

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

April 21, 2011

1. CALL TO ORDER

Chair Johnson called the meeting to order at 12:00 p.m. at 2525 Natomas Park Drive, Room 120, Sacramento, California.

ROLL CALL

Commissioners Present:

Margaret Johnson, Chair
Jim Abrams, Vice Chair
Rocky Burks
Peggy Collins – Representing Senator Ellen Corbett
Mark Martinez (Teleconference)
Betty Wilson (Teleconference)

Commissioners Absent:

Michael Dean
Senator Tom Harman

CBSC Members Present:

Jim McGowan
Michael Nearman

Present at Meeting:

Laura Williams, Californians for Disability Rights
(Teleconference)
Daniel Garcia, East Los Angeles (Teleconference)
David Peters, Attorney (Teleconference)
Steve Dolim, Certified Access Specialist
Ida Clair, Certified Access Specialist Institute

2. COMMENTS FROM THE PUBLIC ON ISSUES NOT ON THIS AGENDA

- Ms. Laura Williams, President of Californians for Disability Rights (CDR), commented on two issues.
 1. First, some members of CDR had been in communication with the Office of Statewide Health Planning and Development (OSHPD) regarding the question of who is doing access plan review for hospitals. Local building officials have no jurisdictional authority. The State Attorney General had responded that OSHPD is the correct agency; however, OSHPD had notified CDR that they review for safety, not accessibility. Ms. Williams requested for the CCDA to take this problem immediately to the Governor.

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2. Second, Ms. Williams spoke about fasteners in “wet” locations (shower stalls and bathrooms). There is no requirement to check or replace them on a periodic basis. She asked the CCDA to look into this issue.

Commissioner Burks gathered details from Ms. Williams.

Commissioner Abrams stated that under the Americans with Disabilities Act (ADA) in California there is a requirement that all accessible features be maintained. To his knowledge, there was no period of inspection stipulated. It ultimately ends up to being a function of how the individual hotel operates.

- Mr. Daniel Garcia of East Los Angeles commented on the need for handrails for people of short stature. He also commented on the need for accessible and affordable homes in L.A. The L.A. Housing Department should include mention of accessibility and affordability in its mission statement.
- Chair Johnson read from an email sent by Mr. Jim Gibbons, an attorney, commenting on the requirement for 30-day or 60-day prior written notice for litigation. He was working on ADA legal issues for Safeway. Safeway is planning to retrofit its stores in a systematic way to comply with needed changes.

Mr. Gibbons asked about the ADA lawsuits filed in California and federal courts. Safeway would like to be able to remedy the issues named in the lawsuits before they are filed with the court. A new law, California SB 1608, allows for notification of ADA access issues, and a remedy process for corrections. For Safeway, the lawsuits could be resolved in a short amount of time if Safeway could be made aware of the problems.

Chair Johnson stated that she would refer the email to the Civil Enforcement Committee for consideration. Commissioner Martinez requested for the email to be forwarded to all Commissioners.

3. FUTURE COMMITTEE MEETINGS

Chair Johnson ascertained with Mr. McGowan that meetings are scheduled out through December.

Commissioner Abrams stated that his term on the Commission had expired in December 2010, and announced that this would be his final meeting on the CCDA. He noted that the Commission had been a dream of his for a long time, because it will be the ombudsman for accessibility-related issues from the inclusive standpoint of disabled individuals, business, and government.

Chair Johnson and Commissioners Abrams, Wilson, and Martinez expressed their appreciation for Commissioner Abrams and the work he has done, and wished him the best in his retirement. Attorney David Peters recognized Commissioner Abrams’ work as well.

Chair Johnson stated that Commissioner Dean would be the interim Vice Chair.

4. GENERAL BUSINESS ITEMS

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a. Review / Approval of Meeting Minutes.

Chair Johnson expressed the hope that the Building Standards Commission (BSC) could contract with someone to write Meeting Minutes.

b. CCDA staffing matters – status of job announcements, etc.

The application period had closed for the position of Executive Director. The Commission will be holding interviews in May.

The process of obtaining equipment and hiring staff had been a trying one, and Chair Johnson thanked the BSC for their help.

c. Procedures and principals for developing positions on legislation, issues, etc.

Chair Johnson stated that since the CCDA isn't under an agency, it doesn't have to have an agency buy off on its positions. Given that the CCDA is made up of four legislators (two Republicans and two Democrats) and Commissioners representing both the business community and the disability community, at least internally it must have a fairly balanced perspective on any legislation.

Commissioner Burks offered to research independent commissions for protocols on how they take legislative positions; Ms. Collins will provide guidance.

d. Development of CCDA By-Laws.

Chair Johnson stated that the bylaws have been developed and sent out for multiple reviews; Commissioner Burks has gotten all the feedback he needs. It will take the full Commission to ratify them at the next open meeting.

Public Comment

- Mr. Garcia expressed concern that people with disabilities may not understand what budget cuts will mean to them. Chair Johnson ensured with Commissioner Wilson that Mr. Garcia will receive a copy of the information on what the Governor's proposed budget means for people with developmental disabilities.
- Mr. Peters requested for Committee meeting dates to be posted on the Internet, so that those who travel can make plans accordingly. It would be convenient if all other Commission documents could also be posted on the website.
- Mr. Garcia asked how the State budget is going to impact ADA enforcement. Chair Johnson responded that the State budget affects how much money the CCDA will receive to continue the Commission.

Commissioner Abrams added that much of ADA enforcement comes from local building officials. Because of the State budget, there is less money to staff building departments, so there will likely be less enforcement. Enforcement that comes about as a result of lawsuits probably will not be impacted by the State budget.

- Mr. Steve Dolim of the Certified Access Specialist Institute commented that as the CCDA is in the process of being established, he wanted to have correct contact information for the subcommittees, to ascertain meeting times.

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5. FINANCES/FUTURE FUNDING

a. Budget Fiscal Year 2010/2011

Chair Johnson noted that once the current fiscal year began, CCDA was no longer under the banner of the BSC; it became an independent commission. Because the CCDA had not been able to obtain staffing, Chair Johnson had chosen not to move forward with any actions.

b. Status of Budget Change Proposal (BCP) for Fiscal Year 2011/2012

With the aid of the Department of General Services, CCDA had submitted its BCP. Ms. Collins offered to check in with the Department of Finance on status of the BCP.

Commissioner Burks noted that the CCDA had been caught in a perfect storm: as it was being formed a new Governor was setting up a new administration. Mr. McGowan, Chair Johnson, and Vice Chair Abrams had done their best to develop the Commission during a time of heavy State government transition.

6. REPORT ON CCDA COMMITTEE ACTIVITIES

a. Status of projects and assignments

As noted above, Chair Johnson said that most committee work is temporarily stalled.

Commissioner Burks, Chair of the CASP and Education Committee, shared some information about that committee. The Certified Access Specialist Institute (CASI) had shared concerns about the CASP testing process; questions may have been recycled during the history of the exam. A whole new exam is in the process of being developed.

b. Scheduled meetings

Meetings will proceed when staff can be hired.

Public Comment

Ms. Ida Clair of CASI requested that when an Executive Director is selected, for CASI to be notified, since the Executive Director will be the point of contact. The new staff will be housed at the Department of Rehabilitation building.

7. LEGISLATIVE AND REGULATORY DEVELOPMENTS AND ITEMS OF GENERAL INTEREST

a. AB 410 (Swanson / Ma) – Regulations: adoption; disabled access (Executive Director)

Mr. McGowan stated that this bill would amend the Administrative Procedure Act to require that the notice contain specific information about the availability of means to accommodate persons with visual or other disabilities. It also adds another section to the same provisions in the government code, specifying that if a person makes a request during the 45-day comment period, the period then extends another 45 days beyond that date of request.

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**b. CBSC Access Code Advisory Committee Meeting – March 16, 2011 – CBSC
Overview**

Mr. Nearman explained that on an annual basis or every 18 months, the BSC proposes a rulemaking cycle that gives opportunity to the other agencies to amend the Building Code in an interim basis. Currently BSC is working on the 2010 Code Adoption Cycle.

A Code Access Advisory Committee has been assembled as part of the cycle prior to going to the public. The Code Access Advisory Committee has met and made recommendations to the majority of submittals as “Approve as Submitted.”

Mr. Nearman outlined the approval cycle and dates.

Public Comment

- Mr. Dolim asked about the process for AB 410: will it be state regulation level only, and iterate to all other local agencies eventually? Chair Johnson replied that it applies to the Administrative Procedure Act, so any agency that has to comply with that Act will be subject to it. Ms. Collins added that if it were to apply to local agencies, it would be a State-mandated reimbursable cost.
- Ms. Williams urged support for AB 410. She also noted that there have long been federal and state requirements for websites and email documents, that any sent in pdf format also be sent in HTML or text, so that they are immediately available to persons who are blind or visually impaired. However, there is no consistency among agencies in following the requirements.
- Mr. Garcia commented that making homes accessible should increase rather than decrease their value.

8. FUTURE AGENDA ITEMS

The Commissioners had no items to add.

Public Comment

- Ms. Williams commented on a recent report on state websites for accessibility. California was among the bottom performers. California state websites have become increasingly inaccessible over the last three years; the bells and whistles they are adding are not accessible. Also, the websites change from day to day.

Commissioner Abrams noted that the federal Department of Justice has begun “Advance Notice of Proposed Rulemaking” on a variety of issues, one of which has specifically to do with websites. They have long held that state and local governments under Title II, and public accommodations under Title III, have to have accessible websites. Probably later this year, they will come out with an “Advance Notice of Proposed Rulemaking” that will tell everyone what they propose to order these entities to do with their websites.

Commissioner Burks stated that California government code already has statutory requirements that websites shall be accessible. He offered to research the issue with Ms. Williams.

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9. ADJOURN

Chair Johnson adjourned the meeting at 1:50 p.m.