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Subject: Addenda to HCD Green Code Proposal

7. HCD proposes to adopt Chapter 4, Section 4.106.4.2.1, as follows:

4.106.4.2.1 Electric vehicle charging station (EVCS) dimensions and slope. The EVCS shall be designed to comply with the following:

1. The minimum length of each EVCS shall be 18 feet (5486 mm).
2. The minimum width of each EVCS shall be 9 feet (2743 mm).
3. One in every 25 EVCS, but not less than one EVCS, shall also have a 5-foot (1524 mm) wide aisle. slope for this EVCS and 5-foot (1524 mm) wide aisle shall not exceed 1 unit vertical in 48 units horizontal (2.083 percent slope) in any direction.

Comment: The above proposed code change is also in violation of BSC Criteria 7. In *Donald v. Sacramento Valley Bank*, the court rejected the Bank's argument that it did not need to make ATMs accessible (or provide a walkway to reach the ATM) on grounds that there were no regulations for ATMs. The Court held that they still were liable under state civil rights statutes and regulations for access and had to provide access to the public accommodation ATM facility based on regulations that did apply, such as walkways and reach ranges.

Here is a portion of the Court's ruling on this issue:

"The ASA standards to which the statutory schemes referred **did not specify ATM's** were subject to accessibility requirements. The omission to specifically refer to ATM's in the 1961 ASA standards may reasonably have resulted from the fact, undisputed by the parties, that **at the time these standards were promulgated ATM's were only a gleam in some banker's eye.** However, the 1961 ASA standards delineated in detail **architectural specifications for access to buildings and related facilities**, including walkways and doors, and for access within buildings. As relevant to this appeal, the ASA standards specified that walks be accessible as follows: "4.2 Walks [para.] 4.2.1 Public walks should be at least 48 inches wide and should have a gradient not greater than 5 percent. [*the bank could not make up its own standards for walkways*]

Reading these statutory schemes together, we find this ATM violates accessibility requirements set out in the ASA standards and therefore violates the handicap access laws pursuant to Health and Safety Code section 19955 et seq. *[If an EV charging station violates the standards for parking a car, accessible route and access to charging facilities, then it violates requirements set out in Title 24 and violates Gov. Code 4450 and the Unruh Act.]*

“we believe the absence of any express reference to ATM's in the 1961 ASA standards does not render the general standards inapplicable. The ASA standards apply to "all buildings and facilities used by the public" and list as their purpose "to make all buildings and facilities used by the public accessible to, and functional for, the physically handicapped, . . ." (ASA standard A117.1/1961 para. 1.2.) The ATM is a public facility which falls within the scope of the standards. Moreover, the standards of accessibility set out in the ASA specifications are not met in this case because the walkway to the ATM is interrupted by steps in violation of paragraph 4.2.2. The ATM is inaccessible in violation of the applicable handicap access laws and the trial court erred in concluding otherwise.”

We note further that the ATM constitutes a public accommodation or facility so as to subject it to the statutes. The definition of public accommodations set out in Civil Code section 54.1 is even broader than that specified in Health and Safety Code section 19955 as the civil rights statutes pertain to any "places to which the general public is invited, . ." (Civ. Code, § 54.1.) *Donald v. Sacramento Valley Bank*, 209 Cal. App. 3d 1183, 1195 (Cal. App. 3d Dist. 1989)”

The same arguments apply to EV charging stations. There is nothing unique about EV charging station facilities that is not already covered by specific access requirements and standards such as for parking, accessible routes, reach ranges, clear floor space, van parking, signage and operating controls.

HCD is proposing a code change for parking for EV charging that ignores and violates established standards by not requiring that such parking include accessible parking. The provision of only a small portion of the

established parking standards does not in any way meet the requirements of Criteria 7. If followed, the proposed code puts the public at risk of violation of CA Code resulting lawsuits based upon arguments in the Donald v Sacramento Valley Bank case.

Thank you for your consideration.

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