

**CALIFORNIA COMMISSION ON DISABILITY ACCESS
FULL COMMISSION
MEETING MINUTES**

April 23, 2014

1. CALL TO ORDER

Chair Guy Leemhuis welcomed everyone and called the meeting of the California Commission on Disability Access (CCDA or Commission) to order at 10:20 a.m. at the Los Angeles County Metropolitan Transportation Authority, One Gateway Plaza, MTA Board Room, Los Angeles, California 90012.

ROLL CALL

Commissioners Present:

Guy Leemhuis, Chair
Steve Dolim
Chris Downey
Lillibeth Navarro
Michael Paravagna
Anthony Seferian
Douglas Wiele
Betty Wilson

Commissioners Absent:

Tom Ammiano
Connie Conway
Ellen Corbett
Jean Fuller
Scott Hauge, Vice Chair
Greg Thompson
Chester "Chet" Widom

Staff Present:

Stephan Castellanos, Executive Director
Angela Jemmott, Program Analyst
Steven Funderburk, Office Technician

Also Present:

Ida Clair, AIA LEED AP CASp, Senior Architect, Access Code and Policy Division, Division of the State Architect
Suzanne Goldman (Teleconference)
Carla Johnson, Interim Director, San Francisco Mayor's Office on Disability
Fred Nisen, Attorney, Disability Rights California
Donald Parks, Accessible Technology Services (Teleconference)
Susan Pfeifer, Secretary, FDR Democratic Club of San Francisco
Bob Planthold, San Francisco Municipal Transportation Agency Accessible Parking Policy Advisory Committee
Chris Vaughan, Attorney, CASp, ADA Consultant Services, Vice President, Certified Access Specialist Institute

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Jake Wachtel (Teleconference)

Staff Member Jemmott called the roll and confirmed the presence of a quorum.

PLEDGE OF ALLEGIANCE

Chair Leemhuis led the Commission in the Pledge of Allegiance.

HOUSEKEEPING ITEMS

Chair Leemhuis reviewed the meeting protocols.

2. APPROVAL OF MEETING MINUTES (JANUARY 8, 2014) - ACTION

MOTION: Commissioner Paravagna moved to approve the January 8, 2014, California Commission on Disability Access Full Commission Meeting Minutes as presented. Commissioner Downey seconded. Motion carried unanimously.

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

Jake Wachtel suggested stakeholders gather in a public setting in Sacramento so that the Legislature can hear from all stakeholders at one time. He suggested also holding regional meetings in Northern, Southern, and Central California. Information can be gathered and posted on the CCDA website. He suggested another follow-up with the Legislature after that information is gathered.

Commissioner Wilson invited Mr. Wachtel and Suzanne Goldman to attend the June 4th Education and Outreach (E&O) Committee meeting to discuss developing a plan to move forward with events such as these.

Commissioner Navarro stated it is a possibility, with today's technology, to bridge the geographic gap between Sacramento and Los Angeles, or to speak in real-time to the Legislature. She suggested including the Los Angeles County Commission on Disability, the City Commission on Disability, and other cities' Commissions on Disability in the hearings so the information and issues can be shared with all disability organizations.

Commissioner Wilson agreed and suggested also tapping into the network of the public and private sectors, the community-based organizations, and government agencies in order to pull this together.

Chair Leemhuis cautioned that sometimes resources limit the Commission. While some Commissioners are developing the vision of how to connect, others need to contact colleagues and organizations that are supportive in the community. The Commission barely has funding for its Commission and Committee meetings. The Commission must obtain additional funds.

Chair Leemhuis, Commissioner Wilson, and Executive Director Castellanos have been discussing the possibility of creating a 501(c)(3) to obtain funding. The Commission needs to be fairly aggressive this year, now that there is direction and vision with the Design Team and the E&O Committee. Chair Leemhuis stated the need for

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Commissioners to support staff in ensuring the appropriate resources are in place, as staff cannot do it alone.

Commissioner Paravagna stated, in addition to funding, the Commission needs to consider forging partnerships. He suggested the independent living centers as a partner in putting the events together.

Chair Leemhuis agreed and added to this the developmental disabilities, blind, and advocacy organizations, small businesses, and the chambers of commerce. He agreed with Mr. Wachtel and Ms. Goldman that there is a need to get together and start moving forward to ensure the Commission has the resources to deliver that piece of the vision.

Commissioner Downey pointed out the need to also reach out to the business community.

4. PRESENTATION IN RESPONSE TO THE SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY (MTA) TASK GROUP

MTA Recommendations:

- 1. Increase the number of blue zones in San Francisco by almost seventy percent (local)**
- 2. Increase enforcement of placard misuse (local)**
- 3. Increase oversight of placard approvals (state)**
- 4. Allow communities to remove the meter payment exemption (state)**
- 5. Direct revenue to accessibility improvements (local)**
- 6. Allow communities to establish reasonable time limits (state)**

Chair Leemhuis stated this agenda item is the continuation of an information-gathering stage for the Commission that began in the January full Commission meeting with a presentation by the MTA task group and their proposed recommendations for modifications that may impact how disabled placards are used in San Francisco or in the state.

Chair Leemhuis welcomed Fred Nisen, an attorney with Disability Rights California, which is a private, nonprofit advocacy organization that is state and federally mandated to advocate on behalf of people with disabilities. He stated Mr. Nisen works with Past Chair Margaret Johnson and will provide the counterpoint today.

Mr. Nisen stated one reason placard use has increased is that there are more people with disabilities in the workforce and out in society, and there is a longer life expectancy.

The solution to the problem should not penalize people with disabilities who legitimately have and use placards, but should be based on solid information about the nature of the problems. Mr. Nisen shared two examples of penalties: requiring payment at parking meters that takes away a current benefit, and requiring people with disabilities to acquire medical recertification at regular intervals to renew placards even if the need

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for a placard is not going to change.

The MTA task group recommends making four percent of the metered parking into blue zones. Increasing the number of blue zones is helpful; however, four percent is not enough. If there is a blue zone on a block, it does not help the individuals who are physically unable to pay at the meters. The recommendation for exempting individuals who cannot pay for physical reasons has problematic implementation issues, and the recommendation for those who cannot pay for physical reasons to display their photo on the placard has problematic right to privacy issues. It would force people with disabilities to disclose the fact that they have a disability to everyone that passes by.

For a person with a placard to be made to pay at the meters or have time limits, there would need to be a change in state law. There is an argument that requiring people with placards to pay at parking meters and having time limits violates Title II of the Americans with Disabilities Act (ADA), which says a qualified individual with a disability cannot be denied the benefits of the services, programs, or activities of a public entity.

Mr. Nisen stated the need for this to be an issue of enforcement.

Commissioner Questions and Discussion:

Commissioner Navarro agreed that the focus is wrong. It is on people with disabilities, who are not the problem. The problem lies with the system. She gave the analogy of a leaking gas tank. The solution is to find the holes, not buy a new car or blame the passengers in the car. There is no outreach or education to the medical community for them to understand that signing off on a medical statement has many implications.

Commissioner Dolim asked if there is a study to suggest that the number should be different than four percent. Mr. Nisen stated he does not know of a study and does not know where the MTA task group came up with that number.

Commissioner Dolim stated a placard is an invention that has been around for twenty to twenty-five years. He asked if technology may have a better solution now, such as a biometric validation to ensure the placard is not hijacked, where the individual would have to be near the placard displayed on their vehicle mirror or touch it to validate it.

Mr. Nisen stated he has not seen anything like that, but does not feel it would work because many people do not drive themselves and never touch the placard.

Commissioner Wiele suggested the use of radio frequency tags like those on grocery items, as opposed to plastic placards, would be worth looking into.

Public Comment:

Susan Pfeifer, the Secretary of the FDR Democratic Club of San Francisco (Dem Club), stated she agreed with Mr. Nisen. People with physical disabilities that impede mobility have a harder time in life than people without, and the MTA task group's recommendations add to the difficulty of their lives. The Dem Club does not agree with charging the disabled for parking at meters. She agreed with Commissioner Dolim in

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questioning where the four percent figure comes from. The percentage of people with physical disabilities who drive in San Francisco is unknown. She stated the need to be aware that baby boomers are aging and will require additional disability parking.

Ms. Pfeifer suggested asking organizations to help contribute to the city, so people with disability placards can continue to park for free for unlimited time, rather than the city gaining the income by putting the burden on people who already have a hard time getting around.

Ms. Pfeifer agreed with Commissioners Dolim and Wiele about questions of new technology. She suggested that the MTA task group look into new technology rather than restricting the disability community. She agreed with Commissioner Navarro's suggestion of informing the physicians and reducing the number of placards if people do not need them. She requested not adding to the difficulty of the lives of people who do require the placards.

Ms. Goldman stated there is a law in the state of New Mexico that, if a placard is found to be fraudulent, the physician who prescribed it is fined. She suggested this as a way of keeping physicians from writing placards for people they know are unqualified.

Carla Johnson, the Interim Director of the San Francisco Mayor's Office on Disability, stated she agreed with Mr. Wachtel and Ms. Goldman about a statewide hearing before legislative bodies. A hearing is important because it provides opportunity to review the data the MTA task group looked at over a six-month period while considering these issues. She noted that many of the data points are up on the SFMTA website.

Ms. Johnson stated there is agreement for the need for more blue zones, better enforcement, and informing medical providers. She clarified that the four percent number comes from the Draft Public Right of Way Accessibility Guidelines, which have not been adopted yet.

Ms. Johnson clarified that the MTA task group asked for a photo for placard holders not to violate privacy, but to assist the parking control officer. She stated the MTA task group has encouraged the Department of Motor Vehicles (DMV) to develop a database that tracks who is issuing the placards, and to engage in outreach and training for physicians so they will issue placards more appropriately.

The goal of the MTA task group was to increase and restore access to parking for people with disabilities who need the placards and need the parking.

Chair Leemhuis thanked Ms. Johnson for responding to some of the questions asked. He invited the MTA task group to provide the Commission with answers to some of the questions he posed in the January full Commission meeting with respect to the issues. The most important question is how to make California accessible, as opposed to focusing on how to respond to recommendations that may direct Commission resources and energies into an area that does not necessarily increase accessibility.

Chair Leemhuis stated he will no longer place this item on the agenda for future

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Commission meetings, since there is no pending legislation with respect to implementing the MTA task group's recommendations. The Commission's task is to make California more accessible, not less accessible. These issues are important to discuss, and Chair Leemhuis asked the E&O Committee to continue to monitor it and further engage with the various stakeholders, including the MTA task group.

He thanked Mr. Nisen, the members of the public, and the MTA task group for the information and for their input, and stated the conversations, although from different perspectives, have been respectful and civil.

Bob Planthold, of the MTA Accessible Parking Policy Advisory Committee, urged Commissioners and the public to carefully read the report. He stated some cities they researched found that enforcement alone did not work to improve the parking situation. He stated he will cooperate with the E&O Committee.

Ms. Pfeifer asked how to stop the DMV from renewing placards for people who have passed away. Chair Leemhuis asked Mr. Pfeifer to contact staff so she can have that conversation with the E&O Committee.

Action Item:

- The E&O Committee is to monitor and engage stakeholders on this issue.

5. DEMAND LETTER PROJECT

Update on Top 10 and Discussion

Executive Director Castellanos stated the Commission has been collecting demand letters and claims filed in California related to disability access and posts updated Top Ten violations on the CCDA website every six months as mandated by law. The last posting was for July to December 2013. The top five violations have not had much change and have to do with parking, path of travel, and access to facilities. Staff has noted an increase in the number of claims received for the first quarter of this year, 287, as compared 112 for the first quarter of last year.

Executive Director Castellanos stated the need to begin researching the data in a more substantial way. Staff is working with the consultant on developing a rubric for further analysis and research of the data so that the additional analysis can be included in the next annual report to the Legislature.

Commissioner Navarro asked where the increase in lawsuits has occurred. Executive Director Castellanos stated staff has not disaggregated all of the material yet, but the greatest number of cases filed continues to be in Southern California.

Commissioner Navarro asked what progresses from the lawsuits. Executive Director Castellanos stated this is one of the frustrating things. Staff collects the demand letters and claims up front, but does not know what happens after that.

Commissioner Dolim asked if it would be possible to refresh the data points that staff is collecting so that it is known what can and cannot be queried in the database.

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Executive Director Castellanos answered in the affirmative and stated staff has made the data set available to some reporters on request. Not everything being collected is displayed on the website. There are more points that can be added to the database. He stated staff will try to give Commissioners access to the entire data set, which includes all of the questions and the points collected.

Commissioner Downey stated he is curious what can be learned from the data points, particularly which cases were settled and which moved to follow-up action. It is important to understand the exit strategy in terms of the legal ramifications and, more importantly, as part of the exit, why it got to that point. Whether it was a lack of knowledge, avoidance, or a strategy of risking it, it is important for the Commission to understand what the real issues are.

Chair Leemhuis stated the Commission knew that there would be limitations in the way the data was mandated to be collected. There is a need for more information, and that information will not be found in who filed the claims and how many they filed. Another difficulty is, due to budget cuts, that the life of a lawsuit is longer than the term of a Commissioner.

The statute does indicate that the Commission can speak to the attorneys. It may be the only way to get the information that Commissioner Downey pointed out is to contact the attorneys to ask them what they feel the problem is. Chair Leemhuis stated the need to contact the people who are creating the Top Ten to research why they are on the Top Ten. People have varied perceptions of the issues. Simply counting the data points alone is not going to get as far.

Commissioner Paravagna stated he felt this could quickly become unwieldy. He recommended that the Commission consider how to set the scope of the study. He stated the need to focus it to get precisely what is wanted so it remains manageable.

Chair Leemhuis asked that Commissioners Downey and Paravagna speak with the executive director to provide feedback on this.

Since many lawsuits have to do with parking on private property, Chair Leemhuis questioned how the private parking lot became inaccessible when processes were put in place by local government to prevent this. He asked for Commissioner Paravagna's and others' help in looking at the parking issues.

Chair Leemhuis stated there is funding from various states to help with the Certified Access Specialist (CAsp) programs, and he heard that there is a city that may not be paying into that as required by law. He stated he looks forward to having further dialogue with the Division of the State Architect (DSA) to see if there is a way that the Commission can be supportive to ensure that the mandated CAsp funding is coming in.

Action Items:

- Staff is to give Commissioners access to the entire data set, including all of the questions and the points collected.

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- Commissioners Downey and Paravagna are to provide feedback to staff on limiting the scope of study and focusing on manageability.
- Commissioner Paravagna and others are to help research the parking issues.

6. STRATEGIC PLANNING UPDATE

Executive Director Castellanos stated the first phase of the effort, the Assessment Summary, is completed and in review. Staff conducted an initial review, which has gone to the members of the Design Team for additional review before it will be presented to the full Commission.

The Assessment Summary is the product of a survey and personal interviews of a large number of individuals to establish a better understanding and an environmental scan of where California is on the issue of access. The overall findings include public awareness, confusion about the access laws and regulations, a perception of compliance as expensive, limited enforcement, and the responsible party.

Executive Director Castellanos reviewed the draft recommendations that will be brought back to the Commission to be validated publicly, such as to create equal access awareness into the culture, education, and to incentivize compliance.

The Assessment Summary will go before the full Commission after the initial reviews. Then, it will go through a series of meetings throughout California to be validated before the strategic planning effort is completed.

Action Items:

- No action items

7. EDUCATION AND OUTREACH ACTIVITIES – UPDATE AND ACTION ITEMS

Commissioner Wilson stated the E&O Committee met on April 18th in a teleconference in four locations: Los Angeles, Sacramento, Oakland, and Bakersfield.

Education and Outreach Committee Recommendations

- The Committee will begin developing training modules from the Top Ten ADA violations that have been collected by staff.
- The Committee will begin developing training modules for topics resulting from the strategic planning survey data.
- The Committee will use the restaurant guide that was authored by Richard Skaff as a general accessibility guide.
- Richard Staff's general accessibility guide will be published on the website and in other materials.
- The CCDA website will continually be updated and will be translated into languages other than English.
- The Committee will develop publications with the help of universities.
- The Committee will discuss the development of a speaker's bureau in the June 4th Committee meeting.

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- The Committee will discuss Commissioner Paravagna's draft talking points.

Commissioner Paravagna stated he put together some talking points to support the Commission's effort to be consistent and convey the Commission's message to a number of different audiences around the state. He emphasized that the talking points were draft in nature meant to stimulate discussion within the Commission, in order to focus and refine the Commission's message. The best approach is a collaborative effort and that collaboration needs to start with this Commission. He invited input from Commissioners.

Commissioner Wilson stated the City of Los Angeles Department on Disability offered access to their public relations staff. They will help the Commission get the message out with electronic and print media and publications. This will require coordination and volunteers to accomplish. These are great ideas, but there must be money and people to support it. Commissioner Wilson stated she asked Committee Members to bring recommendations for resources to the next meeting.

Commissioner Navarro suggested that the E&O Committee prepare informational videos to be posted on the website, such as a ten- to fifteen-minute video explaining what accessible parking is. She suggested creating a video archive to help people learn what access looks like.

Commissioner Downey stated the importance of understanding what is behind each of the issues of the Top Ten violations and why it is on the list before creating education modules.

Commissioner Wilson agreed and invited Commissioner Downey to provide the Committee with more details in the June meeting. She stated program accessibility has been overlooked for Commission meetings. The large complexes need to know of the importance of signage or Braille. She suggested this be part of the large seminars.

Commissioner Navarro suggested fashioning a presentation to the business community in the terms they understand. She stated Commissioners from the business community can be valuable in sharing how to communicate in an effective manner with business groups.

MOTION: Commissioner Navarro moved to approve the Education and Outreach Committee report as presented. Commissioner Dolim seconded. Motion carried unanimously.

Action Items:

- No action items.

**8. PRESENTATION ON CERTIFIED ACCESS SPECIALIST PROGRAM –
PRESENTATION AND DISCUSSION**

Chair Leemhuis welcomed Ida Clair, a CASp and Senior Architect of the Access Code and Policy Division of the DSA, and Chris Vaughan, a CASp and attorney of the ADA

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Consultant Services and Vice President of the Certified Access Specialist Institute (CASI).

Ida Clair stated she leads the CASp Development Program at the DSA. There are over 550 CASps certified today, sixteen certified from out of state, with representation throughout the state. There are sixteen subject matter experts from four qualification categories who assist in exam development. To qualify for the exam, individuals must either be from the licensed disciplines or have a combination of experience and education. Certification is based on a three-year renewal cycle with fifteen continuing education units.

As part of program improvements for 2013, the examination is now in two parts. The closed-book part consists of scoping and general prescriptive requirements. The open-book part consists of plan review and specific prescriptive requirements of the code. A benefit of a two-part examination is that individuals have the opportunity to retake only the part that they did not pass.

The 2013 California Building Code (CBC) is based on the 2010 CBC Standards and the federal 2010 ADA Standards for Accessible Design. The added California provisions are more stringent. The DSA keeps the code up to date through an eighteen-month process intervening code cycle.

Ms. Clair reviewed proposed amendments to Title 21 and Senate Bills (SB) 262, 1608, and 1186. Ms. Clair stated the next phase for the SB 1186 amendment with regard to the one dollar fee for business license to promote education programs is to coordinate with the CCDA and the Department of Rehabilitation (DOR) on education programs.

Ms. Clair reviewed the changes in the revised CASp Examination and Certification Handbook, introduced the new CASp Best Practices and Practice Standards Handbook, and reviewed the changes in the revised DSA CASp website.

Chris Vaughan stated the CASI is a statewide organization whose membership consists of 180 individuals who have passed the CASp exam and choose to be members. The original charge of SB 262 in 2003 was to develop a program of voluntary certification of persons with sufficient knowledge to review and inspect regarding access to facilities for persons with disabilities. The 550 experts who qualified to take the CASp exam by means of their training, education, and experience, and then successfully completed the exam, prove that CASps have the qualifications. Their performance is a separate issue.

The CASp program has established an expert base and continues to do so as additional persons pass the CASp exam; the program has been effective as far as that objective. A definition of effectiveness includes continuing education, professional standards, and the standard of care for CASp performance, and is a basis to evaluate the CASp program as it grows and moves forward.

The CASI continues to improve the effectiveness of the CASp program by developing professional standards, providing quarterly seminars for professional development to continue to enhance the base of information and knowledge as well as procedures and

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techniques in connection with CASp surveys, and publishing professional standards as well as standards for tools, equipment, and procedures in conducting a CASp survey. The quarterly training is ongoing and deals with a variety of subjects, such as hearing impairment, vision impairment, and communication.

The CASp program is making a difference in terms of accessibility in that a number of businesses, including corporations such as Chevron, Arco, Shell and Taco Bell, are taking accessibility more seriously now in the sense of hiring CASps to inspect hundreds of facilities and investing in programs such next month's Building Safety Month, where there will be programs across the state that include access. This suggests that there is a growing base of information and awareness on behalf of access.

Mr. Vaughan stated the most significant way CCDA can help the CASp program is to provide more information. Continued professional development of the CASp program, continued presentation of information, and education and training programs for Title III entities are among the things that would improve awareness and compliance.

Commissioner Questions and Discussion:

Commissioner Paravagna asked what the scope of the audit reports is, if the reports are standardized, if audits are random or by reported problem only, and what the reaction is if the audit discovers that the CASp member is not doing an adequate job.

Ms. Clair stated the Construction-Related Accessibility Standards Compliance Act (CRASCA) has stipulated requirements. Those were the reports the DSA was concerned about, audits specifically, in that they contain the required information in order for the owner to be offered a qualified defendant status. The DSA has clarified the standards in the Best Practices and Practice Standards Manual so all CASps are uniformly informed as to the standard they need to measure the report against.

There is only an audit on a report when a complaint is filed. The DSA felt it was important to first establish the standard to be met before auditing all CASp reports to that standard. The DSA reviews each complaint in order to improve the standards.

Commissioner Paravagna asked what action can be taken for a CASp member found to be problematic. Ms. Clair stated, according to legislation, the DSA is allowed to suspend certification and deny renewal.

Commissioner Paravagna asked what the DSA's vision was of working with the DOR as mandated in the revision. Ms. Clair stated the DSA is nearing the end of establishing the standards of the CASp program to raise the level of service and provide a common playing field, and now will be focusing on education and partnering with the CCDA and the DOR.

Commissioner Seferian asked if the DSA has an estimate of the percentage of access lawsuits that are filed in California in state versus federal court. Mr. Vaughan stated he did not have any statistics, but he stated his belief that, in Northern California, the majority of lawsuits are filed in federal court - about four to ten lawsuits per week.

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Commissioner Seferian asked why a plaintiff would file in federal instead of state court. Mr. Vaughan stated federal judges are familiar with this type of litigation and more willing in Northern California to follow and enforce the law and award damages. The case can be resolved in eight or nine months, which is faster than a state court case.

Commissioner Dolim asked if the DSA will touch any of the city obligations to have a qualified CASp on staff. Ms. Clair stated the DSA will not, as it is incumbent upon the cities to abide by the law. The DSA can only facilitate making more CASps available for cities to hire.

Commissioner Dolim asked staff for guidance on who is tasked with that, so the Commission can ensure that the right entity is addressing that. He asked about the audit process and wayward CASps selling certificates.

Ms. Clair stated, once the standard is available for viewing, report requirements can be downloaded from the manual. The DSA feels that this open knowledge provides a basis for comparison of the service that is being received.

Commissioner Dolim asked if the DSA audit process still investigates if the unsuspecting business owner fell victim to the wayward CASp and did not know a complaint was needed. Ms. Clair stated a complaint must be filed for the DSA to investigate it.

Commissioner Dolim stated he just renewed his business license and received statutory notice, the new effort under the SB 1186 law. He stated he was not sure it qualified for his preconceived idea of educating the public. It said, "Under state and federal law, compliance with disability access is a significant responsibility that applies to all California building owners and tenants with buildings open to the public. You may obtain information about the legal obligations and how to comply with disability access laws at the following agencies: the DSA, the DOR, and the CCDA."

Commissioner Dolim asked for guidance in contacting the other two agencies, as they may not know they have been pointed out yet, and to ensure that all three agencies have prepared material to appropriately answer questions.

Executive Director Castellanos stated the three agencies are taking this duty seriously and have been meeting for the past year to discuss these kinds of issues and to better coordinate the information to provide. Coordination is essential; while the three agencies' websites link, it is a work in progress and there is room for improvement.

Commissioner Wilson stated she will be sitting in for the chair temporarily.

Commissioner Navarro asked if the DSA website has been interpreted in another language and if it has been tested for the visually impaired. Ms. Clair stated the DSA website is accessible as a state of California standard, but is only in English right now.

Commissioner Seferian asked if there was an estimate of the portion of access lawsuits filed in California that resolved when the plaintiff settles the case for a recovery versus the cases dismissed without any recovery. Mr. Vaughan stated the majority are settled by way of plaintiff recovery. Frequently, the only time a defendant can be successful in

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this type of litigation is when there is an error made by the plaintiff.

Commissioner Downey stated the importance of tracking complaints to ensure CASp quality. He asked if the DSA is also collecting positive experiences from businesses that have received services from CASps. Ms. Clair stated she knows the demand for CASps is there, but the DSA does not receive reports on the good experiences.

Commissioner Downey stated he has heard from CASps that there is a reluctance of many business owners to engage CASps, but, when they go through the process, they find positive outcomes from the experience. It is important to track the positive experiences, too.

Mr. Vaughan stated SB 1186 created avenues by which a defendant can ask for an early evaluation conference, which typically leads to resolution and less out-of-pocket expense to the defendant, and SB 1186 has given defendants more flexibility in responding to these cases.

Commissioner Dolim asked if there is data on the number of certificates that have been sold in the CASp certificate program that may give an indication of the number of inspections performed. Ms. Clair stated she can provide those numbers to staff.

Commissioner Dolim asked that staff add the numbers into the minutes. He stated Mr. Vaughan mentioned that larger businesses are embracing the CASp inspection program and that there is a debate of whether its popularity will continue. Those are the entities the Commission wants to educate to ensure the inspection and upgrade process continues. He asked if Mr. Vaughan had suggestions other than more education to the public to accomplish that.

Mr. Vaughan stated the DSA now has an additional one dollar business renewal license fee each year, but the text is too small, which suggests it is not an effective way to communicate. He stated half the defendants he represents are uninformed about the requirements. There is more work to be done to effectively reach these people.

Commissioner Navarro suggested summarizing an explanation of the CASp program in layman's terms that advocacy groups can use to build the bridges toward an accessible environment. Executive Director Castellanos stated the Commission has information from the DSA on the CCDA website about CASp. He stated staff will work with Ms. Clair to put together a fact sheet that will deliver the information concisely.

Executive Director Castellanos stated the Legislature was concerned about the cost of the examination. He asked if the DSA was continuing to evaluate that cost.

Ms. Clair stated the DSA addressed the issue with the two-part examination and also the reduced fees charged by SB 1186. The issue with fees is that California states the fees must be specified in regulation, but regulation change takes time.

Executive Director Castellanos asked if the DSA feels that fees are a barrier to adding more CASps to the list. Ms. Clair stated four times the number of architects applied when the fee was reduced to \$100, but it is unknown how many took the exam.

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Executive Director Castellanos asked if the DSA has any thoughts about how SB 1186 and 1608 are working that can benefit from changes in legislation. Ms. Clair stated the issue with legislation is the clarity of the requirements. She agreed with giving the bills time to work to provide clarity on how they work and how they can be improved.

Commissioner Seferian asked if the SB 1186 changes have resulted in more plaintiffs filing cases in federal versus state court. Mr. Vaughan stated he does not have any evidence that there has been an increased filing because of SB 1186.

Commissioner Dolim asked who is tracking the extra dollars of business license money. Ms. Clair stated her belief that the DSA does that.

Commissioner Dolim asked when an appropriate time would be to get an overview of that process. Executive Director Castellanos stated he has been meeting with the DSA and the DOR about this for the year that they have been collecting the fees. They continue to inform counties and cities of their duties, but there are still a number of cities and counties that are learning what to do, and one said it will not participate.

The dollars do not all come to the state. Seventy cents of each dollar stays local so that local agencies can use them for access purposes, hiring CASps, and training. Of the thirty cents that go to the state, seventy percent goes by law to the CASp program and a number of other areas, including education. The DSA received \$600,000 for this fee, and that amount is expected to increase.

Commissioner Wilson requested that staff send the business license fee breakdown to Commissioners for a better understanding of how the money is spent.

Executive Director Castellanos stated he will work with the state architect on providing that information to Commissioners. The DSA is putting together their team and program, the DOR has the capacity to develop training tools, and the CCDA is the repository of data. A goal for the Commission over the next couple of years is to use the data to inform an outreach program to ensure information is delivered where it can be most useful and have the greatest impact.

Commissioner Paravagna asked if the Commission can use the data gathered to guide local governments that are getting the seventy percent. He suggested doing a "lessons learned" series to ensure that the seventy percent is used effectively in local communities that need it desperately.

Action Items:

- Staff is to add the numbers of certificates that have been sold in the CASp certificate program, to be provided by Ms. Clair, into the minutes.
- Staff is to work with Ms. Clair to put together a concise fact sheet of the CASp program in layman's terms.
- Staff is to work with the DSA to provide the business license fee breakdown to Commissioners for a better understanding of how the money is spent.

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9. CCDA BILL TRACKING

- AB 1885 - Public Buildings: Access: Disabled Persons - Bigelow R**
- AB 1991 - Construction-Related Accessibility Claims - Morrell R**
- AB 2714 - Vehicles: Disabled Persons Placard - Hernandez, Roger D**
- AB 1612 - Accessible California Code Of Regulations - Donnelly R**
- AB 1848 - Public Accommodations: Construction-Related Accessibility Claims - Allen R**

Executive Director Castellanos stated Assembly Bill (AB) 2714 has been pulled by the author. AB 1612 concerns the state's regulatory process and the use of websites and dissemination of information in an accessible format. AB 1848, 1885, and 1991 concern the right to repair and right to cure. Disability Rights California outlined in a letter that there is not sufficient time being allowed for the full execution and development of SB 1608 and 1186, and the authors of AB 1848, 1885, and 1991 should wait for full implementation before any right to repair or right to cure act moves forward. Staff is in contact with the authors' offices and will supply a more in-depth analysis at the next Executive Committee meeting.

Commissioner Wilson returned the meeting to the chair.

Commissioner Wilson asked if state departments communicate legislative changes to get an understanding of the issues that may affect them. Executive Director Castellanos stated most agencies and departments track legislations that may have an impact on their specific activities, and they defer to division leadership for input on the position to take. There is little communication between departments because each department tracks the legislation that is pertinent to them.

Commissioner Navarro announced that on Wednesday, May 21, 2014, Disability Capitol Action Coalition will host the 10th Annual Disability Capitol Action Day. She recommended this event as an opportunity for outreach and asked if the Commission could provide informational pamphlets to be given out.

Executive Director Castellanos stated Mr. Wachtel and Ms. Goldman had asked if the Commission could participate by putting up a booth to supply information. He asked Commissioner Navarro to send staff information on how the Commission can participate in the event.

Chair Leemhuis suggested staff contact Margaret Johnson at Disability Rights California, as it is a lead group in organizing the event.

Chair Leemhuis requested the development of a consent calendar with principles to approach legislation to be vetted at the next Executive Committee meeting and posted to the website. A consent calendar would improve the effectiveness of the Commission.

Chair Leemhuis asked if any bills require the Commission to weigh in prior to June. Executive Director Castellanos stated he will contact the authors of the bills for a status update and draft a consent calendar before the next Executive Committee meeting.

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Public Comment:

Donald Parks, of Accessible Technology Services, stated Executive Director Castellanos asked him to research SB 1612. Federal statutes for state agencies complying with the ADA declare any public entity with fifteen or more employees must comply with administrative requirements, do self-evaluation, and have an ADA coordinator. The problem is the Office of Administrative Law (OAL) has less than fifteen employees. From a strategic standpoint, they have done none of the basic proactive elements for accessibility. They stipulate that since they do not have fifteen employees, they are not responsible. This is problematic, as there is a lack of oversight.

SB 105 incorporated the federal statutory standards of Section 508 of the Federal Rehabilitation Act (FRA) regarding information technology and accessibility standards. All information technology acquisitions require completion of a voluntary product accessibility template when the state buys information technology. It is the standard vendors use to list the accessibility features of their products for services. The problem is that Section 508 of the FRA has been ignored. No such type of implementation has occurred throughout the state when procuring and using information technology. This, again, denotes a lack of oversight in the state.

Mr. Parks stated the hearing on SB 1612 will be on April 30th, where he plans to testify.

Commissioner Navarro asked how the Commission can weigh in on this issue, and if the Commission has the authority to ask the state to comply with regulations. Executive Director Castellanos stated the Commission, as an independent government agency, is expected to advise the Legislature, but does not have standing to make decisions.

Chair Leemhuis emphasized the need for Commissioners and the public to understand that it takes resources to accomplish the right thing. He asked Commissioners to acknowledge this as they consider incorporating each worthy activity. He asked Commissioners to assist staff in securing additional support to enable such activities. He encouraged Commissioners, when they hear about a good idea or activity, to ask if the Commission has the resources to do it and, if not, what can be done to make it happen. He counseled against becoming excited about something when there are no resources for it, as it creates a feeling that the Commission is not accomplishing anything.

Chair Leemhuis stated he wanted Commissioners to feel that they are accomplishing what they set out to do together as a group. In the last two meetings, there have been a number of activities Commissioners have suggested to undertake. He asked staff to capsule those ideas, put the necessary resource numbers behind them, and create a game plan to be presented to the Executive Committee. He stated he will work with staff on a list of items of interest to send to Commissioners.

Action Items:

- Commissioner Navarro is to send staff information on how the Commission can participate in Capitol Action Day.

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- Staff is to contact Margaret Johnson for information about Capitol Action Day.
- Staff is to contact the authors of the bills for a status update to report at the May 14th Executive Committee meeting.
- Staff is to draft a consent calendar to present at the May 14th Executive Committee meeting.
- Staff to capsule the ideas suggested during the last two meetings, put the necessary resource numbers behind them, and create a game plan to be presented to the Executive Committee.
- Chair Leemhuis will work with staff on a list of items of interest.

10. BUDGET REPORTING

Narrative and Up-to-Date Financial Reports

Staff Member Jemmott reviewed the March 31st Budget and Expenditures Summary and noted that the average monthly expenditure is \$28,000. She stated there will be \$65,000 left over in the budget by the end of the fiscal year. The Commission's Budget Change Proposal was approved by the Legislature in the amount of \$95,000 for an additional staff member.

Commissioner Wilson asked what happens to the leftover budget funds. Executive Director Castellanos stated some funds have been encumbered for updating the website and expanding the scope of work of the strategic planning consultant. Staff will make recommendations to the Executive Committee to ensure the budget is fully spent.

Executive Director Castellanos thanked Staff Member Jemmott for her support on the Budget Change Proposal. The legislative Committees approved it, but, until the governor proposes the May Revise, staff will continue to monitor the Budget Change Proposal.

Chair Leemhuis thanked Executive Director Castellanos for his work. The leftover funds will provide an opportunity to look at the current capacity and whether or not the Commission desires to work on an idea mentioned today and in the last Commission meeting. He cautioned Commissioners and the public that the \$65,000 will go quickly now that the Commission has almost twenty members. Moving people around the state is costly, and there is an accessibility expectation.

It is clear that having more funds will allow the Commission to explore other ideas. Chair Leemhuis reminded Commissioners that he told them he would not be satisfied if they simply attended meetings. He stated all Commissioners who have attended the last two meetings have contacted him to ask what else they can do. Chair Leemhuis thanked them for their willingness to serve, and stated it is just what this Commission needs.

Action Items:

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- No action items

11. COMMENTS FROM COMMISSION MEMBERS

Chair Leemhuis asked Commissioners to identify potential partners - organizations and individuals who will bring funds, staff resources, or space that the Commission can utilize while moving around the state. He asked Commissioners to contact nonprofits and small and large business owners that they know. Current staff does not have the capacity to accomplish this.

He requested that Commissioners email the lists of contacts that they have already spoken to and who have responded asking for more information to staff before the June 4th E&O Committee meeting so the Committee can compile the lists to present at the June 18th Executive Committee meeting. The Commission will have the opportunity to look at what the list of contacts means in terms of resources, and will better inform how the Commission chooses to direct and utilize existing funds.

Commissioner Wilson stated she had already asked the E&O Committee Members to bring in a minimum of two contacts by the next Committee meeting. Chair Leemhuis agreed that Commissioners should provide at least two contacts as Commissioner Wilson suggested.

Chair Leemhuis also requested that all Commissioners introduce themselves to the local legislators in their communities before the July 30th full Commission meeting. The talking points are to communicate who they are, why they are on the Commission, and what the Commission is trying to accomplish. He suggested that Commissioners contact him or staff if they have any questions.

Chair Leemhuis stated staff will send Commissioners information about how the Commission can be involved in Capitol Action Day and will post information on the website. He and Executive Director Castellanos were already planning to meet with legislators and will calendar it for the date of the Capitol Action Day to be more cost effective and helpful.

Commissioner Paravagna stated the Commission is at an interesting crossroads with the promising Budget Change Proposal, ideas for new Commission projects, awareness of limited resources, and reaching out to find additional resources. He cautioned against becoming too diffused with too many projects. He recommended that the Commission review the strategic plan and hone in on one goal or objective to pursue in the short run, one project that can realistically be accomplished so it can be operationalized.

Commissioner Dolim strongly agreed and stated the work is large and the budget is small. The Commission must be practical to gain tangible results.

Chair Leemhuis agreed with honing in on one goal and the need to review the strategic plan to ensure it is in line with the priorities and underlying statutory duties of the Commission. He liked the idea of identifying what the Commission can do now and, if there are additional resources, what it can do later.

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Commissioner Navarro asked if the Commission can draft former Commissioners who are all experts in their fields. Chair Leemhuis agreed that the previous Commissioners are a wealth of information and expertise. He stated he has been consulting with past Commissioners on a regular basis, such as Past Chairs Margaret Johnson and Rocky Burks. Most recently, both past chairs have assisted with the SFMTA parking issue presentations. He encouraged all Commissioners to contact past Commissioners.

Chair Leemhuis stated he and Commissioner Paravagna discussed where the Commission is missing the mark in not engaging in a real, meaningful way with the business community. Creating a powerful dialogue about access with the business community and particularly the small business community is something not to lose sight of. He stated he and Commissioner Paravagna suggested identifying leaders in counties who could facilitate conversations so the Commission could speak to small groups of people in one-on-one ways, which is in line with the strategic plan.

Commissioner Paravagna suggested contacting independent living centers in counties that have relationships with chambers of commerce to form a triad: independent living centers, chambers of commerce, and the CCDA.

Commissioner Navarro stated her independent living center was a member of the Los Angeles Chamber of Commerce last year, but it was cost-prohibitive. She learned that the Latino Chamber of Commerce is in search of speakers. She offered to encourage the Latino Chamber to invite the Commission to speak at one of their meetings. Chair Leemhuis agreed and suggested that several Commissioners do a joint presentation at one of their meetings. Commissioner Navarro agreed and suggested it would add credence to the presentation to have a resource such as Ms. Clair's PowerPoint.

Action Items:

- Commissioners are to provide at least two contacts before June 4th.
- Commissioners are to introduce themselves to local legislators before July 30th.
- Staff is to send Commissioners information about how the Commission can be involved in Capitol Action Day and to post the information on the website.

12. FUTURE AGENDA ITEMS

Commissioner Wilson stated following up on what was presented and discussed today is enough action to be taken.

Commissioner Dolim stated topics that warrant follow-up are the question point on the data in the survey and the steps toward understanding the results of the strategic plan as presented.

Commissioner Downey agreed with Commissioner Navarro about the importance of knowing the audience and understanding how to effectively reach them. It is the second part of education and outreach - how to reach their hearts and minds.

Chair Leemhuis asked Commissioners to contact the chambers of commerce to meet

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with them. Members of the public who want to join in and be supportive are welcome. He asked that these meetings take place before the June 4th E&O Committee meeting so what was learned from the experience can be reported.

Chair Leemhuis asked staff to summarize the potential items that have developed during this meeting to have as possible future agenda items. The Executive Committee will have the opportunity to prioritize it to be presented to the full Commission for their approval.

Action Items:

- Commissioners are to meet with chambers of commerce before June 4th.
- Staff is to summarize the items from this meeting as future agenda items.

13. ADJOURN

There being no further business, the meeting was adjourned at 3:58 p.m.