



Final Transcript

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

November 2, 2016/1:30 p.m. PDT

SPEAKERS

Dennis Corelis
Derek Shaw
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PRESENTATION

Moderator Ladies and gentlemen, thank you for standing by and welcome to the Access Code Stakeholder Forum. At this time all participants are in a listen-only mode. Later we will conduct a question and answer session; instructions will be given at that time. [Operator instructions]. As a reminder, this conference is being recorded.

I will now turn the conference call over to your host, Mr. Dennis Corelis.
Please go ahead, sir.

Dennis

Thank you. Good afternoon, everyone. This is Dennis Corelis, Deputy State Architect with the Division of the State Architect. I want to thank you all for making time to attend today's meeting. We are here today to discuss the proposed code change language for the amendments DSA has selected for the 2016 code amendment cycle. These proposals, after reviewing comments through meetings such as this one, will be submitted to the California Building Standards Commission in December of 2016.

Formal review and comment on the proposed amendments will begin in January of 2017. There will be a public hearing before the California Building Standards Commission's Code Advisory Committee sometime in March of 2017. After any final amendments or changes to the language based on comments from the Code Advisory Committee and stakeholders the proposed amendments will be considered for approval by the California Building Standards Commission in June of 2017.

The approved amendments will be included in the 2016 California Building Code Supplement, which will become effective on the 1st of July 2018. The amendments we discuss today are DSA's initial draft of proposed language to implement the proposed changes to the accessibility

standards. The proposed language is by no means final language, and in fact discussing the language is what we are here to do today.

The code change proposals will be presented individually for review and comment. Each proposal will be presented in a format that clearly identifies the 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 the information was first distributed.

DSA requests participants limit the discussion to the proposed agenda items so that 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 comments at our prior meeting on October 20th. Following those items we will open the discussion for the remaining code change proposals that are under consideration for this cycle. At the completion of the discussion of the items that have been presented for this code cycle we can address items not on the agenda as time allows.

If your suggested code change item is not one of the items on the agenda for today it has not been selected for consideration during this code development cycle. Each individual that identified a potential code change will receive notice via email on the status of their item under consideration and whether it can be addressed in a future code development cycle. It is anticipated we will send out these notices by the end of this calendar year, in December of 2016.

We will now begin presenting and discussing each item individually. And I'm going to turn it over to Senior Architect, Derek Shaw. Go ahead, Derek, please. Thank you.

Derek

Great. Thank you, Dennis. Before I get started with the individual items I wanted to go through briefly just a discussion of the California Building Code, what it is, and what it does. The California Building Code is one of 12 parts that make up the California Building Standards. Together these standards regulate construction within the State of California. These codes provide the scoping requirements and the technical requirements for many elements of buildings, and sites, and facilities.

The portion of the building code that the Division of the State Architect access compliance addresses is primarily in Chapter 11B of the California Building Code. These are the accessibility provisions that are applicable to public accommodations, public buildings, commercial buildings, and public housing. The way the California Building Code is set up and specifically the way Chapter 11B is set up, is to provide two levels of regulatory requirements.

The first level is the scoping requirements. Within the scoping requirements these tell us how many of an element needs to be accessible, or what percentage of an element may need to be accessible. So, for example, we see in the Toilet and Bathing Facility section that the number of accessible lavatories needs to be 5%, or a minimum of one.

The second part of Chapter 11B includes the technical requirements.

What does it take to make those lavatories accessible? They need to have clear floor space at the lavatory, there needs to be appropriate toe and knee clearance under the lavatory, the top of the countertop in which the lavatory sits needs to fall within certain heights above the floor, and the controls to the lavatory need to be within the reach ranges that are

specified throughout Chapter 11B. Each of these technical requirements is presented in Chapter 11B.

Now, as we look through the language of the scoping and the technical requirements in Chapter 11B sometimes we encounter terms which are not familiar to the general reader, and we sometimes call these terms of art. And these terms we generally will define within the California Building Code in Chapter 2. So there are terms that we define in Chapter 2, and these include terms like “accessible,” or “accessible route;” “detectable warnings” is defined also in Chapter 2, and so on. There are dozens of terms that are defined in Chapter 2. For those terms that are not defined in Chapter 2, it’s standard to consult a college level standard dictionary to determine the definition of those terms. So, that’s the way our definitions in Chapter 2 relate to the scoping and technical requirements in Chapter 11B.

Now, the way the building codes are typically organized is to present all of the scoping and technical requirements within the body of the code and not to present them within the definitions. And we know that in the past that our office has proposed and has adopted some definitions which included some technical requirements. Over the last few years we’ve gone

through efforts to move some of these technical requirements which were placed in the definitions, to move these into the actual text of Chapter 11B so that they would be understood clearly by the designers, by the building officials, by the construction industry, and by the owners. These are all of our audiences for the building code.

And one of the primary purposes of our code changes for the last few years has been to clarify the regulations of the code. Now, we know that in the past based on feedback that we've gotten there have been a number of sections of the code that are not entirely clear or maybe subject to a wide variety of differing interpretations. Now, while under California state law our office, the Division of the State Architect, does not have control over how the other enforcement jurisdictions interpret the building code. That enforcement of the building code is duly laid upon those building officials in city building departments, in county building departments, and other special districts.

The Division of the State Architect also has a code enforcement role, we write the code, and that's what we're here to talk about today, but we also have a code enforcement role. We have four offices throughout the state, and each of those offices operates very much like a city building

department, people prepare plans and specifications, they bring those plans and specifications into one of our offices for review, and our staff will review the plans and specifications and provide comments back to the designer and applicants. This is pretty common throughout most of the enforcement jurisdictions here in the state.

But one of the key points that we hear about quite often is in this interpretation of the code. And again we're coming back to this idea that we need to make the codes as clear as possible, so where we possibly can we've attempted to progressively as we go along make the language more clear where we can, or to introduce new language to clarify some of the older regulations that had been in place before.

Our intent with these changes is to create a scenario where the designers and the owners can review the code and come up with their interpretation and understanding of the requirements of the code, and not be surprised, as much as possible, when they go into the building departments and the building department officials may have very different interpretations of the code. Vague language leads to this outcome, and we've heard about it for many years, that there are some sections of the code within the accessibility provisions that the current language, or current at the time,

was leading to these widely disparate interpretations of the code. So, that's one of the things I wanted to go over here today first before we move into the specific items.

So, with that what we'll do is, as Dennis said, we'll go ahead and we'll address the items, first of all, that were presented at our last meeting and that have received the greatest number of comments regarding those items. Now, we have not changed our drafts of the code change proposals, these are working drafts now, and the reason we are here today and this next meeting as well coming up on the 15th is to discuss some of the provisions, discuss the concerns that people may have about some of these provisions, and to help everybody really to understand what it is we're doing and what we're trying to achieve with the language.

So, what I'm going to do first is start off with the definition of accessible route. Right now the definition of accessible route says: "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 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 of vehicular ways, walks, ramps, and lifts.”

DSA, in this draft, has proposed to strike in its entirety that language that I just read, and to instead replace the definition for accessible routes with the following. “A continuous path that complies with this code.” Now, the rationale for this change is DSA had received petitions to revise this definition for consistency with model code language. In that petition, the petitioner stated that the current definition does not require compliance with the specific standards of accessibility found in Chapter 11, and it requires highly subjective determinations by building officials on whether or not a route can be “negotiated by a person with a disability using a wheelchair.” At DSA we concur with the petitioners’ request to revise the definition, and we’ve proceeded accordingly in proposing this change.

I think with that, if there aren’t any other comments on this item, we’d like to go ahead and open up for questions and comments about this item. And what we’ll do, and we’ll do this for the various items, we’ll start out first of all here in the room at DSA headquarters, and then we’ll look to our other DSA offices in Oakland, Los Angeles, and San Diego, and then after

that then we'll go to the telephones and seek any comments, questions, and input from people on the teleconference line.

So, first we're going to start out here in the office. And if you would state your name, please, for the record.

Terry

My name is Terelle Terry, T-e-r-e-l-l-e, T-e-r-r-y. I am deaf, and I have hearing aids but they don't allow me to hear very much. I have no normal hearing. In this definition of the accessible route of travel, doors are not mentioned. And the specific door or doors in this group can make it inaccessible, and leaving the doors out means that you can supply those, everything in the language, and it still would be not usable by persons with disabilities.

Leaving out doors, if at any point there is a door that the person cannot open, then the route is not accessible, and the fact that it doesn't miss a door, it doesn't mention a door means that the person reading this isn't going to think of a door, and they're going to put a door in which I can't open, or which I can't push through, or pull open, or get around. I'm very concerned that it doesn't mention doors, and it doesn't refer to any other

code, or any other report, there's no reference to doors anywhere. I can't look anything up and say, oh, here's the place where it talks about doors.

My bank moved from J Street to L Street just recently, and I've been a customer for 40 years, and they had a push button on the door and I could go inside. Now, they have an elaborate ramp which has been built up to the floor where my bank is. I can't get that door open. There's no push button to open the door. There's no sign on the door that says I push or pull. I can't get through into my bank. When I talked to the manager of the facility he said, "We had two surveys here and they say it's fine, we don't have to be accessible."

I find that so repellant, "we don't have to be accessible." The whole idea of the—I'm sorry, I'm so upset it's very difficult to speak. In 1976 we were granted civil rights, that we had a right to education and transportation, and a right to go about our business and to have access to the community, and for someone to say we don't have to be accessible, this [indiscernible] doesn't include doors. And I say that because it doesn't include doors, it doesn't list them in any way, at any point along there doors can be put in and accessibility is lost.

Derek Thank you. And I have to agree with you, if the bank official is saying that their bank doesn't need to be accessible, my understanding is they're flat out wrong. As a public accommodation—

Terry Of the building.

Derek Yes.

Terry They said they took two surveys and they didn't have to be accessible.

Derek Well, public accommodations are required to be accessible. The building code, when construction occurs either new buildings built or maybe an existing building is altered, it's changed, then the provisions of the building code kick in certainly. If there is no construction that occurs, maybe it was a very old building and there were no accessibility provisions at the time—

Terry They built an elaborate series of ramps—

Derek Excuse me a minute.

Terry —to get into the building.

Derek Yes. Okay. If it was, for example, an older building and if there were no accessibility provisions at the time, then the building code would not have obligated that bank to install new accessible doors. However, federal law under the ADA and state law would require that bank, that public accommodation, to make their services available and accessible. And so that bank would have a legal obligation to make access to their services available even if it wasn't covered in the building code.

Now, I want to address if I can your earlier point about the existing definition that's currently in the building code, and you had mentioned that it doesn't describe doors. You're absolutely right, I agree with you entirely. What I do want to point out, though, in complying with this code in Chapter 11B we have an entire division, 24 pages worth of regulations, that tell us what are the technical requirements that an accessible route needs to comply with in order to be in compliance with the code.

Now, these sections in Chapter 11B, Division 4, they cover a variety of topics, parts of an accessible route, walking surfaces, they cover doors, doorways, and gates, there's about eight pages on doorways and gates,

they cover ramps, they cover the handrails for ramps, they address curb ramps, elevators, and now the destination oriented elevators, and limited use and limited application elevators. These are all components that can be used in an accessible route, and we can go to the specific requirements, the detailed technical requirements that are in the building code in Chapter 11B, Division 4 which address in detail the technical requirements for each component of an accessible route.

And so while I know that we don't have mention of doors here under the existing definition of accessible routes, nor do we have any reference to any other elements within our proposed change to the definition of accessible route, that does not take away any of the technical requirements for accessible routes that are currently in Chapter 11B of the code, which we are not proposing to change at all. So, the door requirements that are in Chapter 11B will still be in place. The doors are still going to have to provide 32 inches minimum clear width, they're still going to have to be open-able, with a maximum force of pushing the door open of five pounds, and the hardware, if there's hardware on the door that hardware is going to have to be operable with a maximum force of five pounds. None of those things are changing.

Derek

Well, it might hurt, and let me explain how it might hurt. I understand that if a person were using the code and they were first going to the definitions as their use of the code, then that would probably help to orient them and take them to the scoping provisions in Chapter 11B.

But also we have to keep in mind that there are a lot of other parts of the code. In Chapter 10, for example, Chapter 10 has several pages' worth of regulations on doors, and those need to be complied with also. And so rather than trying to reinvent the way the code is utilized, we want to fall in line with the way the code is utilized. We recognize that the code tells us that there are the scoping requirements, so for scoping we turn to Division 2 of Chapter 11B, and Division 2 for accessible routes, that tells us to make your accessible routes go and comply with Division 4, which is where I mentioned just a few minutes ago we had the 25 or so pages of technical requirements for accessible routes.

So, that's the sequence of the standard use of the code, you go to your scoping provisions, the scoping provisions tell you how many of something needs to be provided in compliance with Chapter 11B for accessibility issues, and then it will give you a reference to those detailed requirements elsewhere in Chapter 11B. So, we're capturing some of that,

but we don't want to go back to the definitions and include either technical or scoping requirements in the definition. Remember, the definitions are there only to help us understand what some of those unfamiliar words might mean. The familiar words are easy enough, you just open up a college dictionary and there you go, you use the portion of the definition that's appropriate given a certain context.

But we have terms of art that we use in the building code, and accessibility, as a relatively new field of study, we've got maybe 50 years into it now, compared to structural engineering which has a few thousand years of history behind it, but the accessibility provisions in a building code are relatively new, and so some of the terms that are used are unfamiliar to people. And so that's what we want to use the definition section of the building code to do, to make it very clear to the designers, to the building officials, to the owners, to the construction people and also to the general public, anybody who may have an interest in this topic, we want them to be able to go to the code, understand what the requirements are, and not have to rely to any extensive amount on professional guidance and interpretation of the code. We don't want it to be a mystery, we want everything right here in black and white and in language that most reasonable people could agree as the reasonable interpretation.

We hear comments sometimes that the language of the code -- a change maybe that we have, or some existing language of the code -- permits an owner to go in and negotiate with a planning department to sidestep or to release them from the requirements of the California Building Code. And we hear that, we hear it a lot really, but the fact is that a building official is tasked under California law to enforce the building code. Now, they are authorized under California law to provide some variances from the code, but by and large those variances are very minimal, or should be very minimal.

We have, in Chapter 11B of the building code, the section we're responsible for, we have regulations that address new construction and we have regulations that address alterations to existing facilities. Now, the existing facilities we know that they're harder to provide accessibility in existing facilities. You're dealing with an environment that's already built up, it requires tearing some stuff out sometimes and replacing it with new elements, some older banks have only stairs going up to the front door, and so maybe a bank has been provided a ramp system or a lift system to get up to the entrance. And are the solutions all equally elegant? No. I don't think they are. That's not what I've observed. But they have to

work and they have to comply with the code. The code tells us what it takes to make that work.

Now, some of the comments that we got to the accessible route definition, we got comments that were asking, what does it mean for a person with a disability using a wheelchair to have to negotiate their access? The commenter focused on the word “negotiate” in here. Well, I have to assume that’s a fair question. I think the answer, though, is quite a bit different. Negotiate in this concept, in the existing definition, is being able to navigate a [audio disruption – 34:56]. If this were the regulation, either the scoping or the technical requirements, then that’s all that we’d have to hang our hats on is negotiating the accessible route.

Well, that’s not it. As I mentioned at length just a moment ago, to find out what the actual regulations and requirements are that are applicable to the accessible route you have to go to the scoping and the technical provisions in Chapter 11B. So, I think accordingly what DSA has been proposing, and we’d like everybody to consider and we want to continue the discussion here, is that having the accessible route defined as a continuous path that complies with this code, that helps the code user to focus back on

the requirements of the code that are contained within the various chapters.

Our main chapter of interest was Chapter 11B, and we also adopt language in other chapters too. But nonetheless, in complying with the code if a design and the construction of a new building comply with Chapter 11B, then those doors are going to be 32 inches wide, the threshold is going to be smooth or it's going to have a quarter-inch threshold without a bevel, or up to half an inch with a bevel. The width is going to be good, the height is going to be good, and the force to operate the hardware and to push the door open -- those forces are going to be compliant.

So, I hope that I can try to allay some folks' concern about striking some of this language, because while this language does have a lot of meaning behind it, it certainly has a lot of history behind it because this definition has been around for decades now, it probably distracts the code user from referring to the actual scoping and technical requirements that we see in Chapter 11B. So, we would prefer to drive the code users to the actual technical requirement, and that way it eliminates the guesswork, I won't say eliminates, it minimizes the guesswork of all parties because we know

then that we can turn to Division 4 and we can see the exact technical requirements for all the elements in an accessible route.

So, I hope that I can address in part your comments and concerns with this. Are there additional follow up questions you might have? No? Okay. Well, thank you.

Are there any other questions here in the room, comments? Okay.

Thanks. I'm going to be, and we'll probably have to do this repeatedly, but there's nobody right now in Oakland, Los Angeles, or San Diego that I see on camera, but nonetheless I'll be giving a shout out to each one of those offices before we proceed on just to make sure somebody's not around the corner, outside of camera view. We want to make sure that anybody who wants to comment there has the opportunity to do so.

So, any comments from Oakland? No comments from Oakland. Any comments from Los Angeles? No comments from Los Angeles. Any comments from San Diego? No comments there.

Okay, if we can go then to the teleconference line, do we have anybody queued up for this?

Moderator Our first question will be from William Rehiling. Please go ahead, sir.

William Good afternoon, everyone. The discussion about the use of definitions is very helpful for a beginner like myself, or perhaps an advanced beginner at this point.

I wanted to suggest from that perspective, since I think so many of you are experts and forget what it was like when you didn't know anything, in looking at the code and looking at some other codes, it's really useful when there's some signal that a word in a code section is in fact a defined term. Someone mentioned that, well, the first thing is the common usage and then turn to a definition, but actually there's a lot of words that have a specific definition that as a beginner I'll look at and not realize that because it seems like something that I can apply a common sense definition to, like "walk." And I'm just wondering if there's a historical reason why the California Building Code does not do that with an italics or something to signal that a word is actually a defined term.

Derek Well, that's a great question, and there is a historical reason behind it. Let me see if I can lay this out for you. A lot of the model building codes, including the International Building Code upon which most of Title 24,

Part 2 is based, except for Chapters 11A and 11B, but in the model building code they do have a notational standard where they will show the defined terms in italics. And that really helps, I think, in being able to identify those defined terms and it helps the code user then to go back to the Chapter 2 definitions on those.

The California Building Code -- we introduce a new complexity to it here in California, we're unique. While the other chapters do utilize their model code, the International Building Code and Chapter 11B utilizes the 2010 ADA standards for accessible design as our model building code for that chapter, we also apply additional amendments, California amendments we call them. And these California amendments, based on standards that are given to us by the Building Standards Commission, these California amendments are to be indicated in the text of the code in italics. I think that's—

William

Sure.

Derek

—great to help distinguish between the model code language and the California language, it really helps visually. But unfortunately, there is a conflict with the other use of italics in the model code, and that's to

identify defined terms. In view of that we've had to set aside the pursuit of identifying defined terms with the italics and instead make our text correspond with the standards that are set for the entire building code.

William Okay. I understand. Thank you very much. I'll just put in a quick plug. If a bright, creative idea ever occurs to someone as a way to call out words that are defined in some other means than italics I think that in the future would be good for people in future generations getting up to speed on what's a defined term.

Derek Great.

William Thank you.

Ida I do want to address that in Section 1 of Chapter 11B we do provide a list of those items that are defined, and so since we provide that list in Chapter 11B, to be able to go back to Chapter 2 where they are defined prior to perhaps proceeding in the code gives you a familiarity of when you encounter those terms maybe, oh, yes, that term was on the list, let's go see what it means in the definition. And then also the Matrix Adoption Tables in front of the chapter, the definitions also indicate when they're

being used by DSA accessibility compliance. So, we do provide an inkling of which of those terms are defined by providing a list, even though we don't actually clarify them within the context of the code as they're being used.

Derek Great. Thank you, Ida. Absolutely, those are great points. Do we have anybody else now queued up on the line?

Moderator Not at this time, sir.

Derek Alright. Great. Thank you. Unless there are any additional questions or comments about the definition of accessible route, I think we can move on to the next one.

The next item where we got a variety of comments at our last meeting in October was the definition of the term "accessible." And with this, the current definition of the word accessible is as follows: "A site, building, facility, or portion thereof that is approachable and usable by persons with disabilities in compliance with this code." And if our proposed changes to this definition are adopted, then the definition of accessible would read: "A site, building, facility or portion thereof that complies with this code."

So, again similar in idea and concept to the definition of accessible route we want to bring the code reader back to compliance with the code rather than some of the other phrasing that's currently in the definitions that generally is going to lead to differing interpretations by different parties. So, that's our summary, I guess, of our rationale here.

Additionally, we have received comments during consultations with stakeholders that the term that's included here, "persons with disabilities" was a derogatory term and they had requested that it be removed from the definition. And we also received comments on other closely related definitions seeking a closer alignment with federal standards, so wherever terms are used in the federal standards and the same term is used in the California Building Code, Chapter 11B, we want to know that everybody's talking about the same thing.

That's a pretty brief presentation on that, but I think the code changes speak for themselves. I think now we'll go ahead and address any questions or comments about this item. Terry?

Terry

As a person with disabilities, our [indiscernible] who face discrimination, there is a specific language which provides for the protection of

individuals, and that class includes race, religion, ethnic origin, and this is a whole group of people who basically get dumped on and discriminated against. What is the term that is used in the civil rights definition?

Derek I don't know.

Terry Well, I think that's the definition. If you're going to throw out "persons with disabilities" the definition should be consistent with the protection afforded us federally as a protected class. I don't know how many people objected to the term "persons with disabilities." Can you tell me?

Derek We received two comments verbally during the Code Advisory Commission.

Terry How many?

Derek Two comments.

Terry Oh, two.

Derek Yes.

Terry

Well, there was a term called “handicapped” and people objected to that, so they went to disabilities, and people objected to that. Actually, it doesn’t matter what they call you, it’s what they mean when they call you that. So far I have never heard anybody object to “persons with disabilities,” and to throw it out means that we’re not named. And, as I mentioned to you earlier today, if we’re not named specifically, we’re not described, we disappear, there’s no reference to us in the code, there’s no reference to us anywhere, and we’re just amorphous beings.

I am worried. I believe that if a term is not used and nobody knows what you’re talking about, then we will not only disappear we will have even more discrimination. And as far as demeaning, the most demeaning thing that’s happened in the past few years is the State Architect’s attitude towards disabilities, and he has discriminated against us more than just anybody else, because he has permitted discrimination against us. I strongly object to the term being changed. It should be consistent at least with that code which provides that we have some protection from discrimination.

Derek

Okay. Good.

Terry I thought I was one person. You had two people who didn't like it, and now you've got one who doesn't like it.

Derek There are also folks who agree with you, Terry.

Terry I'm sorry. Slow down. I don't know what you're saying.

Derek There are other people who agree with you and that's why we're having these meetings, to get comments.

Terry I certainly hope so. As I said, it doesn't matter what they call you, it's what they mean by the term that they use. I'm very worried about this whole process. For the past few years we have come in and testified over and over and over again to say our side and have been ignored, we have objected and we have been ignored, we have disapproved and we have been ignored, we have written and we've been ignored, we have emailed and we've been ignored. But to remove the terminology that describes us means that we're totally ignored again.

Derek

Okay. Yes, as Dennis mentioned, we did receive a number of other comments that were quite similar at our last meeting two weeks ago, and so we want to continue the conversation here.

I know certainly that in drafting the proposed revisions to accessible route and accessible, while we have shown the term “persons with disabilities” struck from that, we still have a whole chapter that’s addressing accessibility, in Chapter 11B. We’ve got another whole chapter that’s provided by the Department of Housing and Community Development that describes accessibility requirements in Chapter 11A. So, I think that the requirements for the construction of buildings, the requirements that are necessary to provide accessibility to those buildings is really what we’re focused on. We’re focused on the doors, on the ramps, on the slopes, and on the width of clearances, and when those elements of a building, when they can be built right, we get accessibility, and accessibility is used by people.

Terry

If you don’t identify the people they disappear. I say again what you’re doing is dangerous, it’s nefarious, and it’s evil.

Derek Okay. Are there any other comments that we have here in the room? No comments. Okay. Oakland, are there any comments in Oakland? Nobody in Oakland. Los Angeles, any comments there? Nobody in Los Angeles. San Diego, any comments? And there's no one in San Diego.

Let's go ahead and see if anybody has queued up on the teleconference line.

Moderator No one has queued up at this time. [Operator instructions].

Derek Let's wait just a moment, please, and see if anybody jumps into the queue. Okay, Tuwana, has anybody else jumped into the queue?

Moderator No, not at this time, sir.

Derek Alright. Thank you.

Moderator You're welcome.

Derek Well, let's go ahead and move on to the next item. The next item is the definition of "maximum extent feasible." Now, currently there is no

definition of maximum extent feasible in the building code, but we do use the term “maximum extent feasible” in three locations. We use it in Section 11B-202.3, and Exception 2 to that section describes the technically infeasible exception under the scoping requirements for alterations. So, here we’re already using the term “maximum extent feasible” and it’s also used in two other sections of Chapter 11B right now.

So, it is a term and we have received a number of comments telling us that the term “to the maximum extent feasible” lacks specificity. And we would agree, it does. I would say it’s a term of art, it’s legal terminology, and the term is utilized primarily in the Americans with Disabilities Act and in the ADA standards, and we’ve captured that term and we folded that right into Chapter 11B of the building code.

So, what we did in order to try to clarify this term that’s already in use in the code, we looked to the regulations of the Americans with Disabilities Act and there they do provide a working definition of the phrase “to the maximum extent feasible.” It’s applicable to the use of that term and it’s in the section in the ADA. We’ve captured largely the language from the

federal standards, and with very minor deviations we've brought that in to make it read as a definition with the California Building Code.

So, this new definition, let me go ahead and read it for anybody who's listening in. Maximum extent feasible: "The occasional case where the nature of an existing facility makes it virtually impossible to comply fully with the 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 and conformance with this section to individuals with certain disabilities, example those who use wheelchairs, would not be feasible, the facility shall be made accessible to persons with other types of disabilities, example, those who use crutches, those who have impaired vision or hearing, or those who have other impairments."

So, how is this term used right now in the California Building Code?

Well, as I mentioned, Chapter 11B, Section 11B-202.3 on alterations, the basic requirement tells us that where existing elements or spaces are altered, each altered element or space shall comply with the applicable requirements for Division 2, including Section 11B-202.4.

There's an exception that's provided, Exception 2, and it's titled "Technically Infeasible." I'll read that for us. "In alterations where the enforcing authority determines compliance with applicable requirements is technically infeasible, the alteration shall provide the equivalent facilitation, or comply with the requirements to the maximum extent feasible. The details of the findings that full compliance with the requirements is technically infeasible shall be recorded and entered into the files of the enforcing agency."

So, it is within that exception that we use the term "maximum extent feasible." We're not proposing any changes to this section, to this Exception 2 on technically infeasible. That language is going to stay, it's not being proposed to change. The change that we are proposing is introducing this new definition of maximum extent feasible. This is going to help the code user to understand what the heck we mean when we say maximum extent feasible. So, the code user then can take this definition and this understanding and understand better what this Exception 2 on technically infeasible says.

The other two sections of the code where it occurs are in Section 11B-232.2.1.3, and that is a provision under the Judicial Facility section

regarding General Holding Cells and General Housing Cells, and there are no changes proposed in this section. This section addresses substitute cells within detention and correctional facilities, but we're not proposing any changes to this section. I just wanted to let everybody know where the term "maximum extent feasible" is used.

The other location where it is used is in Section 11B-812.5.4, Exception 2, and that section is with regard to the electric vehicle charging stations technical requirements and the arrangement of vehicle spaces and access aisles for electric vehicle charging stations. That section also is not being proposed to be changed, so there's going to be no changes proposed to the technical requirements for each of those three sections. The requirements are still going to be in place. If this proposed new definition is adopted, the technical requirements are still in place, the scoping requirements are still in place, but the code user has a better understanding of what we mean when we say maximum extent feasible.

So, I think with that what I'd like to do is to go ahead and look here to the room and if you have any comments and questions on it. Terry?

Terry

When I was working on the accessibility of the Capitol Building, which wasn't very accessible, we proposed that we be able to make the building accessible, and I was told by the State Architect at that time that we couldn't possibly have accessible restrooms, because of the bearing walls we couldn't get into the bathroom. Well, I pointed out to him that he should have learned in architectural school that that big X was a girder, and I watched him build the building and you could run a tank through that building and not hit a bearing wall, there weren't any.

The reason I mention this is because there's always somebody who's willing to lie, there's always somebody who's willing to cheat, and I believe the maximum extent feasible is a weasel-y term. It offends me because I've been there. I wanted to get electric doors on the Capitol Building and they told me we couldn't do that because of the artwork that is on the doors. And I said, okay, move the artwork to the other end of the building where it would be lovely there, architectural elements, ducks and geese, and different critters are up there. And then they said we can't make the old Capitol accessible and they're going to have to tear that sucker down because it was not [indiscernible], they're going to have to tear it down. So, I said, are you going to put a ramp in? Oh, that's not

technically feasible. You've got an empty building. So, we talked him into putting in a ramp.

The reason I'm mentioning it is because I've been working with architects and I've been working on the accessibility of state buildings, and federal buildings, and business buildings, and I've dealt with a lot of people who will tell you a lot of garbage. I notice that this is used for new buildings and the new buildings somehow it's built accessible. I can't remember exactly where that is, but it does mention something in new buildings and how come they get to build it inaccessible. I can't find that. I know I read it.

Derek

Terry, I'd like to address that if I can. I would like you to go on, but if I can address that and interject real quickly on that. The three technical and scoping sections where the term "maximum extent feasible" is used, each one of those sections is applicable to alterations in existing buildings. So, so there is no use of the term "maximum extent feasible" in the requirements for new buildings, so I would not expect at all that a definition could be legitimately plucked out by a code enforcement official and applied to a new building. I can't envision it.

Terry

When I worked on the accessibility at the State Fair, here one of the exhibition spaces at the top of the towers had an entrance but no exit, which was clearly against the fire code, and so we insisted that they get an exit, and they said it was not feasible. Well, you make a hole in the side of the building and you build some stairs down to the ramp. It was certainly feasible, but we were told it was not feasible. Do you understand what I'm saying, that people will tell you it's not accessible and it can be made accessible and it's not feasible, those architects.

Derek

Well, I think we all know that some people, some individuals will make specious arguments, we know that, and there are a lot of folks out there who would like to cut corners and not provide what they're required to provide. Now, I don't know what era you're speaking of with regard to the State Fair, the original construction on that was decades ago and I'm just not sure.

For the Capitol, the Capitol is near and dear to my heart, it was actually my inspiration for pursuing a field in architecture. I was there working as an intern in Governor Brown's office, I was pushing the mail cart around, and as I was doing that the restoration of the Capitol was taking place actively and in between delivering mail to different offices I'd go back and

look behind the curtains and see the workers putting in the detailed work
in—

Terry

Well, you know they said they couldn't make the restrooms in an old building accessible because it wasn't historically correct. And I said unless you've got gas lamps, and a carriage house, and a toilet out in the back somewhere, you are using modern electricity, you're using a whole bunch of modern equipment and you've got an elevator, which incidentally elevators worked a century and a half ago introduced.

But at any rate, if you take the entire building back a century then you don't have to make sure your ramp is accessible, but as long as you're using modern equipment it has to be accessible, so then they have to tear things up and make it accessible. I'm just using this as an example because this was all done under the State Architect, not this State Architect but my opinion of the State Architect hasn't improved. Thank you.

Derek

Alright. Any other comments or questions here in the room on this item, the proposed new definition for maximum extent feasible? Yes? Please state your name.

Angela

This is Angela Jemmott. And I just wanted to speak out loud in terms of what she just said in terms of the terminology. Maximum extent feasible can never be used outside of alterations because that's incorrect, so no one can use that term in reference to a new construction. So, in terms of the concern that's being spoken it would be an inappropriate use and it can be called upon that you cannot use that term at a new facility because it's inappropriate to say maximum extent feasibility unless it's an alteration.

Derek

Yes, that's right. That's right. The scoping and technical requirements within Chapter 11B that use the term, and it's those three sections I mentioned, each one of them is in the context of an alteration in an existing building. And there is no reference of it in regard to new buildings, so, yes, I would agree with your assessment.

Ida

And I'd just like to add that this term is used in providing technical infeasibility, and when someone needs to demonstrate technical infeasibility it has to be approved by the building official, so someone can't just make the comment that it's technically infeasible, there's a process to get it recorded in the file so the enforcing agency has to agree that it's technically infeasible.

Dennis They have to go on record.

Ida They have to go on record.

Dennis In writing in the file of the project that they've made that determination.

Ida Yes.

Dennis So, they should never do it lightly.

Ida No.

Dennis Even if it is for an existing facility.

Ida And I'm just giving an example that it can't just be used by an architect to say I'm not going to design it in the building because it's technically infeasible, because it has to be—

Terry I don't know what you're saying. This is not readable. The enforcing agency has to [indiscernible] if you go off the wire, yes, so airplanes. I'm sorry, [indiscernible].

Derek Okay. We will help you. What Ida was describing was that the use of the term “maximum extent feasible” is within the context of determining technical infeasibility, and that does only apply to an existing building.

Terry Excuse me, that’s just word salad.

Derek We’re getting—

Ida Yes.

Derek —garbled.

Ida Yes, yes. Is there any—

W She said it’s indiscernible, so there are people talking over each other and that is the issue, so you have to speak clearly and one person at a time, because, yes, that was her problem when people talk over each other she doesn’t know what to pick up.

Derek Okay. What I’d like to do is for the benefit of our captioner I’d like to describe slowly and spell slowly the terms that we’re discussing right now.

The first term is technically infeasible, t-e-c-h-n-i-c-a-l-l-y infeasible, i-n-f-e-a-s-i-b-l-e, technically infeasible. And I understand, these are very specific terms for architecture. The other term we have been referring to is maximum extent feasible. Okay? So, if you could please use those terms in the captioning of that text, I would appreciate it so much. Thank you.

Okay. Any other comments or discussion on this item here in the room?

Okay. No other comments here. Oakland, any questions or comments?

There's no one in Oakland. Los Angeles, any questions or comments?

No one in Los Angeles. San Diego, any questions or comments? And no one in San Diego.

Can we go to the teleconference line, do we have anybody queued up?

Moderator No questions on the line, sir.

Derek I'm sorry, repeat, please.

Moderator No questions on the line, no participants have queued up for a question on the line.

Derek

Great. Okay. Well, thank you. The next item draft code change that we have that did receive a number of comments at our last public meeting was with regard to the definition of the term “technically infeasible.” Great. Thank you. Now, with that, DSA is proposing an amendment to the existing definition of the term “technically infeasible.” I’ll go ahead and read what the current definition is, and then I’ll read how that definition is proposed to be changed.

The current code language says: “Technically infeasible, 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 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.”

Our code draft proposal would strike the last part of that last sentence, the language which says “for new construction and which are necessary to provide accessibility.” We’re proposing to strike that and replace it with the words, “of this code.” So, if this change is adopted then the new

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.”

So, the rationale for this is that DSA received a petition to revise this definition for consistency with the model code language in the 2010 ADA standards. The petitioners believe the current reference to requirements which are necessary to provide accessibility is inconsistent with the ADA definition, making it more difficult to interpret and enforce. They also believe that the phrase which was carried forward from the 2010 and earlier additions of the California Building Code adds nothing to the meaning, because wherever accessibility is required it must comply with the building standards.

DSA has received other comments from code users that the reference to new construction in the current definition of technically infeasible is also inappropriate. We want to clarify that the code applies to work both in

new and existing facilities and the reference to compliance with the code will remove the confusion that the provisions might not apply for work in existing facilities. DSA concurs with the petitioner's assessment, and has revised this definition in its current draft.

So, to summarize that a little bit, the language here that talks about compliance with the minimum requirements for new construction, that's a problem. The term "technically infeasible" is typically used in existing building or facility just undergoing an alteration, that's where we use that term. And so we want to make clear in this definition that the provisions which address existing buildings undergoing alteration, those are the provisions that would apply, and those are expressed in the scoping and the technical requirements of Chapter 11B.

We want to get away from the current language and the definition of technically infeasible, which is a little bit confusing, and it seems to suggest that the existing buildings undergoing alterations have to comply with new construction requirements. Well, they need to comply -- alterations to existing buildings under the scoping and technical requirements, need to comply with the requirements for existing buildings undergoing alterations, and so that's part of what we're addressing here.

And again we're driving back the definition to make it clear that you have to be in full and strict compliance with the minimum requirements of this code, not the new requirements of the code. And that would include the requirements for existing buildings and facilities.

Any questions or comments on this item here in the room? None? Okay. Oakland, any questions or comments? Nobody's in Oakland. Los Angeles, questions or comments? Nobody's in Los Angeles either. San Diego, questions or comments? No, nobody's in San Diego.

Do we have anybody queued up on the teleconference line?

Moderator We do have a question from the line of Dawn Anderson. Your line is open.

Derek Okay.

Dawn Yes, and just so we're understood, is it star one, or number one, or what is the code for queuing up? It would be great if you could mention that before accepting calls.

Derek, my concern about both technically infeasible and the previous one that you had discussed, which I didn't respond to, which was maximum extent feasible, is the alliance with our model code, which is ADAG, and it looks like the proposed wording in both of those examples are not ADAG. And I know that you mentioned it is inconsistent with the ADA definition, but I would like to see a comparison between the model code language and what DSA is proposing.

For instance, and I don't have the standards with me, but "technically infeasible that has little likelihood of being accomplished" seems somewhat vague, and then it says, "because the existing structural conditions require the removal or alteration of a load-bearing member." Does that mean that an alteration of a load-bearing member to make something accessible is technically feasible? Who is required to determine what a load-bearing member is? And when you say it's an essential part of the structural frame, that seems like wording that's not quite structural in nature, so a structural lateral load-bearing system perhaps? I'm not quite sure. So, I think that language needs to be looked at.

And then you do mention site constraints, but I thought that that was a structural infeasibility and not a technical infeasibility. And then when you say “with full and strict compliance with a minimum requirements of this code,” what does “this” mean, are you talking about Chapter 11B, Chapter 11, are you talking about Volume 2, Part 1, are you talking about Title 24, are you talking about the Health and Safety Code? So, I don’t know what “this code” means and I think because there’s a lot riding on this to determine scoping that these ambiguities and vague descriptions, like the word “or alteration,” or “of this code” is confusing. And I think that there can be clearer language that is derived from the ADA standards.

On maximum extent feasible, I understand the complexity of existing and new construction, but I didn’t know if we have a definition of new construction in our definitions. I thought we did and I thought we made that pretty clear by definition. So, anyway those are my comments.

Derek

Dawn, I think in the definition of technically infeasible where we’ve added the language “of this code” we’re referring to Title 24, Part 2. Okay? Because this definition exists within the text of Title 24, Part 2 -- the California Building Code -- I don’t think I would take it to reference any other codes that might be applicable to the topic in general, we are

talking about the Building Code. Do you think if we specifically said Title 24, Part 2, would that be more clear to you, Dawn?

Dawn

Well, it's not so much for me but the enforcing agency. So, "this code" could be interpreted as a very broad application or a narrow application depending on the interpretation. Just like the word "facility" is in interpreting "100% of the facility shall have a path to travel," is that the entire development, is it the building, is it the area of alteration? So, when looking at how these words color scoping I think it's really important to get real specific.

And there's a lot of interesting rules around accessibility that we have to be very careful, the jurisdictions can't assume any kind of liability because of their interpretations and their application of our laws. So, for example, if we have parking and the zoning ordinance or the codes in other CCRs in California say that you have to have a certain amount of parking, and then when you put the color of electrical vehicle charging stations on top of that as a percentage of parking, then there could be potential violations of code in terms of parking.

And then also for the plumbing code there's a requirement for fixture counts, but obviously we make exceptions and waivers for accessibility improvements in our toilet rooms. So, there are codes that are strict, like we don't want to compromise a lateral load-bearing system under Chapter 16, but we do make some fudge around drinking fountains, and toilet rooms, and so I just want to make sure we understand what code it is that is going to have what you call "full and strict compliance."

Derek Dawn, if we were to replace the reference of this code and instead say "of Title 24, Part 2," would that be more clear, do you think?

Dawn Well, I'll leave that to the Building Standards Commission, but when you're referencing other sections that you don't have the ability to, I don't know, it just seems broad for full and strict compliance and unless a designer knows all of the code and full and strict compliance with the codes, I just think that's going to be an interpretive nightmare. So, I'd rather stick to the wording in ADAG.

For instance, here's another one that gets misinterpreted a lot, property line. You've got definitions for shopping centers, and there may be five or six property lines on the property, and in Chapter 3 we have building

limits and property lines and all over the place, and that's one area where access gets misinterpreted when you're talking about path of travel from public right-of-ways, or bus stops, or between facilities on a development, when you start talking about property lines. Anyway, it can get real hard to interpret.

So, if you're going to say "in full and strict compliance," that's a pretty strong absolute. And then you've got some vague wording too, "that has little likelihood of being accomplished." How do you determine "little likelihood?" So, my understanding about a lot of infeasibilities in terms of readily achievable also have to do with construction costs, and I know we have our valuation threshold, but anyway it becomes complicated. I'll leave it at that.

Derek

Alright. Well, thank you, Dawn. I guess I'll just comment that this definition of technically infeasible I think was brought into the code previously, and I believe it was sourced from the legal language of the Americans with Disabilities Act. I think that any legal interpretations of this language, that we in California ought to be able to rely upon similar determinations of the meaning of the language which may be applicable to the Americans with Disabilities Act standards and we ought to be able to

rely on some of those determinations in helping our building officials, who are tasked with enforcing the code, to understand what that common language means. We can certainly take another look at some of the phrasing here and see if we can't make it even more clear. Okay?

Dawn Yes. I know the DOJ enforces a lot of ADA language, but unfortunately we've got building officials and building plan reviewers that are trying to determine what has little likelihood to the structural frame is, and so it becomes difficult to quantify.

Derek Okay. Well, this is the first that we're hearing about building officials having difficulties interpreting "structural frame." "Little likelihood," I think I would tend to agree with you, Dawn, I think that's kind of a vague term, but it is consistent with the federal law.

Dawn Then on a plan review if we did have a ramp that was going in between two buildings and it was the structural slab potentially that was causing the problem, but removal of the structural slab was readily achievable then I would think that it was technically feasible. So, a building official could ask an architect or designer to show the structural lateral load-bearing systems in the construction documents for permitting and that would be a

justified request under this definition. So, whoever is making the determination what a structural element will be, that may be required to be put on the contract construction documents that are being reviewed for plan review.

Derek Yes, I would tend to agree. If an applicant, there is a determination of technically infeasible, it really behooves the applicant to justify their request, and they would need to provide all documentation that would be necessary to satisfy the building official's review of that plan.

Dawn Agreed.

Derek I think that's exactly what the building official's role includes. Now, if we want to talk about the load-bearing member that is an essential part of the structural frame, well, the structure of buildings addresses a lot of different loads, you can address gravity load, wind load, lateral loads, as you mentioned, upheaval as well, there's a lot of different loads. The type of load is not distinguished, but because technically infeasible is a concept that only applies to existing buildings under alteration, that it should be pretty straightforward to identify what the structural frame of a particular

building is, and quite often that's reflected in the location of the columns, or the bearing walls.

So, I guess we would want to take a little bit deeper of a look to see if there is some ambiguity in that portion of the language, but I guess I'm not keying into it.

Dawn I know that ADA has different definitions for structural infeasibility in the context of the law and technical infeasibility in ADAG, so I think that this definition that you've given is a combination of both of those.

Derek Well, we can take your comments and we'll go back and review this. We want to review this, and we want to make sure that our proposals in this code cycle are as clear as we can make them and as legitimate as possible. So, thank you very much.

Okay. Are there any other comments on the teleconference line?

Moderator [Operator instructions]. And there are no further questions at this time, sir.

Derek

Great. Thank you. Okay. Well, those were the items that we had presented before, these are 4 items out of the 22 items that are provided with the meeting documents for this meeting and also for the last meeting. The other proposed changes that we have, we received a smattering of comments, but these definitions that we've just discussed are the ones that had the most comments and the most contention about them. So, we wanted to make sure that we gave ourselves ample time to thoroughly discuss these items.

This isn't the last opportunity for this discussion. This discussion is going to go on. We're happy to receive comments, we're happy to discuss specific concerns about our proposed draft here, and so we're all available, Ida is available, Dennis is available, Sue is available, and I'm available by email, by telephone, or you can certainly submit comments to our dsaaccess2016@dgs.ca.gov email address.

Okay, now what we'd like to do is move into the next section of our meeting, and here we're not going to identify specific code changes but instead we're going to just open up the floor to any comments or questions about the entire list that we have here in our meeting documents. So, if there are any questions or comments about any of the other items that we

have on the list, we'd certainly welcome those questions or comments now. Yes, please. Go ahead.

Terry

My daughter has an electric vehicle which I enjoy riding in. [Indiscernible], but my problem is that in the years that we've been working on the code it's been found year after year that there's not going to be any accessible charging stations, and I propose that that change now. It mentions here where four or fewer total EVCS have provided identification with an international [indiscernible] identifying [indiscernible] shall not be required. I think that should change. I think "shall not be" should be stricken, and it "shall be required."

And the reason I'm saying this is because when I go with my daughter and we're going to go and get the vehicle charged I can't go with her when she puts it in to be charged because I won't be able to get out. I have to sit there while it's being charged. That's ridiculous. She has to leave me someplace else and then go and get charged. That's ridiculous. If she were a handicapped driver she couldn't park the vehicle and get charged and still get out because it wouldn't be accessible. And I say that this is discriminatory, it's a new regulation, it's a new vehicle, it's a new era, it's

a new damn century and we should make it accessible now, not sometime, not when it's just convenient.

I know we had a gentleman from the governor's office that came in referencing a rule which was made for parking in safe garages on an emergency basis, and it wasn't a rule, it wasn't a law, it was something they put in just quickly in order to let people go in and charge their vehicle. And it was never a law, it was never a regulation, there was no code for it, and I say now there needs to be an accessible solution for EV charging, or the handicapped owner of the vehicle will be discriminated against, which is specifically what accessibility laws are to prevent.

And saying we won't make it accessible, we won't put up a sign, we won't make an accessible place is discriminatory. I'm saying it now and I'm going to say it again, and maybe if I tell you three times maybe the third time you get it, not providing for the handicapped electric vehicle rider or the passenger or passengers who are disabled in the electric vehicle is discriminatory. And I'd say it—

W Can we just take one moment. I think the captioner, she's saying if we could get a mic for the public comments that would be helpful for the captioning. I think she can't hear clearly.

W After [indiscernible].

Derek Go ahead.

W [Indiscernible].

Derek Oh, you can stay there if you'd like.

Terry She won't hear it.

W No, that helps. She can hear you.

Derek She said that helps.

W Yes.

Terry

On the EVC, the electric vehicle charging station, we've been testifying on this for several years. It's nothing new. And in the testimony we keep talking about the fact that when the vehicle is being charged it is parked. We're not charging the vehicle at 40 miles an hour. The reason that nobody wants to use the term "parked" is because then parking regulations would come into effect and parking regulations discuss accessibility, and we figure that for a long time that was the way you were getting around it. Not allowing accessible entry and exit and the ability to use the charging equipment is discriminatory. There are not a lot of electric vehicles out, but as I mentioned before, it's a new kind of vehicle, it's a new century, and it's not a new disability. People have been around with disabilities for thousands of years.

But, as you mentioned earlier, it was an architect who was Greek, I think, or was he Roman, his name was Vitruvius, and the Vitruvian man is the one that Michelangelo defined in a circle. I'm not trying to bring up anything that you didn't already bring up. Vitruvius loved stairs and he wrote a great swath of paeans to stairs, he loved stairs. I grew up in Utah, I was born in California and grew up in Utah, and I went to elementary and junior high school in schools in Utah, all of which had ramps. No school had stairs. No child ever fell on the stairs and got hurt, there were

no sprained ankles, there were no broken bones, there were no broken heads, and even if the kids started fighting they just tripped and rolled down.

So, when I grew up and came to California and I discovered that there weren't ramps in the school, I said, well, that doesn't make any sense. It's safe, it's reasonable, but there's that damned Vitruvius who loved stairs. I'm saying when you talk about maximum feasibility all I can think of is ramps are safer than stairs, in a two story building that's very reasonable, 20 stories not so reasonable. However, we had a spiral ramp out of the building so that when we evacuated we just jumped in the spiral one and spun our way down.

I grew up in a very safe place, except for the rattlesnakes, and my definition of feasibility is a lot different than yours. I know in remodeling one of my homes I had to take out a narrow doorway and put in a wider doorway, and they said, oh, you can't do that because it's a bearing wall. Yes, okay, well, let's get some nice big thing and we'll put something under it and we'll make the door wider, and you won't have to worry about it because the load will be taken up in a different way and it will be taken up on two studs, and that's what we did.

I really hate that whole idea of maximum feasibility. There are so many different kinds of accessibility now, and ramps, and lifts, and unbelievable kinds of architectural innovations. And I know when we were designing the fire camps when I worked for the Department of Corrections, they wanted to put a route all around the building to the back to put the ramp in for the wheelchairs. That was for the families that visited the inmates, those who were allowed outside the walls who fought the fires.

Well, we had a nice solution, the heck with Vitruvius, we just took out the stairs in the front and put in a ramp and solved the problem. We didn't have to have a path all the way around the building, we just put in a ramp. And in some of your places, I don't know why you have to take out the load-bearing wall, you've got to have an entry, there's got to be a space for a door, for the stairs, so put in a ramp.

Anyway, meanwhile back to electric vehicles, I believe that if you do not make space for the electric vehicles it is discriminatory. And thank you very much for moving this.

Derek You're welcome. Well, we did, we went through quite a lengthy discussion process as we were developing the new requirements for electric vehicle charging stations.

Terry I'm well aware of it. We were testifying all alone for more than two years.

Derek Yes, that's right. That's right.

Terry And they decided we have four and when there's five then we'll make it accessible. That's just—

Derek That's an inaccurate understanding of what the new code requirements are -- that are going to take effect January 1st. January 1st all that good input in developing those electric vehicle charging scoping and technical requirements is going to become effective in the code. And so from that point on any electric vehicle charging stations that are installed at public buildings and commercial buildings, those are going to have to have a portion of those electric vehicle charging stations accessible, and that means—

Terry How many?

Derek How many? Well, it depends on how many are in the total installation. If there are four electric vehicle charging stations, then one of them would have to be van accessible.

Terry One.

Derek If there are 25 electric vehicle charging stations total, then one would have to be van accessible and one would have to be a standard accessible charging station. So, we would have two total.

Terry One out of four and one out of 25.

Dennis This is Dennis. That's greater than the requirement for accessible parking, Terry.

Ida I do need to clarify. It's one out of four, and two out of 25.

Dennis Correct.

Derek

Yes.

Terry

Two out of 25. Okay. Thank you very much.

Derek

Yes.

Terry

I appreciate that.

Derek

Now, let me tell you what that accessibility is. Like the parking requirements, the ground surface has to be 2% slope or less.

Terry

Yes.

Derek

Okay. The overhead clearance is still going to have to be the same as the parking requirements.

Terry

Yes.

Derek

The width of the van accessible electric vehicle charging station, the width of that vehicle space is going to have to be consistent with the parking requirements for van accessible parking.

Terry Yes.

Derek The length of it is the same. The signage requirements are what this section is addressing. Now, where we differ in the requirements for electric vehicle charging stations that are going to take effect in January, where we differ from the parking requirements is in the signs that are provided at the very small facilities, one, two, three, or four total electric vehicle charging stations. We know that one of them has to be van accessible and so all of the slopes, all the clearances all around, those all have to be provided.

The unique thing about these very small electric vehicle charging facilities is that when you have four or fewer you're not required to put up the ISA, the International Symbol of Accessibility. Now, our proposal is clarifying, in response to a question that we received about the signage requirements at these small facilities, and they said, we see that you don't have to provide the ISA. Well, what about the additional sign that says "van accessible?" Well, it was our intent all along not to require identifying signage at these small facilities, one to four charging stations, so with this proposal we're simply clarifying what our intent was, which we didn't address in our last rule making cycle.

So, again, here we're trying to eliminate any questions, we just don't want people to wonder what the requirements are. So, please understand that we have accessibility at any electric vehicle charging station that's available to the public, but it is different—

Terry How about access to the charging, whatever it is, because I don't charge it, I can't do that.

Derek Okay.

Terry But I watch my daughter and she hooks up the vehicle to an electrical cord, and that has to be accessible to the person with disabilities who's driving the car, not to the passenger.

Derek Okay. And so what we've included in the requirements, and these are going to take effect in January, is that within the accessible charging station you have to provide an accessible route from the vehicle space to the charging equipment and the controls. So you have to have an accessible route. These were not in the building code before. It was a shame that people who were installing these electric vehicle charging

stations did not provide good accessibility, if any accessibility at all was provided.

Terry What about the passenger?

Derek Well, consistent with the design, it's very much like the parking requirements that for the van accessible electric vehicle charging stations you have an access aisle on the passenger side of the van. For the standard accessible electric vehicle charging stations the access aisle can be on either side.

Terry Yes.

Derek Okay.

Terry Okay.

Derek Yes.

Terry One more question. Why can't you put up a sign?

Derek

Well, the issue of signage, we got a lot of comments from the disability community, and they said make them all accessible. We worked back and forth, and also there were suggestions from the disability community to reserve some portion of the electric vehicle charging stations for people with disabilities, and we had public comments from that side.

We also had a lot of public comments from business owners, and facility operators, and the electric vehicle charging industry, and they said, look, when we install electric vehicle charging stations reserving one-fourth or more of the electric vehicle charging stations for persons with disabilities is going to take out 25%, 60%, or 100% of these small installations. So, a neighborhood store decides they want to put in two electric vehicle charging stations, if we were to reserve one of those for persons with disabilities that's 50% of the parking.

So, we needed to manage these two competing groups of comments, and we get what is in the middle. Now, nobody's happy with us, because we hear comments from industry all the time, they say, why when you get to the bigger facilities can we put up the ISA. They still want less, but we're trying to hold them off and not let that sentiment railroad us.

But at the same time we have to recognize the practicality of it. If one wanted to compare our requirements here in the California Building Code for electric vehicle charging stations, you'd see that they exceed the numeric requirements for accessible parking as a portion of total parking, in all cases we exceed the minimum ADA standards requirements for accessible parking. The only place we deviate with regard to signage is in those small installations, one to four.

Terry

Okay. My association, or the group that I was a legislative advocate for, for many years for, the California Association of Physically Handicapped, who have changed their name, I'm not a member any longer, when we first put in the requirement that the signs that were put up so we'd know what was accessible in the private installations, in other words, in filling stations, which we would call charging stations, and supermarkets, and some other places, that's private property. And so if we wanted to have someone come in and tow the vehicle that was in the handicapped parking space all day we had to have a different kind of sign, and that had to be put up in the lot, and it gives the code by which a tow may be called for and a vehicle may be taken out and the vehicle may be fined.

If there's a sign, the sign doesn't require towing, it doesn't require a fine, it doesn't require anything other than to announce that it's accessible, and I think that not having a sign is ridiculous. The sign doesn't imply a fine, it doesn't imply a tow, and it doesn't imply anything. It says this is accessible, and that's all it says. So, I think that if you don't put the sign up people are not going to know it's accessible.

Derek

Okay.

Terry

You do follow what I'm saying?

Derek

Yes, I follow it very clearly.

Terry

We've worked very hard for many years in implementing the code because we started accessibility regulations before the ADA. There's no reason that you can't put a sign up that says it's accessible.

Derek

Let me share with you what's been going on down in Los Angeles for the last few years. We wrote into the building code that passenger drop-off and loading zones, one out of four passenger drop-off and loading zones needs to be an accessible—

Dennis Or minimum of one, actually.

Derek Minimum of one, yes.

Dennis One has to be fully accessible.

Derek That's right. A minimum of one or one out of four of the passenger drop-off and loading zones had to be accessible, and our requirements in the code said that they had to post the ISA sign. What we found, based on a number of reports, was that down in the Los Angeles area law enforcement was giving people tickets, they were towing vehicles for using the accessible passenger or drop-off and loading zone.

Terry And there was no signage for the code for towing and fining?

Derek No, because—

Terry And every one of those was illegal.

Derek Those tows or fines?

Terry Yes.

Derek True.

Terry And when the citizen objected they should get their money back, and their car back, and a sincere apology from the mayor.

Derek That sounds good to me.

Dennis It wasn't happening, though.

Derek No, it wasn't. And so it was leading to a lot of confusion. Now—

Terry But it wasn't legal.

Derek Well, around vehicles when most people see that blue and white ISA they think that's reserved for the exclusive use of persons with disabilities. And we recognize that this common understanding of the people in California was not right in all the cases, and certainly it applies to parking and where you provide the code citation sign at the entrance, yes, it's absolutely appropriate there. But in other locations providing the ISA can

lead to some confusion. So, we require providing the ISA in the medium-sized installations where you have five or more and the large size installations—

Terry So, what you're saying is that because people are ignorant and law enforcement is confiscatory that we can't have a sign that says it's accessible. And I find that to be a really, really, really stupid argument.

Derek Well, I suppose you can characterize my argument that way and—

Terry Well, no.

Derek We recognize that sometimes the building code requirements are right and appropriate and they implement the intent of those requirements. In the case of the passenger drop-off and loading zones it didn't implement the intent.

Dennis Anyone can use it so it had to be made accessible, so if there was one loading zone anyone can use it, including a vehicle that had a disabled individual that needed to get in and out of it. But enforcement officials were saying only people with placard or license plates can use that loading

zone, which you're correct that's a misapplication of the vehicle code and the accessibility code.

And we had building officials realizing this, even though the code required a sign they would then insist it be removed, even though the code had a clear requirement that the signs be posted, and they said, well, no, it's leading to these problems from law enforcement, and so we're telling applicants you cannot put the ISA even though the code then required it. So, there was a lot of confusion about this issue generated by the fact that the ISA is generally considered to say don't park there unless you're a disabled individual with a placard or license plate.

Derek

Now, what we believe about the existing electric vehicle charging station requirements is that when a person drives up and they see a very wide space and they see an access aisle provided right next to it, that the driver, being familiar with accessible parking, is going to understand that that space can also serve for accessible charging in the small stations. Now, remember, when we get to five or more, yes, you've got an ISA, you've got van accessible on the number—

Terry

But are you going to have a sign that says they get towed and ticketed?

Derek No, and here's why.

Terry But—

Derek Let me explain why, please. The building code does not regulate the vehicle code. The vehicle code is what tells us that when a person who doesn't have a placard or the appropriate license plate, when that vehicle is parking in an accessible designated stall that they're inappropriately parked and they can be towed. The vehicle code has not yet caught up with the requirements for electric vehicle charging stations.

Terry I'm not aware that that can happen unless there is a specific code sign in the area.

Derek That is part of the requirement that's in the vehicle code and which we reflect in the parking section of the building code.

Ida And just so I can interject, many parking facilities have electric vehicle charging facilities and that sign is provided at the entrance of the lot, and so that sign only applies to the accessible parking stalls being able to be towed, not the electric vehicle. So, there could be a situation where you

have both electric vehicle charging facilities and parking facilities in the same lot, and that sign is provided and therefore it can be misconstrued if we do provide the sign that they can be towed on the charging spot.

Derek Yes. Right. Electric vehicles are fairly new, and we've just gotten I think a major step forward in the building code of regulating the accessibility at these electric vehicle charging stations.

Terry Okay. There was an anthropologist named Ashley Montagu who said: "There is no defense against total ignorance." There are as many people who don't understand that the code has to be visible who park where there are the zebra lines, so if you put "No parking" on those lines in the accessible non-parking place—

Derek The aisle, the access aisle?

Terry It says "no parking?"

Derek Yes.

Terry Okay. Good.

Derek Yes, because we want to communicate that message too.

Terry Okay.

Derek Yes.

Terry Because I find that my own ability to move around the neighborhood impinged by the people who park on the zebra lines where the ramp is so that I can't get through.

Derek Yes. That's terrible.

Angela I—

Derek Please, Angela.

Angela In regard to what drives new creation of signs, because when you speak of the concern that people misunderstand I'm thinking well, that was a sign that someone made up and now it's time for a new product potentially for a new type of service to create. So, as we're making new concept of signs for bathrooms and we're coming up with [indiscernible] and we have

these communal bathrooms and so forth with brand new signage, and so it just struck me as a question of when do we decide on a type of signage that would distinguish it to be created for an electric parking station to help people understand that this is accessible in the one to four just because we know that we do have people who are concerned about getting into a stall that they cannot access. So, if there's a need potentially then we should drive in the idea of creating a different type of communication tool which is the signage that's being spoken of to help people understand. And so that's more of a question.

Dennis

This is Dennis, and let me respond a little bit to that and Derek probably has something to add to that. We're constrained, we have authority over the building code, as you mentioned. The California Vehicle Code has addressed electric vehicle charging stations by saying that the right to park for an unlimited period of time if you have a placard or a license plate does not apply to those charging stations because, as Terry mentioned, you could post if the local ordinance is enacted appropriately, time limits on electric vehicle charging. You can say that because this is a scant resource we say people can only be here for two hours, because that's defined in the vehicle code as a zone for a special type of vehicle, even if you have a disabled placard and you have that signage posted and if that's reserved

for the disabled, as some of them are by the ISA, you couldn't park there all day long, you would just have to be charging.

So, I think, as Derek mentioned, this is an area that's new relatively and the vehicle code, again, has been passed by the legislature to deal with some of these things and it's probably an area that as you get some operating experience it needs to be adjusted to reflect what's going on and the best way to proceed. This is a new area, but we did our best to make sure there were more charging stations accessible than the equivalent number of parking, the first charging station must be fully van accessible from a construction standpoint, and that's the access aisle, the space is 12 feet wide with a 5 foot aisle, you have to have an accessible route from the vehicle to the charging equipment. So, a person can go there, get the cord, and bring it back to where it needs to be inserted into the vehicle, all of that what we were told, if you tell me I have to put an ISA on my one charging station, that means only people with placards and license plates can use it and basically I'm not going to build one.

So, this was a balance between the industry saying don't give us any requirements except just the minimum parking requirements, and the other side saying we would like every one to be accessible, which would have

required an access aisle for every two charging stations. It was an attempt to provide accessibility beyond what parking is and yet address the issues of stranded assets. If I have a charging station that a limited number of people could use, it won't get utilized. So, that was the tension that went through the discussion that we had.

And again, as Derek mentioned, everybody is slightly unhappy, the industry doesn't like the fact that they have to reserve, put the ISA when they have eight stations, for example, but they have to provide two accessible charging stations when they have eight charging stations, and that's fully 25% of that installation has to be fully accessible from a construction standpoint. Then we require the ISA on the van accessible charging station, which most people will feel I can't use that unless I'm a disabled individual. And that's the situation we have with the code that will go into effect this coming January.

Now, is it perfect? Probably not. We're getting a lot of complaints now that people are reading the code and saying I have to do this. Yes, you do. You have to make this stuff accessible. Whereas, as some of the other commenters said, there's many charging stations that have been installed in California without any regard of accessibility.

And that is wrong, I would concur with you 100%, Terry. And that was driven by the fact that there were no regulations in the building code that told people what they had to do. At least now we have regulations that the building official can say, do it this way and they can enforce that now, as opposed to, well, the ADA says that service should be accessible. Well, what does that mean when I'm actually building something? We didn't have any direction before. And this isn't perfect, but I think it's a big step in the right direction.

Terry Well, I love your analogy with the new regulations for bathrooms, and the chairs, and the accessible vehicles and the charging, it makes total sense because it's new.

Dennis Yes, it is.

Terry I would put out that to the best of our knowledge 20% to 25% of the population is disabled at any one time, so your figures are not very far off because we're talking about disability by age, by accident, by pregnancy, by military, there's just a lot of ways that you can become disabled. We all don't have to get hit by an IED, okay.

Dennis Hopefully not.

Terry But the temporary disabilities have to be added into that. So, we've got all these permanently disabled people and then we've got all the temporary disabled people, so 20% to 25% is not outrageous and it is not unreasonable. The fact that our census data never complies with reality is not my problem. Thank you.

W We're getting close to the end and we probably want to see if there's anyone on the phone line that would like to comment.

Derek Agreed. Okay.

Dennis Why don't we go right to the phone line, Derek, and don't worry about the offices.

Derek Alright. Okay. If we have anybody queued on the teleconference line, can you please let us know.

Moderator We do have another question from Dawn Anderson. Your line is open, ma'am.

Derek Okay. Go ahead, please, Dawn.

Dawn Hi, guys. I know it's getting near the end of this meeting and I had comments on a majority of the issues, but some of them are editorial. Did you want me to go through them quickly, or shall I address a letter to you, Derek?

Derek Well, you're certainly welcome to send it in an email, that's fine, if you want to send it to dsaaccess2016@dgs.ca.gov. That might give you a little bit more time to expand if you want to. But you have the floor right now.

Dennis For five minutes.

Dawn Okay. I'll go through them really quickly.

Dennis Okay.

Dawn We had a discussion with Ida, who's there at the meeting, and, by the way, just to get you guys oriented I'm on the first code amendment that was in the agenda, which is Multi-Story Residential Units, code section 233. And

you call out the primary entry and the elevator actually calls it out as main entry, so I'm just wondering about that.

A confusion on Exception 2, "at least one powder room or bathroom and kitchen." And it reads as "a powder room or bathroom and kitchen," or is it "one powder room or bathroom and kitchen," so there's some confusion there.

Also, I would assume that elevators are in buildings, so that phrase "in buildings" could be eliminated, it's redundant. And then was the intent for the final wording in that proposed amendment not to include a kitchen in the last exceptions under .3.1.2.5? There's no kitchen in that section under 2.

The knee clearance at picnic tables, I love it. The maneuvering clearances at doors, great. Accessible parking and identification marking, one question about the word use of "may." "A border may be provided," so it's not required but if it's used it's not in violation, I have a feeling that was the rationale.

Derek

That's the [indiscernible] ISA, Dawn?

Dawn

Yes.

Derek

Okay. Yes, that's correct, it's optional.

Dawn

And then feminine hygiene disposal units, my understanding of the interpretation of ADAG is that nothing but the toilet paper is allowed in that area. So, feminine disposal hygiene, be very careful about putting that in regulatory language.

Derek

Dawn?

Dawn

That would be a good check with the—

Derek

Yes, that's new information to us. Do you have anything you can send over that would—

Dawn

Sure. I do. Yes, I do. It's in an accessibility online [indiscernible], and I can also get something in writing from David.

So, let's see, what else do I have here? Oh, just as an aside, on toilet and bathing facilities, geometrical symbols, I've been doing work with the

City of San Francisco on kiosk toilet rooms, and they wanted to know if they could paint the symbol on a door or put it in a different type of material and recess it into the face of the door, and I didn't know what was the specific requirement that it has to be a quarter of an inch thick. I didn't think it was for tactile but I don't know, maybe so.

Derek Yes, that's correct.

Dawn Okay. Alright, so that was what we wanted. Okay, nothing on truncated domes. Okay, I had some comments on the EV charger. I've been just getting a boatload of calls on parking allocations that are required in the other sections of the code, the location of them and the term "ambulatory" and how that's to be assessed.

Derek As far as ambulatory goes, the technical requirements for the required ambulatory charging stations is spelled out in the technical requirements.

Dawn Right. But people were confused about the term "ambulatory" in the accessibility code. Is it the same as an ambulatory restroom, a toilet?

Derek It's very similar in concept to an ambulatory stall, where it provides some level of accessibility but not as much accessibility as you would get from a van or a standard accessible stall.

Dawn Yes, I don't know if that's really well communicated, because the defined term of ambulatory is that you actually can walk and move around and you don't need access.

Derek Yes.

Dawn So, there's some confusion there.

Derek Actually it doesn't mean you don't need access.

Dawn Understood.

Derek Yes.

Dawn Yes. So, for the definition of accessible route, I love that you guys reduced it, applause, applause, applause, "a continuous path that complies with," again, you used the term "this code." I don't know if that's all of

Title 24, again, it might be specific to Chapter 11B. But in any case we use the term “pedestrian way” in Chapter 11B, we use “accessible route,” we use “route,” we use “pedestrian path,” so continuous path is pretty broad. So, I’m just making sure we’re defining it correctly. Again, this code is in the definition of accessible, so that I would assume would be under Chapter 2, but just making sure it’s only Volume 2, Part 1.

The accessible extent feasible, there’s a lot of examples that you give, e.g., and I would really like to see those removed or synthesized so that this definition doesn’t become cumbersome. I don’t think there’s any real reason to highlight a person’s specific disability to communicate what you’re trying to do. If we can get away from that in our code I think it becomes more universal language.

I think I covered all of the stuff on technically infeasible, and applause for the fire alarm and pull boxes. And then the last one, door floor elevation, you have cited in the proposed text that it exceeds 0.25 unit vertical in 12 units. Is there a way that you can put one in 48 instead of that particular? Because people aren’t thinking about decimals and it’s a change of stuff there.

Derek Yes. I think Chapter 10, Dawn—

Dennis And that's the fire marshal.

Derek —and that's probably the fire marshal's call on that.

Dawn Can you put it in parentheses perhaps so that people know where they're going with that? And then the last one, path of travel - immediately preceding edition. We had a question about this, this is for everyone at DSA, in 36.402, I believe, in path of travel under ADA, number two is actually the accessible route. And I've always wondered why California didn't include number two in their list of the five, and are we adding signs and getting rid of the accessible route as a path of travel. So, that was just—

Derek You know, if that question is to us, I'd have to research that some more. It's the first time we've heard that question.

Dawn Yes. Employee workstations, you say common use circulation paths within employee workstations, I applaud you for that, by the way. But it doesn't include public use, so just maybe a broader definition public use

and common use, or public and common use, etc. Because a lot of people ask me, well, I say this is a private workstation and I say but will the public be here? Yes, the public comes here, we talk about their finances. Okay, then it needs to be accessible.

And then another thing DSA language is wordy, you use passive verbs. When you say “shall not be required,” why not say “are not required?” That’s one thing. And then are you really including the periods in the term of passenger drop-off or is that truncated for the proposed code language? I’m hoping that it is. Okay, it probably is. Okay.

You suggested text of proposed amendment for exposed pipe and surfaces under sinks, are you including all sinks and lavies, or just sinks, or just lavies?

Derek We’ve got two items. One addresses sinks, the other addresses lavies.

Dawn Cool. Thanks, guys. You guys did a great job. Talk to you later.

Derek Great. Thanks, Dawn. And you know as fast as I could take notes I couldn't possibly keep up with all those. That was rapid fire commenting. Do you mind sending those in via email too, Dawn?

Dennis I'll make sure we get them.

Derek If you're no longer on the line, if you don't mind sending those in, that would be great. Okay. Thanks.

Dennis We're done.

Ida This concludes our meeting today.

Dennis Yes, it does. Thanks to the operator.

Ida Thank you for providing your comments. Our next meeting will be November 15th. That notice will be going out shortly for information on how to access that meeting.

Dennis Yes.

