Final Transcript

STATE OF CA-DEPT. OF GENERAL SERVICES: Access Code Stakeholder Forum

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SPEAKERS

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PRESENTATION

Moderator — Ladies and gentlemen, thank you for standing by. Welcome to the Access Code Stakeholder Forum. For the phone participant lines, you'll be in a listen-only mode. [Operator instructions].

I'll turn the conference now over to Miss Ida Clair. Please go ahead.

Ida — Hello to all of you. Welcome to you here in attendance at DSA headquarters in Sacramento, to any of you attending at the regional offices

via video conference, and to all who are present on the phone. We appreciate your involvement in this process.

I'm Ida Clair, principle architect here at DSA headquarters. We are here today to discuss the proposed code language for the amendments DSA has selected for the 2016 code amendment cycle. As we have discussed in previous meetings, DSA has authority under government code 4450 to write building standards for accessibility that are at a minimum equivalent to the 2010 Americans with Disabilities Act standards.

After this authority is our charge to write clear building standards for accessibility that can be enforced by the jurisdictional authority. A new building standard, or an amendment to an existing building standard, must be evaluated for clarity and enforceability at each stage in the code development process. After consideration of comments from today's meeting, the code change proposal will be evaluated once again to determine if edits to proposed language meet the clarity and enforceability standards.

Our package of proposed amendments is due to be submitted to the California Building Standards Commission in December of 2016. There

will be a public hearing before the California Building Standards Commission's Code Advisory Committee in early 2017. After final amendments to language based on comments from the Code Advisory Committee and stakeholders, the proposed amendment will be submitted for the formal code development process.

After additional opportunity for comments from stakeholders, the proposed amendments will be considered for approval by the California Building Standards Commission in mid-2017 and will be included in the 2016 California Building Code supplement, effective July 1, 2018. The code's change proposals will be presented individually for review and comment. Each proposal will be presented in a format that clearly identifies current code language, the proposed changes to the provision, and the code text if adopted. In addition, the rationale for each code change will be presented.

Documentation regarding the proposed changes has been provided to you in advance along with notice of this meeting. No additional proposals have been added to this package since this information was distributed. DSA requests participants limit the discussion to the proposed agenda

items so the proposed language for each amendment can be sufficiently analyzed and discussed by all stakeholders.

We will first present for discussion those items that received the most contentious comments subsequent to our meeting of November 2nd. Some reflect amended language in response to comments from stakeholders. Following those items, we will open for discussion the remaining code change proposals that are under consideration for this code cycle.

I will now turn it over to Derek Shaw who will present each item for discussion. Derek.

Derek — Great, great, thank you, Ida. Let's see, what we're going to do first, as Ida said, we're going to go ahead and address some of those proposals that we've had on the table and have discussed at prior meetings. We're going to discuss a few of the items initially that have received the greatest number of comments, and there's some contention about this.

The first item here is regarding the definition of "accessible route." In this item, DSA is proposing to amend the current definition of accessible route, to strike the current definition of accessible route, and replace it

with a simple statement instead. Currently, the definition of accessible route says, "Accessible route. A continuous unobstructed path connecting accessible elements and spaces of an accessible site, building, or facility that can be negotiated by a person with a disability using a wheelchair, and that is also safe for and usable by persons with other disabilities. Interior accessible routes may include corridors, hallways, floors, ramps, elevators, and lifts. Exterior accessible routes may include parking access aisles, curb ramps, crosswalks at vehicular ways, walks, ramps and lifts."

The current draft of the proposal that DSA has is to strike that definition and to replace it with one sentence. "Accessible route. A continuous path that complies with this code." Now, DSA had initially developed this draft amendment in response to several communications that we had received during and after the last code cycle.

During the 45-day comments at the last code cycle, we received a comment that was indicating that the accessible route definition that we had at that time, which is what we still have in the code, had some weaknesses to it. The commenter at that time had indicated that the model code definition was preferable and should be utilized. That model code definition was, "a continuous unobstructed path that complies with

Chapter 11." Now, recognizing that within the California Building Code that we don't adopt a Chapter 11, but rather we adopt Chapter 11B, DSA has crafted our proposed change for this definition to read, as a reminder, "a continuous path that complies with this code."

Subsequently, we also received a petition in March of this year addressing the same issue. Within this petition, the petitioners stated that they were in opposition to retaining the existing code definition of accessible route. They indicated that the existing definition diminishes access. It creates ambiguity that the definition of accessible route is being changed from a route that complies with the specific standards of accessibility found in Chapter 11 and becomes instead a route that can be negotiated by a person with a disability using a wheelchair. They commented that the term "that can be negotiated" has no meaning in terms of what standards apply and is not tied to any study of how disabled persons use this public route, nor does it provide information on what a negotiated route looks like.

It went on to say, "For purposes of enforcement, the building official is left with nothing but his or her subjective opinion that a wheelchair user could use the route. Building officials are trained to interpret and apply building codes. They're not trained to determine what route is negotiable

by wheelchair users. This definition of accessible route clearly seeks to diminish the application of standard that can be applied, challenged, and most importantly enforced."

Now, DSA understood those comments at the time that they were submitted. DSA replied to the commenters and the petitioner when those comments and petitions were submitted. Within those replies, DSA indicated that we were going to be taking up the amendment of the definition of accessible route during this code cycle, the current code cycle that we're discussing today.

So, accordingly, DSA moved ahead with the initial development of the suggested text for the proposed amendment. Subsequent to publishing our suggested text of the proposed amendment, back in September, and through the meetings that we conducted in October and November, we heard from several commenters who took an opposite view. Now, among those commenters were included the original commenter during our last code cycle and also several of the commenters who were involved in the petition to DSA.

What that's created for us now as we get to accepting this definition today is that DSA is left with, I guess, a need for clarity on what it was that caused the commenters to evolve in their opinions and comments regarding the definition of accessible route. So, I think one of the things today that we'd like to do is to invite any of the commenters who may have some insight into this evolution to help to explain to DSA and also to the public just how this evolution and change in stance has occurred. In essence, the original proposals and petition advocated a definition that was quite similar to what we propose here in this package.

Recent comments are opposed to the definition that we have here in our package. We'd like to, in addition to seeking some clarity on this evolution of comments and thoughts on the idea, we'd also of course like to receive additional comments from any interested parties, either here in person, at one of our videoconference sites, or through our teleconference that we have running at this moment and I understand a number of people are on our teleconference line.

Okay, so now what I'm going to do is, and we'll be doing this for each item as we go along and periodically through the discussion, I'm going to open up the floor to comments. We're going to do this in a sequential

order. First of all, we'll open up the floor to comments from here at DSA's headquarters offices.

Then secondly, we'll open up the floor to comments coming from DSA's regional offices. DSA's regional offices are tied in right now by videoconference. So, that is a place where people can make comments from there. Then, third, we'll go ahead and open it up to our teleconference participants to get their comments on this issue.

Okay, so first of all, I'd like to go ahead and open it up here to any questions or comments that we may have for here at DSA headquarters. Okay, seeing no requests for questions or comments here, I'd like to next go over to the regional offices, and just for everybody's information, I can see on our television monitor here that we do have one person in the Oakland Regional Office, and I don't see anybody in our Los Angeles and San Diego Regional Offices. Nonetheless, I will be calling out to each of those regional offices each time we call for comments.

First of all, let's go to Oakland Regional Office. Kerwin, any comments there?

Kerwin Good morning, no comments at this point, thank you.

Derek Okay, great, and Kerwin, thanks for participating. I'm glad you showed up.

Kerwin You're welcome.

Derek Okay, next we'll call out to the Los Angeles Regional Office. Is there anybody at the Lost Angeles Regional Office that has questions or comments about this item? Okay, nobody at Los Angeles.

San Diego Regional Office, is there anybody that has questions or comments about this item? Nobody in San Diego.

Okay, now if we can, let's go over to the telephone and see who we might have in the queue.

Moderator [Operator instructions]. No lines coming in.

Derek No lines coming in. Okay, let's give it just a moment longer. Remember, just press star one on your telephone if you'd like to let our AT&T

operator know that you'd like to make a comment on this item, star one. Okay, so hearing none, we'll go ahead and move on to the next item here.

The next item for which we did receive a number of comments was regarding the newly proposed definition of the term "maximum extent feasible." Currently the California Building Code does not have a definition for maximum extent feasible. Now this term is used in three areas in Chapter 11B. It's used in section 11B-202.3 Exception 2, and that has to do with the alterations in existing buildings, Exception 2 is about technically infeasible.

The next area where the term maximum extent feasible is used is in Section 11B-232.2.1.3, and that section is under the scoping section of detention facilities and correctional facilities and specifically that has to do with substitute cells.

And then the third place in Chapter 11B where the term maximum extent feasible is used is in Section 11B-812.5.4. Now this section has to do with the accessible routes requirements in electric vehicle charging stations. Here, this 11B-812.5.4 exception 2 tells us that vehicle spaces installed in

existing facilities shall comply with Section 11B-812.5.4 to the maximum extent feasible.

Okay, so we actually have just three locations where the term maximum extent feasible is utilized within Chapter 11B. DSA is proposing this new definition for maximum extent feasible in response to comments that DSA had received previously about the lack of clarity in that term maximum extent feasible. DSA has utilized the text of the Americans with Disabilities Act as the basis for our definition to the maximum extent feasible.

In the ADA, Americans with Disabilities Act, in Subpart D, Section 36.402(c), "To the maximum extent feasible. The phrase, 'to the maximum extent feasible,' as used in this section, applies to the occasional case where the nature of an existing facility makes it virtually impossible to comply fully with applicable accessibility standards through a planned alteration. In these circumstances, the alteration shall provide the maximum physical accessibility feasible. Any altered features of the facility that can be made accessible shall be made accessible. If providing accessibility in conformance with this section to individuals of certain disabilities, for example those who use wheelchairs, would not be feasible,

the facility shall be made accessible to persons with other types of disabilities, for example those who use crutches, those who have impaired vision or hearing, or those who have other impairments."

The suggested text of the proposed amendment sticks pretty closely with the statutory language in the ADA. The suggested definition that we're proposing for maximum extent feasible reads as follows. "The occasional case where the nature of an existing facility makes it virtually impossible to comply fully with applicable accessibility standards to a planned alteration, in these circumstances the alteration shall provide the maximum physical accessibility feasible. Any altered features of the facility that can be made accessible shall be made accessible. If providing accessibility in conformance with this section to individuals of certain disabilities, for example those who use wheelchairs, would not be feasible, the facility shall be made accessible to persons with other types of disabilities, for example those who use crutches, those who have impaired vision or hearing, or those who have other impairments."

Now we received some comments on this item. Like we said these first items are going to be the ones that are most contentious. For a little bit of

background on this, DSA had initially received comments on the definition of maximum extent feasible in October of this year.

The commenter said that she was in opposition to the proposed change. She says that this definition fails to require that the enforcing authority record and enter the details of the finding of 'virtually impossible' in the files of the enforcing agency. It fails to provide a definition of virtually impossible. It separates out people who use wheelchairs for special discrimination without any accountability by the enforcing authority being required.

Second, the same commenter said that without accountability being required of the enforcing authority, the enforcing authority is subject to charges of bribery and prejudice against people with disabilities, especially people who use wheelchairs for mobility. This puts the enforcement personnel in a position that is vulnerable to court actions.

Secondly, we more recently received a comment from the same commenter that said that she was in opposition to DSA's proposed change and stated that the enforcing authorities and those in the building industry will cherry-pick this definition not as a further clarification of technically

infeasible but as a standalone broad exception. Using subjective judgment, they will conclude that the maximum extent feasible requires only that the items of access that are of lowest cost need be provided, if any.

She goes on to say this definition needs a great deal of work in order to prevent it from being used as a general exception to providing access. It must include the requirement that the enforcing official comply with documenting requirements of determining unreasonable hardship. In addition, no definition should separate and segregate persons using wheelchairs from the disability population or justify in any way that people using wheelchairs may be excluded from the built environment for any reason. What you have done here is biased, and will be embraced by the building industry as an excuse for violating the intent of state and federal law.

If I can address a couple of the points here…I wanted to emphasize the term maximum extent feasible. Now that's a term that occurs in two places in Chapter 11B. It occurs in Section 11B-202.3, and this is Exception 2 to the general scoping requirement for alterations, and it's this Exception 2 that specifically is titled Technically Infeasible.

Within this exception which describes the process for making a determination of technical and feasibility, we do note quite clearly that the details of the finding that full compliance with the requirement is technically infeasible, shall be recorded and entered into the files at the enforcing agency. I would expect that building officials will comply with the clear and literal requirements of the California Building Code.

While we may be able to project that some building officials may not comply with the literal requirements of the building code, I think by and large our building officials are complying with the requirements. They can comply with the requirements if the code language is clear, and that's what we seek to do with this definition. We seek clarity.

We understand that there is a term within this exception for technically infeasible. The term is maximum extent feasible. Hearing comments in the last year that maximum extent feasible was not clear, DSA has proposed that the definition for maximum extent feasible, it states and sticks very closely to a federal working definition of "to the maximum extent feasible."

So, we believe that this complies with the Americans with Disabilities Act and provides greater clarity for not only the code enforcement officials, but also for building owners, designers, and the general public. The clearer we can make the code, the more that everybody who's involved in utilizing or referring to the code can understand clearly what the code requires.

We also recognize that where language is unclear in the code, when we have unclear language in the code, we find that that language can be subject to a variety of interpretations. If this is unclear language, we expect to have differing opinions of what the language means, how it's interpreted. I think that certainly any terminology can be subject to varying opinions of what it means, but key for building code, and remember the building code governs construction over billions of dollars of construction in California every year. Within that context, we need to make the code as clear as possible. It should not be subject to interpretation that can be wildly divergent. So, that's our whole intent here with clarifying the term maximum extent feasible.

We have received another couple of comments with regard to this definition for maximum extent feasible. This comment, I'll just go ahead

and summarize. This commenter states that the DSA's proposed language for maximum extent feasible refers to the term virtually impossible; whereas, the language for technically infeasible refers to either removal of a load-bearing member that is part of a structural frame or other physical or site constraints.

He goes on to say the definition of technically infeasible is much clearer and more specific. He strongly recommends that we define the maximum extent feasible either as the greatest improvement that's not technically infeasible, or something similar, or use some of the same language as for technically infeasible for consistency and to avoid gaps between the terms.

Additionally, he goes on, "On a related note," he says, "the DSA's proposed definition for maximum extent feasible dropped the initial phrase from the ADA model language, and that the resulting proposed definition states that maximum extent feasible is the occasional case where the nature of an existing facility makes it virtually impossible to comply fully with the applicable accessibility standards to a planned alteration," his emphasis added.

We're going to be taking these comments into consideration as we go forward and start to prepare our package for submittal to the Building Standards Commission in mid-December as Ida had mentioned.

I think with that what I'd like to do is to open this up for comments and questions about this item. I think first what we'll do is we'll go ahead and open it up here at the headquarters office. Any questions or comments about this new definition for maximum extent feasible? All right, we have no questions or comments here.

Oakland, any questions or comments on this one?

Kerwin A general comment, this is a very, very tricky terminology that you're trying to apply a clear definition and I don't think it's possible to do that. I don't think it appeased everybody; it probably appeased nobody, I would assume. I think you should just stay with the standard language, it's probably best. That's all.

A general question, are these comments available for viewing online?

Derek No, we've not posted the comments online.

Kerwin Okay, thank you.

Derek There actually is one of the comments that is posted online, and that's with regard to the couple of comments received by the Building Standards Commission during the first 45-day period of the last rule-making cycle. That's where the issue was first brought up in comments from the public. That's the place where I think at least one of the sets of comments is available online.

Kerwin, can I ask a question of you? You had suggested that probably sticking with the standard definition would be the advisable way to go. By standard definition, what did you mean, or standard language?

Kerwin [Indiscernible]. One of the problems is documentation of this and I think that's always the case for everybody. It may be up to the designer or the owner to really supply that information as to what they are not complying with and how they are complying to the maximum extent feasible. I don't think you put the online comments on the official document, other than to prove what is being submitted.

Derek

Okay, no that's really good, and I'll go ahead and just circle back to one of my earlier comments is that where the term maximum extent feasible is utilized, under technically infeasible, the building official is obligated by the code to document their decision. Now, here at DSA, we have code enforcement jurisdiction for public schools, Kindergarten through 12th grade and community colleges and state buildings throughout the state. So, we have an enforcement jurisdiction here. We do require our applicants to document their request for technically infeasible. Where they requested that we, the building official, where they're requesting that we make a determination of technically infeasible we do require substantiating documentation from those applicants.

I can't say how other building jurisdictions -- city and county building departments throughout the state -- handle this aspect of it, but certainly we put the onus on the applicant to substantiate their request. So, we're not just giving away technical infeasibilities willy-nilly.

Kerwin

I could say building officials don't have the time or the manpower to really do that documentation. So in this case [indiscernible] designer or owner submit the paperwork and have a building official review them who [indiscernible].

Derek — Okay, okay, great, great, okay. Any more comments from Oakland? Nobody else in Oakland, thank you, Kerwin, for your comments.

Anybody in Los Angeles? I see nobody in Los Angeles, and I'm hearing no comments.

Anybody in San Diego want to make any comments or have any questions about this item? I see nobody there, and I hear no questions or comments.

So, let's go ahead and open it up to the teleconference lines. Do we have anybody in the queue here?

Moderator — We do; we'll go to the line of Darryl Labate. Please go ahead.

Darryl — We're in agreement with DSA's comments on this.

Derek — Okay, good. Just so we can be sure to get this on the record, sir, can you state your name?

Darryl — Darryl Labate with Base Architecture.

Derek Okay, very good, very good. All right, any other questions or comments you'd like to add? Okay, very good. Is there anybody else who's queued up?

Moderator No further comments on the phone.

Derek If anybody did have any comments and wanted to verbalize their comments on this item, pressing star one will get you into the teleconference queue.

The next item that we're going to address that we received a number of comments on is the definition of "technically infeasible." Now DSA is proposing to amend this definition of technically infeasible. Our initial input on this definition again comes back from 45-day comments submitted to the Building Standards Commission during our last rule-making cycle and additionally from the same petition that was received by DSA. The petition was dated March 21, 2016.

Now this definition of technically infeasible, this is an existing definition that is currently in the California Building Code. DSA is proposing to

amend this definition, not as extensive of an amendment as we had for the accessible route definition, but nonetheless within our draft here, we've proposed to strike some language of the existing definition and replace it with some new language.

I'll go ahead and read the current code definition for technically infeasible. It reads, "An alteration of a building or a facility that has little likelihood of being accomplished because the existing structural conditions require the removal or alteration of a load-bearing member that is an essential part of the structural frame, or because other existing physical or site constraints prohibit modification or addition of elements, spaces, or features that are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility."

DSA is proposing to strike the last phrase there, which says, "for new construction and which are necessary to provide accessibility," and instead replace that language with the phrase "of this code." So, if these amendments are adopted, the revised definition for technically infeasible would read, "An alteration of a building or a facility that has little likelihood of being accomplished because the existing structural

conditions require the removal or alteration of a load-bearing member that is an essential part of the structural frame, or because other existing physical or site constraints prohibit modification or addition of elements, spaces, or features that are in full and strict compliance with the minimum requirements of this code."

We have received comments on this. As I mentioned before, the initial comments that started our consideration of revising this definition first came in during the 45-day comments of the last rule-making cycle. They were reinforced in the March 21, 2016 petition to DSA.

The comments in opposition to this indicate that the statement that DSA's factual determinations were arbitrary and capricious and the determinations were substantially unsupported by the evidence considered by the adopting agency. They go on to comment that the phrase "other existing physical or site constraints" is vague without clear definition and requires subjective interpretation. They go on to say that to further clarify, "existing physical or site constraints" could be interpreted as whatever the building owner does not want to modify.

And the petition which was received was addressing the same language our last code cycle and the petition states that the definition, which did end up being carried forward, it was an existing definition that had been in place for many years, that that definition diminishes access, creates ambiguity, and is inconsistent with the requirements of the ADA. It says that, "The proposed definition is not consistent with the definition in the ADA because DSA has added 'and which are necessary to provide accessibility.'" Again, they say, "This language inserts ambiguity, making it more difficult to challenge and/or enforce."

They continue, "Additionally, by being inconsistent with the ADA, this regulation requires builders and owners to know the difference between the two definitions and choose the one that provides the most protection. In cases where state law provides more protection or accessibility in its building codes, the state codes take precedence."

The next statement from the same petition, "Further, this definition is superfluous and adds nothing to the meaning because wherever accessibility is required, it must comply with the standards." And it continues to say that, "The new definition also makes the definition for

structural frame, which defines what a load-bearing member is, inconsistent with the new definition."

Lastly that, "Adding the phrase, and which are necessary to provide accessibility, inserts ambiguity by implying that there are minimum requirements for new construction that were not necessary to provide accessibility." So those were the comments that DSA was considering when we first started to develop this amendment.

Recently we received comments from some of the same commenters. Here, some of these newer comments that have been received in October and November of this year include opposition to DSA's proposed change, and here's one portion of the comment. "Alteration of a building or facility, not new construction at all, and it self-states that it is an alteration that is not likely to be accomplished because it requires the removal or alteration of a load-bearing member of the existing structural frame or because other constraints prohibit modification or addition of features."

They go on to say that, "The 2010 ADA Standards define and apply technical infeasibility solely to alterations and provide for exceptions to new construction solely for structural impractability, using a definition for

each term." They tie this together by saying, "Hence, both the present and the proposed CBC regulations for technical infeasibility facially violate the 2010 ADA standards by attempting to extend technical infeasibility to also apply to new construction, when in fact this is prohibited by the 2010 ADA standards."

In summary, this commenter says that, "Both the present and the proposed versions should be repealed or withdrawn. This is because both the present and the proposed wording of technical infeasibility only applies to alterations, not to any new construction."

Now, just late last week or this weekend, we also received a comment from the same person in part in support of DSA's proposed change, and they stated that, "DSA has received other comments from code users that the reference to new construction in the current definition is also inappropriate, and I agree. To say that the code applies to work in both new and existing facilities in reference to compliance with the new construction is not correct. Technically infeasible does not apply to new construction but only to alterations, change of use, or paths of travel through existing construction."

Now, in that same comment, they also objected to a portion of it and they state that, "It's federal law that the ADA requirements are not intended to reduce more stringent state laws, and that the proposed definition incorporates less restrictive language from the Americans with Disabilities Act contrary to statutes. Limiting access to issues applicable to public accommodations is a reduction. This proposal will reduce compliance to the federal standards. This is contrary to California statutes which require DSA to maintain California standards unless necessary to adopt more stringent federal requirements. When I go to a shooting range, an equestrian park, or an outdoor church camp, I don't want to be turned away because it's not spelled out specifically in this California code."

So, I think with this, what DSA has needed to try to understand was the initial comments which told us that our old definition of technically infeasible seemed to imply that it applied to new construction, and furthermore that the phrasing, "and which are necessary to provide accessibility," is vague and not readily interpretable by the code officials. And so to be more consistent, DSA in response has amended or is proposing to amend the definition for technically infeasible to instead tie it to compliance with the minimum requirements of this California Building Code, the context in which this definition occurs.

We've received a mixed bag of comments over this past year, year and a half, and if we have any commenters on the line or at one of our regional offices who might be able to provide some explanation and insight into these varying comments, it would be greatly appreciated by DSA. We're trying to understand this evolution of thought on this definition, and so we want to engage in this conversation here in a public forum.

With that, let's go ahead and go to the comments. First of all, comments here in the Sacramento DSA headquarters office, any comments? Okay, we don't have any comments here.

Secondly, let's go to Oakland, DSA office in Oakland. Any comments there?

Kerwin No comment on that. I agree with your proposed changes.

Derek Okay, thank you, Kerwin. Any comments in the Los Angeles Regional Office? I see nobody present at Los Angeles, and I don't hear any comments there.

Any comments or questions from the San Diego Regional Office? I see nobody at the San Diego Regional Office, and I hear no comments there.

With that, let's go to the telephone queue and see if we have any comments on the telephone.

Moderator There are no lines at this point queuing up.

Derek Okay, we'll give it just a moment.

M Just one question.

Derek We'll come back to the telephone lines in just a moment. I want to go ahead and field a question here at the DSA headquarters office. Please sir, state your name, and go ahead.

Jonathan I'm sorry. I didn't realize you were waiting for a phone question.

Derek That's fine.

Jonathan So, DSA's take is to stay with the model currently.

Sue — One moment, could you speak really –because it's hard for the captioner to hear your comments?

Jonathan — Is it my understanding that DSA's going to stick with the model code for this definition in that it would apply only to alterations to existing buildings?

Derek — The definition, short answer, yes.

Jonathan — Okay.

Derek — The definition though I want to point out and discuss this just a little bit because I've heard other comments that come in that seem to have a misunderstanding of what the purpose of a definition is. Now, the purpose of a definition is to help us to understand words or phrases that we might not understand in a normal reading of the code. So, for those unique terms or terms of art, we will provide definitions within the California Building Code so that the code users can understand those terms when they encounter them within the body of the code.

Now, it's most proper in the code writing world to only include scoping or technical requirements within the main body of the code and not to include scoping or technical requirements within the definitions themselves. So, that's a structure that has been set for quite a number of years. Now, I recognize that DSA's regulations don't stick to that 100%, but in this case, on making a determination of technically infeasible, we see that it occurs in 11B-202.3, and that's specific to the context of alterations.

Then it goes on, and in the specific exception which does address the technically infeasible, it starts out right at the beginning, "In alterations, where the enforcing agency determines," and goes on from there. Again, it is bracketed, only for alterations. I'm saying that not as much for your benefit here, but also for all of our listening audience, too, because that's a really good question, and it gave me a chance to expand on that a little bit.

Jonathan Thank you.

Derek Okay, thank you. Let's go back to the telephone lines and see if anybody may have queued up to make a comment on this amended definition for technically infeasible. AT&T?

Moderator No participants queued up at this point.

Derek All right, well, good. Do we need to take a break?

Ida Do you want to do that now? I know we were planning at 11:00, but we can.

Sue Yes, we could. Captioner, is that okay with you? We'll take a 15 minute break. Yes, she said that's good. Thank you.

Derek Okay, I think with that we're going to go ahead and take a 15 minute break here. Right now, I have the time at 10:25, so let's go ahead and take a 15 minute break and reconvene at 10:40. Thank you.

[Break]

Derek Okay, so, now I have the time at 10:40. Let's go ahead and restart our meeting to discuss DSA's proposed code amendment for the accessibility requirements in the California Building Code.

This next section of the meeting we're going to go ahead and address several of the items for which we made revisions between the last meeting that we held and this current meeting. We want to make sure that everybody's aware of these revisions. We have, of course, published these in the meeting documents for today, so you may want to refer to those, but we have three of these items which fall into this description.

The first item that we have with additional amendments is in CBC Chapter 11B Section 11B-245.3, and this is regarding public accommodations in private residences. Within this section DSA has amended—we've not actually amended the proposed text, but we're amending the notation, how we presented the proposed text. We made a mistake and we had, in the last meeting document, we failed to underline the new language within the section titled Suggested Text of Proposed Amendments.

Let me stop just for a moment. We're working on Page 28 of 45 in the document for today's meeting.

So, within the section that's titled, Suggested Text of Proposed Amendment, within this section, what we typically do is we show the existing text to provide context, we show some text with a strikeout line

through the middle of the text. That text indicates that that language is proposed to be deleted. And then, we have other text which shows an underline, the underline signifies new text to be added.

So, it's by being able to read the unchanged language which has no notation, in combination with the struck language, which has a strikeout in it, and in further combination with the new language which has an underline, which helps us to understand what the code text would look like if adopted.

So here, simply the change, so everybody knows, is that the words "public accommodation" in, two locations, we failed to underline. So, we simply underlined it in the meeting document for this meeting so we could make it more clear. The code text, if adopted, is no different than it was in the last two meetings where we reviewed this item.

So, that's the limited nature of the change for this item. We did receive a couple of comments on this item in support of this item.

The next item we're going to go to is going to be discussed by Ida Clair and this is on Page 35 of 45. This item addresses proposed amendments for feminine hygiene disposal units.

Ida Thank you, Derek. We have made amendments to this proposal from our original proposal that was submitted in October due to some comments that we received and further investigation on appropriate location.

The California Building Code has clarified where toilet paper dispensers are located. This proposal addresses the sanitary napkin disposal units as they are located in a toilet compartment for ease of use and when they are provided.

The first comment that we received was the terminology that we had used. We had originally addressed these as feminine hygiene disposal units taking into consideration the wide array of feminine hygiene products that are available that can be disposed in the unit. The suggestion was to change that recommendation to personal hygiene disposal unit. However, the personal hygiene disposal unit really did not clarify limiting the disposal to feminine hygiene products and it could be misconstrued that perhaps they could take into consideration larger items.

A larger unit to accommodate the full range of personal hygiene products would be very difficult to accommodate in the location that we had clarified for sanitarily napkin disposal and also it was not evaluated at the time to consider those personal hygiene products. Therefore, we have amended the language instead of feminine hygiene or personal hygiene to include a specific reference to sanitary napkin disposal unit, which is what the industry normally calls this size of unit for disposal of feminine hygiene products.

Also, we received a comment that feminine hygiene was specific to—speaks specificly to gender and in addressing the inclusionary units of gender-neutral facilities and perhaps they're providing these units where, in office facilities, it's possible that any reference to feminine hygiene would be more appropriately served by determining the unit as to the purpose of its use, the disposal of feminine hygiene products as opposed to the perspective of the user in using the word feminine.

Additionally, we had received a comment about combination units. Many units that users like are combination units which include sanitary napkin

disposal, toilet paper dispenser, and additionally, many times a toilet seat cover dispenser.

DSA feels very strongly that the combination units, when they are installed behind the grab bar, that it does not meet the limit for the strict application of construction tolerance in the building code because the elements are manufactured and so, therefore, it cannot compromise compliance of the location of these units behind the grab bar as they allot the absolute measurement of one-and-a-half inches from the wall where these combination units may intercede or interfere with that one-and-a-half inch dimension, we are not permitting those units to encroach behind the grab bar.

However, there are combination units that are available that are just the sanitary napkin disposal and the toilet paper dispenser, and those units would be acceptable if the user chose to actually include those units, provided they meet the requirement that the combination units are not permitted to encroach into the clear space between the wall and the grab bar.

We have also located, and I will show you by reference—first of all, let me read the provision that we have added. "Sanitary napkin disposal units, if provided, shall comply with 11B-309.4 and shall be wall-mounted and located on the sidewall between the rear wall of the toilet and the toilet paper dispenser, adjacent to the toilet paper dispenser. The disposal unit shall be located below the grab bar with the opening of the disposal unit 20 inches minimum and 22 inches maximum above the finished floor. Combination dispenser units are not permitted to encroach into the clear space between the wall and the grab bar."

And, I'm going to move the item so we can show a graphic—oops, I guess I didn't include it, sorry. I guess I didn't include it on this one. Graphic is not available at the moment, I apologize for that.

So, in understanding the amended language, originally the sanitary napkin disposal unit was located 20 inches from the front edge of the toilet, on the opposite side of the toilet paper dispenser. We have now moved that location from the rear wall to the toilet paper dispenser so that it is actually even more readily available, when seated, from the toilet.

Based on those changes we are opening comment up inside our headquarters office. Okay, there's no comment within our headquarters office.

We are going to the video conference locations. Los Angeles? None in Los Angeles. San Diego? None in San Diego. Oakland? Kerwin, do you have a comment?

Kerwin The only comment I had was on the diagram it said they didn't reflect at 20 and 22 inches. You said there should be a different diagram.

Ida There is and I can pull it up momentarily; it has been amended. Actually, I'll take the moment to do that now if everyone could be patient.

Kerwin My original comment was to avoid [indiscernible] this 20, 22 inches [indiscernible] then that should be good.

Ida This may take a minute. I changed it this morning and so that's why it wasn't brought in. There it is. Can everyone see that now? Okay. The location now is actually opposite from where shown previously and the 20

to 22 inches is shown from the finished floor to the opening as described. Do you have any comments on this, Kerwin?

Kerwin No that answers my question. Thank you.

Ida You're welcome. An opportunity for comment on the figure in the DSA offices, headquarters?

Jonathan Is there going to be a dimension from the back wall to the center of the napkin dispenser?

Ida No. Because in order to accommodate—the sanitary napkin disposal units are generally, in our study, the manufactured units are of a specific size or a range of sizes. That they are provided between the rear wall and the toilet paper dispenser, adjacent to the toilet paper dispenser actually give a very specific location and yet accommodates small variances in sizes.

Jonathan Okay, that makes sense. Thank you.

Ida Back to the telephones. In Los Angeles or San Diego? No comment. So, therefore, now, on the phone.

Moderator No participants in queue.

Ida Alright. Thank you. Derek, I'll pass it back to you.

Derek Thanks, Ida. The next item which was revised for this meeting is on Page 43 of 45 of today's meeting documents. In this item the actual code language and the suggested text for the proposed amendment has not been changed at all. It's the same as we've seen in the last several meetings.

What has changed here, however, is the rationale. So, that was updated a little bit to incorporate some of the discussion that we've had about this item. That's the limited nature of the change on that item.

Let's go ahead and open it up for questions or comments on this. Here in Sacramento headquarters? Okay, no comments here in Sacramento. Oakland, any comments here?

Kerwin No comments on this one.

Derek Thank you, Kerwin. Los Angeles, any questions or comments? No one's in Los Angeles. San Diego, any questions or comments? No one's in San Diego as far as we can see.

With that, let's go to the teleconference line. Is there anybody in the queue?

Moderator And, allowing a few moments, no participants in queue.

Derek Okay. Very good. I think with that, what we'll do is to move into the next section of our meeting here today. What we're going to do in this next section is to go through and one by one open up the line for comment for the other items for which we've not addressed today.

So, I'm going to just work front to back from our materials for this code meeting. Of course, we addressed accessible route earlier today, so let's go to the item on the definition of accessible. This is on Page 5 of 45. On this item, we did receive some comment on this, and bear with me just a moment, I want to go ahead and summarize this if I can. Okay. We did receive one comment that opposed this item.

The commenter stated that, "While DSA does not concur that the term persons with disabilities is derogatory, revising the definition as proposed will provide alignment with the federal standards is not appropriate. The ADA is a civil rights standard, deliberately broad to protect those rights after discrimination occurs and is enforced by extensive additional language about integration, participation, and full benefits."

"This is a building code designed to prevent failure not a prosecution document. No, this DSA change will reduce compliance to the federal standards contrary to the statutes requiring DSA to maintain California standard unless necessary to adopt more stringent federal requirements."

We also had previously received a comment on the same definition of accessible and the comment, if I could summarize says that, "You've selected language from the ICC A117.1 for accessible routes. Just want to let you know that the version of this document is that of 2009. I know that ICC has had a committee working on doing updating of this document but not sure of the current status. You might want to give ICC a call because they've been heavily involved in the updating." He wasn't sure if they have proposed any change to this particular definition.

So, those are the comments we've received on this item. Let's go ahead and open it up for comments on this. Here in Sacramento, any questions or comments? Oakland, any questions or comments?

Kerwin — No comments.

Derek — Thank you. Los Angeles? Nobody in Los Angeles. San Diego? No comments in San Diego.

Let's go ahead and go to the telephone line. Is there anybody who'd like to make a comment or have a question about this item?

Moderator — We do have Michael Ellars. Please go ahead.

Michael E. — Hi. My name is Michael Ellars. The issue that I have with this is that I think it's in the right heart to be trying to go for more generic and overall definition of what it means to be accessible, but using the term "this code" I think is problematic because that term is actually already defined in Chapter 1 of the building code under Section 1.1.1 as meaning the entirety of the California Building Code.

Which, on the surface may not seem like a bad idea to say that an accessible element or accessible building is something that complies with the entirety of the code, but the issue there is that the code includes a number of exceptions. Even in Chapter 11B there are a number of exceptions.

So, by adopting this definition, what you will essentially say is that if you have a building, or an element, or a portion of the building that relies on an exception for excusing it from having to be fully accessible, then by definition, by this definition, that it's still being defined by something that is, in fact, accessible.

And, I think it raises a lot of issues with actually weakening very significantly, the definition of accessible by merely saying that it only has to comply with the code, again, because there are exceptions that allow exemption or alternate compliance routes that would not be generally defined as accessible.

Derek Okay. Michael, I think that's a real good point, and I wonder if within the context of the building code, if you could possibly elaborate on what some of those other aspects that should be considered in the design of buildings

and the enforcement of the building code, and the construction of buildings. What other sorts of elements would you think should be included there?

Michael E. I think what I'm saying here is the existing current code language that defines it as something that is approachable and usable by persons with disabilities in compliance with this code, I think is a critical element that defines what it means to be accessible.

Because, technically, everything that is constructed is supposed to be in compliance with the code. So, if you eliminate approachable and usable by persons with disabilities then essentially you've said anything that you build is accessible by definition and that's clearly not true. It's possible to build something that complies with the code, and yet it's not accessible.

There are exceptions, for example, the whole discussion we just had about technical infeasibility where there might be some reason, particularly in alterations where something cannot be made accessible for whatever good reason may exist. But by this definition, that would still be considered to be an accessible element, because it complies with the code.

I'm not talking about anything, necessarily into specifics or other elements of the building code, but specifically this definition by eliminating reference to usable by persons with disabilities, really completely modifies the definition of accessible to being something generic and actually meaningless.

Derek Certainly the meaning of the word accessible probably takes on different meanings depending on the context in which it's used. Within the building code, the building code is the prescriptive and performance requirements for the construction of sites, buildings, and other pertinences. DSA tends to take the position that the language of the code is what is necessary to be enforced within the code and enforcement industry, and it needs to be complied with by the designers and the builders.

I'm not sure, and if you would like to elaborate that will be great, but, acceptable means a lot of different things to a lot of different people, individually, and acceptable no doubt means other things within the body of civil rights law. These may have some overlap within the building code, but I know that we always have to work within the context of the building code.

Do you see any issues that might arise by maintaining that there are other undefined requirements that are not addressed within the building codes that might be desirable to include explicitly in the building code?

Michael E. I don't think there's anything in terms of applying other elements of the building code to accessibility that has improved in any way by this proposed amendment. The current code language already concludes with, "in compliance with this code." So, it's not so much the reference to other parts of this code of the inclusion of the word this code. But, the elimination of, particularly, usable by persons with disabilities from the definition of accessible that makes this definition not actually mean anything.

Literally, everything that is constructed is supposed to be in compliance with this code. So, therefore, a site, building, or facility, of portion thereof that complies with this code is literally everything that is constructed, even though there may be elements that would not be considered to be accessible. For example, a machinery space is generally exempted from the requirements of Chapter 11B, but by this definition, it would be accessible because it still complies with the code, even though it's not usable by someone with a disability.

Derek I see what you're saying now. Okay. Well, anything else to add to that? Michael, did you have anything else to add? Okay. We'll go ahead and go back to the queue. Is there anybody else queued up to make any comments on this item, the definition of accessible?

Moderator We do. Let's go to Michael Mankin. Please go ahead.

Michael M. Hi Derek. I think the problem is that the code, as it's written today, the access portion is really a performance type of code. It's not—it should not be prescriptive.

For example, how do you make a little shop that has laser tag games played—how do you make a laser tag arena accessible or how do you make an ice rink accessible, or how do you make a bumper car event at a fair accessible? These are not items that are specifically called out in the code, yet compliance with the code would basically not include them. And I think that's why, as a prescriptive code it falls short.

And, that exposes businesses to liability, because if they go ahead and offer a public accommodation that is unique and not typical environment

in the building code, they can, by that definition, go ahead and build it and be subject to litigation by federal law for not having integrated setting with full participation and equal benefit for people with disabilities. So, I think the definition should not be altered. I think it's been in use for more than 20 years, and I see no reason to expose the public to the jeopardy of rewriting it.

Derek Michael, let me ask you, you mentioned ice skating rinks, and laser tag facilities, maybe building officials might have a different view of this, but my first inclination is that these might be areas of sport activity and that accessibly would be providing an accessible route to the edge of the area of sport activity. I believe that's covered in the ADA Standards for Accessible Design and in the CBC.

Are there [audio disruption] stated levels of accessibility that should be included here?

Michael M. What if you have a balloon port? People get married, they want to go over [indiscernible] in a hot air balloon. How do you make that accessible? What does it say in the code?

Derek The code doesn't regulate a balloon, and it would certainly regulate any structure that was there as an entry point to get onto the balloon, much as we deal with the city bus service, or with airplanes at the airport.

Michael M. Wouldn't you use the way we traditionally do it? It would have to be approachable by a person in a wheelchair with clearances, slope issues. I don't know.

I don't have a copy of the code right here and now, but I know that everything that can be built with architecture is not specifically described in that code and the result is that you would fall back on a definition that's not in there. It could comply with the code without the access, in fact, many things are; balconies, storage rooms, upper levels, basements. Just because they comply with the code does not mean they're accessible.

So, I think that my colleague's comment is very accurate and I think there would be cases where—I know [indiscernible] Valley Ski Resort was sued by Paul Rein many years ago, and they decided that with, said he's okay we'll just waive the obligations to the cable car cannot provide access to the ski resort because it's just not possible, and they were sued for literally hundreds of thousands of dollars and lost.

Derek Early 2000s?

Michael M. I don't know when that was, but you can ask Celia McGinnis of Paul Rein's office and look into that suit. But, that's my concern is I think this is a big mistake and I think it buts an extensive history of people knowing exactly what that means and, frankly, the situation would have been much improved had CALBO and the California Building Industry Association not objected to and killed the bill that would have provided certified access specialists, at least, like a plan review department of every building official in California.

They already know what they need to know. That was their assertion and they didn't want a CASp expert, locally, within local government. So, normally people ask an expert, or they go to an appeals board, or they take in information and make a ruling, but I would not go with that definition. I think it is going to open up a lot of problems in the field and a lot of problems in the local jurisdictions.

Derek Is it possible that accessibility within the context of the building code is different, maybe a part of, but different from accessibility in the broader

sense as a general requirement on public accommodations, commercial facilities, under federal and state law?

Michael M. In a way, Derek, instead of using the building code traditionally regarding construction, the real test in federal law and in most laws this has more to do with whether there's equal participation, integration and full benefit for people with disabilities, period, regardless of other things. So, if you were to go with that, at least you would be matching a very typical performance language in federal law.

I feel that the state language we have now is more explanatory, but certainly in both cases you need a performance regulation, not a prescriptive one and I think that saying that it complies with the building code is not going to hold up very much to scrutiny. Because, I've been involved in the building code for 20 years, I was at many meetings at ICC well before they were—it was the uniform building code people.

The committee was a person with a broken leg, another guy with a relative who was disabled and they decided that it was quite okay to have one step at the entry door of a building, a brand new building. So, I don't really count on the model code at all. I am looking at what we have always done

in California, and I considered to gut all that language as a reduction which is not necessary for certification. It's fine as it is. There was nothing about it underlined by comments from two submittals to the Federal Department of Justice on what we needed to do to upgrade our code to be certified as equivalent. So, it's not even on the table as an issue with federal law, and I think it's a reduction in state law, because of its' lack of performance obligation.

So, that's about all I can tell you about my opinion, and I hope that you drop this and go on to some of the other losses we've had in the building code due to some internal politics in DSA. I won't go into that, but I can give you a long list of those. This one you should leave aside. That's my opinion.

Derek I appreciate you describing it a little bit more in depth and discussing it. I think it's important.

Some of the things that we deal with at DSA on this is to help to make a building code so that it's readily understandable by the users of the code, and further, that it is operationally understandable by the enforcers of the code. While building standards law does express a preference for

performance obligations, in a lot of cases, the issue of providing accessibility in a built feature is a matter of inches, quarters of an inch, eighth of an inch.

To have less than clear requirements where those aspects are important, may lead to less accessibility in a lot of cases in the built environment. So, that's something that we're always trying to weigh and to recognize how that fits in within the context of the general civil rights laws, federal and state.

Michael M. Well, at least consider adding to that that you have chosen to look at. I think you should include the three primary justifications for providing access, and that is an integrated setting, full participation, and equal benefit. Because without those three, any business will be held liable in a federal court of law. They don't even go to state court—well, sometimes they do go to state court, but for the most part, that would be an ADA violation to ignore that side of it. Clearly it's going to open an area of vulnerability for businesses in California.

Some guy decides he's going to have a fishing island in the middle of a lake and says, oh well, there's no accessible route, I can't do it. There's

nothing in the code about floating, fishing islands, or we used to call them floating platforms.

The code's silent on it, so since it's silent there's nothing to do, there's nothing to not do because the code doesn't apply to it. But yet, it's a public accommodation and it requires in federal and state law—at least in federal law, full participation, integration, in those three factors, equal benefit.

Derek I agree. Definitely under state law and federal law it does express those needs. [Audio disruption] That's great, Michael. Did you have anything else to add?

Michael M. Not to that one. I was expecting an afternoon meeting, so I missed the earlier portion. But, you have my letter, I want you to pay particular attention to the November 13th letter which is where I've dovetailed the two letters that I wrote into one package.

Derek That was the letter marked final?

Michael M. One of them—the important thing is to look at the date. It should say November 13th.

Derek Okay. I think it's what, Sunday?

Michael M. Yes.

Derek I have that right here in front of me.

Michael M. Okay. That's the one that's per the summation of the other two which I—the first one I left out some issues and on reflection, I thought of some other things. Then, I just picked up what I thought differently, and then I thought well, I better put it all in one package rather than have multiple versions out there. So that letter is really the summation of my comments which I'd like for you to address. I'll go through these for the rest of the meeting if you so need to talk to me.

Derek Okay. We did, earlier today, we addressed the three items that have most contention, and that was the definition of accessible route, the definition of maximum extent feasible, and the definition of technically infeasible. As

we were working through those definitions, I did attempt to summarize and include your comments in the discussion here.

Michael M. Great. That's wonderful.

Derek I want to make sure that all of the issues are discussed and that everybody has a chance to weigh in on this.

Michael M. I appreciate that. We have a lot of things to look at with the format changing, to do the switch to the federal type of approach. I think we have a lot of issues that don't read exactly the same, and I'm particularly concerned about the lack of a checklist online the way we used to have everybody using the same checklist.

Not having that online, calling it a manual doesn't really clarify matters of conjecture. It only tells you what's clear. So, I think the checklist was a good tool for people going through a project and flagging things that they might have missed or being able to look up sections directly instead of chasing around in the code for it.

Derek Okay. Thank you. Good. Do we have anybody else in the queue who'd like to comment on the definition of the term accessible?

Moderator No other participants queuing up.

Derek Alright, real good. The next item is the definition of the term sign. With this we really haven't received too many comments at all. We did receive a comment in support of this. With this, we're proposing to reintroduce the word "verbal" within the description of the sign in response to our office inadvertently deleting that word when we amended the definition of sign in the last rule-making cycle. So, we did receive a couple of supportive comments on that.

Were there any other comments on the definition of sign that people would like to add here in Sacramento at headquarters? None. Oakland?

Kerwin No comments.

Derek Thank you. Los Angeles?

Sue I think we're sharing a conference room [Speaker off mic].

Derek That's okay, maybe they'll have a comment. San Diego, any comments? No comments in San Diego.

Okay, let's go back to the phone. Does anybody have any comments on the proposed amendment to the definition of the term of the word sign?

Moderator No participants queuing up.

Derek Great. Thank you. Now, let's see, earlier today we—let's see, we previously addressed the definition of technically infeasible so let's go to the next one here. The next one is on the topic of manual fire alarm pull boxes. This appears on Page 10 of the meeting materials.

Here, we've received a couple of comments in support of this item and what we're doing, just a quick reference for this, we are striking the longstanding exception which said that in existing buildings there's no requirement to retroactively relocate existing manual fire alarm pull boxes to a minimum of 42 inches and a maximum of 48 inches from the floor level to the activating handle or lever of the box.

So, if this is adopted, then the requirement in Chapter 9 is simply that the manual fire alarm boxes will—the requirement is that the manual fire alarm boxes, the height of them would have to be not less than 42 inches and not more than 48 inches, and that manual fire alarm boxes also comply with Section 11B-309. Now, 11B-309, that's where we get some of the building blocks requirements for accessibility in Chapter 11B.

So, 11B-309 is going to tell us that the manual fire alarm boxes have to provide a clear floor space, they have to be placed within one or more of the reach ranges. And, by the way, the reach ranges that are specified in Chapter 11B are going to be broader than those reach ranges that are required by the state fire marshal here in Chapter 9. So, I think we're going to see that Chapter 9 requirements there are going to apply.

And then, furthermore, by reference to 11B-309 we're going to pick up the operational requirement that the operable part shall be operable with one hand, not require tight grasping, pinching, or twisting of the wrist, and that the force required to activate the applicable part shall be five pounds maximum.

So, I think with that let's open it up see if there's any comments. Any comments here in Sacramento? No comments here. Oakland?

Kerwin One comment related to [indiscernible] talk with the fire marshal, will this type of alteration affect the certification of the system [indiscernible]? If it doesn't affect certification [indiscernible] discuss with the fire marshal.

Derek Okay. We have reached out to the fire marshal, the state fire marshal, on this and according to our conversations with the state fire marshal, the accessibility requirements are already considered to be applicable as a result of earlier language which tells us that the fire alarm boxes need to be accessible. So, they tell us that they've already considered the accessibility requirements to be in force there.

Now, it may be the different code enforcement officials might take a different view of that, but that's our exchange of conversation with the state fire marshal's office. We haven't touched on the issue of certification, though, of the alarm systems themselves.

We can go back and raise that point, just get some confirmation from the state fire marshal.

Kerwin — In some cases associated with [indiscernible] if you lower the box, it changes the wiring, it doesn't affect the certification of the entire system. Just clarify that with the fire marshal whether that will be required or not.

Derek — Okay, will do. Los Angeles, any questions or comments here in Los Angeles? No. San Diego, any questions or comments on this item? None there.

Back to the telephone lines. Any questions or comments on the changes to Section 907.4.2.2?

Moderator — No participants queuing up.

Derek — Okay, nobody in the queue. The next item that we have is on Chapter 10 Section 1010.1.5 Exception 6. Here DSA is proposing to amend the section reference within Exception 6. The section reference that is currently in the code is faulty; it refers to a section that does not exist. So, DSA is proposing to replace that with the correct reference to Section 11B-203.5.

We have received a couple comments that have asked us to amend this item, and here the commenter states that this Exception 6 should say, "From equipment-only spaces not required to be accessible and with an occupant load of five or less." So, the commenters here are suggesting that we add the word "only" to this exception.

We are definitely looking at this. This is typically state fire marshal language. So, we can discuss this comment with the state fire marshal as we go back and discuss the certification of the alarm system as Kerwin was mentioning on the previous item.

Are there any questions or comments on this item here in Sacramento? None. Oakland?

Kerwin No comment.

Derek Thanks, Kerwin. Los Angeles? No comments from Los Angeles. San Diego, any comments? And, none there.

Let's go to the telephone lines. Is anybody in the queue, sir?

Moderator We'll go to Michael Ellars. Please go ahead.

Michael E. Hi. I don't really have a comment on what you're proposing to change the reference to, 11B-203.5, but if there was already another suggestion of modifying the door serving equipment space as part of it, then for consistency with Chapter 11B, it should really be revised to machinery spaces since that is the actual language used in 11B-203.5.

Derek Alright. Michael, that's real good, and we have received a comment on that earlier in our pre-cycle activities stating, in essence, the same thing. This is, as we had discussed in the last meeting, the language here is primarily adopted by the state fire marshal. We're extremely reluctant to amend language that is primarily adopted by them if it's not directly necessary for accessibility as we regulate in Chapter 11B.

Now, for this, the two terms, equipment spaces versus machinery spaces, they are closely synonymous. So, while in 11B we tend to stick a little closer to our model document that we use as the basis for 11B, and that's the 2010 ADA Standards, we also understand that the State Fire Marshal utilizes as their model for this section and the balance of Chapter 10 and Chapter 9, the requirements of the International Building Code.

So, we may not be able to have the language harmonize in totality. But, nonetheless, they are pretty close and generally synonymous there.

Any other questions or comments in the queue?

Moderator No further participants in queue.

Derek Okay, great. Thank you. The next item that we have not addressed yet today is regarding Section 11B-202.4 and this is on the topic of path of travel immediately preceding addition. Here DSA is introducing a new paragraph to help clarify the language that we have in the code right now.

The language in the code right now refers to the immediately preceding edition of the California Building Code, specifically in Section 11B-202.4, that the path of travel requirements and alterations, additions, and structural repairs. Exception 2 tells us that, "If the following elements of a path of travel have been constructed or altered in compliance with the accessibility requirements of the immediately preceding edition of the California Building Code, it shall not be required to retrofit such elements

to reflect the incremental changes in this code solely because of an alteration to an area served by those elements of the path of travel."

Then, the elements are listed: "One, the primary entrance to the facility; two, toilet and bathing facilities serving the area; three, drinking fountains serving the area; four public telephones serving the area; and five, signs."

DSA is proposing to add the new sentence or paragraph at the end of this list, and this new language says, "The language in this exception which refers to the immediately preceding edition of the California Building Code shall permit a reference back to one CBC edition only and is not accumulative to prior editions."

DSA's intent with this is to clarify comments that we've received since the 2013 code came out. Those comments were—they expressed concern that some designers or owners may attempt to utilize the code to look back one code cycle, and then seeing that the language in that prior code cycle says look back to a prior code cycle, to then go back and look through a second prior code cycle, and so on, and so on.

We're trying to, as clearly as we can, really hammer home this idea that you can't go back more than one cycle and one cycle only. So, it's those incremental changes within one cycle. There's no sequential chaining of the building code.

With this we have received several supporting comments on this for clarification, around the change for clarification, so we're encouraged there.

Is there anybody else who has any comments or questions about this item? First we'll start here in Sacramento headquarters. None here. Oakland?

Kerwin No comments at this point.

Derek Thanks, Kerwin. Anybody in Los Angeles? Nobody. San Diego? Nobody in San Diego.

How about the teleconference line, do we have anybody queued?

Moderator We'll go to the line of Michael Mankin. Please go ahead.

Michael M. Hi. I kind of support this. I really hate to see any reductions in access, but I think that this code, as it stands, is pretty harsh for people who have just done a remodel and they've upgraded their path of travel, and then because of the code change they have to tear it all out and redo it all. Sometimes—I talked to a guy that was very upset because he just did all this work and it all had been changed in the code only a few months earlier and the building official was making him do it all over.

So, this is so onerous that I welcome the change. I hate to see a reduction but I think this is more like a clarification of what we really intend and that is to provide access without any significant loss. So, I just wanted to say that I think this is one of those rare occasions where I think it's a very good change.

Derek Thank you, Michael. Do we have any other comments on this item?

Moderator No further participants queuing up.

Derek Great. So, the next item we'll go to addresses the topic of employee workstations and the change that we're proposing occurs in Section 11B-203.9. Here, what DSA is doing is we're seeking to clarify that switches

and receptacles within—well, our primary example is within offices, but generally, within employee workstations are required to comply with the height requirements, and reach range requirements, and availability requirements that are stated in other sections of the code.

What we find is that there is no explicit language that directly addresses this, and it's been a situation where we've received a lot of questions over the years. Hey, what about that private office where one person works? Isn't that a workstation and, therefore, only required for the approach, enter, and exit, and fire alarm requirements?

And, our position is no. As a built room the switches and receptacles do need to comply with the Chapter 11B requirements. So, here what we do is we add reference over to the explicit language on reach ranges that we already have in the code for switches and receptacles. We're not planning on changing that language but we want to make sure that we refer to that language and tie it in.

Then, we add an exception which says, "The receptacles, controls, and switches that are an integral component of workstation equipment shall not be required to comply with 11B-308.1.1 and 11B-308.1.2." This is to

address the requirements of accessibility at workstation equipment. Now, of course, as equipment, if it's not attached to the building -- copiers, and other equipment that's sitting on top of a desk or something -- that we recognize that the building code does not address that equipment.

So, we're trying to clarify that the switches and receptacles that are an integral component of the workstation equipment are not required to comply with 11B-308.1.1 and 11B-308.1.2. We did receive a couple comments on this that were asking us to add the word "only" where, in the exceptions, we describe the integral component of workstation equipment.

So, the commenter stated that the section should be revised and say, "Receptacles, controls, and switches that are only an integral component of workstation equipment shall not be required to comply with 11B-308.1.1 and 11B-308.1.2." So, those are the comments that we received on this item.

Let's go ahead and see if we have any other comments. First of all, here in Sacramento, any comments? No comments here. Oakland, any comments on this one?

Kerwin No comments on this one.

Derek Thanks, Kerwin. Los Angeles, any comments? Still nobody in Los Angeles. San Diego, any comments? Also no one in San Diego.

If we can, let's see if anybody's on the AT&T teleconference queue.

Moderator And, we'll go to Terry McLean. Please go ahead.

Terry Just a comment because I can see equipment getting broadly interpreted to mean something like a computer, a pencil sharpener, and people trying to get out of that. So, just something to think about.

Derek Terry, do you have any suggestions of changes to this code amendment?

Terry Maybe, somehow, equipment such as copiers, or printers, or something. I think it needs to be a little bit more specific. I don't know exactly how to fix that, but just as you're talking about it I'm thinking what are they saying there. So, I can just see that people will interpret that differently to try and get out of it.

Derek Okay, good. We're making note of that and we'll be looking into that a little bit more.

Terry Thank you.

Derek Is there anybody else queued up?

Moderator We'll go to Michael Mankin. Please go ahead.

Michael M. I only wanted to bring up the issue of electrical floor outlets which are safety features in the way it prevents people from tripping over cords. I think that as long as there was a wall outlet within a reasonable distance of the floor outlet, those should be exempt on that condition.

Also, I think about outlets that serve clocks and things up on the wall. I think as long as there's a comparable outlet within a reasonable distance then those should be off the hook as well. But, you might think about how to manage that.

Derek Generally, and I'm not locating them right at the moment, but I think we do have general exceptions for floor outlets that they're not required to

comply with the code. And, the dedicated outlets such as those outlets which might serve wall-mounted clocks, that those also would not be required to comply with the code. So, I think that may already be addressed there, Michael.

Michael M. Good. That's great. I think the reason I put "only" was because I was afraid that it might be perceived to apply to convenience outlets that were necessary for plugging in a computer, or a phone charger, or something on the desk. So, that's why I thought maybe only would narrow it, so that's why I said that.

Derek I see. Okay. I think that's real good. So that I make sure that I understand your comment here, it seems to be driving to the circumstance where they may be a receptacle that is being used as a receptacle for a computer, or printer, or other equipment, but that it was not necessarily a specific and dedicated receptacle, and therefore, that receptacle would not be entitled to utilize this exception.

Michael M. I think so, because it is covered by the Title 1 of the labor employee work spaces. It is covered in a way that for a person with a disability would have the legal right to make that adaptable, or for the owner, the business

owner to make it adaptable to the employee. But, my attempt at adding only was to make sure that when you went into the room, you couldn't—I didn't want it to be that you couldn't turn on a light or plug in something if you walked into that room and it had a dedicated purpose, but yet these are things that normally we would expect to be accessible.

Derek — And that's really one of the things that we're really driving at with this code change in its origin, because we had some people who have suggested that the argument could be made that within a private office, which was simply a room, a constructed room bounded by walls, that that could be termed an employee workstation and entitled to a lot of exceptions in the code. We want to make sure that those receptacles and switches, and controls are certainly included and covered by the 11B requirements.

Michael M. — Okay, that sounds good. How do you feel about only? Do you feel like that's a good change or no?

Derek — I'm sorry, a hallway?

Michael M. No, using the word only, adding the word only so that it's not open-ended. Say only outlets, or an exception for outlets that are only used for equipment.

Derek I think I agree with the intent of that. I'm going to hold off on saying whether I agree or not, or support that or not. I'm still trying to work through it, and I think I have some additional research to do on this, too. Okay?

Michael M. Yes. That sounds fine.

Derek Alright. Real good. Are there any other questions or comments in the queue?

Moderator We do. I'll go to Michael Ellars. Please go ahead.

Michael E. This actually builds on the question that Terry was asking about people trying to get out of this requirement. I'm curious how a partition system that's not tall enough to be considered a wall, say only two, three, or four feet tall, but that is where things like electrical outlets and switches are actually located for a given employee workstation. Would that be

considered equipment or furniture, as office furniture would be, generally, labeled, or would that be something subject to these regulations?

Derek

If it is just some furniture, then it's furniture. Assuming that it's not connected to the building, a lot of aspects of it just simply aren't regulated by the building code. However, where a partition is constructed, for example, studs and drywall, even though it may be a low-height partition that would be an example of an element that is attached to the building. So, in that case it would, in my view, clearly be regulated by the code.

Where we see a lot of this is with system furniture, we'll see receptacles that are down at three or four inches off the floor. [Audio disruption] We see this quite frequently in system furniture. Where an employee with a disability is to utilize some employee workstations that may be constructed of system furniture, then the employer, in that case, would have an obligation to accommodate that employee on request. That's federal civil rights law.

So, I think that is going to address a large portion of those cases where reach ranges are critical for a disabled employee utilizing the workstation. Now, keep in mind, though, that the exception that we've written in here is

very specific to workstations. So, where there are receptacles that are not a component, an integral component of a workstation, then they're really not entitled to the exception here within the employee workstation section.

In that case, in the use of the codes, you're going to default back to the scoping section 11B-205 on operable parts, and that's where we find the operable parts on accessible elements, accessible routes, and accessible rooms and spaces, shall comply with Section 11B-309. And, Michael, if you're still listening, the exceptions under 11B-205.1, that's where we find the exceptions to the electrical receptacle serving a dedicated use, not being required to comply, and the floor electrical receptacles, not being required to comply.

But, to the other Michael—and I'm sorry, I've forgotten your last name at the moment—did you have any additional questions or comments about this one?

No? Okay, good. Perhaps you've disconnected. Are there any other questions or comments on this item?

Moderator We'll go back to Terry McLean. Please go ahead.

Terry Just based on what you just said about the exceptions, is this exception even required, because it's already in 205.1? Or, if you want to leave it maybe you put dedicated equipment and that would help clarify that. Just a comment.

Derek Terry, so, you're contemplating components of dedicated workstation equipment?

Terry Yes. Because then it would tie back into 11-205.1 that you just mentioned. Like I said, I'm just afraid someone's going to say well, it's a piece of workstation equipment, my pencil sharpener, and that's not the intent of what this is. I think it's intended to be something very—like a dedicated type use.

Derek I agree with you. I think that a general receptacle which may be used for a pencil sharpener, or for a desktop clock, or any of the various elements that people set up their workstations with, if it's regulated by the building code then it's going to need to comply. So, I do tend to agree with you and we want to make sure we get this language as clear as possible.

So, we're going to go ahead and take a look at this. There might be a different placement for the concept of dedicated. It may be that right at the beginning of that exception where we see receptacles, controls, and switches, they're an integral component, it may be that dedicated receptacles, controls, and switches.

Terry That may make sense. Yes, I would agree.

Derek Okay. We're going to give this some more thought. We'll be discussing this here in-house, but I think that's a real good comment.

So, if there aren't any more comments, let's go ahead and go to the next item. The next item addresses the use of the term "passenger drop-off and loading zones." In this item DSA is only cleaning up as a follow-up to a code change we did last rule-making cycle where we changed the term passenger loading zone, we changed the term to passenger drop-off and loading zone. But, we overlooked a few sections, so we're proposing to correct that and make it all consistent.

We're going to be shifting into the rapid-fire round right here. We're going to move pretty quickly through the remainder of these items. Do we

have any comments here in Sacramento on this item for passenger drop-off and loading zone? No comments here. Oakland?

Kerwin — No comment.

Derek — Thank you. Los Angeles? No comment. San Diego? No comment.

Anybody queued up on the AT&T teleconference line?

Moderator — No participants queued up.

Derek — Okay, great. Let's go to the next one then. The next item is with regard to the exposed pipes and surfaces under sinks. Here DSA is proposing that, in essence, all sinks that are provided within an accessible room or space and whose water supply and drain pipes are exposed, need to provide protection around those water supply and drain pipes. Currently, the code would only apply that requirement to those sinks that are required to be accessible.

So, are there any questions and comments about this item here in Sacramento? Okay, none here. Oakland?

Kerwin I don't think this change is necessary. I think your rationale is flawed. In the [indiscernible] for protecting these pipes [indiscernible] is to install these hot water as well as drain pipes. So, [indiscernible] then that you use tempered water, not hot water [indiscernible]. The code already says you can't have a basin with sharp edges, so what are we protecting here? I don't think this change is needed.

Derek Okay. Thanks, Kerwin. Just a quick explanation on that. We see that there are 5% of the sinks that are going to be required to be of accessible height, and knee clearances, and so on. But, we also know that some sinks that may not be required to be accessible may still be useable or partially useable by people with disabilities.

So, what we're trying to address are the other sinks and provide protection from the hot pipes and from the abrasive elements, too. That's what we're trying to address, but I understand your concept and we're definitely going to consider that. Thanks.

Any comments from Los Angeles? None. San Diego? None.

Now to the teleconference line, please.

Moderator And, we'll go to Michael Mankin. Please go ahead.

Michael M. I just wanted to say, Derek, that in my history, I've been disabled for about 68 years and I have never heard of anyone being injured on a burr under a sink. If only 5% are accessible, hopefully, you'll raise that to a higher number, it's almost impossible to get under the lavatory, plus the counter is less than 34 inches high. At 30 inches you really can't even get under it.

Is there any data that supports this? Because I used to know the secretariat Ed Ansey [ph], and he told me that the only reason that is there, before there were thermostats they had a lot of insulated tubing available without a market because the thermostat requirement became nationwide. So, they had all of this tubing and no market for it so it was put in the 1961 access standard. And, I have never, ever in my entire life, I lived in a dorm with disabled people, I have probably about 5,000 people on my mailing list, have never heard of anyone getting injured with this.

So, I don't know who asked for it, but I probably imagine it was somebody that sells insulation. Nevertheless, I'm not against it because I think it may be required by federal law, but it is a tremendous waste of energy and I just think it should not be the primary focus of this code package.

I think much more urgent is the number of accessible lavs which, I don't know if you've got to that one yet, but I think one lav in a bank of lavs in an airport means you really have no place to wash your hands because everybody uses that lav. And so really, all the lavs should be available but if nothing—because that doesn't serve everybody, then I think a greater number need to be made accessible and I suggest 25% of lavs.

But, I've never heard of anyone injured on piping, especially since the advent of thermostats. I think the likelihood of burrs there would only be at an accessible sink, if it was big enough to slide under, so that would be—if it was lower than 29 clear I really don't see the point.

Derek Okay. I think as far as your comments were addressing lavatories, that is the next item, but since we're in the rapid-fire round, I think we'll take

that and double check on the teleconference line, see if there's anybody else who has a comment on this.

Moderator No other participants queuing up.

Derek Okay, great. The next item is quite similar, but this is regarding the exposed pipes and surfaces under lavatories. Here we're proposing that each and every lavatory be provided—that has exposed water supply and drain pipes, needs to provide the protection around those drain pipes. As Michael said, he was suggesting that the percentage of accessible lavatories be increased from 10% to 25%.

Are there any other comments or questions on this from here in Sacramento? None. Oakland?

Kerwin No comment.

Derek Okay. Thank you. Los Angeles? None. San Diego? None.

How about on the teleconference line, has anybody queued up for this?

Moderator No participants queuing up.

Derek Okay. Then, let's go ahead and move on to the next item. The next item has to do with some changes that we're including in the scoping for multi-story residential dwelling units. We've received a couple comments in support of this. I also recall that we have received comments requesting that we review federal law and standards, and make sure that we are not out of compliance with that federal law and standard.

That's something that we are definitely working on actively and we'll be working on that probably beyond the time period of this code change cycle. So, it's something that we're definitely aware of, we've taken to heart, and we're going to be continuing to research that.

Is there anybody here in Sacramento who has any comments on this item? None here in Sacramento. Oakland?

Kerwin [Indiscernible] requirement here.

Susan Kerwin, this is Susan Moe. Actually, in taking a look at this item, we do align with the Fair Housing Act and those guidelines. Because basically

what we're doing is you take a look at the Fair Housing Act in the guidelines, and you look at the requirements for the powder room, or bathroom, and a kitchen that's required to be located on the primary entry level, that requirement per the Fair Housing Act guidelines is only in buildings with one or more elevators.

So, basically, if you take a look at the guidelines, if you have a building where you have multi-story—or multi-level residential dwelling units, the Fair Housing Act they don't regulate those types of units in buildings without elevators. So, basically, what we've done here is we're aligning ourselves with the Fair Housing Act guidelines for those multi-story residential dwelling units where it is located in a building with an elevator, and the guidelines do require the powder room, or a bathroom, and a kitchen located on the primary entry level.

And then we're also aligning, as we did before, just sort of making a little bit clearer for the scoping section, for the multi-story residential dwelling units and buildings with no elevator that then really what would be required on that primary entry is a powder room, or a bathroom. This is consistent with what we have adopted from Chapter 11A.

So we did take a look at the Fair Housing Act guidelines, and we wanted to be sure, like you said, that we weren't doing anything that is less than a federal regulation, or a guideline, or a standard.

Kerwin I'm not saying you're doing less, I think you're doing more. [Indiscernible] kitchen, which is fine for Fair Housing and would probably be in Chapter 11A, but [indiscernible] in Chapter 11B does not apply to privately funded housing. I understand that housing under Chapter 11B [indiscernible] related to publicly funded housing. I don't think this is applicable to that, and that's what I think needs to be looked at further. I'm not going beyond what's required by [indiscernible] the A standards, so they [indiscernible] public housing. And that's where Chapter 11B usually covers that.

Susan Well, if we take a look at—Oh go ahead, I'm sorry.

Kerwin I know there's a lot of confusion related to housing under Chapter 11B versus housing under Chapter 11A, and that's where I think there's so much confusion. Designers and owners really don't understand what they need to do.

Susan

And if we take a look at this, previous to the 2013 codes, DSA-AC adopted all of Chapter 11A. So, basically, we have always adopted what is really the Fair Housing Act guidelines because that's what Chapter 11A is based on. And when you look to the Fair Housing Act guidelines it doesn't differentiate between public or private. It's basically housing that's covered by the Act. So when you take a look at, then, what happens in the 2013 rule-making cycle, because we've incorporated the provision for the units of mobility features from the 2010 ADA standards, and basically we carry forward what we previously adopted, which is the Fair Housing Act guidelines.

As you said, we wanted to be sure that we weren't going beyond that, and that's what we did when we took a look at this. And we just wanted to be sure that, in addition, that we weren't going any less than what the guidelines require. Because, there is the document that came out from Department of Justice and HUD that clarifies that if it is a multi-story residential dwelling unit, and a building with an elevator, then it does require a powder room, or a bathroom, and kitchen on the first floor. So we're just aligning ourselves with Chapter 11A, and with what HUD and Department of Justice has required.

Kerwin — So I just [indiscernible] misapplication of several things. Honestly, the different agencies from Department of Justice, which is [indiscernible]. There's totally a different separation of housing between those two agencies, and I think this is a misapplication of that. We'll leave it at that, for now.

Susan — Okay. Thank you, Kerwin.

Derek — Okay. Any other commenters on the line for this item regarding housing?

Moderator — We'll go to Michael Mankin. Please go ahead.

Michael M. — I don't want to derail everything there, but I have to say that it was really going to be very difficult. Once you detach from co-ownership of 11A, all of the builders that sell their projects during construction, that are beginning the project with private funds, and they sell to an entity like a public entity or to a builder that gets public assistance, public money mixed in with this project, he now has purchased a project that does not meet the 11B pack of standards, the public building standard. In doing so, by dropping 11A, you lost all of the definitions that were relative to public

housing. I think that you will now see these housing issues run on separate tracks, which is a real nightmare for the building industry.

I worked in housing all my life, and I did a lot of projects that were sold to foreign investors during construction. And if we built according to Chapter 11A today, and it was sold to someone with public money, in the mix, they would be not in compliance and they would have to reconstruct. So that's the problem.

We have a unilateral agreement with the California Building Industries Association and CALBO. And we agreed to drop the housing in Chapter 11B, because it was a mismatch for 11A, and on that agreement the only thing we retained was that if it was a remodel then path of travel would still apply. But we referenced Chapter 11A for everything and all the drawings of the housing, whether publicly funded or not, met the minimum federal requirements of the Fair Housing Act, and anything that was to remodel was taken care of by language in 11B.

So now, we have I don't know how many drawings in the code of 11B that are duplicated in the code for Chapter 11A. It's really very chaotic. So I want you to reconsider that and tell me how you're going to get those

definitions back, because they're not adopted in 11B, or by DSA. Anyway, this is relative to that, or incidental to it, and I think it's part of the problem.

Otherwise, I like what you're doing there. I think you're trying to put it back and I appreciate that. But I think the strategy of dropping 11A because we don't regulate private housing is not relevant because housing should not have to adhere to standards with two agencies that can't coordinate.

Derek — Michael, I think that those are good comments, and we always want to make sure that we have full coverage of the types of housing that we're authorized to regulate under state law. So if you have some specific concerns about aspects of 11A that you think we need to give more attention to—I agree with you, they're probably incidental to this code change proposal. But if you have additional concerns about that we'd certainly welcome an email, which might highlight those.

Michael M. — Okay. I'll try to work on that.

Sue — Michael, maybe it would be good for you and I to have a discussion on the housing and what's now covered under Chapter 11B, and a conversation over that, if you would like?

Michael — Yes, I would like that. You know, there's 700 paragraphs in the old code on access, and it's just very unnecessary because a lot of it is duplicatives in 11A and 11B. They're usually the same, sometimes they're not. I was like, what a nightmare for the housing industry. I understand why they're reluctant to deal with access because the mismatch between 11A and 11B is really complicated.

Let's set up a time. I'll email you and we'll set up a time that's convenient to both of us to work on that, and we'll try to get some input from the other stakeholders.

Derek — Okay. Great. Great. Well, I'm an optimist at heart, so I truly did believe that we'd be able to individually present the balance of these code change items, but I see we only have 10 minutes left in today's meeting. So, with that, I think what we want to do is to open up the meeting for comments and questions, more broadly, about those items which we have not addressed today.

Please forgive me in advance, but if the conversation starts to trend towards some of those items we've already discussed, I'm going to ask that we hold off on those kinds of comments so that we can focus on those items we have not yet discussed today.

I think with that, let's go ahead and open up for questions and comments on any of the balance of the items we haven't talked about today. Here in Sacramento, questions, comments? None here. Oakland, questions or comments? No questions or comments from Oakland. Los Angeles, any questions or comments? No questions or comments from Los Angeles. San Diego, any questions or comments on the balance of the items? No questions or comments there.

Okay, let's go to the phones. Anybody queued up for questions and comments on the balance of the items?

Moderator And we'll go to Terry McLean. Please go ahead.

Terry Item 11B-245. I'm trying to figure out why we changed from commercial to public accommodations in private residence. It seems to me

commercial would be more stringent, overall, because if you just put public you're only addressing those areas that are public, meaning like the public's coming to. But in commercial you would also address new employee areas, for example, like a break room that's a common-use area. To me, it seems like we have come back and we have lessened the code from the federal code.

Derek Okay. The federal code does certainly address commercial facilities located in private residences. It has a specific section in the statute which addresses that, within regulations. One thing that sometimes people overlook is that that requirement is only applicable to buildings that are constructed with the intent of providing commercial facilities within private residences. It's keyed to initial construction. As far as I know that doesn't apply to any subsequent changes in use within that private residence.

We recognize the risks that commercial facilities within private residences, under the California Building Code, in contrast, would actually capture those residences that were later converted to use to include commercial functions. But we also recognize that at the federal level that the definition of things that affect commerce is being interpreted very

broadly and would likely be interpreted to include any commercial activity which occurs within a private residence. Now this could be as simple as an individual deciding to sell items as a regular course of business on Ebay. No employees, no public visitations intended there, and yet, the California Building Code would then have obligated a person in that situation to make their facility, their house, their home, accessible.

This was inconsistent with the federal language, as I understand it. So while the change might not have been perfect, we had to make a judgment in this case that the public accommodations, those areas where the public goes, should be what is addressed within the California Building Code. Further, we already have the California Building Code language, in 11B that applies the accessibility requirements to those various uses within the facility. So I would say that where those commercial uses occur, and are regulated by the building code under, for example an alteration, that those may already be covered. They probably are. And certainly if it's initially constructed with a combination of private residence and commercial operation, then that's clearly covered under the building code.

So it really was hazardous in the extreme reach and breadth within the California Building Code to those individuals who really don't operate

what most people would consider a commercial facility, where you don't have the public coming in, where you don't have employees, and where, simply, a person is conducting business on their computer.

Terry That makes sense.

Derek Okay.

Terry Thank you.

Derek You're welcome. Any other comments on the line?

Moderator No other participants in queue.

Derek Okay. Real good. Real good. I think with that, I'd like to turn it back over to Ida.

Ida Okay. Thanks, Derek. Thank you for your help today, and Derek especially, for your moderation of the discussion. And thank you all in attendance today for your comments.

As previously stated, predevelopment cycle activities conclude with a discussion of the amendments at the Building Standards Commission Code Advisory Committee in early 2017. To accommodate the BSC schedule we have a deadline to submit our package of proposed amendments to the BSC in December.

If you would like your comments to be considered for amended language in this package, we ask that you submit your comments to us in writing prior to the Thanksgiving holiday via email to dsaaccess2016@dgs.ca.gov. This will not, however, be your final opportunity for comments, as you are able to comment at the code advisory committee meeting in the spring and well into next year during the formal code development cycle.

The comment process, beginning in January, will be managed by the Building Standards Commission, and the BSC will notify all stakeholders of the opportunity for further comment at each stage of the code development cycle. To receive notification of code development activities, please request to have your name included in the BSC database by going to the Building Standards Commission website at www.bsc.ca.gov. When you're on the website, go to about us, click on contact us, then click on database. Fill out the form and send it to the

Building Standards Commission. DSA will also to continue to inform stakeholders of code cycle activity.

Also, a reminder that if your suggested code change item is not one of the items on the agenda for today, it has not been selected for consideration in this code development cycle. Each individual that identified a potential code change will receive notice via email of the status of the item under consideration, and whether it can be addressed in the future code development cycle. It is anticipated that we will send out these notices by the end of the year.

Once again, thank you for your participation today and have a great holiday season. Jonathon, I think we're ready to conclude the call.

Moderator And for those participants on the phone, you may now disconnect at this time.