

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

June 27, 2018

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, Sacramento, 95811.

Roll Call

Staff Member Ochoa called the roll and announced a quorum was not yet present. A quorum was achieved after Committee Member Wong arrived.

Commissioners Present:

Brian Holloway, Chair

Mitchell "Scott" Lillibridge, Vice Chair

Committee Members Present:

Stoyan Bumbalov, District Representative, Division of Codes and Standards, State Housing Law Program, California Department of Housing and Community Development (HCD)

Taylor Collison, California Hotel & Lodging Association (via teleconference)

Brandon Estes, California Building Standards Commission (CBSC)

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

Richard Halloran, Certified Access Specialist (CASp), Senior Building Inspector and Manager, Technical Services Division, ADA Coordinator, City and County of San Francisco (via teleconference)

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

Debbie Wong, Department of General Services – Division of the State Architect (DSA)

Committee Members Absent:

Afsaneh Ahmadi, Chief Building Official, City of San Diego, and Deputy Director, Building Construction and Safety Division

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

Matthew Sutton, Senior Legislative Director, California Restaurant Association

Irene Walela, Deputy Director, California Department of Rehabilitation (DOR)

William (Bill) Zellmer, President, CASI

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Staff Present:

Angela Jemmott, Executive Director
LaCandice Ochoa, Operations Manager
Dave Chung, Staff Services Analyst
Taylor St. Mary, Staff Services Analyst

Also Present:

Bassam Altwal, CalAccessibility
Mark Christian, American Institute of Architects, California Council (AIACC)
Jay Lifson, Lafayette Chamber of Commerce
Ike Nnaji, Ph.D., CASp, Disability Access Specialists, Inc.
David Peters, CEO, California Justice Alliance

2. Approval of Meeting Minutes (September 13, 2017, and March 28, 2018) – Action

Motion: Chair Holloway moved to approve the September 13, 2017, California Commission on Disability Access Checklist Committee Meeting Minutes as presented. Committee Member Halloran seconded. Motion carried unanimously.

Motion: Committee Member Layman moved to approve the March 28, 2018, California Commission on Disability Access Checklist Committee Meeting Minutes as presented. Chair Holloway seconded. Motion carried unanimously.

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

No members of the public addressed the Committee.

4. Myths and Misconceptions Guide – Update and Discussion

Presenter: Debbie Wong, DSA

Committee Member Wong reviewed the changes made to the Myths and Misconceptions Guide, which was included in the meeting packet.

Committee Member Halloran noted that the first sentence in the fourth paragraph under Item 7, which states “unfortunately, often the first time tenants learn that their lease agreement shifts onto them all the costs of ADA violations, including lawsuits – is after they get sued” does not make sense.

Committee Member Wong read Civil Code 1938 and stated the importance that tenants be made aware of their rights, the obligations of the landlord, and that a CASp report is provided.

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Committee Member Bumbalov referred to the first and last sentences in the first paragraph under Item 8 and stated they should not both be the California Fair Employment and Housing Act (FEHA). He suggested that the first sentence be changed to the Fair Housing Act (FHA).

Public Comment

David Peters, CEO, California Justice Alliance, suggested changing the first sentence in the fourth paragraph under Item 7, which was mentioned by Committee Member Halloran, to read that some leases purport to shift the obligation onto the tenant but this might not be appropriate – for example, for conditions that existed before the tenancy took place or conditions that might be out of the common area.

Mr. Peters referred to the second sentence in the second paragraph under Item 7, which states “both the lessor and lessee are responsible and liable for the accessibility of the facility” and suggested adding the word “generally” or “normally” to indicate that it is not in every case.

Mr. Peters suggested something more general in the second sentence of the revised language in paragraph 3 under Item 7. The proposed revised language may be misunderstood to mean that individuals can only hire a CASp if an inspection had not yet been performed. He stated individuals can always hire a CASp to evaluate the property.

Chair Holloway asked Mr. Peters to email his list of suggestions to staff.

5. Reflection of 2017 Top 10 Violations by Industry – Discussion

Executive Director Jemmott stated there was a request at the last meeting to discuss the top ten violations from the perspectives of establishments and locations. She reviewed the 2017 top ten violation charts by location, establishments serving food or drink, sales or rental establishments, and service establishments, which were included in the meeting packet. She noted the top three violations in each category.

A committee member asked if the total number of violations are confirmed violations. Executive Director Jemmott agreed that the column heading should be Total Number of Alleged Violations.

Committee Member Halloran suggested not only noting the age of the building but what the violations were and if the building was considered as a new or existing building.

Public Comment

Mark Christian, American Institute of Architects, California Council (AIACC), asked if the data on the category Access within Public Facility for establishments serving food or drink includes the age of the building. Executive Director Jemmott stated staff does not currently have access to that information but forms are being updated to include more detailed questions including the age of the building.

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Bassam Altwal, CalAccessibility, stated lawsuits are typically for existing buildings most likely built prior to 1992.

6. Consumer Toolkit for the Restaurant Industry – Update and Discussion

Executive Director Jemmott stated the goal of this agenda item is to create a toolkit in time to submit it to the full Commission for approval and to make it available for the first of three outreach events for 2018-19 on November 14th in Fresno. She stated the next Checklist Committee meeting is scheduled for September 26th and the full Commission will meet on October 10th.

a. Overview of Outreach Efforts for 2018-19

b. General Suggestions for Table of Contents

Executive Director Jemmott stated the Americans with Disabilities Act (ADA) Access Toolkit to focus on for this year is on the restaurant industry to help restaurant owners keep their businesses accessible. She reviewed the General Overview of the Draft Community Dialogue/Listening Forum Sessions outline and Draft Table of Contents, which was included in the meeting packet. She stated the afternoon session is referred to as the Incubator Session, where attendees will engage in an interactive activity of reviewing and providing feedback on the ADA Access Toolkit created by this Committee.

Chair Holloway suggested including “this checklist does not substitute for a CASp inspection” at the bottom of the page.

Public Comment

Mr. Altwal suggested including measurements such as counter height and table height. He suggested that the Common Violations section could be a checklist.

c. Restaurant-Focused Access Tools

Restaurant Accessibility Considerations at a Glance

Executive Director Jemmott reviewed the Restaurant Accessibility Considerations at a Glance graphic, which was included in the meeting packet. She stated CASp inspections are typically only at new construction, alterations, or when purchasing existing buildings. She stated the pyramid graphic includes categories that are not CASp-specific but that need to be maintained by restaurant owners to stay compliant.

Chair Holloway asked what the pyramid graphic is meant to show. Vice Chair Lillibridge stated it shows the frequency or amount of effort required for each category. Executive Director Jemmott agreed. She stated barrier removal needs to be considered on an ongoing basis.

Committee Member Wong suggested moving the category Purchase Existing Building to the category above it – New Construction, Alteration, or Addition. She offered to help revise and condense the pyramid graphic.

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Vice Chair Lillibridge suggested including the results of an existing study or analysis in the toolkit to show the economic benefits of ADA compliance.

Public Comment

Mr. Altwal stated there is a study that shows that 39 percent of the population is disabled and that 18 percent of that population spends over \$200 billion annually in consumer items. He noted that it benefits business owners to ensure they are ADA compliant prior to any lawsuit because they are responsible to pay damages and still must make the changes to become compliant.

Mr. Altwal stated most business owners are unaware of a tax credit and tax deduction that are available to them for ADA compliance under Federal Tax Codes 44 and 190.

Mr. Altwal suggested including website accessibility on the pyramid graphic.

Jay Lifson, Lafayette Chamber of Commerce, suggested more detailed information on the pyramid graphic to increase its value as part of the toolkit. He stated the restaurant industry has two groups of business owners – large restaurant companies and independents. Large restaurant companies already have guidelines in place but independent restaurants do not. He stated the need to educate new restaurant owners that the best \$2,500 they could spend would be to hire a CASp to do a CASp inspection before they sign the lease. He stated the Existing Training category would not apply to large restaurant companies because they generally are quick to train to new laws, but independent restaurants have a harder time keeping up with the laws.

Guide for Owners: Accessible Sit-Down Restaurant

Ike Nnaji, Ph.D., CASp, Disability Access Specialists, Inc., reviewed the first draft of the Guide for Owners: Accessible Sit-Down Restaurant document, which was included in the meeting packet. He noted that California standards are more stringent than the federal standards. Dr. Nnaji provided an overview, with a slide presentation, of the 21 areas that often need updating for restaurants and hotels to be compliant.

Executive Director Jemmott stated she liked the visual illustrations and high-level points used in Dr. Nnaji's presentation.

Lafayette ADA Chamber Booklet

Mr. Lifson reviewed the first draft of the Lafayette ADA Chamber Booklet, which was included in the meeting packet. He stated the Lafayette Chamber of Commerce is currently revising the booklet to include California laws and regulations.

Questions and Discussion

Executive Director Jemmott asked for suggestions on how to build the CCDA consumer toolkit for the restaurant industry. She asked for volunteers to take the last three categories on the pyramid graphic – Existing Training, Weekly, and Daily – and for volunteers to take the next three categories – New Hire, Monthly Activities, and Quarterly Removal of Architectural Barriers – and come up with language for the toolkit.

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A committee member suggested using the top five complaints to populate the categories.

Committee Member Halloran asked if the DSA would be willing to send an inquiry out to CASps on the top ten problems seen in restaurants. Executive Director Jemmott suggested incorporating that question into the Listening Forum panel discussions.

Committee members suggested the following changes to the pyramid graphic:

- Change the title of the pyramid graphic to Pyramid of Accessibility at a Glance
- Combine the New Construction, Alteration, or Addition and Purchase Existing Building categories into a new Built/Acquired Space category
- Combine the Monthly Activities, Annual Maintenance, and Fixing Something Broken categories into a new Maintenance: Annually/Quarterly category
- Combine the Annual and Quarterly Removal of Architectural Barriers categories into a new Architectural Barrier Removal: Continuous category
- Combine the New Hire and Existing Training categories into a new Training: Continuous category
- Combine the Weekly and Daily categories into a new Regular Maintenance: Daily category

Chair Holloway and Vice Chair Lillibridge volunteered to put together an outline of the booklet with feedback from Mr. Lifson.

Executive Director Jemmott stated she will contact Committee Members offline to discuss which categories they would like to volunteer to assist with.

7. Future Agenda Items

Chair Holloway asked committee members to email suggestions for future agenda items to staff.

8. Adjourn

Chair Holloway adjourned the meeting at approximately 3:30 p.m.