

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
CHECKLIST COMMITTEE
MEETING MINUTES**

September 17, 2019

1. Call to Order

Chair Brian Holloway welcomed everyone and called the meeting of the Checklist Committee of the California Commission on Disability Access (CCDA) to order at approximately 1:30 p.m. at the CCDA Hearing Room, 400 R Street, 3rd Floor, Conference Room 300, Sacramento, 95811.

Roll Call

Staff Member Ochoa called the roll and announced a quorum was not achieved.

Commissioners Present:

Brian Holloway, Chair

Committee Members Present:

Taylor Collison, California Hotel and Lodging Association

Brandon Estes, California Building Standards Commission (CBSC) (via teleconference)

Ike Nnaji, Ph.D., Certified Access Specialist (CASp), Disability Access Specialists, Inc.
(via teleconference)

Debbie Wong, Division of the State Architect (DSA)

Committee Members Absent:

Melissa Barton, American Institute of Architects, California

Erika Frank, Executive Vice President, Legal Affairs, and General Counsel, California Chamber of Commerce (CalChamber)

Anthony Goldsmith, Law Offices of Anthony Goldsmith, Owner, Pacific Access Consulting LLC, Californians for Disability Rights

Richard Halloran, CASp, Consultant, Retired Senior Building Inspector, City and County of San Francisco

Gary Layman, California Building Officials (CALBO), Standing Director of the Professional Practice Standards at the Certified Access Specialist Institute (CASI), Chief Building Official/Americans with Disabilities Act (ADA) Coordinator, City of Oroville

Mehdi Shadyab, Certified Access Specialist (CASp), City of San Diego

Matthew Sutton, Senior Legislative Director, California Restaurant Association

William "Bill" Zellmer, Sutter Health

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Staff Present:

Angela Jemmott, Executive Director
LaCandice Ochoa, Operations Manager

Also Present:

Steven Blake, Blake Law Firm, San Diego
Thyme Curtis, City of San Diego
Terry McLean, Architect, CASP, TJ McLean Associates, Inc.
Juno Thomas, Manager, Business Assistance Center, City of Oakland Economic
Development Department

2. Approval of Meeting Minutes (September 26, 2018, March 27, 2019, and June 26, 2019) – Action

This item was tabled until the next Checklist Committee meeting.

3. Comments from the Public on Issues Not on This Agenda

Liz Barris asked to put individuals with sensitivity to wireless radiation exposure on a future agenda. This is an ADA issue that is violated statewide.

Chair Holloway stated staff will determine which Committee this issue would best relate to. He asked staff to put this issue on a future Commission or Committee agenda and to notify Ms. Barris when it is put on an agenda.

4. Educational Tool / Product for Small Businesses – Update and Discussion

a. Review and Provide Feedback on Draft One-Pager

Executive Director Jemmott stated feedback gathered during outreach events suggested creating a one-pager of helpful information that was concise and easy-to-understand that could be distributed at business events. She reviewed the draft Accessibility for Small Businesses: A Path to Compliance document, which was included in the meeting packet. She asked for feedback on the draft language.

Feedback on Flyer Side 1

Committee Member Wong stated the distinction of colors does not show up printed in black and white.

Committee Member Wong suggested changing “accessibility regulations” to “accessibility laws” in the second paragraph under Flyer Side 1 Text. She stated the term “regulations” is more specific to state.

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Committee Member Wong stated, after service has been obtained from a CASp, an evaluation and report should be obtained, which leads to an architect or a self-correction.

Chair Holloway agreed that the CASp report should move up after the analysis is done.

Chair Holloway suggested changing "accessible business?" to "Am I an accessible business?" He also suggested changing the final bullet to "Now I am an accessible business."

Committee Member Collison asked why "ADA Notice" was chosen instead of noting that it is a prelitigation letter. She stated most individuals would not know what an ADA Notice was.

Chair Holloway suggested changing the language so it would read "ADA Lawsuit or prelitigation letter."

Executive Director Jemmott stated the need that leases include if the facilities have been access-certified.

Public Comment

Juno Thomas, Manager, Business Assistance Center, City of Oakland Economic Development Department, agreed. He stated there is a disconnect between the ADA Compliance Department, ADA Enforcement Department, and the City. He stated this is one of the things he plans to discuss at the upcoming workshop.

Juno Thomas stated he likes the one-pager on ADA compliance and plans to use it as a resource to hand out to the public. He stated the need for the one-pager to be translated into multiple languages.

Questions and Discussion, continued

Chair Holloway suggested adding "Does your lease have an ADA clause?" as the third question in the first paragraph.

Executive Director Jemmott stated feedback received suggests adding language to the first sentence in the second paragraph so it would read "If you need assistance understanding and complying with accessibility laws, there are resources to help you."

Committee Member Nnaji suggested including language that there is no grandfathering under the law.

Public Comment

Juno Thomas suggested putting the grandfathering issue on a FAQ document, along with the difference between a prelitigation letter and the ADA Notice.

Questions and Discussion, continued

Executive Director Jemmott suggested that this go into the Myths and Misconceptions document. She thanked Mr. Thomas for his suggestions to add to the Myths and

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Misconceptions document about the difference between a prelitigation letter and the ADA Notice, and the misconception that businesses in receipt of a letter automatically need to pay it.

Committee Member Collison agreed to add those items into the Myths and Misconceptions document in order to keep the one-pager simple, general, and concise.

Executive Director Jemmott suggested adding the question at the top that asks "Does your contract have an ADA lease requirement?"

Committee Member Wang asked to call it something other than "ADA clause."

Committee Member Nnaji stated the need to begin the paper with the fact that businesses must be accessible. Individuals may not understand the first question asking if their business is compliant with accessibility laws.

Chair Holloway suggested flipping the question and asking "Is your business at risk of an ADA lawsuit?"

Committee Member Nnaji stated a paper about lawsuits may be scary. They just need to know up front that their business must be accessible, period. Then they will be encouraged to continue reading the one-pager to see if they are accessible and learn the path to take if it is not.

Committee Member Wong agreed with putting that up front and suggested adding "no matter what the age of the building is" to help address the grandfathering issue.

Committee Member Wong also agreed with adding the lease question to the document and suggested asking if there is a statement in the lease as to who is responsible for accessibility. Often, accessibility is allocated to the tenant.

Committee Member Nnaji suggested rewording the first sentence of the one-pager to "Your business must comply" and keeping the next sentence "How would a small business owner know?" The fact that businesses must comply needs to get out there first. Most businesses do not know where to begin. Leading with that statement and question will get their full attention. What they need to know is that their business must be compliant.

Committee Member Collison suggested beginning the one-pager with "Regardless of the age of your facility, it must comply."

Committee Member Collison suggested that the one-pager begin with "All businesses must comply with federal and state accessibility laws, regardless of building age. Is your business compliant?"

Committee Members agreed.

Committee Member Collison volunteered to email language her organization uses on their website about lease agreements to staff.

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Committee Member Estes stated the flow chart on page one does a good job of distilling and simplifying the process down to hiring an attorney and focusing on litigation, but it also shows an alternative path where individuals can be proactive about making their establishments accessible.

Public Comment

Juno Thomas stated he needed to leave for another meeting but asked staff to email questions to him so he could continue the conversation via email.

Thyme Curtis, City of San Diego suggested keeping it simple. She stated not all questions can be answered on a one-pager. She suggested adding the question "Does your lease include ADA language?" This would prompt individuals to check their leases and go from there.

Steven Blake, Blake Law Firm, San Diego, stated many of these topics are technical and complex. Trying to boil them down to a few words on a flyer can be challenging. Many business clients do not know what is in their leases. He stated he agreed with directing individuals to at least look at their leases.

Feedback on Flyer Side 2

Chair Holloway suggested including icon definitions.

Committee Member Collison stated the font is too small.

Executive Director Jemmott agreed and stated the page may need to be larger than 8-1/2 x 11.

Chair Holloway referred to the last icon, Minor Repairs (Non-Construction), and suggested adding "or maintenance" so it would read "Minor Repairs (Non-Construction) or Maintenance."

Public Comment

Thyme Curtis suggested making a large text/no icon version.

Executive Director Jemmott stated the one-pager is also available in an accessible text version on the website.

Questions and Discussion, continued

Committee Member Estes suggested including program or policy-making adjustments in the Minor Repairs icon.

Chair Holloway suggested "Minor Repairs, Programs, Non-Construction, Maintenance, or Training."

Committee Member Wong suggested shortening it to "Owner/Operator Repair" and meaning something that can be completed by the owner without a permit.

Executive Director Jemmott stated the icon was meant to capture minor repairs but it currently does not capture policy or training.

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Chair Holloway suggested adding "maintenance, training" after "new signs" so it would read "new signs, maintenance, training, and other non-construction related items."

Committee Member Wong stated those are owner-controlled and are not really minor repairs, especially when adding policies and programs.

Chair Holloway suggested changing it to "Owner Fixes."

Committee Member Wong agreed with "Owner Fixes" but suggested "Owner-Controlled" as an alternative. She stated the original icon of "Minor Repairs" does not make sense with the inclusion of program and policy changes.

Committee Member Nnaji stated the icon "Minor Repairs" is very specific. He suggested "Owner Replaced" or "Owner Effort."

Chair Holloway suggested "Owner Adjustments."

Committee Member Collison stated it is meant to be simple repairs that an owner can handle without bringing in a professional designer.

Committee Member Wong suggested changing the icon to "Owner Upgrades."

Chair Holloway stated he like that because "Owner Upgrades" can include training, policies, and maintenance.

Executive Director Jemmott stated she is not comfortable with it because it is not necessarily upgrading.

Committee Member Wong suggested "Owner Changes," "Owner Alterations," or "Owner Improvements."

Executive Director Jemmott stated those do not work with the maintenance component.

Committee Member Collison stated this is why she liked "Owner-Controlled."

Committee Member Wong suggested the icon "Owner Obligations."

Executive Director Jemmott stated that refers to everything included in this one-pager.

Staff Member Ochoa suggested the icon "Non-Construction" and changing the photo. She stated program changes, policy changes, maintenance, such as hanging new signs or moving temporary obstacles that can create barriers are non-construction-related changes that improve accessibility.

Chair Holloway asked for suggestions on what the icon could be.

Staff Member Ochoa suggested a photo of hands.

Committee Member Collison stated she liked the icon "Non-Construction" but stated it should include something about the owner.

Chair Holloway suggested "Owner Driven."

Committee Member Wong asked if owner versus tenant needs to be specified.

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Chair Holloway suggested "Business Owner Driven."

Chair Holloway suggested "Simple Changes" or "Simple Compliance."

Committee Member Collison suggested "Owner-Controlled" with a "DIY" photo for "do it yourself."

Committee Members Agreed.

Committee Member Nnaji recommended an article in the San Francisco Chronicle last Sunday about what makes customers comfortable in a restaurant. He stated there are many things under the owner's control that can add to the level of comfort, such as noise level and readability of menus – things that are non-construction. He suggested reaching out to the author of the article to discuss their research.

Public Comment

Thyme Curtis agreed with the DIY photo but stated the need to include what "DIY" stands for.

Chair Holloway stated he just sent a sample photo to staff that has the words over the logo so it all fits together. Committee Members agreed.

b. Developing Partnerships to Distribute Educational Tool(s)

Executive Director Jemmott stated staff has been working with the cities of Oakland and San Diego to develop tools for their communities. Staff is partnering with the Small Business Development Centers (SBDC) of California who are managing the creation and distribution of this document. She stated the need to reach out to associations. She asked for feedback on how to disseminate educational tools to associations, Committee Member constituents, and others.

Questions and Discussion

Committee Member Collison suggested participating in the California Hotel and Lodging Association's annual Safe Conference next year.

5. Future Agenda Items

Chair Holloway suggested reviewing the CCDA website at a future meeting to help make it easier for business owners to navigate.

Chair Holloway suggested posting the valuation threshold on the website.

Committee Member Wong stated that information is on the DSA website. She noted that this figure only pertains to remodels or alterations; business owners can still be sued for anything not done beyond that 20 percent.

Chair Holloway suggested that the website direct individuals to a summary on this issue.

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Public Comment

Terry McLean agreed that it is difficult to navigate the DGS website.

6. Adjourn

There being no further business, the meeting was adjourned at approximately 2:45 p.m.