okay.
- Kaylan You don't want me to tell you—
- [Speaker off mic].
- Ida So, I'll look at that in some kind of equitable manner, but understand that others have reserved their time and are spending travel time to come here. So, we do have other methods of participation, which is teleconference and videoconference according to the terms that have been set forth, so the expectation will be equitable for everyone. It may be that if you're only there for part of the meeting and you don't send an observer, that it may be considered a missed meeting because it wouldn't be fair to those who were actually spending their time traveling here in addition to attending the full meeting.

Greg

Gene.

Gene

The first thing I think whether local or—it should just be a consistent thing, but I can understand the expense there [audio disruption]. Maybe you're here, and you have an allergic reaction to something, and you have to go to the emergency room in the morning, and you get cleared, and you're allowed to come. You're here then for four or five hours, I don't think you should be penalized if you didn't have an observer.

I think it's if you physically participate and are present a minimum of half of the time of the meeting [audio disruption]. I don't think we should get into determining whether someone has a good excuse or is unexcused. It's just a commitment. We all heard it, and I think everyone here is committed to meeting that, and we'll make a genuine effort.

Greg

So, for the sake of time what I would suggest is there's going to be two additions to this section. One will clarify that DSA will be making the decision of removal, of course, after as we say here and, Eugene, you pointed out, will be meeting with that person before such action will be taken, and that will go up the chain.

The other will be addressing this partial attendance of the meeting, what counts and what doesn't. I would suggest we don't want to be overly prescriptive here because, Eugene, the situation you're saying I'm sure there would be a lot of latitude given in that example to be there if some emergency came up and you'd be back.

I don't think we need to be overly prescriptive about this because it's not intended to be punitive. You're really looking for a pattern of non-participation. So, something like that happens, we can't account for every variable, so I think we just kind of leave it where it is, but we'll look for some equitable language. Carol, then Sue.

Sue

I just have one quick comment. Keeping in mind that a transcript is being prepared of this meeting, so when you have a comment, be sure to state your name so we know who made the comment.

Greg

Thanks for that reminder.

Eugene

Sorry.

- Greg Well, if I'm calling your name out, you're probably covered, but if I'm not, please do. So, Carol, last comment on this, and then we're going to move on.
- Carol Do you have that comment with the other one saying that it would be a discussion with DSA?
- Greg Yes.
- Carol I would like to add that to if there is concern about somebody's attendance that before a decision is made that there would be a discussion, so basically it would be the same criteria.
- Greg Fine. Okay. Sounds good. Then, we'll craft some language for these two issues we've raised and otherwise consider the charter complete. We'll send out that change to everybody to make sure. We'll probably just send it out separately so that you don't get the whole document so that you can really focus on those two things, then get approval from everybody via email. If there's an issue, we'll deal with it. Is that okay with everybody?
- Okay, the other thing that happened between the last meeting and this one is I did draft a page and a half just to try to—because I know the transcript is long, and what I was just trying to do is capture the gist of the main parts of the conversation. I know it just came to you recently, but if you find that useful, I can continue to do that. If you would like a brief two-page summary of the key issues of where there was agreement, I will continue to do that if you find that helpful.
- Then, it's also a way to check in and say hey, did we capture it accurately. Did we miss something that maybe you thought hey, we did agree to this, and you didn't capture it or no, we don't really quite have an agreement where we thought we did. So, do you find this useful, and if so, I'll continue doing that. I see some nodding heads, but let's hear from a couple people. Carol.
- Carol I found it extremely beneficial to review and to prepare to [audio disruption] period of time so I could take a look at it and add to what was—so, having the smaller portion benefited me.
- Greg Okay, good. Soojin, I saw some nodding heads. Dara.

Dara I think it's helpful. I'd really appreciate though if it included specifically any particular proposals if there was agreement and if there were objections, the nature of the objections.

Greg Yes, absolutely. So, I tried to do that. It might have been a little vague because there were a couple of areas where it seemed like the group had agreement on something, and then there was one that I wasn't clear about from my notes that it looked like everybody was in agreement, and then we kept talking about it. We kind of came back around to well maybe we'll leave it as it is, but yes, the intent will be next time to have it to you well enough in advance that you can look at it and say I don't think we have that quite right, or you're missing this, that, or whatever, so we'll plan to get it out with the rest of the material at least a week ahead.

Actually, I could get it to you soon after this meeting while it's fresh in everybody's mind. So, maybe for this particular document, we can do this. I'll try to crank it out within a week after the meeting so it's fresh, and that way we capture that, and if we miscapture something, you can identify that early on and go from there.

Kaylan.

Kaylan I think it's important to remember this is not intended to be meeting minutes. It's just—I thought it was extremely helpful.

Greg Good. Then, we'll continue to do so.

Okay, with that, Kevin not being here yet, I think we should just move into—Ida, how do you want to—do you want to move to the adult changing facility discussion, or how would you like to proceed?

Ida Yes, I think that that would be good.

Greg Then, when Kevin comes, we'll wrap up whatever topic we're on, if we can do that briefly, and then come back to it after his presentation. Okay. Thanks, everybody.

Arfaraz I'll go. Derek, this is a 68-page document. It'd be helpful if you'd tell us which page we should go to.

Derek Yes. This item starts on page 35 of 68 in the package.

Arfaraz

Thank you.

Derek

You're welcome. I'll try to make a regular practice of noting which page it starts on. If I forget, please let me know, and I'll be happy to do so.

Okay, so here we're talking again about the adult changing facility. This item was reviewed at our public meeting two weeks ago, and we received some additional comments there. We've incorporated comments that came out at our ACC meeting and at the public meeting. A few of the items that we addressed are the operation of the adult changing table, and that's in Section 11B-813.2.1.3.

Bob

If you're not going to say the page number, can you say that again slower?

Derek

Oh, sure. It's on page 36, the second page of this item, and that's Section 11B-813.2.1.3. We've changed this section name to Height and Operations. Here we changed the universally commented problematic language describing the range of the adjustability of the table, so now we're presenting that as saying it shall be adjustable from 17 inches above the floor or ground to 38 inches above the floor or ground.

We also incorporated the requirement that height adjustability should be electrically operated and an operable part shall comply with 11B-309. Those are the fundamental building blocks section on operable parts.

We also reconfigured what was previously presented as mandatory features and optional features. What we did is we combined this together. We're just now calling for this section as Features, and then what we've done is we connect the language a little bit on some of the items that would still be considered optional.

So, for example, under the shelf, in Section 11B-813.2.6, and that's the item on shelves, we say where provided that no fewer than one shelf in close proximity to the changing table has 40 inches minimum and 48 inches maximum above the floor.

We also added a requirement for no fewer than one coat hook in close proximity to the changing table, and that's in Section 11B-813.2.5.

I think that covers our changes here. Any questions on this? Gene, I saw your hand go up first.

- Gene Just for clarification, the shelf, that's optional?
- Derek The shelf says where provided so it wouldn't be optional.
- Gene Okay. [Audio disruption].
- Derek Okay, Sure. Arfaraz and then Dara.
- Arfaraz In line with Gene's question, I guess for coat hook it says no fewer than one, but for the shelf it says where provided no fewer than one. I'm wondering if no fewer than one is even required at that point if it's optional.
- Derek No fewer than one shall be provided—
- Arfaraz When one is provided, at least—no. Or, when shelves are provided—
- Derek No fewer than one shall be provided. That tells you that you have to provide one or more.
- Ida No, I think he's referring to the shelf where it says where provided no fewer than one shelf. I think what he's saying no fewer than one should not be there because we have where provided.
- Derek Well, okay, that's different. I'm sorry.
- [Speakers off mic].
- Derek No fewer than one is the proper code language. At least one can be used certainly, but typically no fewer than one. Where provided is a conditional statement, so that tells you that if shelves are being provided within the room that no fewer than one then must be compliant with what we see here in close proximity to the changing table and the 48 inches.
- Arfaraz So, anyway, that's just a suggestion. At least one, in my opinion, would be clearer, but I'll just move on to the second part is do we want to define what close proximity is. Should it be within reach range compliant with 11B-308, or are we just going to leave that for the jurisdictions to decide?
- Derek Well, we're open again to discussion here, and I think we'd probably welcome your comments. This is the language for discussion now.

- Arfaraz Having said that, I don't have a suggestion, but I'm happy to hear everyone else's.
- Ida We had discussed this, and we thought there's a requirement to have three open sides, but the individual could put it in the center of a room, so if we give any kind of dimensional requirement, it could maybe fall short if the table is in the center of the room, in other words [audio disruption] or three feet of the table. We had discussed this initially, which is how we settled on close proximity, so just if anyone's recommending language to understand that while we only require three sides to be open, it could be an island, and four sides could be open.
- Greg Carol, and then Gene.
- Carol I have three comments. The first one is that the where provided for the shelf and the accessories is in a different location, and so I wanted to see why we're even saying that they don't have to provide them at all basically. The way I read this, if I don't want to, I don't do it.
- Derek The way the language currently is, yes, providing a shelf is optional, and providing accessories would be optional as well.
- Carol Is there a reason why that was written as an option?
- Derek You know, in comparing some of the language that we are drafting here for the adult changing facilities, we were making reference to the development of that to the existing language that we see in toilet rooms in part. So, accessories within the toilet room are optional, and they follow the same format of where provided. The shelf also is allowed within toilet rooms, but it's not required.
- Carol Okay. I apologize that I didn't look into this, but is shelves and accessories defined anywhere.
- Derek No. They would have the ordinary dictionary meaning. When we define terms within the building code, we usually take that action when there are unique terms or terms that might be confused with other similar definitions of the same term. We seek to make those explicit, but the overriding application of the definitions in the building code is that where a term is not defined specifically within the building code, we're supposed to use the ordinary dictionary meaning appropriate to the circumstance.

- Carol So, then my request for this one would be that [audio disruption] no fewer than one shall be provided, the shelf would say no fewer than one shelf shall be provided, and accessories would be no fewer than one accessory shall be provided because—
- Greg You would like them required rather than to say where provided.
- Carol Correct.
- Derek Okay.
- Carol To be consistent.
- Derek Okay. Well, when we say where provided comma, that indicates that it's an optional element. Remember I said we had two sections before—
- Carol I would change that.
- Derek Okay.
- Carol So, then it's consistent with coat hook because coat hook is not optional, and in practice, a shelf and accessories would be more usable to an individual than a coat hook.
- Derek We had received comments in our prior meetings that coat hooks could very well be used for a changing bag, and it could be hung from the coat hook. Certainly, the shelf could be used in the same manner. I do want to point out that when we start talking about accessories, that's an open-ended term. It includes a lot of different types of elements, and to say that accessories are mandatory would leave kind of a big whole there. Which accessories are in fact mandatory?
- Carol I would like at least the shelf then to be considered because you have the ability to place, say a bag, onto the shelf. So, it's a usable item. If it's not present, those items might not be able to be used by the individual or they might have to be placed somewhere else like the floor.
- Greg So, Arfaraz also suggested that this be required and not be optional, but what I'd like to do is capture Bob's action next in the queue, then Gene, and then Dara and Soojin, and I didn't mean to put words in your mouth, Arfaraz, but I thought I heard you kind of go in that direction.

- Arfaraz Oh, I was just suggesting tweaking the language for the shelf to say where provided, at least one shelf rather than using the phrase no fewer than one.
- Greg So, let's hear from the other four people that want to speak, and then we'll kind of see where we are at that point.
- Carol I still have two more left.
- Greg Go ahead.
- Carol Do you want me to go after them?
- Greg No, just go ahead. Get them all out there.
- Carol Number two would be an idea of where the proximity that was identified could be identified using a reasonable person concept, and that's identified as what a reasonable person would need, and I don't know if that's something that we could require to be placed in there. Then, you never have to provide an exact specification, but a reasonable person concept would be whatever the person might need or do or whatever. So, I don't know if we want to look at that as an idea.
- Derek If we were to incorporate something addressing that, how might that language look?
- Carol It would be defined as what the definition of a reasonable person concept, and so if we were to take a look at for access, so close proximity would be proximity in relationship to a reasonable person concept. Does that make sense? If it's going to be a table that's seven feet away from me, I can't use it, but a reasonable person concept would say you know what, I think we need to place it right about here.
- Then, the third one is, and I apologize that I didn't pay attention to this before, but it's the sign shall be adult changing facility. There are many individuals that are not adults that make it necessary that size needs to be used, and I don't know why it's adult changing facility, but you could have a nine-year-old that needs this facility as well.
- Derek The language about adult changing facility was incorporated into this draft—
- Carol Oh, good. Thank you.

- Derek That language was selected to be consistent with the legislation so was passed on this as well as the language of the legislation. It also has been the name of this section at the very top of 11B-813 as well as 11B-249 since we first drafted it. You know, by naming it adult changing facility, there's nothing that limits its use to older or younger people, but it was consistent with the legislation.
- Carol Okay. I appreciate that one. When I saw that sign, that sort of alerted me, just so I'm sharing my thoughts basically just on record. Thank you for letting me getting the three points out.
- Greg Absolutely. Bob.
- Bob Just in general, you're doing the features now. I'm assuming you're going to go back to the front and cover some of the scoping provision changes.
- Derek Yes. There are some here. I was just working on [audio disruption].
- Greg Gene, you're up.
- Gene I wanted to echo what Carol said about the need to have a mandatory shelf, and I know [audio disruption], but you point out specifically with the accessible stalls there's a need for that, too. [Audio disruption] discussion about a shelf [audio disruption]. So, I want to say there are things that just, a shelf you need to spread out items that you can't just do with a bag over [audio disruption].
- I hear Carol's concern about the [audio disruption] on the sign, but I'm pleased to see that there is, that you did put in specific sign text, so there will consistency wherever a sign fabricator creates one for the facility. I'm pleased with the package. Thank you.
- Greg Thank you. Dara.
- Dara A number of comments.
- Greg Identify yourself.
- Dara This is Dara Schur. I have a number of comments. Do you want me to limit it to features or go to scoping as well?

- Derek If we could take your comments on scoping right after we present the scoping.
- Dara Sure. So, location on page, I think it's page 36, 813.1 is that scoping or is that features?
- Derek Well it's under the technical requirements. I'm sure there's one other subsection.
- Dara Okay, so let me address that one. I'm concerned that other similar private rooms is too vague. It could include a room that does not have a toilet and a sink, and that's really a problem. Maybe that's defined somewhere else, but if it isn't, we either need to specify what needs to go in that room, or we need to limit it to unisex or single-user.
- Derek The water closet is a positive requirement here, so within each adult changing facility room, a water closet is required by Section 11B-813.3.2. Then a lavatory is required under 11B-813.3.2.
- Dara Okay, so that's covered then. I guess saying unisex room instead of unisex or single-user because in California single-user would have to be unisex. Is that right?
- Derek Unisex is a term that we've incorporate into the building code for quite a number of years just simply federal language regarding toilet rooms. We also have parenthetical text that follows the section title that says unisex toilet facilities, I think, and then we say single-user.
- Dara Okay. Great. A couple other comments, I did consult with another code expert on this. On the changing table 813.2.1.2 clearance, I think there is a potential for confusion unless we make it clear that—the first sentence. A 30-inches minimum wide side clearance shall be provided along the length of one side, and we're talking about the longer side, so it's not like we have to provide that clearance at the end.
- They have to provide it along the longer side, and I think it might be helpful to make that explicit in here. It has to be along the entire length of one of the longer sides. I think that would make it clearer that that's what the 30-inch minimum needs to be, not the shorter side.
- The second comment I have on 813.2.1.3, which is height and operation, I don't know if this is covered under the cross-referenced site, but I think

there were some comments that this should be hardwired so that it operates and you don't have to worry about a battery needing to be changed. I don't know if that's already encompassed.

Derek Hardwiring is not reflected here. Whether an element is a plugin control, electrical mechanism, or if it is hardwired, either way would not bear upon the continued use under a powered-down situation. It would be typically accommodated by a battery backup.

Dara No, I'm not asking for battery-powered backup. I'm asking that it not only be battery-operated, that there be an electrical source that doesn't involve a wire that somebody has to trip over.

Derek I see.

Dara I'm worried about nobody ever changing a battery is what I'm worried about, and I'm worried about cords that people have to trip over. So, I think a little more specificity about where the wire goes, that it A, can't be just battery-operated. I'm fine with it has a battery backup, but it can't be just battery-operated, and it has to plug in some place where the cord doesn't create a hazard if it is not hardwired. So, the cord has to go underneath the table or something.

I don't know if there's any way to specify those things, but I can see people running a cord across the room to an outlet on the side because there isn't an outlet in the middle of the room, and that seems to me very troubling. So, I would appreciate if we could address those concerns around how and where the electricity comes from in a way that is safe.

On 813.3.2.1.4 capacity. I know we've talked about this before, but I want to re-raise the issue that for a lot of people with disabilities with bariatric conditions, 300 pounds is not going to be sufficient, and I really think it ought to go up to 450. That is not uncommon for people to be particularly large and have bariatric issues if they have a number of disabilities. So, I would again want us to think about raising that weight to make it really useful for people who may have bariatric conditions as well.

The next one I want to raise I guess I just want to support what's been said about a shelf being mandatory in addition to the coat hook. I changed many a diaper in my life on kids, and you're always juggling a cloth and the new diaper and the old diaper and the wipes and the clothes, and I honestly don't know how you do that without a shelf. I really honestly

just can't—and, I can imagine it's even more challenging when you're doing it with an adult.

So, I just can't imagine how it could be fully functional without a shelf. You're going to be juggling a lot of stuff, and I think it will end up on the floor. So, I just want to really support that the shelf be mandatory.

Those are my comments, and then I have one more on the scoping part.

Greg Okay, thank you. Soojin.

Soojin I wanted to know, I don't know the types of equipment very well, but the height adjustability should be supporting the weight while it's in motion, so I wanted to know if it's better to clarify under capacity that adult changing tables shall provide a minimum weight and lifting capacity of 300 pounds or whatever just to clarify.

Greg Okay. Lewis.

Lewis This is back on the shelf issue. My only comment is that 40 to 48 inches, to me it's the defining that it needs to be somebody whose wheelchair accessible, so if it has language in there that defines accessible route and within reach range so that the shelf doesn't get put above the table because otherwise the shelf could be put 40 inches right behind the table, but if you're in a wheelchair, you couldn't reach it.

Then, on the other one, Carol had mentioned defining it as by a reasonable person. I would have no idea how to design to a reasonable person concept. A lot of the people I meet I don't think are reasonable people at all, so I don't know the definition of a reasonable person.

Greg Okay. Thank you. Gary, you're next.

Gary Mine was the height of the shelf. We always run into that protruding object. So, if there's a way to make that a pop-out shelf or something some way of restrooms and that with the shelving, there's always protruding objects especially between them and height. I'm just making a comment on that. I don't know that we can even get that in the code. It's just a constant battle.

One thing though I did want to make a comment, Dara, I understand totally where you're coming from with the requirements around an

electrical placement or whatever, but until we get these tables manufactured, there are other types that won't be electrical because you won't be in a restroom. Some of them may be hydraulic. I can see hydraulics coming into play here because of the weight factor in that, and you have water lines because you have a lav and a toilet. So, you have water lines there, so some of them may be hydraulic. It would be dependent on what the manufactured product is that's coming out.

So, if we kind of put that in the code and we can at least talk as the enforcement agency will certainly make sure something is there, or there's some kind of justification in the plan indicating what, and the manufacturers' specifications will need to indicate electrical, whether it's 110, 220, whether it's hydraulic or hydronic, water or electric. That was just my comment to that.

Greg Okay. Thank you. So, you could conceivably say if electrical, hardwire. We could acknowledge different kinds—

Gary Well, then you start throwing too much in the code, and when there's too much—

Derek Is it possible, because we received a few comments on the method of powering the table as movement up and down. If the concern is to avoid using battery power as the source of power, then maybe it could [indiscernible] back and saying it shall not be provided might be another way to go.

Dara There were two concerns I raised, and one is I think it's right. You want battery power not to be the sole source, but then I also think you want to ensure that whatever the water lines or the electrical lines don't become a trip hazard wherever they are. I don't know if that's already covered somewhere, but you want to make sure people aren't running extension cords or water lines that could create impeded access.

Gary Well, that would be up to the designer and through the plan review process to verify that there is one electrical power source if it's electrical or water or hydraulic, however, they're going to have it operating in the area. The same method comes in other things. We don't allow extension cords running all over the place because it's not acceptable in the code.

Ida Can I make a comment?

Greg We have a few more people in the queue. Gene, you're three or four down. We have other people that have been waiting also. Kaylan's next. So, go ahead on this particular point.

Ida This is Ida. With regard to we had a task force and listened to all their concerns. So, we have two issues that we needed to address. One is what the basic law statutorily requires and make sure that we meet that, and then, two, those users in determining what specifically you need for this purpose. While these facilities can be used by others, I think it's still mindful to address the issues and concerns of the users because the law just sets the floor. The users raise the standard as to a little bit method of convenience.

So, designing to universal usage is a little more complex because it exceeds our legislative commanding. So, understanding when we're talking about battery and talking about wires, the law basically says a table. We are saying electrically powered because we believe it's important to be raised and lowered.

There's also other provisions in the code that deal with maintenance and accessible features, which are also an issue, so with regard to prohibiting batteries, to me there's a need to addresses flexibility provided that's maintained and still meets basic legislative mandates. You kind of want to keep that in mind.

The other concern is that when we're talking about the weight, we did an analysis as to tables that are provided because we do want it to be adjustable because that was a big concern for these individuals understanding that increasing the weight of the table increases its cost and that a lot of these individuals who use these facilities, they're out there for the day, and it takes a minimum of two to transfer, sometimes one.

So, understanding a weight transfer of someone larger 450 or whatever, I don't know if that can be accomplished by two people. I'm not a user, but that concern of a weight capacity that high was not necessarily brought forth because of the assistance required, usually by family member or caregiver to transfer and use the facility. Then, there's available products, too.

So, I just want to say that I appreciate these concerns about weight capacity, but because our adjustable table, and this is where I need everyone to sign-in because the adjustable table is something that we are

saying is in excess of what the minimum mandate is, but we feel it's very important for these users, understanding that increasing that cost starts to—we have to determine how often it's going to be used by somebody needing to transfer a 450-pound individual onto the table.

Then, with the rest of the other concerns, with regard to accessing the shelf, accessing the coat hook, understanding that these are assisted care facilities, and those individuals usually who are transferring the individual are usually there to assist the individual. Many of them are perhaps not wheelchair users themselves. So, while we're saying all these other components that are associated with changing tables, we need to also provide access to an individual in a wheelchair, I'm not sure how that—I don't want to say it's prohibited.

I just want to put it in mind that we're used to designing the code for individuals for independent use, but this facility is really for assisted use, so setting limitations on some of these components, whether or not they might be appropriate for the general population who will be using these, so just keeping that in mind. I'm not saying no, but I think sometimes it's hard to switch our minds from independent use to assisted use.

Greg Okay, let us go back and try, if we could, to work through the queue here. We have Kaylan, Jihee, Ernest, Gene, and Vidal.

Dara And, I'm at the end.

Greg Dara's back up. Okay, so let's try to move through these fairly quickly if we can just for the sake of time. Kaylan.

Kaylan I will be quick because I already made one of points about product availability. My other comment is backing up what Derek said about the clearance. I think some figures would be helpful just because I had to sketch it out when I read through it to make sure I understood it correctly.

Greg Great, thanks. Okay. Jihee.

Jihee I understand providing making shelves as mandatory, but I'd like to leave some flexibility on the location for the designer to determine in case of configuration in design challenges. I'm in support of putting maximum stuff into the code because it is a new requirement in the code, and the industry will develop performance requirement as opposed to too

restrictive and too prescriptive requirements. So, hopefully there will be some room for industry to develop [audio disruption].

Greg Okay. Thank you. Ernest, and then Gene.

Ernest Related to that shelf idea, I know having to change a child with a disability, a shelf could be, even with a small child is still very helpful. I could only imagine needing it for an adult would be really helpful as well.

I do have a question just playing off of what Gary was saying about the idea of a protruding condition, and also, I'm not sure how the tables look. I'm sure that Kaylan could provide more information on what some of these things might look like. If this is a private room or a unisex room, would that still be considered a circulation path within that would trigger having the protruding limitations within the room itself?

Derek Yes. The floor area would be considered circulation.

Ernest Okay.

Dara So far as they can protrude.

Derek There are limitations on the amount of protrusion.

Gary It can't protrude more than four inches.

Dara Okay.

Gary DSA is very consistent with DOJ and the access board on that.

Dara I understand. Thank you.

Greg Okay, Gene, you're up.

Gene I think I heard it said that the bill did not address the operation of the power source on this, and even if it did, we need to assured that there's a reliable means of operating that adjustable table. A battery and—if we lose power, we don't want to have somebody, because there are people who use those tables that are not being assisted by someone. I had a few students at Sac State that used wheelchairs that were looking for tables like that so that they could change, so thinking it's just limited to people who need assistance is not true.

Now, you don't want to be on the table elevated and then the power in a battery dies. You need to have something reliable. Perhaps having that, something that a battery is not the primary source and you have a backup to it with the power goes out or something, you need a reliable source of operating adjustable [audio disruption].

I think what Lewis was suggesting on an accessible route is very helpful. You have the protruding object—the shelf I'm talking about, I'm sorry. The shelf folds up, it comes down, and somebody doesn't raise it up, then it is a protruding object, so it needs to be put in something like an alcove or some recessed area that doesn't protrude out over the four inches there.

I can tell you from firsthand experience with single user restrooms, sometimes they have the baby changing table, and it's right near the sink, and I have found it open, and I didn't know it was there and ran right into it. So, that [audio disruption] one that you can lower and raise. It can be lowered and then forgotten to be put back in place. I think what Lewis was suggesting, accessible route would really help, and there's nothing to say you can't include something about reliable power to operate the table. Thank you.

Greg

Okay. Thank you. We're up to Vidal.

Vidal

Mine was already kind of answered, part of what I had wanted to say or mention what I wanted to say, but essentially, the concerns of the users are important, and I think that's important to mention that like Eugene had just mentioned right now regarding people who use the table that need that adjustment because of their wheelchair, but it's also true that some folks may never use that table because they can't get out of their wheelchair because their weight restricts them. There are some other physical limitations that keep them from doing that. Only with assistance can they use those tables.

So, I think—this is the first time I heard about what the users of some of the changes that we've been talking about as far as their concerns. I come from that position where our consumers are the answer to any issues that we may have in our community with kind of focusing on what is it that we're going to spend time and effort to be advocates for them because it is quite difficult to make sure one thing fits everyone.

Now, we're looking at adjustable tables, we're looking at the power, but also how much weight they can hold. Right now, 600 pounds is a close, but maybe not close enough. When we have a situation with the wheelchair lifts with transportation where it was our consumers that told us this isn't going to work. We need heavier because they're causing us to get off our wheelchair where we should be allowed to get on these lifts and get put into Paratransit, especially Paratransit.

So, in order to that, it's going to be quite expensive and you almost—you have to have a mandate by legislation that these things be done, and that's more difficult because there's a lot of cost involved. Right now, Amtrak has a 1,000-pound limit lift for wheelchair users because our population is getting bigger, and I don't know if the right weight would be we try to put it in the code for every table that's going to be out there. It just becomes a real headache.

Greg

Okay, thank you. So, we have Dara, Arfaraz, and Carol, and Gary, are you back up for another turn? Okay. So, we have those four, and then Kevin is here. What I'm thinking is maybe we should finish up this section on features, and then break, and then come back to the scoping after. Does that make sense?

We can go to Kevin, and then come back to the scoping after that. Okay. Let's do that. So, we have Dara, Arfaraz, Carol, Gary and then we'll see where we are at that point.

Dara

So, I wanted to say I hadn't thought about hydraulics and hydronic, so I think we might need to acknowledge that possibility in this language instead of electrical. I like that point, but maybe it is a performance standard about reliability and ability to be—and, I do like the language.

But, the one that I wanted to address that I forgot in the first round is on the signage. I really appreciate that we've put in text on the sign, but we talked at the last meeting about requiring the location of those to be listed anywhere there's a directory that lists where the restrooms are. I don't know what happened to that. If you're in a huge mall or Disneyland, I don't know if there even is such a thing as a central directory. There's directories everywhere, and it seems to me—

[Speaker off mic].

Dara Yes, so it seems to me that any time there's a directory that identifies where the restrooms are, it should identify where the adult changing facility is because otherwise people are not going to be able to find it. People they ask aren't going to know what they're talking about. I just think there's no reason not to say anyplace they list the location of the restrooms, they should list the location of the adult changing facility.

We talked about that last time, and it seems to have gotten lost. So, I just wanted to reiterate that.

Greg Thank you. Arfaraz.

Arfaraz I was wondering if—well, I'm sure that Derek already looked at this, but there's an exception to in 11B-603 which talks to toilets and bathing rooms that seems to be applicable to unisex restrooms. In 11B-603.2.3, door swing, an exception to it is where the toilet room or bathing room is for individual use, and I'll forward on to the portion where it says door shall be permitted to swing into the clear floor space or clearance required for any fixture.

So, it seems like 11B-603 provides an exception for a door to swing into the clear floor space or clearance for any fixture. Would that be an accurate statement?

Derek In 603, I believe that is accurate.

Arfaraz Now, jumping to this code proposal, we say as far as the location goes, adult changing facilities shall be provided within an enclosed unisex toilet room or other similar private room. So, my question is this. If it's provided in a unisex toilet room, there seem to be two requirements that you could look to in the building code. One is under 11B-603.2.3 for door swing, and the other under 11B, the proposed requirements here for door swing, which is 11B-813.2.10, which says door shall not swing into the clear floor space of clearance required for any fixture.

Do we want to make a distinction between these two door swing requirements? Which fixtures are we talking about because this one clearly gives you an exception to that door swing?

Derek We can certainly take a look at the difference in what's allowed in the unisex toilet rooms versus what we have here. We'll definitely take a look at that.

The practical feel of this is though that these rooms are going to be significantly larger than single-user toilet rooms. The exception which allows doors to swing into the clear floor spaced and fixtures in the single-user toilet room and unisex toilet room is provided there for fairly small toilet rooms, somewhere on the order of six feet by eight feet.

Now, with this, we're looking at a room that's going to be approximately 100 square feet or so depending on the design, of course. So, that's going to be significantly larger. You're probably not going to encounter that cross-interference of the door swing right up against a lot of fixtures. It may be in that.

Arfaraz I understand that. What I'm suggesting here is we provide a clarification in this proposal.

Dara In terms of whether an exception applies or not.

Arfaraz Exactly, so that as code enforcement officials, we're now being faced with the question with here's an exception for this, and we're providing this in a single-accommodation restroom. So, which one applies?

Greg Okay. Very good. Thank you. Carol, you're next.

Carol Thank you. I wanted to validate the weight capacity. When I was looking, there are three that I just found right now that the standard is up to 400 pounds. One of them is the weight capacity up to 440 pounds, so this is something that was identified by raising the weight limit because of cost, the items that would be purchased already have a higher weight limit than we're proposing. So, I would propose that we go up to 400 pounds.

Derek Just to let everybody know, we did a similar but sort of perhaps more exhaustive search for the products that are available at this time, and while there are a few that get up into the higher weight capacities, 400, 440, the number of manufacturers that are providing those types of units now for the changing tables starts to shrink rapidly. I think it's down to one, maybe two manufacturers once you get up about 450.

Bob What's the usual range?

Derek The usual range is a minimum capacity of over 300, about 350 I think was the typical one that wasn't the bottom of the line. The full-powered adjustability, you're getting a minimum capacity.

[Speaker off mic].

Carol So, why did you make ours 300?

Derek To make sure that we captured the variety of manufacturers that were in that range. A capacity of 350 or 340 is, in the practical use of it all, not going to make much difference, but in recognizing that we also had capacity when it's on grab bars that are provided alongside accessible water closets of 300 pounds, it's an issue of making reference to other similar or dissimilar products that have a similar use.

Ida To even clarify further that we did listen to what our task force—these issues were discussed, so part of this was that understanding because the statute is not direct. It directed a static table, no adjustability. We felt that adjustability was important, so in understanding that, the weight comes into play in understanding the availability of what can be provided.

Derek Slight clarification, Ida.

Ida Sure, go ahead.

Derek The legislation says provide a table. There's no reference to static or adjustable.

Ida Oh, yes. Exactly.

Derek However, under DSA's general authority to providing access to disability provisions, which I think will be the description soon enough, the adjustability was a quality for these tables that there was a lot of support for from [audio disruption].

Greg Okay, Gary.

Gary I just wanted to clarify one of the concerns about the operation of not limiting it only to electrical because in building departments and us, we have one other area that haunts us much more than accessibility, and that's energy. Now, we're required to get all these forms that are put together on energy for every electrical equipment that's put in there. This is

something that I can see that on our side of the fence is going to be one of those situations because it's not in there.

It also gives the ability and flexibility of other sources of products because they do have the pull lifts that are hydraulic, and they work very well and are efficient. So, that was why I kind of made the comment on the electrical because we have to deal with multiple codes, not just one. Like I said, energy haunts us.

Greg Okay, so we'll get into discussion maybe some more after. This is probably a good stopping point. Carol, do you have something quick?

Carol There are multiple legal definitions for reasonable person. They're legal definitions so that is not something that's nebulous in any way.

Derek In a court of law, absolutely true, however, long before any issue gets to the court, it has to be dealt with across the counter at building departments, and it has to be dealt with and defined for the architects and other designers. So, lacking that kind of background in the legal research—we need to have—

Carol I would identify it because it is. You were saying that there is no proof or justification. There actually is a definition, and there is a legal responsibility for reasonable person, so I would like it to be considered.

Greg Okay, good. So, good conversation on a variety of things. It seems like you've given DSA some good direction on many of these. The one thing that stands out for a lot of support for is on accessories. So, does everybody pretty much support the idea of making shelves a mandatory thing? I didn't hear anybody speak against making a shelf a required accessory or whatever you want to call it. Can we kind of claim that, as an agency as a whole, do you want to send that message to DSA that a shelf could be required? I see nodding heads. Anybody—we don't want to do group think here.

Gene I move for a minimum one shelf be mandatory.

Greg So, it seems like we're not doing anything by Robert's Rules of Order I think. I'm just trying to grab the sense of the group. It sounds like you guys, as a whole, think it ought to be required. Anybody that is opposed to that?

Bob I would like to abstain. Would you need an explanation?

Greg Yes, it might be helpful just to understand.

Bob This is Bob Raymer. I represent the construction industry, but in my work day life I also cross paths with a lot of other groups, primarily lobbyists and engineers working for, in this particular case, the theater industry. I've heard very clearly from them, and also from the portion of the building owners and managers that represent some of these [audio disruption]. I want to be clear, some not all, who are very concerned that some of the mandatory provisions that DSA is thinking about go well beyond not only the statute, but the assurance from the author on two particular occasions that we would only be talking about the table.

Now, having said that, DSA has a very tough job here because if you just try to adopt a set of building standards instead of a table, they're not going to get the job done, and you're going to have to have obviously clear space around the table, and of course, the legislation calls out for the sign, but the bottom line here is you have a lot of stuff here, particularly the discussion earlier today about electric versus hydraulic or the battery or electric with battery backup. All of these are things that effectively to get the bill out of a particular committee, the author looked the theater industry in the eye and said they're never going to remove their opposition as long as she said it was just going to be a table. She did that. They removed their opposition, and the bill got out of committee. It would have stopped in committee.

So, they removed their opposition, and now, what I'm saying here is you're not going to hear opposition here today, but you can bet on the April 12th meeting in the code advisory committee, they're going to be furious. I represent the construction industry, and I understand why DSA is doing what they're doing, so for that, that's kind of why I'm abstaining here.

I'm trying to keep both sides happy. I recognize everybody has concerns here. You guys need to work it out.

Greg I appreciate that, and just to be clear, I thought I would check to see what the temperature in the room was on that. I think what we can say in the summary is the vast majority of the people believe it should be required, but there's an acknowledgement that additional requirements create challenges for some industries. We can do that.

Okay, thank you, all, very much. I will come back to the scoping piece of this after for the sake of time, although we need to take a short break. So, let's try to make it ten minutes, and then no later than a quarter of, we'll start in with Kevin.

[Break]

Greg Okay, everyone. If you'll take your seats, we'll get started. Okay, I think we have everyone. So, do you want to introduce Kevin, Ida?

Ida Oh, sure. Thank you, all, for being promptly back from our break. This is Kevin Dollison. He is with the Office of Legal Services. Correct?

Kevin That's correct.

Ida And, the Department of General Services. So, Kevin is assigned to DSA and is our legal representative. Kevin.

Kevin Thank you, Ida. Apologies to everyone for getting here late today. I had some car problems. Thank goodness for Uber, and I was able to get my replacement vehicle and get down here in a reasonable time. I have about 30 minutes. I'd like to kind of stick to that because I'm in metered parking and don't need a ticket.

Just also, my presentation I was asked by Ida to discuss DSA's authority of 4459, and I'm not going to get into—I heard you talk about some specific regulations that you were all considering. I'm not going to get into any specifics of any of that, but I'm going to share with you OLS's overview of DSA authority to do what they're doing and what you all are looking into with Ida and others to help DSA come up with better ways of implementing the legislature's mandates and policies that all building structures, sidewalks, curbs, and related facilities, which are constructed using state, county, and municipal funds be accessible and usable to persons with disabilities.

From a legal standpoint, that's Government Code 4450, which is a large statutory statement of DSA's authority. So, starting from the statutory standpoint in the legislature, the legislature obviously they make the statutes, and pursuant to that authority, they've vested with DSA the authority to come up with the regulations necessary to implement the statutes, 4450 being one of them, that helps ensure public accommodations

in facilities constructed in California meet these accessibility requirements.

So, the legislature has repeatedly expressed that California law may provide stronger disability and accessibility requirements than federal law but not provide weaker accessibility requirements than federal law. That's stated in 4450 (c). In no case, shall the State Architects' regulations in building standards provide a lesser standard of accessibility or usability than provided in federal guidelines. That's found in Government Code 12926.1 (a).

Bob

What was that again?

Kevin

Government Code 12926.1, Subsection A. I hope that is clear to everyone that the ADA provides the floor, that's the federal law—I'm going to refer to ADA as the federal, just generally that's the federal rule, the federal statutes. The ADA provides the floor of protection to persons with disabilities. The California law provides independent and additional protections.

California implements its disability access policy through building standards that require accessibility in construction to help carry out California's policy that all buildings, structures, sidewalks, curbs, and related facilities are accessible to and usable by persons with disabilities. The legislature has directed the State Architects to develop and submit proposed building standards to the California Disability Standards Commission, the DSC. That's in 4450, Subsection B

So, California regulation in building standards related to access for persons with disabilities are required to be consistent with the standards for buildings and structures that are contained in the latest edition of the selected model code as adopted by the Building Standards Commission. That's in 4450, Subsection B.

These regulations must include additional requirements related to buildings, structures, sidewalks, curbs, and other related facilities the State Architects deem necessary to assure access and usability for persons with disabilities. The State Architect has statutory responsibility to promulgate access standards for places of public accommodation pursuant to its statutory authorizations in 4450.

So, Government Code 4459 (a) requires DSA to develop amendments for building regulations and submit them to BSC for adoption, “to ensure that no accessibility requirements of the California Building Standards Code shall be enhanced or diminished except as necessary for one, retaining existing state regulation that provides greater accessibility and features, or two, meeting federal minimum accessibility standards of the ADA.”

Additionally, DSA’s authority includes buildings, structures, sidewalks, curbs, and other related facilities constructed with state, county, or municipal funds, and they must be accessible to and usable by persons with disabilities. It necessarily follows that DSA’s authority includes the ability to develop proposed building standards not currently regulated by the CBC.

Whether a newly proposed standard constitutes an enhancement will likely depend on its relation to existing standards. An entirely new building standard, which is not currently regulated by the CBC is most likely not an enhancement. However, where a proposed amendment or even new building standard addresses an element already regulated under the CBC, this most likely is an enhancement, and therefore subject to the limitations in 4459.

We believe that it’s not a diminishment where a proposed standard is an all new standard if there are no current standards against which to measure it. If you look at these codes, we look at the plain meaning of the words, and diminishment, for example, it means to reduce, to make less, to cause to appear less, to reduce in size, number, or degree. That’s a dictionary definition of diminishment.

So, how that is measured, I’m not a judge, but as I stated, when you have an existing standard if you have something to measure against, but if it’s something entirely new, then that’s a different story. It’s new, so are you going to federal minimum level or something greater than that? You can’t go below the federal level. It’s kind of a brain tease to look at these, but essentially you have to look at the known measuring sticks, which we know the floor, which is ADA, and we know the California Building Code, the existing California Building Code.

So, when you have a regulation that is touching on elements which are entirely new, then you kind of have more flexibility, I guess, is how I would view that. It’s entirely new. There’s nothing there, but if you have something that’s existing, and you’re making proposals to change that,

then perhaps you are talking about a diminishment. That's the best way I can explain how I would view the application of that code.

So, how about the instance of DSA proposing to repeal an existing building standard when it is determined that DSA considers such standards do not or no longer assure access and usability for person with disabilities. We believe that the DSA may repeal a building standard except where repeal would result in California failing to meet federal ADA minimum standards. DSA has the authority to propose repeal of existing building standards so long as the proposed repeal would result in California at least meeting the federal minimum standard of ADA.

How about when building standards are mandated by statute but may enhance or diminish the accessibility requirements of the CBC? DSA has the authority to develop proposed building standards when such standards are mandated by statute, even if those standards may enhance or diminish the accessibility requirements of the CBC so long as the application and scope of accessibility regulation in the CBC are not to be less than the application and scope of accessibility requirements of the ADA.

So, we're talking about statutes. The legislature comes down with a statute. It may not potentially say DSA do this. We feel mostly under 4450 it gives us a lot of authority to implement the legislature's accessibility policy. Under those circumstances, where the legislature has spoken statutorily, DSA has authority to implement or to propose building standards, which are mandated by statute.

I don't know if everyone is tracking with me here, or I'm speaking [indiscernible], so please say so.

Bob So far, so good.

Dara Do you want questions now or at the end of the presentation?

Kevin Let's just talk a little bit more about DSA's authority. Does the State Architect have authority to develop proposed building standards for sidewalks, curbs, and related facilities which encourage the public's right-of-way accessible to and usable by persons with disabilities? We believe that they do. DSA does have that authority. Although Section 4450 does not define related facilities, we believe that [indiscernible] by locations are sufficiently related to the Office of the State Architect's expressed jurisdiction to include that what's in their regulatory authority.

Does the architect have the authority to develop and adopt regulations other than building standards for making sidewalks, curbs, and related facilities which occur in the public right-of-way accessible to and usable by person with disabilities? Yes, we believe that DSA has the authority to regulate that as well. That forces your rulemaking authority to come up with the proposed regulations, and those would be adopted by the Building Standards Commission. This is largely under your broad statutory authority under 4450.

A specific example of a limitation of the State Architect's authority is in regards to traffic control devices, for instance. The State Architect likely does not have authority to develop proposed building standards when such building standards regulate traffic control devices. I think that authority has been delegated to the Department of Transportation, and they come up with their own regulations.

Let's let all that hang out there, and if you have some questions.

Greg Let's go with Gene, and then just use your cards, and I'll try to catch them.

Gene Three questions. In the 4459, I think it was in B that you mentioned the model codes that DSA [audio disruption]. It seems from what you were saying that the jurisdiction is that your ADA [audio disruption] is the model code rather than the access. Is that correct? The model code, in this case for Chapter 11B would be ADA 2010.

Kevin I believe it's the 2010 model code, yes, but that, as you know, will periodically get updated, and as that is updated, DSA has the authority to promulgate rules in order to promulgate the current rules in line with the most recent model building codes.

Gene I have to deal with many concrete terms. Let me use the—from my understanding in the past, going back to 2010 or so, DSA's interpretation was that no, DSA cannot introduce a regulation in the building code if the subject like let's say adult changing facility was not in the ADA. If it was in the ADA, then they could develop a new building code.

Now, I'm just trying to understand can DSA absolutely make use of [audio disruption] not in the building code or in the ADA? In other words, update the building code with newer technology. I don't know if that makes sense.

Kevin It does. Let me look at my notes and make sure I have my—in the past, this was a specific term. If it's not in the code, it's our understanding that DSA has authority. It's like an implied authority to come up with up regulations that address things that you're talking about. I'm trying to find in my notes my specific reference to enhancements if you give me a second, but it's our understanding that they have authority to make those rules.

Gene So, it could be something that's not currently in the building codes or in the ADA, they could introduce something new to add to the building code.

Kevin Sure.

Ida Just to address, we did with variable message signs, they're not in the ADA, and we introduced them for the building code. They're an ANSI and so if we see it as 4450. If it's an accessibility provision we can include it if it's not in the building code.

Bob Well, let's use adult changing facilities.

[Speakers off mic].

Gene --regulatory process, and we've been stopped in the past, but we couldn't go because it was not in the ADA. They said it had to be in the ADA, then we could put it in the building code, but if it's not in there, no, you can't get it.

Ida Gene, I'm sorry, I'm not sure because I've only been here for a year, so I know that from that point, so I'm not sure how far back that was.

Gene I think it was around 2010 or 2008. This is not directed to you.

Ida No, no, no. I didn't mean it was directed. I just wasn't familiar with it. All I know is that we did proceed with variable message regulation and electric vehicle charging stations, so we have done it. So, that's why I'm not sure how to address that in the past.

Kevin, also, how long have you been our—

Kevin A year.

Ida So, he may not also have that history on that.

Gene [Speaker off mic].

Ida Sure.

Gene [Speaker off mic] other related facilities because some of us think that the traffic control push button should be a shared thing that the Department of Transportation because it is talking about how high the button has to be off the ground and having it located rather than its operation.

Kevin Yes, in regards to traffic control, I think that it's our opinion that that area has been assumed by the Department of Transportation, clearly in statue, so that's not an area that the DSA has authority to regulate.

Gene Okay, then I would just ask, not now, but if sometime if you don't mind, Ida, if Kevin would [audio disruption] to help me and others I think demonstrate that.

Ida Sure.

Gene Thank you.

Greg So, in short, it sounds like the historical reference that you're referring to, Gene, it sounds like subsequent to that, DSA has moved into things that were not in the code. So, that's what I hear you saying.

Ida We do have provisions for traffic control devices in the code right now. When were they implemented, Derek? Do you know how long ago?

[Speakers off mic].

Ida So, in this, we had discussions with our legal on our authority because we have those questions that arise, so we have discussed this with Kevin, and that's where in his research they've determined that that's not a related facility I guess because of the expressed statutory authority for the Department of Transportation. Correct, Kevin?

Kevin Yes.

Ida That's our initial one, which is why it's on our list to have it removed because we don't want to be outside of our authority, but I understand,

Gene, your question. You're saying other related facilities clarified. That still may be related but a different issue.

Greg That's good clarification. I was actually referring to the previous part of Gene's conversation where you're saying yes, we have gone beyond to create new stuff that's not in the building code or in the model statute. So, that's the current practice so any kind of historical sense of that couldn't be done has been superseded—

Ida Right, within our authority.

Greg Sure. Okay, good. Dara, you're next, and then Bob.

Dara Just a follow-up on this discussion. Currently, are there any the DOJ has, any codes affecting those traffic signals and accessibility?

Ida DOJ?

Dara DOT, sorry.

Kevin Vehicle code 21-400, Subsection (a) (1), I believe addresses their authority to red lights, stop signs, yield right-of-way signs, [indiscernible] restriction signs, railroad warning approach signs, street name signs, and lines and markings that are on the roadways.

Dara We were talking about something different, which is markings on—

Kevin Now you're getting into specifics, and I'm here to just give you the overview of the various agencies' authorities and kind of how we see it. That's a legal DGS, OLS opinion. DSA may have a different taken on the statutes and their authority than what we have. We can't—we advise agencies, but we don't define them. We just advise them, so in regards to DOT's authority in that regard, that's the specific code section.

Dara Sorry to interrupt, but what I was asking is you have a set of standards currently that affect accessibility on things like street-crossing lights and so forth.

Ida That's the one, the pedestrian traffic control.

Dara Pedestrian control.

- Ida That's the only one we have in the code right now that relates to a traffic device.
- Dara Are there any similar, that you're aware of, provisions that DOT has adopted that provides accessibility around traffic control devices or whatever?
- Ida Not personally, though I know Derek's been understanding this a little bit more than I have.
- Arfaraz [Audio disruption]. There's a California version which is the [audio disruption] that speak to those specific requirements—
- Dara About accessibility.
- Arfaraz They do cover some accessibility requirements there.
- Gene However public right of way guidelines to draft [audio disruption] transportation to locals go ahead and use this for guidance to the work you do. In there is the pedestrian push button devices. So, it would seem that that's a gray area. I think there should be more discussion about it being that the feds have said it should be officially adopted and still used as a guideline for your practice of regulation.
- Greg Go ahead, Dara.
- Dara I agree with Gene that we probably need more discussion before it's just pulled because it seems to me it's in a gray area competing with our authority, and I'd be really concerned about gaps between the two agencies. I want to make sure that doesn't happen. The other point I want to go back to is you said that they can't diminish existing access. Correct, under 4459?
- Kevin They specifically—it says in the statute they contemplate diminishing it, but there are limitations. It's not unlimited ability to diminish. There's a limitation to it.
- Dara Right, but they can't go below the existing building standards for access, and they can't go below the ADA, right? Aren't those the two parts of the provision?

Ida The existing building standard would have been technically the standard when that law was passed. It's not essentially cumulative, which I believe was around 2001. We've asked the question of Kevin if statutory says it's framed and it's given some kind of evaluation because the diminishment can't go below the federal minimum but where California is greater. It's not necessarily the diminishment of the regulation itself, but in understanding that if we need to diminish a regulation to provide greater access that that wouldn't prevent that condition.

So, there's the constant valuation of being able to determine whether what we're proposing, whether it's removing a regulation or not, is in the intent of providing greater access.

Dara So, when you said you could repeal something, only if the repeal provides a greater access, and it doesn't go below the 2001 standards or the ADA.

Ida No. Even the 2001 standards—when it says—well, I can let Kevin explain, but when we had our discussions, it was like the diminishment is not going from one inch to one-half inch. It's the regulations as a whole in providing access. If we think that a concept that something can be perhaps better stated, adjusted even if the provision is the diminishment if, in doing so, provides greater access.

There's the difference between the diminishment of a requirement, which is measurement-driven or a concept where repealing a provision in its entirety because doing so either it's no longer applicable or prohibits greater access.

We have discussed that in the future we're looking at detectable warning devices to clarify the requirements. California likely won't get rid of them entirely, but in understanding their application, their scope, in clarifying the requirements, the measurement is not as to whether or not an individual requirement is diminished. It's an understanding that in the applicability of detectable warnings as they are, what can be evaluated and adjusted so that greater access is achieved.

Does that make sense because like the ADA does not have detectable warnings, but 2001, we had detectable warnings, so we're likely not going to get rid of them because we can't do that, but—

Dara You could modify them.

Ida We could them modify them, so an individual requirement may be diminished to achieve overall access. I guess that's the best explanation.

Arfaraz Like the 12-inch groove on the—

Ida Exactly. That's another one. The 12-inch grooves were no longer perceived to be beneficial, so they were removed even though they were as a standard in 2001.

Arfaraz They were not reducing access.

Ida Exactly.

Arfaraz Because we have detectable warnings that provide that same function.

Ida Exactly. Thank you.

Greg Dara, did you have others?

Dara No, that's it. Thank you.

Greg Okay. Bob.

Bob Listening to the presentation, by the way, I know how difficult that is to try to do in a short period of time. You did make about a half-dozen references to 4450, but none to 4451, and the reason I bring that up is that in addition to representing the construction industry here for almost four decades I've represented the building industry, the residential building industry, and we have a very strong interest in the codes that apply to public housing and the codes that apply to all other housing.

In the early 1990s, plaintiffs, namely the Berkeley Independent Living Center, took great issue with an old and ridiculous definition within the code that was adopted by both HCD and DSA. It used to be called OSA back then. Basically, the issue is they were taking exception to the definition for publicly funded because the definition effectively said what the publicly funded wasn't. That was all the definition had. The public funding shall not be blah, blah, blah.

The plaintiffs in court won, and the case was appealed, and the appellate judge in 1996 basically ruled once again in the favor of the plaintiffs, but

in doing so he said look, you raise a point here. This is a bad definition, and he agreed.

He also went on to say it's a bad definition but not for reasons that you cite because 4451 being enacted at the same time as 4450, you need to look at both of these sections of the law simultaneously, and in doing so 4451 makes it very clear that the DSA, if the regulations are limited for or intended for public use, and His Honor said you're correct. It's a bad definition, but not for the reasons that you state. DSA should be focusing on housing that's intended for public use.

Although it was a very short decision, he kind of basically laughed at and focused on an example that was given for single-family dwellings. Certainly, you could have halfway houses, drug rehab centers, temporary housing for veterans that's intended for public use. That absolutely needs to comply with DSA's access regulations. The question here is going beyond that, and that will be an issue that we're discussing after lunch and at the April 12th meeting. So, for us, 4551 is also a very important provision and statute.

Not that I'm asking for questions, just I feel sad that you didn't mention 4451.

Kevin

Well, I wanted to touch on that, but given time limitations, I didn't quite get to that point, but DSA's authority in regards to I think housing, public housing, is Government Code 12955.1. It has the authority under that statute. Again, statutory authority is the highest authority that an agency can be given in California, so the statutory authority in 12955.1 (c) to come up with these regulations in regards to public accommodations. This says the Department of Housing and Community Development for all other residential occupancies.

Bob

In that response, as I'll probably do this afternoon, 12955.1 (c) and the related sections were first brought into statute via Senate Bill 1234, passed back in '92. It was sponsored by the Association of Realtors, strongly sponsored by the Association of [indiscernible]. We did sponsor and strongly supported the bill, and it was a conformity bill. That so often happens with tax codes, civil rights provisions at the federal level. California almost always does conformity bills to make sure our state mandates, our state statute is up to speed.

This particular bill, SB-1234, was put into place to make sure that the State of California statute either mirrored or was more stringent than the federal Fair Housing Amendments Act of '86 that had just recently been passed and that we'd been working on. So, as you look through all of that 12955.1 (a), (b), (c), (d) you'll see mentioned again and again covered multifamily dwellings. That's where it came from.

So, in looking at the context of public housing, you need to look at the 12955.1 (c). You also need to look at 4450 and 4451. They don't work separate of each other. They all work in combination with each other, and that will be one of the issues that we'll be raising on April 12th.

Greg

Okay. Dara.

Dara

I appreciate, although I disagree with beyond today's discussion some of what Bob said, but I just want to say that because the ADA covers all programs of public entities, that encompasses public funding so the discussion about public funding becomes almost irrelevant because if you have a public housing program that includes funding, it's now covered by 11B under the ADA.

So, I think to some extent, the references to 4451 in that discussion no longer matters because all that gets picked up under housing programs services of a public entity, which are covered under the 2010 standards. So, they're all encompassed anyway. So, I just want to say—I don't want to get us too sidetracked and whatnot because it doesn't really matter because 11B is going to apply anyway because of the ADA's broad coverage.

Greg

Okay. Any other questions for Kevin or, Kevin, anything else you want to lay out to the group?

Kevin

No. I hope my presentation was not too unclear or [indiscernible] for DSA and Ida, but this is a confusing and often conflicting area, and I did want to point out one thing in regards to 4459. There is current legislation pending in regards to that which is still pending as we speak. In regards to that diminishment clause, in regards to that, there's no legislative analysis in that clause, so we often look to legislative analysis to give us some indication of what the legislature intended or wanted to do. That's not there, so we're doing our best to come up with reasonable, logical, legal opinions to define it.

- Dara What's the bill? You said there's a bill pending.
- Kevin From my understanding, there's some legislation out there. I'm not sure.
- Ida We've had the question, but I don't know that it's been—
- Kevin I'm not sure.
- Ida I think it's just—I don't know that it's been actually introduced or anything.
- Kevin Oh, I see.
- Ida It's a question that's been addressed, but—
- Kevin I thought I'd just share that there's—4459 is an interesting piece of legislation, so on that note, I better go move my car and avoid that \$60 ticket. I'm a state employee. I don't have that kind—
- Multiple People Thank you.
- Greg Okay. Then, at this point, until we have lunch in about 30 minutes, we should go back to finish up the changing table conversation if we can before lunch.
- Derek So, I think where we last left off before the break is I think we were wrapping up discussion of the technical requirements for the adult changing facilities. We're ready to go on then to the scoping provisions.
- Now, the scoping provisions are on the first page of this item. That's page 35 of your package. Here DSA has maintained the definitions as we have all along. We did make an amendment to the scoping section under 11B-249.1 [ph]. The previous draft of this item included a far distant in time triggering for scoping for adult changing facilities in places that were undergoing alterations. We heard some comments back from the ACC at our last meeting that this would probably be best withheld until we got closer to that trigger date and then introduced it in a subsequent rule next cycle.
- So, right now what we have for scoping in 11B-249.1.1, this is the general provision where adult changes facilities are provided. Each adult

changing facility shall apply the Section 11B-813, and then in Section 11B-249.1.2, here this addresses newly constructed commercial places of public amusement shall provide an adult changing facility in compliance with Section 11B-813.

So, we've tightened up the scoping here. We hope that the language is going to be more understandable. There were some concerns that said hey, what happens if a facility, they satisfied their requirement for one adult changing facility, what happens if they want to add another one. Well, in that case, then they would be obligated under Section 11B-249.1.1 to provide that additional facility in compliance with the scoping and technical requirements for the adult changing facility. So, those are going to be usable up to the requirement that we're discussing today.

Okay. So, are there any questions on the scoping or comments on the scoping portion?

Greg

Dara.

Dara

One is actually in the prior definition section, and it's just a suggestion, which is instead of saying who need help with, can we just say assistance with? I think it's a preferred term, but that's just a personal preference. I don't know if other people have an opinion about it, but it just feels a little more respectful to me.

Kaylan

I would agree with that.

Bob

What are you proposing?

Dara

Change the word help to assistance.

Greg

Under the adult changing facility definition?

Dara

Yes, I think it sounds a little—

Greg

Defining that.

Dara

Other people.

Greg

Everybody seems to be nodding their head on that.

- Ida Can I just add that in this definition where it says adult, if you notice the definition does not deal with just adults only. It says persons with disabilities because that was a concern. I think for us, it's just assistance keeping in mind this legislation but also clarifying the difference between a baby changing table and an adult changing table.
- Derek I did neglect to mention that, yes, we also amended the definition of adult changing facility to get rid of the phrasing about needing help with diapering, and it says personal hygiene. Again, the intent being just a little more neutral.
- Dara I think that's great. I like that it's opened to people with any kind of disability, so it's good phrasing. Then, my question—sorry, I just was starting there, but going back to what we were discussing, what happens if there are significant alterations to a place of public amusement, and they have to provide an adult changing facility in the future.
- Derek In the future, we have to plan to comply with the legislative requirements for adult changing facilities and their provision. We have to plan to add an additional scoping requirement for facilities that are undergoing alterations. That's consistent with the legislation, but as we had discussed in prior ACC meetings that right now is a little premature. That's why we include that paragraph on scoping.
- Ida Derek, can I clarify? So, if a facility has an existing adult changing facility and is altering it, 249.1.1 would require that alteration to comply with 813. I think that that might answer your question.
- Dara That's not clear language because it says an existing commercial place doesn't have to comply, so I'm confused.
- Derek Hold on. The exception here, and we've had this before, but we'll go through it again. That's fine. It says that an existing commercial place of public amusement that has an existing adult changing facility in compliance with Section 11B-813. In other words, it has to comply with these new technical requirements that we're proposing now.
- If it's already in compliance with that, then they've met their obligation under statute, so then—actually I see we need an edit here. I need to strike that reference to 11B-249.1.3. That was the section that we deleted. We'll get that out of there for the next revision, but if they've already met their statutory requirements to provide at least one adult changing facility,

then it doesn't obligate them, the commercial place of public amusement, to provide another one and another one and another one each time that they come under the regulation, the building code, in a newer alteration process.

Dara So, going back to my first question, I'm not still not sure why we're not addressing alterations now, but if we're not, I need to understand when because I think leaving it open-ended that we're going to do this at some time in the future means a great deal of things will be altered without including this changing table.

Derek Well, when you say things being altered, I'm understanding that to mean the overall commercial place of public amusement is being altered.

Dara Yes.

Derek If, on the other hand, you mean when an adult changing facility, and existing adult changing facility is being altered, in that case, then they're going to have to comply with 11B-813. In the prior, if you're just talking about an overall facility, Disneyland being altered, and if they already have an adult changing facility that's in compliance with 11B-813, then that's what that exception addresses.

Arfaraz Wouldn't that exception also apply if it did not have an existing adult changing facility in compliance with 813?

Bob Not until 2025.

Arfaraz So, we're talking about the 2019 code cycle.

Derek Right, so that's beyond the 2019 code cycle, and that wouldn't be the same.

Arfaraz What's the rationale for including the phrase in the exception? What's the rationale for including with an existing adult changing facility in compliance with Section 11B-813? You can just delete that.

Derek We can't because the statute specifically tells us this. It tells us that if the place of public amusement has an existing adult changing facility, they're not required to provide additional ones.

- Arfaraz But, isn't the statute also telling us that it doesn't apply to existing commercial places of public amusement until 2025?
- Derek The exception is going to—no. There's actually two portions that are addressed in the statute. One of them is a trigger date, and then the other one is the exception for the existing adult changing facility. So, the trigger date makes it mandatory that a place of public amusement provides a new adult changing facility when they undergo alterations as of 2025. Now, if they already have one, then they don't have to provide—
- Arfaraz Then, the exception doesn't apply to them.
- Ida What this is saying is a place like Disneyland has adult changing facilities, however, their adult changing facilities don't comply with 813 right now. So, if they're going to be remodel that adult changing facility, it's going to need to comply with 813 when they remodel. Then, they already have one, so later on, in 2025 when they do an alteration that's not of the adult changing facility, they already have one in compliance with 813. They don't have to provide another one.
- Arfaraz Using Disneyland as the example, they already have an existing adult changing facility, as you present it doesn't comply with 813. The only time they'll really be required to comply with 813 before 2025 would be if they were actually intending to do any kind of alteration to that existing facility.
- Ida Correct.
- Derek That's not the only time, but that's one time.
- Ida Yes.
- Derek The other time would be if Disneyland says hey, we understand that our customers would like more adult changing facilities, so we're going to elect to build, for example, two more. In that case, then they're going to have to come under compliance with this scoping section, 11B-249.1.1, which is to say when they're provided, the two new ones, that they have to comply with Section 11B-813.
- Arfaraz The only reason Disneyland would have to upgrade their old one, their existing one, with 813 would be if they were actually intending to do some work within that old, existing one. There is no obligation—

Derek Yes, because Disneyland is an existing facility, so they can't newly construct their facility, so they would come under—if they were altering their existing adult changing facility, it would have to be brought up to—

Arfaraz New construction, as with everything.

Derek If after 2025, or as of 2025, if they are altering their existing Disneyland facility, then they're going to need to upgrade any that aren't up to the standard of 11B-813. That's based on a future action of DSA, and that's currently required under statute, and so I would hope that people won't be skeptical about DSA's commitment to following through, but it is statutory, so whether we follow through or not, it's still required by the statute.

Arfaraz Derek, just so you appreciate the only reason I'm trying to drill down on this is to see how we, in the code enforcement role, would need to enforce this when, for example, let's say there is a single-accommodation restroom that happens to have an existing adult changing facility in it is triggered under 11B-202.4 as path of travel element that serves the area of alteration. Are we requiring that single-accommodation restroom with the adult changing facility to be brought up to code, not only to comply with Division VI regarding toilet facilities, but also 11B-813 given that it has an existing adult changing facility?

Derek It's a good question, definitely. The adult changing facilities are not path of travel, so it's separate. If they are just simply an adult changing facility, then they likely would not be triggered. Of course, it's going to be interpretational. We can work on the language and hopefully bring some clarity to that—

Dara Are you saying they don't be on an accessible path of travel?

Derek No. Path of travel is a term of the ADA and the California Building Code. We apply it differently in the California Building Code than they do in the ADA Standards, but a path of travel includes an accessible route, which is a lot of times people think of it as the path to get you to where you're going, but unfortunately by thinking about it like that, it sometimes confuses with the terminology path of travel.

So, under the building code, it tells us that when you're making an alteration to a part of an existing facility that you need to make sure that

any toilet rooms that serve—at least one set of toilet rooms that serve the area of alteration are compliant with the current requirements, that you're entrance that serves the area of alteration is compliant, that your telephone, signs, and drinking fountains, that those that serve the area of alteration then are complaint with the current requirements of the code.

Now, it's subject to a certain number of exceptions. There's limitations.

Dara All of those requirements link to toilet rooms, the unisex toilet room requirement, right? So, if you put in an adult changing facility and another similar private room, does that mean it doesn't have to have an accessible route to it?

Derek No. An accessible route is required to connect any accessible features when you're building your facility. So, that's a basic requirement, and it's outside of the path of travel requirement. So, yes, you absolutely have to have an accessible route to get to it.

Dara Okay. Then, another question I'm just trying to think about in terms of alterations. I didn't think you were going to do it, I just thought it'd be helpful to know kind of what the timeframe is for doing it, and I'd still like to know that, but I guess what I'm trying to figure out is I don't know what it means to tap out alterations in new construction in a place like Disneyland where there are kind of like hundreds of buildings being constructed, de-constructed, altered on my guess is probably a constant basis. So, any time they do any of those things, then they have to ensure there's a place somewhere on the ground that needs to include an adult changing facility.

Derek Once they get one in there, it can be satisfying that requirement.

Dara I'm talking about if they don't have one yet.

Derek Oh, then once these, whatever the derivative is of these requirements for adult changing facilities, once these get placed into the building code, then yes, that would be checked. Anytime they do something that requires a permit by the building department, which is typically what is [audio disruption] to code. Of course, for projects that don't require a permit, compliance with the code, if it applies, is still going to be required.

Arfaraz Derek, it might be useful to just share the definition of alteration in Chapter 2.

Derek Sure, I can do that.

Arfaraz That might help answer Dara's question, I think.

Ida Understand that we decided to wait to address the alteration portion because it doesn't trigger until 2025 to further investigate how these are being implemented in a new manner to see if we need to make any adjustments before we require them because the alteration threshold in the statute is a \$10,000 alteration, which would require if one was not already provided to provide one.

So, really the building code is applicable by date, so the 2019 and January 1, 2020 to say after 2025, it seems a little odd in the building code context because that would be in a future building code It does give us a little more time to address, see how they're working and address—

Kaylan There's room for misinterpretation.

Ida There's misinterpretation, so we have the ability to address before we tell them what's required for an alteration since it's not going to kick in until later.

Greg Just to manage this conversation a little bit, Gene and Bob, you both raised your hand recently. Is that on this specific issue?

Bob A different issue.

Greg Then, Gary, is yours on a different issue, or on this?

Gary On this.

Greg Okay, so then you're next. Then, Gene, and then Bob.

Gary Okay. I had similar comments as Arfaraz on your alteration to a building and along the path of travel, and I was going to indicate that the designer is going to be able to put it in based off the 20% requirements for elements along the path of travel. But, then you threw in a stump on me indicating that there wouldn't be a path of travel obligation. So, better clarity—

Derek The obligation as it applies to the [audio disruption] is intended for general accessibility to get access to the most people. Our language doesn't really

clarify, and we're going to go back [audio disruption]. Our language doesn't distinguish as to what happens when you have an adult changing facility within a single-user toilet room, a unisex toilet room. We'll dig on that.

Gary Okay because that's when I was looking at was the 20% if everything else is compliant along the path of travel, and this would meet the 20% or the architect could write that in or the CASp is putting together the construction form that utilizes it as 20%.

Ida I think what we have to be cautious of is that obviously be mindful of existing legislation on the adult changing facilities and also understanding that for the toilet facilities it really is for the use of most individuals with independent access. So, as a facility that needs to be upgraded on the path of travel, we have not done a sufficient study on that to introduce that as a requirement right now.

[Speaker off mic].

Ida Well, it just would take a lot of study, and we need to clarify what those requirements are.

Gary I understand, but it's good to hear because I have to reach out to all the building departments and to explain.

Greg Gene, you're next, and then Bob, and then Carol.

Gene I'll follow Bob because it has to do with alterations, but slightly different.

Greg Okay.

Bob Just in terms of for those of you who aren't familiar with the adoption process here, as was mentioned on the first meeting, we update the code every 18 months. This first set of standards that we're dealing with right now, we're getting to the conclusions for the informal adoption process. That will be the codes that take affect in January 2020, but after that, we have three more updates prior to the 2025 date. Those will be set to code to take effect in July of '21, January of '23, and July of '24. So, there's plenty of time to get it right before the January 2025 deadline comes.

From a practical standpoint, we're going to be looking at the new stuff, sort of as the guinea pig to work out the bugs because applying this

particularly in some tight constraints in existing facilities at such a low threshold, there's going to be a huge constant. It's going to be good to see how this stuff works out in new construction, but believe me, we know it's coming.

Greg Okay, Gene.

Gene I actually have a quick one for the alteration of the next code cycle. I heard you say that Disneyland actually has adult changing, but it's not clearly defined. Is that correct?

[Speaker off mic].

Ida Actually, Disneyland does have adult changing facilities right now, but there's no compliance for them because there's no standards set in place.

Gene So, we don't know whether they're compliant with—

Ida No, no. Exactly. They have some, but there's no compliance measurement right now because we're discussing the standards in California.

Gene This kind of reinforces something Dara brought up earlier this morning about the directory to where facilities are because last December, I went to Disneyland for close to five days. I was looking at access. It was just vacation, but actually—

[Speaker off mic].

Ida Our brain just works that way.

Gene But, in talking to the customer relations people there at the front, we were asking about sometimes I have to use a single-user restroom, and because of the discussions we had heard about adult changing, I asked if they had one. The people said no. I had to explain what it was.

They understood [audio disruption] single-user one, and they worked so hard to find—so, I'm just saying if there really is one down there in Anaheim, then there should be something that even if it's not new construction that even if you do have an existing one, putting it on the directory so that people can find it. In the scope, as desirable as it should be, at least there's an option to go to—

Greg Excuse me, I was noticing earlier on the top of page 37, Dara, I didn't know if you'd noted that on the top of page 37, I think that addresses that. Did you see that earlier?

Dara It doesn't address it because it only talks about providing it on a central directory as opposed to any place there is—

Greg Okay.

Gene The park does have multiple—

Dara You look at directories, they're all over the place: big ones, little ones, there's signage, they all say where the restrooms are. But, unless they say where the adult changing facility is—

Greg It should be on all directories, not just a central directory is what you're saying.

Dara Correct.

Gene Single-user should be on those directories because—I'm just using Disneyland, and it just—staff doesn't know about it really. So, anyway, that's not part of it. I'm just saying having it there even if it's not [audio disruption] even if it's not new construction, to have that directory is—

Ida Just to clarify your point, Gene, I'm not sure. It's my understanding, and I could be wrong, that Disneyland offers their adult changing table in the first-aid center, so depending on what you were asking maybe they weren't aware of the table part of it. So, I'm just saying that, but that's what we understand.

[Speakers off mic].

Ida Near the first-aid station.

Dara All the more reason for directories.

[Speakers off mic].

Gene First-aid facility right there at the entrance.

Ida I'm just clarifying what we know of it in our studies. Kaylan, you were going to—

Kaylan It's at the first-aid location, but they don't use that term, so there's some training that needs to happen.

Greg Thank you. Okay. Carol, and then we'll see. We may be finished with the changing facility. Carol.

Carol What I'd like to see added to this is there should not be a baby changing table within this room. One of the things that I was concerned about because there is a law that says a baby changing table can't be within a room; it can be in a stall. So, when you come in here, if you have a baby changing table, and it's deployed, it will impact the ability and the maneuverability or accessibility of the individual within that.

Greg Alright.

Arfaraz Can I just add, I don't think an adult changing station can be located in a multi-accommodation restroom based on what's being proposed, right?

Derek It would have to be in—

Arfaraz In a single-accommodation.

Derek --or a similar—

Arfaraz Or, a similar private room.

Derek Yes.

Arfaraz So, unlike a baby changing station, which you do see in multi-accommodation restrooms, these adult changing tables will not be in multi-accommodation rooms.

Carol But, I would see is that it wouldn't prevent someone from putting one there.

Ida I think the answer to your question, Carol, is that we do allow baby changing tables in single-user restrooms, however, we are pretty clear that it can't deploy to obstruct something.

- Carol But, nobody complies with that.
- Ida Right, but the regulations are there. We can only address the regulations of how they are operated and maintained at a facility. It's not something we can control.
- Carol So, what you're saying is this would fall under that rule.
- Derek The rule is basically a performance-based requirement, and it tells you that when deployed, because we understand the failure rate of the more economical baby changing table unit, then a lot of times they just can't be held up any longer, so they're always—
- Carol Or, people just leave it down.
- Lewis That's fairly new. It used to be you could put them anyplace, but recently it's changed to where they can't be on the accessible route, they can't block any clear floor space, and that's—
- [Speakers off mic].
- Ida To clarify, it's required to be on an accessible route. It cannot block the accessible route.
- Lewis But, in older ones, they could be put anyplace, so long as they weren't blocking, so you still see them.
- Carol Correct, but what I'd like to do is make reference to what it states somewhere else so that you then say—you know how you say this has to comply with the regulations of blah, blah, blah. I'd like to have that included within here so that it's not assumed you can place that anywhere, a baby changing table.
- Derek I understand your comment.
- Carol I don't know what the number is, but if it can be included in there as part of that, that would really be appreciated to protect the safety of everybody.
- Greg Jihee.
- Jihee My opinion about that is where the baby changing station [audio disruption], my opinion is the likelihood of seeing those things adult

changing center will be very small because people with a baby they see that there's a table much larger and spacious, I don't think the facilities will need to install a baby station there, so the likelihood of seeing that in new adult changing stations is very minor meaning we put less in the code. I kind of have different opinions about that.

Gary

Ditto.

Greg

Anything else on this topic. Okay. Are we good on the transfer shower piece?

Derek

No. Actually, we do have a figure that we've developed that addresses a typical adult changing facility. What I'd like to do is over the lunch hour have that projected up on the screen just so you can take a look at it. We had hoped to get it into this presentation a little bit more.

[Speaker off mic].

Derek

Sure, but just understand that it's only a diagram. It illustrates some of the requirements of the code.

Greg

We can do that today. Put it up. There's no reason we can't do that. Okay, good.

[Speaker off mic].

Ida

Lunch is in here because our other room with the window is being used.

[Speaker off mic].

[Break]

Greg

I think Derek is going to pick back up as I understand it on the transfer shower code. Is that right?

Ida

Did you want to address any comments on [audio disruption]? Are there any questions? This is not regulatory, but it's [audio disruption] if anyone wanted to address any questions or issues. I think we covered them because I know that we talked about them during lunch.

Okay, let's continue. Transfer showers.

Greg

If you can make sure to refer to the page number, that'd be great.

Susan

We are going to start on page number 17 of the document. Since our last ACC meeting and during our stakeholders' forum, there were just a couple of comments on the transfer shower. One of the things is on—there we go—one of the comments that came up was this is the table for how you figure out number of rooms with mobility features, so this is how the current code language what it states, so Jess, if you don't mind scrolling, and we'll take a look at what basically the comments that we're responding to is rather than just saying that for 1 to 25 rooms that only one room would be required with mobility features.

What we're saying is if you have 1 to 25 hotel rooms that what you would have to do is have one room that would have a roll-in shower, and then the other room you could have a transfer shower or a bathtub, so as I said we responded to the comments from one of the advocates, and he said we feel that if you don't still require at least one room with a transfer shower and then one room without the transfer shower, they saw an issue with that.

So, let me step back a little bit because what we were going to do is we were thinking of aligning this table with the requirements and what it says in the 2010 ADA Standards. That would only require one room with mobility features in hotels if you have 1 to 25 guest rooms, but in California what we've always required is that you only had to have one room that had mobility features, but that room would required to have a roll-in shower or an alternate roll-in shower.

So, we have one room in California. Then, the requirement would be for an alternate shower. However, when you look at that 2010 standards, it says minimum number of rooms that would be required without roll-in showers, it would only require one room, and that one room could either have a transfer-type shower or a bathtub because the 2010 ADA Standards allow for a transfer-type shower.

So, then what we talked about as we looked at this and were wanting to stay at that same level on what would be required in California, we're now proposing that if you have 1 to 25 rooms, you can have one room without a roll-in shower. So, you can see when we scroll down, you see there's a footnote there that says you can provide either a bathtub complying with Section 11B-607 or a transfer-type shower complying with 11B-608.2.1, and then you'd also have to provide a roll-in shower.

So, that's the only change that we made to this table for—oh, we had proposed a third note previously in our language, and we determined that by taking it back to one room with a transfer shower and one room with either a bathtub—I'm sorry. One room with a roll-in shower—see I have the transfer shower in my brain. So, one room with a roll-in shower, one room with either a bathtub or a transfer shower. Then, we had footnote number 3, and then we realized we no longer needed that footnote number 3, so basically now this is what we're proposing and the way that it should read.

If you have 1 to 25 rooms, two of those rooms will have to have mobility features. One room would be required to have a transfer-type shower or tub, and the other room would have to have one of the two different types of roll-in showers.

The other reason that we put those footnotes in there even aside from making this change and incorporating the transfer-type shower, what we were finding, and we would get calls every now and again from code users, and what was happening is some of these older hotels when they were making modifications to the hotels, they would get rid of the bathtubs completely, and the only thing that they had in the entire hotel was a roll-in shower because they thought that that was a better alternative, and they didn't realize that when you looked at this table, it was required when you were doing a modification like that, let's say you had four or ten rooms that were required.

Well, what they would do is they is say well, I'm just going to make all ten of those rooms with the roll-in showers and not realizing that that is not correct. They would not be in compliance with the 2010 ADA Standards, and they wouldn't be in compliance with the building codes because you'd have to have seven of those rooms, and the way it is right now in the California Building Code, seven of those rooms the only alternative that you would have would be a bathtub because right now in California Building Code, you don't have the alternative of either a bathtub or a transfer shower in those minimum number of rooms required without roll-in showers.

So, that was our other reasoning for including the footnote there so people understood when you look at that first column, you do either a bathtub or a transfer-type shower assuming the transfer-type shower in the code change proposal is approved by the Building Standards Commission, or if you look at the next column, then it says you can provide either a standard roll-

in-type shower or the alternate roll-in-type shower. It looks like we have something that we need to correct there because it looks like it says alternating. We have a little spelling error.

Ida Sue, just to clarify, 26 to 50, those ones should not be italicized, right, because that does meet the minimum standard. They should be straight up, right?

Susan Right.

Ida I'll write that note down.

Susan Then, the only other change that came up when we went before the stakeholder forum is on page—it's the requirement for the seat, and that's on—

Greg Is there a question about this part?

Dara Well, yes. I'm looking at the 2010 standards, and I thought for 26 to 50 they required two rooms without roll-in showers and one with a roll-in shower. Oh, so, maybe that's why they're italicized.

Susan On the 26-50?

Dara I thought the total was supposed to be—

[Speakers off mic].

Greg So, before we go to page 55 though—

Ida Let's discuss—go head, Greg. I'm sorry.

Greg So, you're seeing something that says they should be one and two rather than one and one for 26 to 50?

Dara Yes, two and one.

Greg Two and one.

[Speakers off mic].

- Susan Actually if it's 1 to 25, if you went by what's required in the standards, you'd only need one.
- Ida The reason why we didn't do that is to maintain the integrity of the ADA. The state requirement is implied. You're saying, Dara, which I don't have ahead of me right now, but that it's a minimum of two without—
- Soojin ADA has two rooms with a transfer shower or tub, so zero for roll-in between—
- Dara Right, so we want to maintain that it should be two and one. It should be three.
- Susan Alright. We'll double check that. We can fill in the gaps. Yes.
- Carol Then, with 26 to 50, it would be a different number, too.
- Ida That's what we're talking about.
- Carol Oh, I see. I thought you were talking about 1 to 25.
- Susan Actually the 1 to 25 in California you'd actually end up if you have a small hotel, you'd end up with two rooms that would be required to have mobility features because you'd have to have one with—there's two different types of roll-in showers, and then one room with either a bathtub or a transfer-type shower.
- Greg So, now onto page 55.
- Susan I think Gene had a hand up.
- Greg I'm sorry.
- Gene I don't have a problem. It's just a question. I've seen at two different motels outside of California about ten years ago, they actually had a bathtub, no shower at all. Is there a definition [audio disruption] a grab bar, all those features, not just a reference, but is there a—can you find somewhere that a bathtub is [audio disruption]. I'm know that I'm very bullish, but just in that rare occasion that I'm with no shower, just a bathtub in a motel.

Susan Yes, I would say that they didn't incorporate it with all the other features—

Ida There are requirements for accessible bathtubs, which includes grab bars and the handheld shower wand, so if they were not there, they were not accessible bathtubs technically.

Susan It also includes requirements for the seat as well as all those other requirements for the bathtub.

Gene This is why I just read the table initially, that's what I thought initially. The bathtub would not be [audio disruption].

[Speakers off mic].

Susan If it's one of the rooms that's required to have mobility features, and they're going to put in bathtubs, then all of those other provisions would have to be met.

Greg Okay, to page 55.

Susan The only other comment we received on this is the seat, and we tweaked this a little bit, and what we're saying here is that a folding seat shall be provided in roll-in-type showers and transfer-type shower compartments because the concern that we heard from the comments was that person said well what happens if somebody just brings in a little plastic seat, and they put it in the shower compartment. This would actually require that folding shower seat would have to be installed.

Other than there's an exception, and this was taken from the standards, in residential dwelling units, you wouldn't be required to put the seat in, but you would have to have backing in the walls, so then at some point if somebody moves into that residential dwelling unit, they could ask for that seat to be installed, which would be pretty easy to do because now you have the backing in the wall to be able to provide for that. But, that's only in residential dwelling units. In transient lodging guestrooms, those seats would have to be installed.

So those were the only two comments that we had received on the transfer-type showers.

- Greg So, how do you all feel? We're fairly focused here on these two issues. Does everybody concur with these additions and changes, or does anybody have any reservations?
- Kaylan Can I get a whoop-whoop?
- Dara Assuming we're doing the three for the 25 to 50, you have my full support.
- Kaylan [Speaker off mic] because I think there's a community of people that California still is not serving right now.
- W Yes.
- Susan That's really why we decided—because I heard that repeatedly from people that would come to visit in California and people who live here that I have a problem with that. I don't want to roll my mobility device into a shower. I want to be able to keep that out of the shower and close that curtain.
- Ida Then, code enforcements, people sensitive to the code felt that the provision that really jeopardizes our ability to meet the minimum requirements of the ADA because the minimum requirements do have a transfer shower or tub that technically should address a different population.
- I do want to ask a question though. In that vein, I believe the ADA does allow the option of a non-fixed holding, and so the concern was of course that the seat would go away, and then people wouldn't have that. Does anyone know if not providing the seat also provides an accessibility option for some users that having a folding seat—it could be pulled—I can't imagine it would, but I just want to throw that out there if anyone knows.
- Susan That option is provided in the ADA.
- [Speaker off mic].
- Kaylan In another comment, just generally, the professional side of my brain it's easier to get a roll-in shower wrong in the design and construction phase of it because we've seen that in the inspections that we do, it's easier to get a transfer shower right, if that makes sense. Then, it comes down to the practicality of where the water controls and the water comes from in a

roll-in shower and what that does to the room and how water ends up all over the room whereas in a transfer shower, the water is directed into opening or the curtain, so the water becomes less of an issue in that control. For me personally, it becomes a safety issue.

Susan Well, when we came to that when people would take a look at it, they would rely on this here, and they would look at the roll-in shower, and there's a dimension that's an absolute and a dimension that's a minimum, and sometimes they don't catch that the one dimension that's an absolute. We've heard problems with those provisions as well.

Greg Anything else related to the shower? Yes.

Stoyan Just to mention that this was adopted in 11A, so you don't have the absolute dimension with the minimum, you get the phone call [audio disruption] shower, but can't be [audio disruption].

Greg Okay. Very good. Thank you.

Susan Onto our favorite topic, the one we've all been waiting for. Housing. So, since our last ACC meeting, we had obviously our stakeholder forum. We had additional conversations with Arfaraz and John Paul Scott [ph] and John Anderson [ph] and Jim Whipple from the Mayor's Office on Disability, and we also had additional conversations with Dara and Natasha Reyes[ph].

So, really what we did after those conversations, we sort of a did a little more in-depth research and thought about this a little bit more. In addition to that, Gary Layman, he also had conversations with the CALBO Access Committee.

So, what I'd like to do before we get into the heart of the matter and start discussing some of these specific provisions, Dara submitted a comment because one of the concerns was the definition on public housing, and that is actually on page number 3.

Greg Just a quick question. Are we going to be using this separate handout that has—?

Susan Yes.

Greg Okay, but not right now.

Susan We will in just a minute.

Greg Okay. I just want to make sure we were directing everybody.

Susan Yes, because there is also in the documents that you got sent out I think on Monday that had the agenda and the draft there was also a document with two different alternatives for the definition for public housing. So, we're going to be talking about those documents in just a few minutes.

So, what we learned from Gary's people is there is concern with removing item number 7, privately-owned housing made available for public use, and I think that's where some of our subsequent conversations which I started to understand a bit more the perspective from Arfaraz and Dara because the comments that we get from people when they take a look at that and say oh, privately-owned housing made available for public use. Automatically when they think of public use, the first thing that comes to mind for most code users is a place of public accommodation. They don't equate private housing made available for public use as part of a public housing program.

So, then what we did on our definition, we included, you can see there now the first sentence there is housing facilities owned and operated, constructed or altered by, for, or on behalf of a public entity, or as part of a public entity's housing program.

So, then we were thinking okay, that sort of addresses that issue because you could have privately-owned housing, but if that housing is constructed or altered, as part of a public entity's housing program, it is public housing. It's just that the ownership might remain private, but it's public housing.

So, in a second here, what I'd like to do is turn it over first to Dara, and then over to Gary because then we can take a look at the two alternatives that have been proposed to this definition for public housing. Carol, did you have a question?

Carol I seem to recall us bringing in about Airbnb. Was that what we were talking about in regards to this?

Susan What you'd have to look at for an Airbnb, you'd have to look at the definition for transient lodging, and it depends on five or fewer rooms

where the proprietor actually lives at the residence. So, if it's Airbnb, those potentially wouldn't be covered by the 2010 ADA Standards or—

Carol Even though the owner lives there.

Susan It's really—

[Speakers off mic].

Ida When the building code applies versus the requirement to provide [indiscernible] under the ADA, so Airbnb as a public accommodation in the sense that they're the ones that are operating these units have to ensure that some facilities that they offer are accessible is the way I understand it. Airbnb, in other words, as part of their rooms, I'm not sure—in the building code that only starts to trigger when it's constructed or altered, and so those codes are not, so there's a civil rights ADA requirement versus a civil code requirement—

Dara It's not really affected by this particular—

Carol Okay. For some reason I remember talking about it, and I wasn't sure. So, thanks a lot for the time.

Susan Well, actually, there was a fellow, a startup over in San Francisco, and what his website it was called Accomable. What he did—it's actually been bought out by Airbnb just recently, and when he traveled he had an issue because he needed to have a place that he could stay that was accessible.

So, what he did was he was still operating his website, app or whatever. Somebody could submit to him what they planned to rent out, their residence, but they had to prove that it was acceptable so they had to take photographs and show what level of accessibility was provided in that residence, and like I said this was probably just before the first of the year, Airbnb actually bought him out.

Arfaraz For any transient lodging to be included in the definition of public housing, I think it's important to note that it would have to be part of a public entity's housing program. In the first sentence, that's underlined there. If it's not part of the public entity housing program, then it's just any other transient lodging.

Susan Correct, it would have to be owned or operated like [audio disruption] as transient lodging and is owned by the state, but then they contract out with, I think it's Aramark or somebody, to actually operate the—they take care of the day-to-day operations, but it's transient lodging, but it's owned by the state.

Arfaraz I don't claim to know everything about Airbnb, but I'm pretty sure it doesn't operate on behalf of any one of the several public entities within the State of California.

[Speakers off mic].

Susan Any other comments before—?

Bob I realize we're going to get to Dara and Gary's separate proposals, but the common theme that I'll be having comments I'll making is what is the definition of housing programs. We spoke with NHB's legal counsel. We spoke with our in-house legal counsel, and this guy's a planning land use sort of tsar. He used to do this down in LA, and now he does it statewide.

He took a step back and said look, the fact that you have a public housing program that is implemented by a public entity that means public housing, and he started flying off examples of these types of things. So, one of my initial concerns with all of the—well, the first two proposals that we're going to be looking at is what is a housing program per se.

I think I know what you want it to be, but you're going to have 500 jurisdictions out there trying to decide okay a public entity housing program, does this fall under like you said, it depends. The state building code shouldn't be putting something in play where it depends. We need some clarity because we have to be designing these units, doing plans, and we need to know as with some building permit applications what we're going to be building this for. That would be a concern that I have as we head forward.

Arfaraz A housing program that's administered by, for, or on behalf of a public entity I think is there, so that could be any housing program.

Susan I think one of the best examples is when we go to the Treasurer's Office, to their website, and you look at the TCAC program, and when they explain what that program is because it's to provide—I can't remember exactly. It's been a while since I've looked at it, but it goes pretty much

right to the heart of the matter that their program is deigned for affordable housing.

Ida So, Bob, if I'm understanding correctly, are you seeking the definition of housing programs that we should include in the building code?

Bob I'm going to be suggesting that until we get clear guidance from DOJ that we should take that new portion of sentence out because I'm having concerns that the 500 jurisdictions that are out there are going to be having difficulty to effectively define and apply it. I know in the comments that the CALBO is making, there is a clarity issue there. We have a deep one—just so that you know, CBA has never taken any issue with the clarity that homeless shelters, group homes, halfway houses, etc., similar social accommodations. Those absolutely should comply. Obviously, our apartments, our condos, 10% of our townhomes that we've built, and multistory things have to comply with HCB's regulations.

My main interest right now, and the comments that I'll making and the letter we'll be submitting for the April 12th meeting and so on, focuses solely on production-style, single-family dwellings that are constructed by a private sector entity and sold to private citizens. So, that's only where the comments I'll be making—

Susan Okay. So, with that, Jessica, if you wouldn't mind bringing up—

Dara I thought I was going to be able to—

Susan Oh, you are. Right now. You're it. You're on in just a second, as soon as Jessica brings up that document. So, this is the alternative one and two that we received from Dara. So, you can see there from the first alternative one, the way that would read, "Public housing, publicly-owned housing facilities or privately-owned housing facilities, operated, constructed, or altered by, for, or on behalf of a public entity or as part of a public entity's housing program," and then it says, "including, but not limited to the following."

Then, we have alternative number two, "Housing facilities owned, operated, constructed, or altered by, for, or on behalf of a public entity or as part of a public entity's housing program whether publicly or privately owned including, but not limited to the following."

Dara

I want to start by just responding to Bob because the language about privately-owned housing facilities which are part of a public entity housing program is already in the code. It's been there for a long time. It's in two separate sections, so it's really unclear at the moment, but that language is actually in the existing code when you combine the previous item 7 and the current definition of public use which talks about public housing as part of a public entity's housing program.

So, all we're attempting to do is put it all in one place so people are clear about the scope. Let me talk about what we mean when we talk about a public entity's housing program, and let me just back up a bit. I think there's a lot of myths out there about public housing.

You know, 40 years ago, the main public housing programs that we thought about was the public housing or the projects some people used to call it, which was housing that was owned and operated by public housing authorities. That housing is almost non-existent now. It's a very small percentage of what we consider to be public housing programs or affordable housing because the Fed sort of cut off the money for that and started developing housing in a completely different way.

So, the way most housing that's affordable to people is developed now is a private owner, largely but not always a nonprofit or a limited partnership with a nonprofit manager, and they get benefits of one kind or another. They get dollars. They get all kinds of other benefits, and they're supported by and approved by government entities: state, local, federal. The ADA, Title II, which applies to government entities is very broad, and if you look at the regulations in Part 35, which is the section under which the ADA Standards are written, it talks about all programs, activities, and services of public entities.

So, it is very clear that the Department of Justice and everybody else who's involved, and I assume it's in some HUD materials as well, understand the scope of what a public entity does is very broad. In fact, if we really want to ensure that affordable housing that's out there is really accessible to the people who need it, which is in most people with disabilities on variable income, and the only way they're going to find accessibility is in this broad range of affordable housing programs that we have, we have to ensure that those programs have a fully accessible component.

I can tell you right now, waiting lists for most housing programs can be decades long. They froze for years on end. There is an enormous crisis for people who need affordable housing in California, and particularly for people with disabilities who are often at the very lowest income level. They're on social security. They're on social security disability. They're on fixed incomes. It is almost impossible right now for people to find an accessible unit in an affordable unit.

This is a crisis for the people we're trying to help with this group. So, I think it is important that we make this as clear as possible and broad in compliance with the scope of Title II of the ADA, which is what the ADA Standards encompass in Part 35 of the regulations.

So, our proposal, we appreciated that the department was proposing this part in the housing program, but we were very concerned that eliminating the language in item 7 that referred to private housing would leave the wrong impression that most of these housing programs aren't covered.

So, we think it is very important that it be clear that privately-owned housing facilities that are operating as part of a housing program, which is in fact 90% of the affordable housing out there or more these days are covered, and we tried to make that very explicit in here. It actually was said before but in such an odd way that you couldn't really follow it in the code. So, what we've done is pull that language together and put it in here in the definition in a place where it's very clear.

Now, does that cover every housing program? Well, only if the housing is being operated, constructed, or altered by, for, and behalf of the public entity, and there are some programs where that's probably not true. So, tradition Section 8 vouchers, for example, there's no construction, there's no alterations, and housing is operated by somebody else, but in most of the affordable housing programs we do have, the money goes towards construction, alterations, or is operated by, for, and on behalf of the entity.

So, I think this language is very clear. It's very broad, and it does encompass most of the things that are in the alternative proposal, but it encompasses more. It is not as narrow as them, and I think that's what's required under the broad scope of the ADA, and it's also what's required if we really care about making affordable housing accessible to people.

Susan

I think it's important because when you go to HUD's website, they make it clear that you have to take a look at if it's the recipient of a Section 8

voucher. You look at who is the recipient, who's the sub-recipient, and who's the ultimate beneficiary. They make it very clear how that works.

I think Gary can then—we'll hear from Gary next.

Derek Dara, in your presentation—thank you for that—you associated pretty closely affordable housing and public housing. Is that a necessary linkage, or in your view and research, does public housing include all housing types at different levels of affordability?

Dara It does include different levels of affordability, but the practical reality is that no government entity is building above-market rate housing because the market builds for rich people. So, all the government programs are for people who—all the government programs involve some level of affordability, so that's why I was just talking that way.

It is not limited. If government entities were building high-end condos, they would still be covered. The reality of this is no government entity is doing that. They're only building housing for parts that the private market doesn't serve.

Derek Now, what about the circumstance where you have a government granting some sort of a benefit to general housing, not necessarily affordable housing, but of any particular type, for example, density bonuses and height bonuses?

Arfaraz In exchange for what?

Derek In exchange for pursuing their housing program, of providing more units.

Dara I think that's the key because those benefits are tied to a housing program aimed at affordability. Density bonuses occur in response to a developer wanting some benefits from the city, and in exchange, they agree to keep units affordable, which is the city's housing program.

So, in fact, there is a benefit being exchanged. It's part of a housing program, and it would be covered, so I do think that that is a benefit. It is not the largest majority of the housing out there, but it would be the housing program that the entity is operating when it gets a density bonus is affordable housing in a program aimed at providing a public benefit, i.e. affordable housing.

Ida Or, it could be as part of a re-development component like to bring individuals back into an area, and a lot of that is occurring down here in Sacramento. There is an affordability component. It's actually a re-development incentive.

Dara It could be. It is still a significant part of a program to develop more housing, so it is covered.

Susan But, a lot of the housing now that they're building in Midtown is not necessarily—it's a housing program that you were saying, Ida, but it's—

Bob If it's covered by the HCB already, it's multifamily.

Susan Well, yes, but the issue is when you take a look at the 2010 ADA Standards and you take a look at Chapter 11B because it goes beyond the requirements for the ground floor units because now you have a certain percentage of units with mobility features and a certain percentage with communication features.

The units with mobility features have a different level of accessibility than your typical 11A or Fair Housing Act units, but what's going on here in Midtown for a lot of this housing that's being constructed, it is market rate, but it's still part of the housing program from the city.

Dara But, even those in the re-development programs in market rates often those density bonuses are tied to affordability. They just are, but it's necessarily.

Ida Right. We want to be clear that the requirements of the ADA are not tied to affordability. That may be the reality, but it's not the requirement.

Dara No, but they are part of a housing program, and that is a very broad—I mean, I have—Sue and Ida, you circulated some stuff out of one of the HUD videos, and they define it as housing that is supported by the government entity. To me, that's maybe a little ambiguous, but if it's a housing program, then it's covered.

Now, let me be clear. I'm not talking about regular zoning because zoning is just what the land use is allocated, and if it's zoned a particular way, and you go in and get your housing permit under the particular zoning, that's a zoning program. But, if they're running a program designed to increase, expand, make more affordable housing, that is a government program. I

mean, there's a lot of cases law I provided in the materials that I sent to you. Cases say over and over again, it's anything the government entity does almost, but in this context, we're really talking about where it's owned or operated by the government, or it's a private entity who's engaged in construction, alteration, or whatever on behalf of a public entity or a program.

Bob

I think what I'm not getting though is on behalf of whatever—it's a gray area, and there are two points that I'd like to make. You mentioned density bonus, and I don't like to get into inclusionary housing. The density bonus, as was explained to me by our legal counsel are provisions that are established in statute, and it is not something that is forced upon the builder.

It is an option the builder can choose to use, and in many cases, the reason why a builder chooses to use that is to increase the number of units that would go on X acres of land to help cover the cost for doing whatever program the local jurisdiction is—it may be greenhouse gas, it may be a water conservation thing, but certain things will trigger.

First off, I'm assuming you're going to apply this to an affordable [indiscernible] program or a greenhouse gas program, so let's just focus on the density bonus that Derek raised. The builder chooses to do that. The local jurisdiction does not mandate that, so the builder could either choose to use it or not use it, and the question here is if a density bonus per se is going to trigger DSA's access, clearly the financial impact of implementing DSA's access provisions are going to grossly outweigh the economic benefit of adding one or two more units to the project given that almost all of what we build today in terms of single-family home are two and three-story homes.

So, that's the first point I'd like to make. More importantly, I'd like to hear from both Sue and Dara sort of their interpretation of the following example.

KB Home, a large-production family builder in California who does their best to try to produce—they market primarily to entry homebuyers, and most of their projects are in Northern and Central California, so as opposed to having a more higher-end product, they're sort of right down there. That's why they kind of sell quickly.

In many jurisdictions in the state, actually there's 200 jurisdictions in the state that have some type of inclusionary housing ordinance, and for those of you who aren't familiar with this, these local jurisdictions say to this builder, if you're going to build 100 units, 20%, 20 units will have to be made available at the low market rates, and the people that can have access to those low-market rate units will be individuals that meet certain economic criteria. Of course, not poor because even though low-market rate, it's still highly expensive because the State of California is horrible, so they still cost a lot.

In turn, for being able to get that, obviously the individual who meets that economic criteria and purchases the house is not able to sell the house for usually it's a period of 50 years. Now, of course, they can sell it, but if they do, it has to be to another person that meets this economic criteria, and this goes on for a 50-year period. There's all sorts of [indiscernible], but my question for you is, those 20 homeowners in that 100-unit project, would those 20 homes have to meet DSA's access rates?

Susan I'll respond, and then you can. In my discussions with Jim Bostrom, who is an architect that used to work in the Civil Rights division at the Department of Justice, and also I had a real lengthy conversation with Bill Hecker about this as well. What Jim Bostrom explained to me what you would take a look at in that sort of a situation is first you determine is it a Title II entity housing program, and if they have this program—

Bob All these are cities.

Susan Okay, so that's their housing program, and what they're trying to do, their program is going to be to provide for affordable housing, so what you would look at, the way he explained it to me is you would look at the number of dwelling units that are covered under that program. So, in other words, you would look at if you had 100—

Bob You're not looking at the 80. You're only looking at the 20.

Susan You're only looking at the 20. So, he said that's what you would take a look at, and then we talked about zoning ordinances, and I found some good case law on that, too, and believe me it was hard enough to become an architect and all the stuff, the legal stuff. Holy c***.

But, the way he explained it to me when you look at zoning ordinances, he said yes, zoning ordinances cannot be discriminatory, but because cities

and counties develop zoning ordinances, and it could be zoning ordinances specific to housing, that's just a zoning ordinance. That isn't going to trigger compliance with the standards, but if a Title II entity uses that zoning ordinance, and there is a benefit back to the person that is receiving, taking advantage of that ordinance, then you look at that in the whole context of a housing program.

Bob

What I'm not getting is yes or no. I understand the balancing act that takes place and the different interpretations or whatever, and by the way, for those of you unfamiliar with California, this has been debated since '88. So, there's been, of course, lawsuits, all sorts of other stuff, and it would be nice to get clarity. What I'm kind of understanding here is the inclusionary housing in and of itself doesn't trigger, however, there are certain things that may happen that might do that.

The point here is there's 200 cities right now in California that have inclusionary housing. I'd venture to say none of them are requiring DSA's access rates right now, and so the question here is when do you apply DSA's to something like that, and once again, it gets back to as part of a public housing entity's program, it's unclear what a housing program is and what would actually trigger this. I realize it's been in the regs, but—

[Speakers off mic].

Susan

Just if we can leave a couple more minutes for Dara because we still have a bunch of stuff that Gary also has something. So, Dara, if you want to make one final comment, but then let's do a comparison with the other definition that's been provided.

Dara

Okay, well I would certainly like to have people's comments, but anyway, let me say two things. One is you're talking about it being too expensive. Most of what we're talking about is multifamily housing where the inclusion of mobility and sensory units is minimal. Even in new construction, it's not expensive to do this in 99% of what we're talking about.

Even in the single-family development where it's mostly in the example you gave, if you have 200 homes, you'd have maybe some small number, ten that would have to be modified in some way. In the scope of that huge development, it is not an enormous cost. So, let me just start there. I think

there is really a misunderstanding about how expensive this stuff is in new construction.

Second of all, I think the idea is yes, I'm not surprised cities aren't complying, and most of them aren't complying with 11B or 504 in any of their housing programs. That's why we sued the city of LA, and they're now building 4,000 units for \$200 million because they weren't complying, and we think a lot of cities aren't complying. I don't think noncompliance is an excuse for not getting it right.

The other thing I want to say is that—I think a lot of cities are now paying attention. A lot of developers are now paying attention, and HCD is now trying to make it clear, but I think there has been a lot of noncompliance, and I think part of it is because this wasn't very clear, and it's getting clearer. I really appreciate both the departments doing that.

I also want to say that if cities think that this is a problem in implementing their inclusionary ordinances, then they can change them, but ever since the ADA was introduced, the concept of things are too expensive is always a defense to opening programs to people with disabilities, and this is what we're trying to do is ensure that if you have affordable units or other housing that's available because of the city program, not just their zoning, but an add-on program, and that would include density bonuses and inclusionary, that those programs are equally available to people with disabilities.

Now, I would say it's easy to get focused on these outliers and density and other things. The core idea here is that most housing programs the government entities operate are multifamily housing, and those need to be ensured that they're fully accessible, but the law doesn't limit it in that way. These are not expensive obligations for the most part.

Susan

I don't mean to cut this off unnecessarily, but I just want to have equal time for Gary to do his portion of it as well because he and CALBO Access Committee have spent a great amount of time to—so, Jess, if you don't mind scrolling up, and we'll take a look at—Gary has it. We're going to take a look at this, but he has the other document that we'll look at as well.

So, this is what came from the CALBO Access Committee, and Gary, do you want me to read through this, and then you can present it, or how do you want to—

Gary Yes, you can go ahead and read because they can see what you have there.

Susan Okay, so what the committee came up with is if you take a look at public housing, their proposal would read, housing facilities owned, operated, constructed, or altered by, for, on behalf of the public entity, including but not limited to the following. Then we have one or two family dwelling units or congregate residences, buildings or complexes with three or more residential dwelling units, homeless shelters, group homes, halfway houses, and similar social service center establishments. We have transient lodging such as hotels, motels, hospitals, and other facilities providing the combination of a short-term nature of not more than 30 days' duration.

Now, one of the things that the CALBO Committee wanted struck was housing at a place of education such as housing on or serving a public school, public college, or public university, and in its place what they would like it to read is privately-owned housing whose owners or operators receive financial assistance from the housing program of a public entity.

Then, they're recommending that if we're going to move forward with this language, we also have to have a definition for financial assistance, and that definition would say grants and loans of funds, grants or donation of property and interest in property, detail of personnel, sale and lease of and permission to use property or interest in such property without consideration or at a nominal consideration, and any agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

What you'll find is a lot of this terminology here is very consistent with what HUD considers their own financial assistance, and it's also from the definition in Title VI.

So, with that, Gary, I'll let you make comments.

Gary Gary Layman, chair of the CALBO Access Committee. This is coming from the Access Committee, so it's not just my interpretation, so I'm going to read it as we go. I do want to apologize to Ernest and Arfaraz for being on vacation and not meeting on our phone conference.

So, we're in support of the changes for public housing, but there is because we deal with building departments, and we channel phone calls as the Access Committee from local building departments that are reviewing this and going through the process probably similar to that as Susan does and Stoyan does in trying to explain it.

Some of the stuff is kind of confusing to your average plans examiner, architect, and building inspectors, so a little clarity within the definition is kind of what we're looking for a better understanding as to why. One of the reasons is where we bring up eliminating the programs, scratching out as part of the entity's housing program because we indicate program and why we want those other programs that are available that don't trigger that. Your normal building division or plans examiner, and even the CASps that are out there do not understand what it is when it's put in the program because they're not distinguishing the difference between the programs.

Then, the financial assistance also when we come into that, which is inclusive of kind of what you had indicated, Dara, is Section 8. When we get some financial assistance, nothing exempts Section 8, so we're getting building departments and plans examiners and them out here and designers thinking well Section 8 is public funds. That then becomes a public housing facility, and then you're triggering something else, so that's where the clarity is around that.

The public housing should also delete the component of the place of education because the ADA regulations indicate year-round graduate students as shown in Section 11B-233.3.6. Federal standards cover undergraduate students under the transient lodging, which is much different and has the mobility features there.

So, that's where we run into that. Then, we wanted to indicate where [indiscernible] changes, and that's where our privately-owned housing whose owners operate and receive financial assistance from the housing program of a public entity.

Susan

I think the only thing that we didn't agree with was getting rid of item 5, the housing at a place of education.

Dara

I agree that we shouldn't get rid of that. That's a reduction in access that's been in the code for a long time. I don't think we should get rid of it, and

I don't think it makes sense. It fits in with the ADA 2010 Standards even if it's broader.

I don't necessarily have an objection to trying to define housing programs. I am concerned about a couple of things about this definition and displacement.

Susan

You mean the definition of financial assistance?

Dara

Well, I would prefer to define housing program because I think housing program is defined under the ADA as broader than financial assistance, so if housing program is unclear, I agree we can define housing program, but housing programs operate in many ways, and financial assistance is only one of those ways.

The other thing is that we put the definition in the introductory clause because it's applicable, as you suggested I think when we talked for all of the subdivisions, so I don't want to put it in the—I thought you had a good point. When we talked about the privately-owned housing part needs to be part of the intro part, not as one of the subsets.

Let me just say a little bit about why I don't think financial assistance is broad. We've talked about a couple of examples of it, but I think it's—and, let me also just say one thing about Section 8.

We should be very careful when we use the term Section 8. There are about maybe 10 or 15 different Section 8 programs. Some of them operate by giving someone a voucher that they can take to any private landlord, but many of the Section 8 programs are attached to the building. They're similar to anything else. They're not a voucher program, and the owner in fact is getting direct money. So, I think people need to be very careful when they're talking about the Section 8 program. The voucher program is a distinct, separate kind of program, and I just wanted to make that clear because there can be a lot of confusion about what Section 8 is.

Activities and programs, housing programs operate in a lot of ways. So, grants and loans are one. Giving property is another. Another way you do it is like we've talked about inclusionary density bonuses where you're getting another kind of benefit that has a financial impact for you such as a density bonus or the right to some additional units.

I also think that we have bond programs or other programs where the city has to approve who gets the bond funds, and the bond money might be coming from a separate entity, but it's the city bond program, and who gets this really low-interest money is people who the city approves, so the city's not directly providing financial assistance, but it is their housing program, and housing built with that bond money should be covered.

So, I think we should stick with the ADA language, which is programs, and then I'm open to talking about—so, I think we should stick with my language that I proposed. I think it's clear, it covers all the subparts, and it more accurately reflects the ADA. I'm certainly open to trying to provide more clarity about what a housing program is because I can appreciate the need for some additional clarity there. I just was afraid this was a little too narrow.

Ida I'm listening to all three, and I think that there's one thing that I hear in all three, and that is for a private entity, for it to be considered public housing as part of a public entity's housing program, there needs to be a benefit to the private entity. So, it's my understanding that for an inclusionary housing program, which only requires a builder to provide by ordinance affordable or reduced market-rate—

Bob The benefit thing. I like where—

Ida So, for me, a lot of times in Elk Grove, where I have my house, a lot of times that's a duplex. In other words, that's not a single-family in the sense of independent. That is meeting a housing requirement, and they offer for sale, say a duplex shared with somebody else even though you only own half of it because it meets an inclusionary measure, but it's not—I'm trying to define the benefit there to the builder, and I don't know that there is a benefit. It could be that that's an inclusionary housing program that's part of the zoning. That's not a housing program that offers a benefit to the private entity.

Bob The legal counsel is trying to explain to me you have the zoning ordinance, but then you have—I think everybody's kind of right here.

Ida So, that's what I'm saying—I think the key part of all this is that there has to be exchange of something, a benefit to the private entity to do this and a housing program that's a Title II entity and uses private entities to execute. It's my understanding from what I'm hearing, an inclusionary housing program of which there's no direct benefit to the developer because

they're not receiving anything, they're meeting the inclusionary housing that's part of zoning as opposed to the inclusionary housing that's part of a housing program. Am I correct on that? Is that something that I'm hearing all three meet?

Arfaraz I'm not sure if someone already said this—

Greg Arfaraz, do you mind saying your name, and just speak a little—

Arfaraz This is Arfaraz. I'm listening to what Bob and Dara and Gary just shared. I think there's a lot there that we can take and come up with a pretty strong definition. I'm not sure if it was already mentioned, but it's worth mentioning that typically housing programs need to be administered by the public entity. Unless you can think of an example of public housing or a housing program that's not administered by a city or—

Susan I guess the only thing would be if they contracted out, but even if they contracted out—

[Speakers off mic].

Arfaraz So, when I read that definition of financial assistance, and it talks about any agreement, arrangement, or other contract, which has as one of its purposes, the provision of assistance it kind of begs the question, what is that assistance. So, I think that definition kind of leaves me wanting more or asking another question. It's like okay now, could you please define what kind of assistance we're talking about. I think it closed a little bit if we kind of bring in the fact that if the public entity and the personnel of public entity are actually administering the program albeit in a privately-owned property, it's still a public housing program.

Dara Let me just say on that, I'm not sure I quite agree with you, and I agree with you that the definition doesn't totally solve the problem as it's written because I think what you said is important. If it's administered by the public entity, often what happens for in an inclusionary ordinance is that there is an ongoing obligation that's administered by the public entity on the inclusionary units where they require annual reporting on the income of the people who live there. They require reports on people who interact who sell and buy. There are time limits on how long those units have to be included.

Usually, with your zoning, you get your permit, you build it, you're done, but in the inclusionary units, there is an ongoing program. It might not be a benefit to the owner, but it is a program that's administered and ongoing by a government agency.

So, I just want to say I'm not sure I entirely agree with that, and I also just want to say, too, that I think I've done some research, and I think that the 5% or 2% applies to the entire project, not just the affordable units, but putting that aside, what I'm hearing I think is that everybody agrees that we need to say something about privately-owned housing in conjunction with housing programs, and the key to this is going to be how we define the housing program, whatever that is, including financial assistance or whatever else.

Bob You just made an important point that I don't want to see passed over though. You were talking about the 20% that's included in inclusionary. You're talking about the 100%.

Dara I'm only saying that how you calculate the 5% and 2% under both HUD and DOJ is on the project as a whole and not just on the affordable component.

Susan But, then you have to look at that project that are only those 20 units.

Dara No. That's not how they define it. I'll give you the research.

Susan Way back, there was some question on the Transbay Terminal project, and there was a lot that went back and forth, and I think we put you in touch with somebody with HUD and Jana Erickson at DOJ, and now they address that specifically, and they looked at that entire project, but you would have to take a look because, Bob, what you're talking about is a bunch of single-family residences. What that program, because Transbay Terminal is basically covered in all that family dwelling—

[Speakers off mic].

Susan Right, but you're talking about single-family residences. It might be that that program is only for those 20 single-family residences and not for the 100 single-family residences.

- Dara I'm happy to revise it with some legal research, but that is just a small piece of what we're talking about, so in terms of this discussion, I don't know if we want to—
- Bob You have to understand that as I mentioned earlier, there's 200 cities in California with inclusionary housing laws, in which no benefit is being given to the builder. They basically say this 10%, in some cases 20%, need to be made available below market rates. What happens in those single-family home developments, the builder will raise the price of the other 90% to 80% depending on what that percentage is to basically make sure that they are all in process.
- Susan In some jurisdictions, don't they allow the builder to pay back a fee to the city or county so they don't have to build any of those, and they have a pot of money. Then, that's a little bit different because then—
- [Speakers off mic].
- Bob --handle a lot of the water conservation and some of the energy stuff because you're trying to get retrofitted, and they use that pot of money for it.
- Arfaraz To Bob's point, the developer has the option in inclusionary housing to either pay that fee so that if the housing entity can then build those below-market rate affordable housing elsewhere, that's one option. Option two is build it onsite in that development that they're building whatever that development may be whether it's townhomes, whether it's single-family homes, whether it's a building. Or, if it's multiple developments that's been developed as part of a nearby building offsite, so those are three options that—
- Greg I'm going to let Gary and Stoyan get into this, too. Bob, I'll let you finish, and then Gary and Stoyan.
- Bob What I'm concerned about is some of the things that you're describing would effectively apply to DSA's access rates. HCD is a little bit more to a significant amount of the 50,000 single-family homes that we're building in California each year right now. It's not happening right now.
- When does DSA plan to tell all these 200 cities that they've been doing it wrong and if this is a civil right, is everybody that's already built a home going to get sued? These are huge questions. Very few of these

jurisdictions have a clue about this. Some of them are very liberal jurisdictions, by the way.

Ida I'm looking at this definition of financial assistance, which you said came from sources, and it's clear to me that there must be a benefit for that private entity, and I don't see that.

Dara This definition comes from 504.

Susan And, 506.

Dara It's a really different program that's tied to the receipt of federal funds and the ADA is not tied to the receipt of federal funds. That's a big, big difference between coverage under the ADA and coverage under 504, which is tied to financial assistance. They're not the same thing at all.

Ida So, I think what we need to do is to go back to our sources at DOJ with some of these issues and see if we can get some clarity from the Department of Justice. Then, here's my concern is that it's clear that this needs to be defined. It's clear that we have a couple ways that we can do that, and one of them is to write the language in the code as best as possible to address what we need, and then provide examples in our advisory manual that kind of gives of a little bit of depth because we can't put all this information in the code because then there's that.

But, also understanding that it may be that we can only get as close as we can and do that because we may not be able to consider all the options out there, but that moving forward to a level where it at least addresses the issue a little bit better is very important. We could always, even in our advisory manual say if there's a question, here's the Department of Justice hotline. Call them and get clarity on it and provide that resource in our advisory manual to say call.

I don't want it to be an all-or-nothing thing because I'm hearing that the need to have it clarified is here, and I just kind of want to create an expectation that hopefully we can all get to a place where it is reasonable for everyone to agree that the improvement covers the bulk that we can perhaps develop some language in the advisory manual so you can see a companion and realize that it can't be an all-or-nothing thing because, you know, saying we're not going to do it at all and leave it the way it is I think creates more issues.

So, I just want to set an expectation that we may not have been able to achieve perfection here, and we never guarantee that with the code anyway.

Dara I appreciate that. We'll play around with this.

Susan I think the issue is we have to be very careful in this because we don't want to write something into the building code because we only have the authority for the building code. The building officials only have the authority to enforce the building code, not the 2010 ADA Standards, so the more careful that we are if we can come up with a good phrase in here, and some of the rest of this we are just not going to be able to define in the building code.

Greg Okay, let's go to Gary and then Stoyan and then Arfaraz.

Gary Gary Layman, CALBO Access Committee. Listening to what everybody has to say here, it is quite conclusionary that we're in agreement of needing to rewrite something, so in speaking for CALBO, we're willing to parking lot this because we have plenty of other code until we can get another writing of where we're in better understanding instead of writing and putting something in there and then having to rewrite it again.

Dara You're talking about parking lot it during this term, not postponing it for another—

Gary No, just during this term, but we have more things to discuss and go further on, and I believe we're all kind of in agreement with where we're at.

Greg Okay. Thank you. Stoyan.

Stoyan I was forcing myself not to say anything, but I cannot. So, if we get all of the access requirements, I hope now that [audio disruption]. HCD, I got a request from the governor's office, so we provided building code from 1980 and 2016, and 1980s there were like [audio disruption] 2016 there were 52. One of the reasons for that, again, access is a general comment, which I'll get to that.

We tried to clarify this, so we clarified something, but then to clarify the clarification, and then we clarify again, and then we keep clarifying until [audio disruption]. So, in the last couple code cycles, HCD was trying to

cut down amendments and clarifications. Nobody's complaining about it. Everybody loved it. So, I'll get to a definition.

The definition could be ADA performance originally with little interpretations, little clarifications. I think it works in something that's not bad. So, now, when asked the program administered or whatever general term we are using, does it make it clear? What has been written here doesn't because now we want to clarify the clarification.

Now, we have concerns [audio disruption], you have good intentions. I respect that. I understand it, but it's a building code, and we can't accommodate everything in building codes. There should be some kind of language that provides the general requirement and clarifies the intent in some regards, but all these [audio disruption] the building code.

So, the question is where do we stop? It's not only DSA. Then, it will get to HCD sometimes. It gets to local jurisdictions, so we don't want to create something bigger—

Dara Well, we're not talking about a detail. We're talking about 5% of the units and 2% of the units being fully accessible, and unless this is clear, it won't happen. It's not a detail.

Stoyan But, it doesn't make it clear. That's all I'm trying to say.

Dara So, we've all agree that we need to define housing programs and make it a little clearer.

Ida We will make an attempt that maybe we can provide some supportive examples that we can perhaps include in our advisory manual so you can say how one doesn't trigger the other. One we can update at any time that it's not regulatory. It really is an option to say here are some examples, but I do want to reduce the expectation that we can write something I think where there will be no question because I think there will always be a question.

I think the nature of that is that projects when they're applied to the building codes are enforced by different individuals who are reading a requirement who are going to read it as they interpret it, and it's going to be interpreted for a specific project where something that may not always be clear.

So, we can do our best. I think we can move forward, but if it's not perfection, you know what, as the code cycle moves forward we have another 18 months to develop it. So, I just don't want us to set an expectation that it's all or nothing, and therefore, we're just going to either support it or be against it. It has to be, I think, something that's sometimes just going to be something that it's a little better. It's leaning in the right direction. It's providing a little more clarity, and that's what we can do right now.

Does that make sense? Okay.

Greg

Arfaraz.

Arfaraz

So, I'm just looking at the April 2013 Joint Technical Assistance memo from HUD and DOJ. It clearly says Fair Housing Act guidelines don't apply to single-family homes, and just to cover multifamily dwellings that is buildings have four or more dwelling units.

Then, it goes onto say, however, any housing including single-family detached homes constructed by federal, state, or local government entities constructed using federal, state, or local funds may be subject accessibility requirements under laws under than the Fair Housing Act. These laws, particularly Section 504 of the Rehab Act, 502 of the ADA, and our Architectural Barriers Act have requirements for accessibility that exceed those contained in the Fair Housing Act.

To Dara's point, those are the requirements for 5% mobility and 2% communication. So, I just want to make sure we're making that distinction that we're not requiring single-family homes to suddenly have adaptable features because they're clearly not—it was never intended to cover single-family homes.

[Speakers off mic].

Arfaraz

Not for adaptable features. Adaptable features were excluded.

Dara

No, but for the 5%.

Arfaraz

The 5%, 2%, yes.

Bob

Gary's comment because this is a—I won't say smarter minds on this stuff. In, I think, Gary's comment that maybe we should parking lot this

because we have a bunch of other code things, I think it'd be a good idea because if we're not necessarily agreeing on the various levels, can you think what 500 jurisdictions are going to be thinking?

Susan We just have one last item that we were going to talk about today, and that is the provision—

Ida Oh, no. We have other code—you mean regarding housing.

Susan Regarding housing.

Ida I just want to clarify. There's other stuff.

Susan One more thing on housing that we were going to talk about today, and that is what we put forward the proposal, and it's on page—and, we received comments from the CALBO Access Committee on this provision as well, and it's on page 27 of your document, and what has happened is we already talked about how we did some additional research and took a look at the requirements for that March 13, 1991 trigger date for the ground floor units.

What we found as we did our additional research, it's not that we are reinstating that March 13, 1991 trigger date for alterations. If you follow the code path, and you look at Division IV, and that is what we adopt for the characteristics for the residential zone units, the accessible units with adaptable features, then that points you over to 1101A and 1102A, and that's where you pick up that trigger date of March 13, 1991.

Arfaraz Could you explain that again?

Susan Sure. Before, in 2010 and previous editions of the code, DSA for access compliance adopted all of Chapter 11A other than for one exception, and that was for the carriage unit. That would include that trigger date of March 13, 1991.

Then, as we moved along, and what we were doing in the 2012 rulemaking cycle for the 2013 code, and we got to this section on alterations, and we started to incorporate things into this, these provisions that clearly shouldn't be in here because the Chapter 11A does not include alterations to buildings that were constructed for first occupancy on or after March 13, 1991.

So, now we move forward, and now we're taking a look at this, and we're realizing that these requirements for alterations should only be looked at in the 5% of units with mobility features and the 2% of the units with communication features. The way we still have that code path is to sort of a circuitous way to get there. When you look at Division IV because that's what we continually reference there, Chapter 11A, Division IV for units with adaptable features. So, when you go to that section in Chapter 11A, there's a note there that says see Section 1101A and 1102A. So, then when you go to 1101A, and I think the state, Stoyan, is actually in 1102A.

Stoyan

Yes, 1102.

Susan

Yes, for that trigger date of March 13, 1991. So, that's what we're looking at here, and there's the other document that Gary—and, what we can do is just in the interest of time, we'll send that document around to everybody with the comments from the CALBO Access Committee because they asked us to look at a couple of the suggestions for what we could do in that portion that talks about building that—in other words, you have a shell of a building, and you completely gut the building, and then you rebuild the interior because then it's considered new construction. So, they had some really good comments on alterations.

Basically, for these various sections, if you scroll down, Jessica, if you don't mind, and we go through and we look at alterations, again this portion of it we want it to say alterations shall comply because you could be altering a building that is existing that isn't currently a public housing facility. It will become a public housing facility, but it isn't at the time that you're doing the alterations, so we definitely want to get rid of that.

They need to see that there are various exceptions here where we are going to get rid of and strike those references to chapter 11A and the scoping section that is now in the 2013 code. That's 11B-233.3.1.2. That is that scoping section for those accessible units with adaptable features that are on the ground floor units.

Then, this is the one exception that we're striking it here, but we're moving that exception down further under that section. Jess, would you scroll a little bit further? We're taking that exception and now moving it down to the section on alterations to residential dwelling units with adaptable features.

So, comments, suggestions.

Greg

Go ahead, Arfaraz.

Arfaraz

After we had our conversation phone call with DSA, one of the things Ida suggested was give DSA some data at least from our jurisdiction of how the 2013 California Building Code has been applied to public housing projects. So, I went ahead and did that, and I'm happy to share that with the rest of the group.

Take one and pass it down. For Eugene's benefit, I'll go ahead and describe it. Sorry I couldn't send this out earlier. I've just been swamped.

So, what I did was identified about 55 alteration projects that were the public housing projects that were permitted under the 2013 CBC or later. Then, went through and highlighted the ones that were built on or after March 13, 1991. It turns out there are two.

So, we also went out and looked at how many total units in each of these 55 projects how many of them were required to meet the mobility requirements, how many of them were required to meet the communication requirements, and then how many of them were required to meet the adaptable features requirement in Division IV, 11A.

So, you'll notice that of the 4,330 units that received these alterations, 387 were upgraded to have mobility features, 200 were upgraded to have communication features. Some of them attempted to meet the TCAC requirement, and that's why they're going for the 10% and 4%. Then, about 3,124, which is the lion's share met the adaptable features requirements for 11B-233.3.4.

I also went ahead and tried to identify which ones were buildings with no elevators because I recognize given that we're a small 49-square mile county that most of our development is vertical, and so I looked at some of where we have public housing facilities that have one or more elevators or which ones would be considered to have no elevators. So, it's kind of a 50/50 split, but obviously leaning towards ones with elevators, and it's 25 without elevators and 30 with elevators.

Another thing to highlight there, which I've highlighted in yellow are projects that received exemptions from TCAC itself in terms of not requiring to meet the 10% requirement. So, there were six projects that

we were made aware of that received letters from TCAC that they weren't required to meet the 10% requirement.

Kaylan Can I make a comment? What is TCAC?

Arfaraz Oh, I'm sorry. TCAC is the state Tax Credit Allocation Board where developers received state tax credits, and the regulations require that 10% of the units in the development meet mobility features under Chapter 11B, and 4% meet the communication features.

Susan They administer federal and state tax credits both, and the federal credits are from the IRS.

Dara So, they're one of the biggest single sources of affordable housing in California, and [indiscernible] years ago, they added the 10% [audio disruption].

Arfaraz DSA also asked the question about identifying how many projects were provided technical infeasibility under the current exemption in the building code 11B-233.2.4, again same exemptions currently in the current proposal is showing as will be stricken, and we identified 15, but like I said, that requires more research. I just didn't have the time before this meeting to go through and validate that number, so take that with a pinch of salt, if you will.

Susan Could I ask one quick question? So, you said those units were granted that exception for technical infeasibility. So, how many new units were then constructed because they were granted technical infeasibility for the existing units?

Arfaraz Just so you know this list is not a comprehensive list of all public housing. Clearly, there's all the new construction that is also happening in the city, and I didn't include that. Those projects have in most cases, if not all, exceeded the 5% requirement for mobility and 2% for communication, and those units were being used as the substituted unit based on the US DOJ advisory under 233.3.4 where they're in a similar location, and they're not necessarily part of the same project.

Susan The issue is with that, excuse me for interrupting, but if we were to take a look at that particular provision, the way that provision reads right now, you would also have to construct a ground floor unit with adaptable features to meet that requirement.

- Arfaraz So, the technical infeasibility is specifically for the mobility units and not for the adaptable units.
- Susan Well, the way the code reads right now though—
- Arfaraz I'm saying for these projects. These technical infeasibility granted for the mobility units. Like I said, I just didn't have the time between our phone call and the 23rd and today to research. So, to answer your question about how many adaptable units also received some kind of technical infeasibility, that requires more research, and I just don't have the staff to help me put that together.
- Dara If I understand the important point that you're making is that under the regulation as it's currently drafted, in addition to all the mobility and sensory units, you have 3,124 adaptable units, which are highly coveted by people with disabilities, and if you change the regulation the way it's being proposed, there would only have been 261. We would have eliminated—
- Arfaraz It would be a 2.7% decrease in accessibility.
- Dara Two-thousand fewer relatively inexpensive to do adaptable units.
- Arfaraz Right, and just so you understand that when you read the code it says— sorry, let me pull it up real quick. Under alterations, where compliance with 11B-809.2, 809.3, 809.4, vertical mobility units and 11A Division IV adaptable units where it is technically infeasible to provide an accessible route to residential dwelling units, the entity shall be permitted to alter or construct a comparable residential dwelling unit to comply with the mobility requirements.
- Susan Well, no. It says the way it reads right now, provided that the minimum number of residential dwelling units required by Sections 11B-233.3.1.1, 11B-233.3.1.2, that's the ground floor units, and 11B-233.3.1.3, so that technical infeasibility the way that it's written right now, if you grant technical infeasibility, you're also granting this for the units with adaptable features, which means for any of those units that you would grant technical infeasibility that have adaptable features. You would have also had to have constructed another unit.

Arfaraz

It depends on the project, and they're not always ground floor units. Essentially, we call them covered units as per the definition in 11B-233. The main point, like Dara said, the huge reduction, I mean we're talking close to 3,000 units that will not have adaptable features had this code proposal going forward in the same period if we had the same amount of development. We're talking about units where we were just replacing cabinetry.

I would ask both the question, how much more does an adaptable kitchen cabinet cost a project than a regular cabinet without removable cabinetry or without breadboards? How much more does it cost to go in, expose the wall, repair the dry rot, and put in the backing, not the grab bar, but just put in the backing so that then when there is a reasonable accommodation, the folks who run these places are able to respond to these reasonable accommodation requests?

If you look at some of the HCD reports, and I've been spending a lot of time on the HCD website of late and looking at some of the complaints that are received statewide across several jurisdictions on how reasonable accommodation requests are not being responded to. This will just make the problem worse because if we don't give people the tools to succeed, then they're going to continue to ignore those reasonable accommodation requests, which is a pattern we're seeing in report after report whether it's a federal level or the state level.

Greg

Okay. Ida, question, and then Stoyan and Gary. We're going to try to take a break in the next five minutes.

Ida

I have one question. Did you say all these questions were tax credit allocation projects?

Arfaraz

No. I did not say that.

Ida

Okay, I just wanted to clarify. Secondly, you said that the entity can construct. I want to clarify that in terms of the building code, the entity is not the city. It's not the county. It's the property owner. So, in application of that provision—

Arfaraz

That's exactly how—

Ida It's the property owner. So, if the property owner doesn't own any other properties in the city, that entity is considering another unit in some other project as meeting that requirement, it doesn't apply to the entity.

Arfaraz It has to be the same entity.

Ida Well, no. It has to be the property owner on that property because that's the way that building code works.

Arfaraz I'm agreeing with you.

Ida Well, no you're not because you're saying on some other site that if the property owner owns a project on some other site, they can meet this requirement on some other site. Is that what you're saying?

Arfaraz So, let's say you have a nonprofit that owns and operates a housing program in Property A, and then they have another property at Property B, and they have a substitute unit in Property B because it's technically infeasible to make that unit meet the mobility requirements in Property A. That's all. That's not them administering it.

Ida Right, but that's not the way the building code applies. The building code applies site-by-site, so that's the entity is able to construct another unit. It's not on another property. It has to be on that property. I'm just letting you know that maybe the way San Francisco is interpreting it, but all the other jurisdictions, it's property-by-property.

Arfaraz That's not how the US Department of Justice is interpreting it because in their advisory, they say that a substituted dwelling unit must be comparable to the dwelling unit that is not made accessible. In fact, it should be considered in comparing one dwelling unit to another it should include the number of bedrooms, amenities provided within the dwelling unit, types of common spaces provided within the facility, and location with respect to the community.

So, they wouldn't include location if it was supposed to be at the same—

Ida If you're looking at that, that's not in our building code. It's the application of—

Arfaraz In an advisory in the US DOJ.

- Ida But, it's the application of civil rights law in the context of the ADA versus the application of the building code, which applies project-by-project, site-by-site. The building code is not civil rights law.
- Arfaraz This is a DSA manual.
- Ida But, it's written as a DOJ advisory in the context of the ADA. It's not in the application of the building code, and the advisories are not enforceable in the building code. We have to go with the requirements in the building code.
- Dara The building code has to be compliant with ADA 2010 Standards.
- Ida It's not civil rights law programs.
- Dara That's their interpretation of the standard. That's not their interpretation of civil rights law.
- [Speakers off mic].
- Ida That's fine. He can do that interpretation of the standards. We're saying in application of the building code, that is not permitted. So, just because they're doing it in the application of how they're interpreting a certain standard, it's not interpreted that way in the building code. The building code is project-by-project, site-by-site.
- Dara Maybe that is something we need to change and make building code complaint with the ADA.
- Ida But, building code works.
- Dara Putting it aside for a moment, I think that all this discussion about exemptions is sort of really a red herring because there may be a few of these where that exemption allows them to put a building somewhere else, the but the vast majority will put in the same building, and the proposal you're changing is going to eliminate thousands of—
- Ida I want to clarify it's the proposal we're clarifying right now. That provision exists. We're trying to make it clearer. We're not trying to bring it back in.

We have shown through the code development and the application of it of that requirement, but I'm just trying to clarify there really is a confusion between application of the building code and application of civil rights laws, and the building code in the structure that the building code operates when you look at Chapter 1, it's by the enforcing entity, project-by-project, site-by-site.

There is no involvement in any other jurisdiction of someone checking that civil rights law is being met. It's the building official who's enforcing the building code. So, I just want to clarify that that how San Francisco may be applying it as a housing program is not directly related to what we're discussing here. It's associated, but not every other jurisdiction has that opportunity to do what you're saying.

First of all—wait.

Greg When Ida finishes, I want to go to Stoyan and Gary. They've been waiting a long time, so finish your thought, Ida.

Ida Right. So, then secondly, when we were talking about the whole public housing discussion, there are entities, very small entities in California who do not have any type of funds to encourage public housing. What they get are other benefits, which is not an exchange of funds. So, it's a public housing project, and therefore, as incentivizing it, not necessarily on inclusionary housing where someone perhaps is required to provide it. This is like rehabilitation of certain areas where they want to provide housing, or they want to provide affordable housing, and so they'll say—

Arfaraz Are you still talking about alteration projects?

Ida Excuse me?

Arfaraz Are you still talking about alterations, or are you talking about new construction?

Ida Yes, alterations. So, what they want to say is we want to encourage people to redevelop this building. We offer nothing, perhaps maybe, I don't know—

Susan Sell you the building cheap.

Ida Sell you the building cheap so that we can encourage you to do that. That person says I have to make to all these adaptable where if I can still provide affordable housing and not do it, but I don't have to make them all adaptable if I don't take something from you. I mean, what I'm saying is that the incentive to develop some buildings from private entities, not nonprofits, not anything, in a very small city may be nothing that is significant enough that people may say okay, but if I can just improve it a little, and I don't get any kind of benefit or whatever that benefit may be, I don't have to do any of it, so they don't.

Then, you may lose accessibility, the 5%. You may lose adaptable. So, what I'm trying to understand is that we address regulations in the context of the building code. We can't take into consideration how housing programs and larger entities interpret their housing program requirements. We can only say that when it is part of a housing program for that particular builder, this is the code. That's how we have to address the regulation because that's all we can control within the context of the building code.

Greg Okay. So, we're going to try to wrap this up briefly so we can take a break, and we may have to come back to this. Stoyan, go ahead.

Stoyan I want to clarify a few things. I'll try to be—

Greg Hold on a second, Carol.

[Speaker off mic].

Greg Stoyan.

Stoyan HCD modified Chapter 11A in 2006, and because of the time limitations and whatever, I wasn't there at that time, we have lost sections that we modified and [audio disruption]. So, there when we get the call there is a change in federal [audio disruption].

So, the question here is what I'm getting from Sue and from Ida there wasn't any change to require compliance for adaptable dwelling [audio disruption]. So, then [audio disruption], right? The intent was to continue enforcing the same requirement that was before, which in 11A clarifies the dates. There are multiple connections. So, how it reads right now is you can give the impression that okay so it's required for everything, and this wasn't DSA's intent. Is that correct?

Ida I'm sorry. I don't understand.

Stoyan Okay. Now, you're clarifying something that already exists.

Ida Okay, so I think what happened was we felt that it wasn't applied in 11B because it wasn't specifically expressed, even though it was our intent that it was applied. When we actually did a code analysis, we saw that it did apply, and so we're still trying to where before we were trying to introduce it, we now realize that it's there and we're trying to clarify it.

In other words, the intent has always been to not have the date trigger and we thought it wouldn't, but when we did our code analysis between the 2010 and 2013, and this was Arfaraz's discussion with Dara, we're like oh gosh, it is there. It's not expressly clear, and it's because it's there by reference in 1102A instead of having it be in Division 4 in reference to 1102A.

So, the provision is there. We're just kind of like public housing. The provision is there. We're just trying to make it clear. Kind of the same issue here.

Stoyan Okay, so now, you're going to make it clear with the date, but you don't have any intent to change your regulatory affect. Right?

Ida Well, in making clear, it's a change in regulatory affect because it affects all these—we're making changes to regulations.

Stoyan The intent wasn't back then in 2013 to require compliance for a structure that's built prior to this date. When you were adopting the new 2010 ADA Standards, then you included some existing. Your intent was to keep it the same it was, and it was—

Ida I think our intent was to comply with federal law and state law, so that's how we structured the elements, and it was still unclear technically when that adaptability applied because federal law does not require it, and state law doesn't require it, but in the way we amended the section, that does not come through clearly.

Stoyan Okay, I'll be back.

Greg Well get back to you after you put the money in the meter. Gary.

Gary Gary Layman, chair of the CALBO Access Committee. So, once again this is put together by the CALBO Access Committee in our comments. We actually agree with the change on the alterations to a building, and I know that some, Dara and Arfaraz, feel that it's a reduction in accessibility, however, at CALBO we look at it as statewide, not just jurisdictional, and the state is more rural than the San Francisco, LA, and Sacramento.

We get these projects, and they will be in a jurisdiction similar to mine that eliminates the—they'll stop the project. They won't don't it. Arfaraz, you had asked the question, and I 100% agree with you, what's the expense to put in adjustable counter. Well, I 100% agree with that.

Arfaraz [Speaker off mic].

Gary I know, but it's an option. However, that is a reasonable expense that someone could do, but when it comes to a maneuvering clearance of the doors and these things—

Ida Or, an accessible route to the unit.

Gary Or, route to the unit, then this is when—that's when we'll shut down a project for us, but in our area, I'm saying ours because I live in the city of Oroville as an example, that if one was to come in and rehabilitate, they're happy to give us the 5% and the 2% for the mobility and the hearing impaired. But, when we throw in the other, that breaks the bank, and so they shut down the project.

So, it increases accessibility in our area, but it may not—our area doesn't have the accessible community, the disabled community that San Francisco, LA, Sacramento, San Diego have because we don't have the public transportation that you guys have. So, this is why we're going where we're at in support of it that there are city municipal codes in a way to the jurisdictionally, you may be able to make this work in your area of that.

We did have a couple changes that we wanted to go over. I know Stoyan had read, and he had a couple comments to us, but the interpretations that we get from local building departments on time of construction or newly constructed when it meets the time of construction, they reference that despite what the date was that it met it at that time.

We're always saying that isn't where it is for the time for construction because it's like new construction. They're thinking that the alteration can meet that at the original time of construction if it was constructed after 1991. Well, that's why the new construction to meet the new construction standards.

Then, also, there was the comment that we had indicated DSA had relocated the exception down below. We had mentioned because of interpretation that we deal with other building departments is possibly a new section on that because what it does is it makes it, if you read the text and then there's an exception, it indicates that they think that it only applies to the units themselves and not the common use areas, where if it was switched down below into its own section, then that exception wouldn't go there. So, then that way, there's wouldn't be that confusion that it's the entire building, not just the units themselves.

Susan

Arfaraz, you made a comment. You said it's that they would need to make modifications to the counters and, Gary, you made a really good point because when you read that section on alterations, it requires that you alter it to Division IV, 11A, which means the bathrooms might be much bigger, the doors might have to be widened, maneuvering clearance around the doors, there's probably more that would probably have to be done in the kitchen, so it's much more extensive than just saying oh, they're just going to put in some new kitchen cabinets. Like we said, it would have to be on an accessible route, too.

Ida

I think that what is being done is that they will alter only a specific number of units to meet the 5%, 2%, and then the other adaptable won't receive any alterations at all. So, now you have homeowners complaining that certain individuals have a brand new unit, and others don't get any improvements because it would trigger accessible route, wider bathrooms, kitchens, so they get no improvements at all. Now, we have building owners getting slack.

Arfaraz

Is that date that you're going off of, are you—

Susan

No—

Ida

No, we get these comments, Arfaraz. We don't develop buildings, so we don't really have an interest in it. We're being reactive to what we—

Arfaraz I'm asking to share that data with the rest—

Ida We have a comment from that email—

Arfaraz I'm sharing data that I have that I'm basing my comments on, so—

Ida Right, but you have access to that data because it's your facility. We're trying to get data from everywhere across the state.

Arfaraz I'm suggesting we take the time to gather the data and make an educated decision moving forward because right now, we're looking at—

Greg You're next in line.

Gary It's still my table.

Ida I don't think Gary's done yet.

Arfaraz Oh, okay.

Greg So, now let Gary finish.

Gary This is Gary Layman. Thanks for listening. I'll continue a little further. Stoyan has returned, so he can lecture me as well.

With that being said, Arfaraz, you have great comments that you've made. One I wanted to trigger off of as well is replacing dry rot. You take the walls off, and you put in backing. As I'd indicated before, that is the local building department. We have not just the accessibility code, and not just the building code. We have plumbing code, mechanical code, Green building code, and energy code, and the Green building code requires us, and this is what I do, is for them to utilize their scraps to put in backing and backing for grab bars and mats.

So, when they do one of these, and yes, they're not real happy with me when I call it, but I do because it's very simple within it because in the Green building code, which a lot of people don't realize because they're just looking at the building code that that is a requirement.

So, a sense of how far does it go in shutting down a project. That's all I wanted to indicate that there is sections in the Green building codes—

Bob What he's talking about is reduction of waste that's going to go to the landfill and all that, and this is an excellent way to cut down on percentage.

Greg Okay. I think we need to take a break. That's what I think. We can come back and spend maybe ten minutes more because Arfaraz and then Soojin both wanted to weigh in on this, and it looks like this is obviously a topic of diverse viewpoints. So, let's break for ten minutes. Ten after 3:00, we'll come back.

[Break].

Greg Okay, so what we're going to try to do now is just maybe I think we have a gist here—I have a gist that we have different points of view on this, and maybe DSA and even amongst the ACC and the DSA, so I think what we should do is finish up with any comments from Arfaraz. We haven't heard from Soojin. Let's hear your comments. Then, I think the best thing would be to see what DSA can do with any kind of language revisions based on that.

Dara Can I say one very brief comment when they're done?

Greg Sure.

Dara Very brief.

[Speakers off mic].

Soojin I just wanted to support the change because day-to-day we're faced with this question where the building or property was built in the 70s or even earlier, and it's beat down really in bad condition that they're faced with this question. They decide by providing ten units with mobility features is doable. They can do it, but if you have to work on 60, 70, 90 units to make all the door openings wider, [indiscernible] doors for compliance, or the kitchen wider from 36 to 38 or even 60. Owners are faced with a lot of tough decisions, and I really appreciate you guys pointing out that there's more of a clarification, not a hard position as Stoyan pointed out. So, I just wanted that to go on record.

Greg Okay, great. Thank you.

Arfaraz

I just want to also go on record to state that from people and the citizens that I've reached out to, this is definitely a significant change. You look at the adoption table in Chapter 11A, 1102A is definitely not checked under the DSA column. Application and scoping for public housing projects are clearly in Division I and Division II of Chapter 11B, which then takes us to Division IV of Chapter 11A for adaptable units.

So, to say that because we have a note in Division IV that references application and scoping in 1101A and 1102A therefore makes those two sections applicable and have always been applicable. It doesn't appear that that was the intent because if it was, then we would have had an adoption table that reflected that intent.

Also, there are many areas within the building code, within Chapter 11B that clearly states that—like, let's take the elevator exemption, for example. You could be doing an alteration on a second floor in a building that doesn't need an elevator or doesn't trigger an elevator. That doesn't mean you don't provide accessibility in the improvements that you're doing on the second floor.

The building code and the regulations state clearly that the alterations need to comply to make facilities accessible to and usable by persons with disabilities to the maximum extent feasible. There are tons of alteration projects where you can include updates based on what's in the current building code to the maximum extent feasible making elements within those covered units comply with and be more accessible to persons with disabilities.

The first sections obviously are more effected and have higher rates of disabilities. I would say that this code proposal, this change in the code which is what it is, will greatly reduce the access being provided in public housing and would affect the people living in those public housing the greatest. Therefore, I'm going to come out and strongly oppose this code proposal.

Greg

Basically, the two points of view I hear from one perspective if clarifying the existing code, so there's some of you who think it's not really changing anything. It's just clarifying, and it will actually open the door to more accessibility. There are at least a couple other voices in the room saying no, this actually is a change that will drastically or in some way reduce accessibility. So, if it's just restating one of those two points of

view, I don't think we need to restate those. I'm just talking to the few people who want to say something.

If you have ideas on how you can actually, if you understand both points of view and actually have an idea of how you could marry those two together and come up with something that solves that problem, it'd be great, but it may just be that there's just two different points of view in the room, and they can't be reconciled. I don't know. I'm not obviously the expert.

I think at this point, we've had a really thorough conversation, so what I don't want to do is reintroduce and hash ground we've already covered. So, if you have something new to add to the conversation, by all means, we'll just go right down the line. Dara, you're first, Gary, then Stoyan.

Dara

Two brief comments. One is I want to support the proposal by CALBO to make minor wording modifications to 233.3.4.4, substantial building alterations. That's second from the bottom paragraph. No, the bottom paragraph. I think their proposal really makes it clearer. Just that paragraph.

The one idea I may want to throw out, and I haven't really thought about it, so it's just thinking about it a little bit is to make the 1991 optional for jurisdictions. I don't really want to go there, but I'm just looking for a compromise, so there might be something in there that we could do. Those are the only two things I wanted to say.

Greg

Okay. Thank you.

Gary

A comment because Dara and I had conversation on it on our break, and then Arfaraz just brought that up, on the not technically feasible or infeasibility or whatever, the process of going through that for a local jurisdiction to determine what's not technically feasible or what is technically feasible or whatever, I can say probably 90% of jurisdictions don't understand how to put something like that together, nor do the architects or the engineers because it's quite a lengthy process, and there's for justification in there.

If you're going to do that for accessibility purposes, it needs to go one, if you're not technically feasible, it's going to be structural in nature, so you'll have to have an engineer put it all together and then also an advocacy group that should be reviewing this because it's accessibility,

and we're looking at who's going to determine this. The local building official isn't going to stick his neck out on the line when there's nothing in black and white saying this is what it is, even if they say well I don't know. Yes, you do.

So, what I do is I always turn it over to an advocacy group as well to review. There's a lot of processes that go with that. I just wanted to indicate that with technically feasible.

Greg Thank you. Stoyan.

Stoyan For the matrix adoption tables, [audio disruption] they are not regulatory, and there are a lot of mistakes because the issues [audio disruption], so the information is not necessarily correct. So, we need to check that [audio disruption]. We've been dealing with this for a long time despite [audio disruption]. So, if you go to court, you can't rely on this. That's what I'm trying to say.

The other thing is just a note for everybody. I don't know how many of you are familiar with that there were existing building requirements in California in 1982. In 1982, there are some housing requirements in the building code, and in 1985, HCB developed this New Horizon, which is a summary of everything [audio disruption] at that time. I don't care for unofficial data, but I was told that a lot of HCD renovation projects did include buildings built after 1980, and they don't comply with this. So, this is not—you don't need all these arguments to require compliance with these buildings. There were accessibility requirements back then.

Prior to 1980, it's [audio disruption], but in this building, they don't show up in your data, they don't show up in anybody's data for some reason. I don't know why. I requested our folks [audio disruption] these programs for some official data. It's difficult to track. [Audio disruption].

Greg Thank you. I think with that, we need to move on. Soojin.

Soojin In regards to potential building alteration definitions, I believe this was from Gary. [Audio disruption] advisory as the potential alteration advised separately, so it may be something that DSA needs to be careful.

[Speaker off mic].

Greg Okay, so I guess we're going in order for what's at that 2:45 timeframe. We'll be looking at the contrasting stripe of play equipment transfer step, which addressed last meeting. I guess we need some revisions on that. We'll see how many of these we can work through in the next 55 minutes or so.

Derek This item we have on page 67 of your package. Just really quick I'm going to cut to the chase. We're withdrawing this item. We heard a lot of views that were opposed to this item, so we're going to be withdrawing this item.

Bob What page are you on?

Derek Page 67, the second to the last page.

Ida Can you clarify which item that is?

Derek That's regarding the contrasting stripe that is currently required at play area transfer steps.

Greg This is one of the topics at the last meeting that everyone kind of agreed should be withdrawn, so we're just responding to that. Gene.

Gene Quick question [Indiscernible].

Derek The transfer step is usually used to allow—well it's used in a couple of different locations, but in play areas, it's a step that exceeds the size of a standard stair step, and it's utilized by allowing a child who's in a wheelchair to transfer onto the first step and then sort of scoot themselves up to the subsequent step. So, [audio disruption] area, and then in reverse, it helps them down the step and then transfer back to the wheelchair.

So, with that, let's go ahead and go to the next item that we have on the agenda. Did everyone read this through?

[Speakers off mic].

Derek The next item is regarding the toilet compartment doors, and this is on page 49 of your package. This is the one where we are proposing to allow greater than four inches away from—well, by striking the language, it in effect would be to allow toilet compartment doors that are in the side wall of the partition to be located greater than four inches maximum from the

partition. I don't think there were any changes on this item, but we wanted to see if there were any additional comments.

Greg

Dara.

Dara

I'm just wondering—let me get to the right page, 49. What we're saying, when you're talking about the front partition, we're talking about the front partition farthest from the water closet, right, because what's the front and back may not be clear.

Derek

Well, the back wall is the one that's behind you when you're sitting down, and the front one is—

Dara

Right, but that—

Derek

It's been pretty clear for about 40 years.

Dara

Okay. It might be something I hear as clear, but I'm glad other people do.

Ida

That's federal language. We really try hard not to mess with federal language in the basics, so changing that—to say something that's the same thing, we hesitate. If we're changing the requirement, it'd be different.

Greg

Anything else. Dara.

Dara

No.

Greg

Okay, Soojin.

Soojin

I'm in support of this revision because we already have a requirement where the door cannot swing into the clear around this water closet. That gives us enough space to maneuver once you enter.

Derek

Additionally, the additional 36 inches of clear—

Greg

Is everybody pretty much in agreement with this? Does anybody have any heartburn about this? Okay. Arfaraz.

Arfaraz

So, when it's an out-swinging door, we're talking about 11B-604.8.1.2. Is there a figure included? No. Okay. Is this figure going to get amended in the building code 11B-604.8.1.2?

[Speaker off mic].

Arfaraz It'd be good to see what that amendment looks like and see if it's clear and it goes with the proposed changes that you're putting in here.

Greg Very good. Anything else? Are you all in agreement with this and would like to see diagrams and images?

Arfaraz The figure that's currently in the code needs to be updated to reflect that.

Derek I think we have the four inches on both side.

Greg Okay, good. Thank you.

Derek Questions or comments on this item? Okay. Go ahead and go to the next one then.

The next one is on page 47 of your package, and this was regarding the vertical clearance at accessible parking spaces. Specifically, it's adding this exception here for existing multistory parking facilities. We did amend this since our last ACC meeting.

The amendment is we added this last sentence, so the whole exception would read—well, the basic requirement is that, "Parking spaces, access aisles, and vehicular routes serving them shall provide a vertical clearance of 98 inches minimum."

We're proposing an exception that would read with the new sentence also, "In existing multistory parking facilities, car parking spaces, access aisles, and vehicular routes serving them shall provide a vertical clearance of 80 inches minimum. Existing vertical clearance in excess of 80 inches shall be maintained in compliance with Section 11B-108."

There were some concerns in our discussion about whether this exception as we had it drafted last time would allow a reduction in vertical clearance under the exception, and we're trying to say no, you're not going to be able to add duct work and piping and stuff that would further reduce that existing vertical clearance that you already have. There's an excess of 80 inches.

- Arfaraz Section 11B-108 is maintenance of accessible features. Anything above 80 inches is not an accessible feature under the definition of the standards, both state and federal, so how can you reference 11B-108 to prevent someone from reducing your existing vertical clearance in excess of 80 inches? I'm not sure I get that connection.
- Derek Well, the accessibility that is provided is accessibility up to 98 inches, so that's provided already in the code. It's applied to van accessible spaces in the ADA Standards. California amends it and applies it to all accessible parking spaces.
- Arfaraz So, could we have language, something more simple rather than referencing 11B-108? Could we say something to the extent of an existing building? The vertical clearance shall be 98 inches or shall be 98 inches or the maximum extent be provided up to 98 inches, but no less than 80 inches or something along those lines, rather than reference 108 because that can be confusing.
- Derek We could definitely take a look at that, but we do feel that maintenance of accessible features, which in this case is clearance that may not quite meet the regulations here, but that provides accessibility in excess of 80.
- Arfaraz Can I just read 11B-108 for the benefit of the group?
- Derek Sure.
- Arfaraz So, "11B-108, maintenance of accessible features. A public accommodation shall maintain an operable working condition, those features of facilities and equipment that are required to be accessible to and usable by person with disabilities. Isolated or temporary interruptions in service or accessibility due to maintenance or repairs shall be permitted."
- This section, the intent of this section is to talk to accessible elements like elevators, platform lifts that may break down, and it's more in line with that than talking about ducting or new ducting that may reduce the clearance in an existing building up to 80 inches.
- So, that's what I mean by citing or referencing 11B-108 is probably not the way to go, and I understand what we're trying to do here, and I support that, but I just don't think referencing Section 108 is the way to do it.

Derek I understand your objection to it, but to explain, we also understand that 11B-108 preserves accessible routes and their full volume. There's nothing mechanical within those accessible routes. It tells us that we can't put trashcans within the door maneuvering clearance, so it regulates a lot of other things that aren't mechanically based. So, that's the aspect of 11B-108 that we're looking at here.

Dara I'm really puzzled by the first sentence, and I'm not sure why we want to reduce clearance given then a number of people with accessible vans, but even assuming we did, in some way, which I don't understand, I don't know why it says existing. I assume that 502.5 has been in place for several years, and I'm assuming that anything that's been built since that section was adopted should be 98 inches, so are we talking about buildings that were built before the 98 inches? Then, it's not clear in that section.

Derek This really can go back to any existing facility. It's not limited to those that have been built within the last few years at all. There are many parking garages, parking structures that are multistory in which the clearances just simply don't meet 98 inches. So, what we're doing here by providing an explicit exception is we are saving the designer and the building official from having to spend a great deal of time in establishing technical infeasibility for a condition that clearly is technically infeasible.

Dara I understand that if you're talking about buildings that were built before the 98 inches were adopted, but that's not how it reads. It says in existence implying in existence now, and you're talking about only building that were in existence prior to the date of adoption of the 98 inches. Otherwise, they shouldn't be in compliance.

Derek Actually, there are a lot of conditions where that's not entirely the case. For example, if you have an existing multistory parking garage, and they have up until now provided all of their van accessible auto accessible parking spaces on the ground level, but then decide to build a multistory shopping center right next door to that, and they'd like to provide a connection, a bridge to allow people to enter at an upper level of the shopping building, building code tells us that you have to distribute accessible parking, and while there was no prior requirement to have those upper levels providing 98 inches for the clearance, now you find yourself in a case where you're trying to then get a vehicular accessible route up to an upper level which didn't previously comply.

- Dara Well, maybe it needs to be clear because it just seems to me that you're just creating a complete contradiction. It has to be 98 inches, but if they already exist, then if you're altering them or if they were built between whenever this was adopted, 2013 and now, we're giving you a free pass if they don't comply. It doesn't make any sense to me.
- Ida Well, it may be the case that for some reason the jurisdiction doesn't make it compliant, but they can't necessarily make them tear down and rebuild technically.
- Dara But, it can still be a violation, and you can't let them get away with it if they're remodeling. I don't understand how you can just totally wipe out the requirements.
- Ida That's up to the jurisdiction that if it was not built in compliance to say tear it down and build it over. There are some issues that for height clearance, you just can't achieve it. It's a structure.
- Dara But, usually when we're talking about existing, we're quite clear we're talking about buildings that existed prior to the time the code was adopted. We don't say that here, and we need to say existing prior to the time that this requirement was adopted.
- Ida What we're saying is that in an existing facility, if it was built with 98, it needs to be maintained. We're not allowing the option to reduce it.
- Dara I'm saying, let's say I'm building a building this year, if I build a building this year before we adopt this, it's supposed to have 98 inches. That's the law that applies to it. Now, we're saying if somebody goes in a year from now, whoops, it's now an existing building so it doesn't comply, but who cares. That doesn't make any sense.
- If you're talking about when there's alterations in an existing multistory parking facility, we don't have to alter existing spaces. That might be one thing. Or, if you're talking about parking facilities that existed prior to the time they were required to be 98 inches, but otherwise you're just wiping out the requirement. It's totally unclear.
- Greg Are you all addressing the same issue? Soojin, or something different?
- Soojin Something different.

Greg Stoyan, are you on this issue?

Stoyan Yes.

Greg Go ahead, please.

Stoyan I think the [indiscernible] was in 11B, but in 11A we had issues with this 98 because it came from 1991 ADA. The general requirement in ADA was for van accessible, so we changed van accessible and made it for all accessible parking spaces, but whether we kept the exception that says you can group the van accessible on the ground floor. So, what is happening throughout the state you have accessible parking spaces on the ground floor, and you have nothing upstairs on the other levels?

So, we can't require tear it down a structure that was already built because the language wasn't clear or for some other reason or reasons, so this is the main issue. We get the same question.

Dara When was this added? Can someone tell me that, this specific language?

Derek It's been required for a long time.

Arfaraz It goes back to the '91 ADA Standards.

Ida Just for your understanding, we're not promoting noncompliant construction. Perhaps—

Stoyan It came in 1991.

Ida Gary, I don't know if you can address something that's noncompliant construction in the case of a parking structure. That's not our intent here to give a hall pass. We don't get into that forum. We're just trying to say that we hear from a lot of people that they're given technical infeasibility for existing facilities, which is height clearance in a parking structure is one of them. We're talking steel, concrete structure is a given.

So, rather than getting people to always document technical infeasibility, we're trying to recognize that. You're addressing a unique condition that only the building official knows how to address, but the building code doesn't address when not compliant to tear down the parking structure. It just doesn't go that way. The building department has to make that determination.

- Dara I think what I'm suggesting, if I understand you correctly is if they're going to alter an existing multistory parking facility that was built before the 98 inches, they don't have to change that, but that's not what it says.
- Greg Okay, Soojin, your comments. You're on a different slide and topic. Are you on this topic?
- Arfaraz Yes.
- Greg Go ahead. Soojin has another topic.
- Arfaraz I think this may be perceived as being less stringent than the ADA, and I would say that we should steer clear of that. We don't want to come across as being less stringent than what the ADA requires.
- The ADA doesn't have a grandfather clause in that. There's no getting away from the fact that you need to document a technical infeasibility irrespective of what the building code says. As much time as it may take some building officials to go ahead and process a technical infeasibility request, I think the building code currently in its current state requires that technical infeasibility be documented on the permit site.
- So, this of all things, is a slam dunk technical infeasibility. When you have an existing facility where, like Ida said, there's a structural beam that limits the 98-inch requirement. It seems just redundant in my opinion.
- Derek Well, the ADA Standards only require the 98-inch vertical clearance to van accessible spaces or accessible auto spaces, car spaces, 80 inches is the one, so we're certainly not violating the norms of the ADA Standard, however the perception would be.
- Greg Soojin. Let's go onto yours.
- Soojin Thank you. I just wanted to know if the exception is really specific to multistory parking facilities. So, if it's just a one-level parking facility under an office building or whatnot, would this exception not apply to that?
- Derek As it's drafted right now, it is specific to multistory parking facilities. If you have a single-level parking facility, it might be very, very old, and

then you'd have to go through the standard technical infeasibility process to address that as currently drafted.

Ida I just want to call attention that we're only eliminating the requirement for car parking spaces, not van. So, if it's one level and only van was provided on that level and it was less than 98 inches because it was built prior to the '91, you would still have to apply technical infeasibility to that. You would still have to make a request for that because that's for the van spaces. You need a technical infeasibility for the van. We're just saying you don't need a technical infeasibility for car.

Arfaraz I see what you're saying now, and I think it's important to make that clear distinction so that we're not locking heads with the ADA.

Ida That's car.

Arfaraz That 98-inch requirement, there is no exception for a 98-inch requirement for the van accessible. We need to make that clear. It's not clear right now is what I'm saying.

Greg Okay, you can just that very first sentence under vertical clearance and say it's for cars only and not vans or something like that. Gary.

Gary This is Gary Layman with CALBO Access Committee once again. We support this because local jurisdictions would indicate not technically feasible in this situation and then we would require as an equivalent facilitation, which is, and I have in numerous cases required them to put an additional covered parking off of the side of that parking structure that is covered and provides the same protection and the same type of parking on the other side.

Arfaraz For the van accessible space?

Gary Absolutely.

Arfaraz That's still required, right? That's not changing apparently.

Gary No, but it says therefore existing buildings, but your 98, because your 80 as they've indicated is all that's required for cars.

Arfaraz What I just hear Ida say was that you can't use this exception for van accessible space.

- Gary Absolutely, so the exception isn't being applied for van accessibility because if the van accessible space was in an existing parking structure that was less than 98 inches, which I run into often in [indiscernible] is you require them to provide an equivalent facilitation, which is a separate covered parking space that's 98-inch clearance for your van, therefore you're meeting the intent of the code.
- Greg Well, it sounds like once it's the realization that this is just about cars and not just vans, it sounds like this can help clarify that, so if that can be highlighted in the way that makes that clear.
- Soojin, and then maybe we can move onto the next topic.
- Soojin Just one more question. In an existing facility doing alterations, with this exception, we are allowed to put regular accessible car space that doesn't have 98. Is that correct?
- Derek Yes, you could put it in spaces with 80 inches or greater vertical clearance.
- Greg Okay. Let's move onto the next topic. Definition of a riser.
- Derek Alright. This is on page 1 of your package. At our last meeting, there were a lot of additional comments about the way we were describing the other conditions where a riser is considered.
- The correct definition says the upright part between two adjacent stair treads, and of course, we need to consider also that we added between the last meeting and this meeting, between a stair tread and an upper landing, between a stair tread and a lower landing, and then in the case where you just have one step, you have an upper landing and a lower landing with one vertical portion in between.
- Now, we commonly understand all of those conditions to be a riser, but the definition that we have currently in the code is problematic, so we've amended that in between, and just wanted to present it for any additional comments.
- Greg Dara, are you still up on this, or was that from the last one?
- Dara Oh, sorry.

Greg No problem. Gary and then Lewis.

[Speakers off mic].

Dara I'm trying to moderate my comments.

Gary Gary Layman with CALBO. The one thing that seems kind of confusing on this is, or a change in elevation along the path of travel because as you indicated, it can just be one step down, and so building departments don't consider this a landing. It also requires a handrail and wheel guides so possibly a change in elevation along the path of travel between four and seven inches added to it.

Derek Change in elevation between four and seven inches.

Gary Yes, along the path of travel.

[Speakers off mic].

Gary Or, circulation path. There you go. However we use it.

Greg What were you saying about four to seven inches?

Gary Well because that's what constitutes a rise, a step.

Greg Okay. That's in addition to what's already here?

Gary Yes.

Greg Okay.

Bob So, you don't want to trigger on one step. You want to make sure it triggers—

Gary Well, it does indicate that one change in elevation is one step because a lot of building inspectors will say this is a landing, and this is a landing. Well, that's just a change in elevation.

Arfaraz Is the four to seven inches coming from Chapter 10 for steps and egress route? So, if it's not an egress route, can it be three and a half inches?

Gary Yes.

- Arfaraz Would it not meet that definition?
- Gary It's a circulation path.
- Greg Okay, Lewis, you're next, and then Carol.
- Arfaraz I'm just saying if we do include the four to seven, then we may be limiting it and excluding certain other steps if that's your intent.
- Gary Well, what that is if you have a longer circulation path, accessible route, whatever, any change in elevation you're going then a half inch up by ramp, or if you're going to utilize it as a step, then that step has to be four to seven inches because three and a half inches is not a step on the route.
- Ida I think what Gary's trying to get at is an elevation change of a quarter to half an inch or something is not going to require a handrail.
- Gary That's right.
- Ida It's when a handrail is required is I think what you were saying. Correct?
- Soojin In 504.2 already requires all risers to be four to seven inches.
- Gary Absolutely. This is the definition of a riser, so where we this would come in play, so they're indicating that definition of where this would come in play, but they're not indicating along—because someone could say that's not a landing and that's not a landing because it says between an upper and lower landing, so that's why clarity that a landing is something you have to have two or three risers before you'd have a landing but because you have one step down, that's not a landing, and this isn't a landing when technically it is.
- Greg Okay. Lewis.
- Lewis Did somebody say they understand what a riser was? That's been my understanding.
- Derek Yes, actually we got a very long analysis that had the effect of omitting the requirement for handrails at single-step, single-riser, two risers, and I think three risers also.

Lewis So, this is triggering when a railing is required.

Derek Yes.

Gary A rail is required.

Ida This is clarification. It's triggering where a handrail is required by definition of riser.

Lewis By definition of riser.

Derek A handrail is required for a single step, but a well-scrutinized and detailed, logical argument can be made by following the code path and our current definition of riser, which underlines that.

Lewis [Speaker off mic] risers that are always the problem, not anywhere in between. Does this make it clear then that at one step then a railing is required?

Derek It short circuits the code analysis that underlines that. The requirement is used then in understanding it and applying it to one step. A lot of other people understand it in that way, but we work in a creative field, and people use very minute detail in their analysis, and they come up with very creative—

Ida The difficulty is when it's regulatory language, it's regulatory, so words matter, and that's what we're trying to impress on all of you.

Greg I think everybody gets that. Okay, Carol. Did you have a question?

Carol Yes, I have a question to ask. If I were to think about a curb, so here's the landing, here is the rise, and here is another landing. Then, in fact, here that seems to lean towards to justification I have to have a railing.

Derek A curb?

Carol If I'm going to use that curb to access that facility, then does that curb then need to have a railing?

Derek At curbs handrails are prohibited under Caltrans regulations and road construction.

Carol Okay. This was very confusing to me because I was thinking what you're doing as you're describing, are you describing the curb?

Gary No.

Carol No.

Ida That's why I think it's put in context of the stair here.

Carol Okay. A stair is not a curb, but if you only have one, which is what they're saying—

Gary Which would resemble—

Derek We're talking about on a site and you have a walkway, and if there's a step up, one step up, provide a handrailing.

Carol Alright. So, then I was correct though. It's like a curb, but it's not really a curb—

[Speakers off mic].

Carol Okay, it could be one rise.

Derek A single step, yes.

Carol And, that would require a handrail.

Derek Yes.

Greg Soojin, and then Ernest.

Soojin I am a little bit confused about the handrail because the requirement under handrails says stairs, plural, shall have handrails, but if I go to the definition, stairs says a series of two or more—

Derek Okay, let me help clarify that a little bit. There are two definitions in Chapter 2 of the building code. There's a definition for stair, and there's a definition for stairs. The definition for stairs with the S at the end is adopted by the Department of Public Health, and the only place that their regulations are in effect are for pools, swimming pools. So, they're talking about the stairs in a swimming pool. The definition of stair is

adopted by quite a number of agencies including the Division of the State Architect, and that's to be applied to stairs, steps, stairways. That's what that is applying to.

Now, you'll see in one of the earlier paragraphs at the top of the definitions, you'll see where it says that the definitions here where they're presented as singular, they also apply to plural. So, that way the word stair as adopted by many agencies is singular, you may it plural, and now it's stairs, and it looks just like the word that's adopted by Public Health for pools.

- Soojin You have to go to the matrix in like adoption table to figure that out.
- Derek As well as you can. If there's no errors.
- Ernest This is just for Lewis or whoever whether it's in the roundabout, when you were talking about, Derek, the long-winded definition trend that you could kind of follow for how a stair might be defined, and I think it was on ADA Shop Talk, they kind of went down how a stair and a tread and a top landing and lower landing are drawn out so you have almost three or four steps before you require handrails. So, this really does help combat any alternative.
- Lewis I would never think to use that.
- Ernest If you want to get creative, the definitions can really get out there.
- Greg So, basically, as I understand it, the ACC supports this change, written with the addition from Gary saying a change in elevation along the circulation path between four and seven inches. Is everybody behind that? Okay, amen to that. Next.
- Derek The next item is scoping for common use areas and employee work areas. That's on page 33 of your package. Here we've made no changes here, but we wanted to bring it up for any additional comments or corrections that you might have about this.

Just a reminder, we don't currently have explicit scoping that tells us that common use areas and employee work areas need to comply with Chapter 11B. It would be the intent of DSA's adoption of the ADA Standard as our model code to rely on the general addition of 11B-201.1 that indicates

that all areas are required to comply with the accessibility provisions of this Chapter.

We consider all areas to be broad and expansive, however, there has been enough reports of misunderstanding about the provision that we feel here in such a fundamental area that common use areas and employee work areas where we need to make this.

Greg

Dara.

Dara

I don't object to including this language. I assume that including it might result in the contrary where people will think that's the only kind of common areas that are covered. I'm wondering if you could just modify 11B-201.1 to say all areas [audio disruption] and also person with disabilities and facilities, comma, including common use areas and employee work areas, comma, but comply with these requirements. I understand that that might put the clarification in with all areas to make it clear that this is one of many places. That would just be my recommendation.

I don't know enough, but I could see somebody saying well, maybe there's a parking area or a—I'm trying to think what might be a common use area and not an employee area, but something else—

Greg

A bank lobby.

Dara

A bank lobby or something, and if it's really all areas, then the problem is common use areas and employee work areas, I'm just suggesting it would even clearer if you moved that phrase into 201.1 instead of putting it where it might be confused with [audio disruption].

Greg

What page is this again?

Derek

Page 33.

M

Thank you.

Derek

Are there any examples of how it might be construed—?

Dara

I was trying to think of some like parking areas or—I'd have to think some more about one, but—

- Derek We have explicit requirements for parking areas. It's built in 11B-208 [ph].
- Ida I think the way this is—just to provide clarity, 201.1 is the general, and then under Division II, there's a whole lot of scoping for specific areas based on certain requirements, and this is just kind of perhaps a belt and suspenders.
- Kaylan Common use is defined in this.
- Ida Right.
- Dara It was just a suggestion because when I read this in isolation, it implies that there might be other parts that aren't covered, and I know that's not your intent.
- Ida Well, under II, like raised areas that are accessed by catwalks are not covered, so there are some exceptions, so this is just the scoping provides a little more detail as to where all this is required.
- Greg Kaylan, and then Arfaraz.
- Kaylan What does this do to 203.9?
- Derek With work stations?
- Kaylan Because you know, there's been some confusion on the site of people that use the codes about work stations versus work areas.
- Derek Sure. Well the California Building Code is different from the ADA Standards on the issuance. Under the ADA Standards, there is a broad exception that is provided for employee work areas that is often summarized as approach or an exit. California has not taken that approach, and instead of providing—instead California requires that work areas be accessible. It means that the receptacles have to be at the right height, switches have to be at the right height. We apply all the accessibility requirements to employee work areas.
- We provide a limited exception for employee work stations, which is in essence an approach or an exit. You also have alarms in there, a couple other items.

So, I don't think it's going to impact the employee work stations. The employee work stations have taken the place in the list of general exceptions of the ADA Standards, general exception for employee work areas. So, we've taken care of that approach to the code.

We still maintain the requirement for common use circulation paths within employee work areas to be accessible. I don't think it's going to happen, and if you see somewhere that it might look like—

Greg

Arfaraz.

Arfaraz

So, in the current code, accessible routes are required to employee work areas under 11B-206.2.8, and they are two exceptions, exceptions two and three. How does this addition of 11B-248 affect that?

Derek

We believe it has no effect whatsoever because our argument is that 11B-201.1 already required compliance with the chapter. Remember, we're talking about the whole chapter. That includes the general exceptions as well as any specific exceptions that are provided. So, as Ida said, it ends up being belt and suspenders, two pieces of code that really are doing the same thing. It doesn't cancel anything out.

Arfaraz

So, my understanding is common use areas and employee work areas already are required to be accessible, and so when you say it's belts and suspenders, this is just redundancy.

Derek

It's for all the other people that don't—those areas are required to be accessible.

Arfaraz

Why don't we just create a Chapter 11C and just replicate all of 11B?

Ida

That's just more code for us to maintain.

Soojin

I support this revision because I have this conversation all the time because readily achievable barrier removal is not applicable to commercial areas such as common use areas and employee work areas. [Indiscernible]. People think that accessible area requirements are not applicable during new construction or alteration. So, having this specifically spelled out makes [audio disruption].

Derek

Really, we're more and more getting designers or national corporations who have their architects in some other state, and they're more familiar

with those other codes and applying the ADA Standards then they are with California code. They should be familiar with California code if they're going to work here, but sometimes they're not.

Greg So, does anybody need more time to think about this, or are you fine just saying hey, move forward? It sounds like it's primarily a redundant piece of code. Do you all want more time to ponder this, or are you ready to just say yes, go for it?

Arfaraz I wonder if you can just strengthen 11B-206.2.8, which already talks to employee work areas and just make a definitive statement that all common use areas and employee work areas need to comply with accessible route provisions in Division IV and just call it a day rather than—I mean two separate sections that speak to the same thing.

Kaylan What is that again?

Arfaraz Oh, 11B-206.2.8, which is employee work areas.

Derek Was there any other similar proposal you might have to address the common use area?

Arfaraz I guess it's the section that speaks directly to common use areas as well. Is that what you're asking? I can look it up.

Derek Yes. I don't know that there is one.

Arfaraz Neither do I.

Greg So, basically, you concur with the intent whether it's to move it into—

Arfaraz I'm just suggesting it's better if it lives in one place rather than in two separate parts of the scoping division.

Greg We'll leave it up to DSA to come back to you with something on that. I really want to turn on—

Dara I think everybody thinks it's a good idea to figure out the best place to put it.

Greg One place would be here or—okay, sounds good.

Derek So, we'll move on. The next item was a proposal from Gene Lozano and Holland Dalille [ph] regarding restoring the scoping for curb ramps at intersections. This item is on page 13 of your package. We've been in discussions with Gene and Holland about their proposal. Just to let you know we have brought in completely the level of scoping that was omitted errantly from the 2013 building code, and that was in line with the original proposal.

Since then, we've received some addition proposals that have introduced new topics to street crossings, and at this point, we're continuing to study those additional topics. At this point, this is what we're looking at going forward at the level of recovering that portion of scoping as well.

Greg So, is this the language that Holland and Gene put forward, or is this what's in here?

Derek It addresses the concern. The language is different. The language is actually borrowed to a great extent from the Public Right-of-Way Accessibility Guidelines.

Greg Okay, thank you. Gene and Dara.

Gene [Speaker off mic] to where the pedestrian street crossings are. Intersections and midblock crossings, the alleys, there's a few other locations that also can be Public Right-of-Way Access Committee to report. We didn't find it clear why DSA was not willing to getting some examples of this [audio disruption].

Derek We did go back, and we reviewed that, and yes it was in the 1998 document that we put out. That was an initial study document and suggestions that was crafted early in the process of the Public Right-of-Way Accessibility group that had been convened under the access board.

As those suggestions were developed and made their way into several subsequent drafts of the guidelines, up to the latest one, 2011 edition of the guidelines, that language no longer is part of the newer guidelines. So, while I think it certainly can be viewed as good suggestions for the needs at the time, in the intervening 13 or 14 years, for whatever reason, this was not clear in the draft guidelines.

So, we, at this point, like I said, we haven't decide to exclude it, but we're still studying that, and while it may or not make an appearance in our

proposal as we go forward in this code cycle, until a point that we make a decision that it's not appropriate, it's not off the table yet. So, it's still being considered.

Gene [Speaker off mic].

Derek Yes. We're definitely and, Ida, if you wanted to speak to the process.

Ida Well, like I had said before, I think what's important is whenever we can come to an agreement on portions of code that improve the code and are moving in that direction that we not stop from doing it and, in essence, throw the baby out with the—in other words, this is not an either/or thing. This is providing that scoping for sidewalks at least in this code so we can preserve that, and we're investigating further perhaps in a further next code cycle or whatever we can enter into more discussions to determine if it's applicable to address the increased definition or examples that you had included.

We had also discussed that we could do that in the advisory manual in the interim while we're discussing it as appropriate for code language. So, I think that what we're looking at is the balance that we feel is important to introduce the scoping provision, but for the completeness and complexity of additional language, we have options, and they may not be in this code cycle. It may be in the next.

Gene [Indiscernible] scoping for intersections, I was under the impression that alleys, sometimes pedestrian alleys, sometimes shared alleys or other locations like medians and islands where crosswalks go through are very restricted to that one location, so that's where we thought that there should be [audio disruption]. Now, we did hear that possibly, we've made no commitment, but possibly in the future code cycle the directionality of curb ramps could be considered. [Indiscernible] to define where these street crossings are.

Ida Well, we did add the marked and unmarked, so where you had made reference to a marked crossing, we did make it clear in our amendment that it occurs whether or not the street crossing is marked or unmarked.

Gene [Speaker off mic]. Do you acknowledge that you should [indiscernible]? Where you have marked or unmarked crossings, where are those locations? Where they cross the street, and not always at intersections. Or, like where the sidewalk ends, a pedestrian has to travel down the

roadway, then they need the help of the sidewalk and they need a ramp there to get out into the street. That's all I'll say.

Greg Dara and then Arfaraz.

Dara I think I support putting something in here strongly. The old CBC that existed before we took the language out actually had a lot more stuff specifically than this one, things like the curb ramp has to be in the center of the crosswalk, and it doesn't even define—I agree that not defining for the street crossing is a problem.

So, I feel like I would support Gene's proposal to add in some additional specificity even if we end up modifying that a little bit in future code cycles because I think what you had before had a little more specificity. Certainly the draft of Public Right-of Way Guidelines are more specific and clear. Those are binding, 2010 ADA Standards are binding. I think it is important to have more specificity.

Greg Okay. Thank you. Arfaraz.

Arfaraz So, with the proposed language, we use terms like pedestrian access routes straight out of the PROWAG, which differs from the defined items in the California Building Code as it pertains to sidewalks and walks that cross streets. So, you'll notice in the 2010 CBC language we don't use the term pedestrian access routes. We use the term pedestrian ways, crossing the street, intersections.

So, if we're going to introduce new terms from the Public Right-of-Way Guidelines, then we need to define them in Chapter 2 as well is what I would say rather than just introducing terms from what the Access Board created as a draft guideline for the Public Right-of-Way.

Then, the second comment would be I understand the intent with regard to street crossings, crosswalks, whether they're marked or unmarked coming straight out of the MEPC definition of what a crosswalk is, however, while that works in the Right-of-Way, I would say that a lot of building officials would struggle when looking at let's say a campus where there aren't defined intersections. You could have a crosswalk leading into a parking lot.

So, you need to get down off the curb, but it's not necessarily—and, it's into a street. You're crossing a street, but it's not as cut and dry—it seems

like we're trying to fit a Public Right-of-Way PROWAG definition into the building code without fully defining what we're trying to apply it to both within property lines and the right-of-way, and maybe—and, I'm not saying it should be one or the other. It could be both, but just be done separately.

Here's what we mean when we're talking about within property lines. Here's what we mean when we're talking about the right-of-way. Right now, it just seems to be a mix that will add to confusion.

Derek Well, it is intended to be performance-based, and I think it's our opinion that a pedestrian street crossing is obviously where a pedestrian crosses the street. If I'm just going flip the words around a little bit, then that I think sticks with the common understanding, but that's for an access route is term of [indiscernible]. It's from the PROWAG, and it actually refers to that portion of walks or sidewalks that are accessible in compliance with the Public Right-of Way Accessibility Guidelines. We struggled with that term and including it, and we'd certainly, I think, be open to the use of other terms in lieu of pedestrian access route.

Arfaraz My point is pedestrian access route term in used in the PROWAG. It's not used in the 2010 ADA Standards, which is applicable for federal accessibility requirements for within the property line. What we're trying to do here is say we're going to apply this in both scenarios.

Derek Sure. Frankly, I don't see any problems applying it in both scenarios, and I haven't heard any comments that would lead me to take—

Arfaraz But, if you look at the Chapter 2 definition of sidewalk, it kind of makes that distinction between sidewalk that's adjacent to the street in the right-of-way versus walk. That's within the property line. So, you've already made that distinction in Chapter 2. Why not use it here?

Derek Well, because it would tend to exclude some of those onsite type of facilities that you've discussed. Say, for example, where you have a plaza that is adjacent to a driveway, street-like driveway, within a campus setting. In that case, where you do have a pedestrian street crossing, then we want to see the ability to go up and down between street level and the plaza level. Using the term sidewalk is quite limiting in our view.

Arfaraz So, the language there says the curb ramp shall be wholly contained within the width of the pedestrian street crossing served. How does a building

official make the determination in an unmarked street crossing that this curb ramp is within that unmarked crosswalk? In that example—

Derek --determination to require markings if it's that vague in understanding. Where you have a design that leads people to a certain point, and then they cross the street, I think it can be pretty well understood there as a pedestrian street crossing.

Greg So, let me—both Gene would like to say something and Dara. It's 4:24. We actually have one item that we really do need to discuss today, which is kind of how we move forward from here. So, we want to save five minutes for that at least. So, we're kind of chomping right up against the end of our time.

So, what I've heard in this conversation is a few people talking about maybe a little further clarity on definitions, a little more detail. I would say if you have specifics on what you'd like to see, if you haven't done it already, maybe send them in to Derek so that they see what you're thinking about and give them some ideas of what would express your concern.

That said, maybe just a very brief comment from Gene and Dara.

Gene [Speaker off mic].

Derek Yes, we had considered that here, and the difficulty with using some accessible routes as a placeholder for the pedestrian access route is that sidewalks are allowed to drop at the same slope as the adjacent roadway. Now, where that happens in excess of 5% in the sidewalk is not really what we would consider accessible, though it is in compliance with the provisions in Section 11B. So, using the term accessible route as a substitute here would be difficult for that.

Gene I'm sorry. I'm going to have to leave right now.

Greg Thank you, Gene. Safe travels.

Ida Thanks, Gene.

Greg Dara, and then we'll close up and let everyone know what we talked about.

Dara I may just be missing something, but the 2010 ADA ADAAG Standards have a provision with great detail on curb ramps in section 406. It seems like we have to comply with that. So, I'm not sure why we're not incorporating those provisions unless they're somewhere else in the code.

Derek It is currently in the code. We dedicate about two pages—

Dara Of the—

Derek Curb ramps, yes.

Dara So, this is intended to make it clearer—

Derek This is intended to require curb ramps where you cross the street. That's something we don't have. We know how to build a curb ramp in the provision in the code. We just don't always know where they go.

Greg Okay. Thank you, everybody. I hope this has been very helpful to DSA. I think it has. There's been a lot of good detail kind of identifying some agreements on some things. It looks like we can move forward from and obviously a few things that will require an additional round of conversation.

In the last couple of minutes, we've had discussion parking lot topics from the training session that occurred before I was involved back in December. I think I saw an email at one point that two or three items had been raised by a member of the ACC saying what did we do about A, B, and C. We never really had a chance, nor do we today, to talk about those.

Are there remaining concerns from that meeting that we should address and maybe we can provide some responses via email and see if that addresses them or not?

Ida At the last ACC meeting, we addressed some of those parking lot items in writing, I think we had requested if anyone had any further comments—

Greg I guess you need the handout.

Ida Right. Today we addressed another parking lot item, which was Government Code 4450. So, it's our goal to kind of like as we move forward address some of those parking lot items. I believe you have a public book on your table.

[Speakers off mic].

Ida So, I will double check to make sure that the parking lot items—but, for the January—when was the last meeting?

Greg January 31st.

Ida Yes, I believe that with the meeting notes for that meeting we did send out addressing four or five parking lot items, a written narrative. So, I will double check that we did, but if we did I will remind you all that we did or send it out again.

It was our goal to address parking lot items little-by-little as we move forward so that didn't A, take over the conversation when we needed to do work, and B, that we made sure we did them because we said we would. So, one of them was addressed today, and that's Government Code 4450 and our statutory authority. There were five or six that we introduced on that area. I will make sure that that went out. If not, it should already be on the box, I think, but I'll double check.

Then, I still have an ongoing list, so I plan to address more. I've just been a little busy. So, that's where we are with parking lot items.

Greg Thank you. Then, the final issue is where we go from here, and we talked a little bit about it before. Maybe you can just introduce that topic.

Ida So, I'd like some input from staff on this as well and kind of a little on the side with this. So, we have our public meeting on April 12th. We do need to get that information out. We had promised to get that information out to everyone between the 28th and 30th of March to the stakeholders, the public realm, and on our website.

Those provisions will reflect probably some of the changes we made today because we need to move forward. Obviously, you will all receive notification of that public meeting, and you will see what changes we have made to those provisions. We encourage you, if you want, you can participate on the 12th and comment. After we receive that public comment on the 12th, we will be preparing our package for the Standards Commission Code Advisory Committee because that package is due in May.

The Code Advisory Committee meeting is not scheduled until August. We don't know what day in August yet. They have not told us, but that's when it's anticipated to be scheduled.

We could do one of two things. We can meet just to provide comment just on the package we submitted. We won't be able to change it before the CAC, but if you want to provide comments, A, one option is meeting, but I know that's a lot of work for you guys, so another option is to when the provisions get submitted we can send you all a package, and you guys can provide a narrative of support or opposition. Support or a comment if you have to address it—right. It could be as simple as support, do not support, that simple. Or, if you want to provide a comment, you can provide a comment.

We anticipate that the Building Standards Commission Code Advisory Committee knows that an ACC has been convened and discussed. They may say well, what does the ACC say regarding these provisions, and because we won't have your opinions on it, because we're not scheduled to meet again, providing a written response would be helpful because at least we could tell them these five people said this, four people said this so that we have that accurate information.

So, there's two options. It's just that if we meet between our submission and the meeting, we're not going to be able to change anything.

Dara I would strongly recommend that we meet before we submit. We haven't even talked about the last one, two, three, four, five, six items, and we have not gone back on most of the items to sort of take a sense of a body in terms of what we're drafting. So, I feel like we all agreed at the very beginning that we would say there's consensus, and if not, what the minority opinion is. It seems to me we need another meeting or a couple of phone meetings or something before we submit so that we can be clear.

Ida I'm deferring to the group, and again, when we discuss that, that would have to be after the 12th of April, but before—well. I mean, we need our time to do our work, and that means our statement of reasons—I mean, we have to provide all that documentation.

Dara Why does it have to be after the 12th? Why can't it be between now and the 12th?

- Ida Well, first of all, it's very difficult to get everyone together between now and the 12th. I mean, we've already discussed how getting together is difficult as it is.
- Greg Did we have an optional April date from—?
- Dara We did.
- Ida But, did everyone reserve that?
- Dara Yes.
- Ida We could do a videoconference meeting in that if you guys want to go in a DSA regional office that's near you.
- Dara I'm happy to do an in-person meeting. We've all reserved the date.
- Ida We can see if we can accommodate a regional office.
- Greg How do other people feel about this? Would you like a face-to-face meeting or at least a videoconference meeting?
- [Speakers off mic].
- Ida You could come here, too.
- Dara I prefer to do them in person if we can, but—
- Arfaraz I would agree. It makes more sense given that we have not touched upon a lot of the items. So, we should definitely do that, and there were a few items today that we didn't have consensus on.
- Dara We agreed to do some work on.
- Arfaraz We agreed to do some work on, so there's definitely a need for another in-person meeting, and since we have the optional date in April that we've set aside, reserved on our calendars, let's take advantage of it.
- Ida First of all, whatever date we decided does not prevent us, you and I, Carol and Gary, and anyone else who wants to involve if we discuss one topic, that can still occur. So, I just want to put that out there.

- Arfaraz I'm saying in addition that that.
- Ida So, I don't want it to seem like we're not going to be discussing at all.
- Arfaraz At the end of the day, Ida, you're looking for the group to say we support, we don't support, and if you're not going to involve them in the conversation and just have a four-way conversation between Gary, Dara, you, and me, then the rest of the group is not hearing the conversation.
- Ida Well, I think that our conversation is to arrive, perhaps, as the individuals who really have expressed the most comments about it to arrive at some language which then we can present to the group. Whether or not it is in person or if we can still do that is my point. Our work continues. Our meetings continue. It's what's the appropriate venue to provide the final meeting. So, thank you for reminding me that we have the 26th. Derek do you have a comment?
- Derek It's obvious to us and the staff that we'll need to continue. I would hope that it would also be appreciated by everybody in the room that each meeting that we prepare for the ACC takes a large amount of effort and time just to prepare for this meeting, and it tends to be a holding point in our progress in getting our submittal package ready to go to the Standards Commission.
- I'm just a little bit concerned that we tend to discuss with great enthusiasm a lot of the items, but we've had I think three or four meetings in a row now where we haven't gotten to the end of our agenda. To add an extra public meeting will certainly impact our workload. I'm not against it because I want to be able to support the group as much as the group supports DSA, but I just would like everybody to appreciate that as well.
- Greg That's good to point out because it does take time, but here's what I would propose. Again, be consistent with the charter, be consistent with the spirit of what I hear. The way I see it is we have six items that we haven't gotten to yet. Some of them may go quickly. Some of them may take a little longer. You've come to agreement on a number of things, which we can just kind of put aside and say okay. We're done with those.
- Clearly, the two issues that we need to come back to, some on adult changing facilities. It seems like we worked through most of the things there, mostly on some of the housing. So, if there's a small group that meets with DSA on some of the housing issues to try to work through

those and present that back to the whole group, and maybe we can look at this and say could this be a half-day meeting, and therefore it might be a combination of in-face if you're local and teleconference if you're not.

It maybe could be more of a half-day meeting if we whittle it down to just okay here's stuff coming back on housing. Get it to everybody a few days ahead of time so that people can see it if it's the end of April. Maybe that's doable. Maybe we just make a call when we see what volume of stuff there is yet to work out, whether we have a longer meeting or shorter meeting, face-to-face or through some other venue. Does that make sense?

Just kind of dictate it by what's left on the table because if a housing subgroup can get a lot of work done with DSA and knock out a lot of those things and find some language that everybody is what I would say is 75% there and something that you could move forward with, then it may make this quite doable in less than a whole day.

If we come back and there's still a lot of housing issues to resolve, then you're probably looking at another day like today to make sure that you really get it totally vetted before it leaves your hands. So, is that okay to kind of approach it that way?

Ida

For those who want to meet here, you can meet here. I mean, in here it can be in-person because this is where our videoconference is, and when we have videoconference, we say four regional offices: LA, Oakland, San Diego, and here.

So, if it's easier for you to get to one of those facilities, we have to make sure those facilities are able to be reserved at the time, but that was our intent because meeting via videoconference is similar because we'll be able to see everyone. That's why I was putting that as an option especially if it's a half day and some of you have to consider all the accommodations of the travel, and for those us who are from Northern California.

Greg

So, it makes sense to kind of see where we can move on these issues over the next month.

Dara

So, we're holding the whole day?

Greg Holding the whole day but realize it may only take part of that day, or we could see how that works, if that makes sense. Let's proceed down that path.

Dara I just want clarify what I hear you saying. First of all, you're saying there's some subgroups.

Greg No. I suggested one subgroup, which was a few people meeting with DSA, and they've kind of already done that, to look at the housing issues and drill down and try to come up with some agreements that the people that are most knowledgeable about housing. Then, they'll bring that back to the whole group to you can hear what they're recommending. Other than that, it would just be what we're doing as a whole group.

Dara Then, it would be whatever they're recommending could be presented prior to the meeting so that—

Greg The idea would be to present whatever there is well in advance of the meeting so you can see—just like for this meeting. It was put out there a week ahead of time so you can review it and be prepared.

W Then, the other thing that I vote for, again being with others, because as we discuss things, concepts come in. Originally I didn't have much that I thought would need to be discussed or that I thought was going to be addressed, but as we were discussing, it brought up additional concerns that I had. So, I do appreciate group meetings.

Greg Group meetings. Okay, good. Any other thoughts on this?

Kaylan One question. With the videoconference, do you have to be at one of the regional offices, or can I sign in to that?

Ida Yes, because we would have—actually, we can probably do a Zoom meeting with just you if that's—and, it would be you on the video camera. We might be able to accommodate that. I'd have to see how well the technology works here because we want to be able to bring up on everyone's screen what we're talking about, but I think with Zoom we could do at least one person maybe. I don't know. We'll have to see. If not, it would be teleconference.

M But, you're not saying that individuals—

Ida No. I'm saying as part of ours that she's the only one that's so remote because she's really far from a regional office, but then I know that Vidal is pretty far away from a regional office, too, so we'll have to see who— maybe we can bring some people. Let's investigate. We'll investigate that video feed and let you know.

Greg Vidal, you wanted to say something.

Vidal Yes. I want to say thank you to everyone that has given me all kinds of knowledge. What I'd like to get is maybe a conclusion to what we've been going through, maybe just by email because I think that group that's been talking especially about housing, they're going to do a good job, in my opinion because they know their expertise is in that. That's great, but I appreciate all the knowledge that I've gotten, but I also would like if possible to get a list of names and numbers so that I can keep in contact with you folks.

Basically what I was planning to do was to create some basic knowledge of this process so that when I talk with my consumers at our agency, and we do a lot of outreach, kind of make folks aware that there is such a group because this is supposedly going to be ongoing so that there is a way that information can be brought back to a group such as this that really do make the decisions on what happens to access.

From what I gather, I'm sure it goes beyond what I've heard and I've learned, but I think that's kind of what I wanted to take back to my constituents is there is a process. People can get involved. When I applied for this it was sort of like I didn't know what it was about, but it is—

[Speakers off mic].

Ida Do you regret it?

Vidal No, I don't because everyone here has this intensity based on knowledge and passion, and that's kind of what I have as well. So, anytime you can learn something that you're passionate about and you can give to others, it's a good feeling to be able to be around folks like you. I want to just say thank you.

Ida Thanks, Vidal.

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Greg

Okay. Thank you, all, very much for taking a little extra time today, and we'll be in touch. I'll be doing kind of like I did before, an overview of what we discussed, and then get it to you. So, you can make sure we've captured it. Thanks, everybody. Safe travels.

Moderator

Ladies and gentlemen, that does conclude our conference for today. Thank you for your participation and for using AT&T Executive TeleConference Service. You may now disconnect.