

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

October 13, 2016

1. CALL TO ORDER

Vice Chair Douglas Wiele welcomed everyone and called the meeting of the California Commission on Disability Access (CCDA or Commission) to order at 10:16 a.m. at the Department of Rehabilitation, 721 Capitol Mall, Room 244, 2nd Floor, Sacramento, 95814.

ROLL CALL

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

Commissioners Present:

Douglas Wiele, Vice Chair
Steve Dolim
Chris Downey
Kamala Harris, Attorney General,
represented by Anthony Seferian
Senator Tom Lackey,
represented by Sarah Couch
Celia McGuinness
Lillibeth Navarro
Michael Paravagna
Chester "Chet" Widom, State Architect,
represented by Dennis Corelis
Betty Wilson
Laurie Cohen Yoo

Commissioners Absent:

Guy Leemhuis, Chair
Walter Hughes
Richard Roth
Tony Thurmond

Staff Present:

Angela Jemmott, Executive Director
Fajola Jackson, Office Administrator
Rhonda Valdry, Staff Services Manager

Also Present:

Henry Avila, Donahue Schriber Realty Group (DSRG)
Pamela Cohen, Disability Rights California
Ruthie Goldkorn, Principle, No Barriers Disabled Access Consulting and Advocacy
Services (teleconference)
Mathew Hargrove, Senior Vice President of Government Affairs, California Business
Properties Association
Brian Holloway, HLC

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Karen McClain, Architect, CASp (teleconference)

PLEDGE OF ALLEGIANCE

Vice Chair Wiele led the Commission in the Pledge of Allegiance.

HOUSEKEEPING ITEMS

Vice Chair Wiele reviewed the meeting protocols.

2. APPROVAL OF MEETING MINUTES (July 18, 2016) – ACTION

MOTION: Commissioner Paravagna moved to approve the July 18, 2016, California Commission on Disability Access Full Commission Meeting Minutes as presented. Commissioner Navarro seconded. Motion carried unanimously.

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

There were no questions or comments from the public.

4. CLOSED SESSION

The Commissioners adjourned into closed executive session.

5. RE-OPEN MEETING

Vice Chair Wiele reconvened the meeting.

6. ELECTION OF OFFICERS – ACTION

MOTION: Commissioner McGuinness moved to re-elect Guy Leemhuis as chair of the California Commission on Disability Access for 2017. Seconded by Commissioner Navarro. Motion carried unanimously.

MOTION: Commissioner Paravagna moved to re-elect Douglas Wiele as vice chair of the California Commission on Disability Access for 2017. Commissioner McGuinness seconded. Motion carried unanimously.

7. APPROVAL OF 2017 CALENDAR – ACTION

MOTION: Commissioner Downey moved to approve the 2017 Calendar as presented. Commissioner Navarro seconded. Motion carried unanimously.

COMMUNITY LEADERSHIP REVIEW OF CCDA STRATEGIC PLAN

Vice Chair Wiele turned the meeting over to Executive Director Jemmott, who facilitated the leadership review roundtable.

Executive Director Jemmott stated this portion of the Commission meeting was set aside to reflect on the strategic plan, which was launched in December of 2014, and to invite stakeholders to weigh in with thoughts on the strategic plan and provide insight

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to current issues that affect the strategic plan. She asked everyone to introduce themselves.

Executive Director Jemmott read each goal with its underlying objectives and strategies and asked for feedback.

Goal 1: Advocate for Access Curricula for all School Programs

Pamela Cohen, Disability Rights California, stated many goals in the strategic plan involve education and training, which is great, but asked how the Commission will get buy-in from the individuals being sought to train. It is difficult to educate individuals until they decide they want to be educated.

Commissioner McGuinness stated it is difficult when professional schools do not understand the necessity for training students in how to make facilities accessible. She suggested legislation or licensing requirements as a possible solution.

Commissioner Paravagna stated the impact of the built environment on a person with a disability who is attempting to access it must be communicated in order to bring individuals to the training table. People do not perceive a need for training because they do not understand that impact, and more and more things are built that do not work for the community.

Commissioner Navarro suggested going to the school systems to give them some understanding of the CCDA to promote name recognition. Executive Director Jemmott stated colleges are open to creating classes but require proof of student interest and a ready job market for graduates first.

Ms. Cohen stated she volunteered to be a part of education and training committees but has never heard back. She asked what happened to those committees. Executive Director Jemmott stated it was an administrative error and welcomed Ms. Cohen to participate in the Education and Outreach Committee.

Ruthie Goldkorn, Principle, No Barriers Disabled Access Consulting and Advocacy Services, stated there was an opportunity under Senate Bill (SB) 10 for adding civil rights for the disability community to the history and social science curricula in new textbooks, but this has not happened. She stated this is due to the lack of advocacy and Section 29 is not comprehensive enough. There are opportunities through the Department of Rehabilitation (DOR) for education and training programs and internships, but these need to be expanded. She suggested beginning to outreach to youth at a younger age, grades six through twelve, to get them thinking about the built environment early, and incorporating the DOR and Independent Living Centers (ILC) to advocate for curricula and go into the schools to programs and assemblies.

Goal 2: Increase Disability Access Awareness

Commissioner McGuinness stated Commissioners and stakeholders want to accomplish all the goals, but due to the ongoing lack of funding provided to the Commission,

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almost nothing can be accomplished besides collecting data. The Commission is being asked to serve without being given the funds to do so.

Commissioner Dolim stated Goal 2 plays heavily into the task of the Checklist Committee and the creation of the consumer checklist. He provided an overview of the makeup, activities, and progress of the Checklist Committee to date. He showed the consumer checklist prototype pyramid chart of daily, weekly, monthly, and annual ticklers to improve access for businesses.

Ms. Cohen stated the need for the prototype pyramid chart to include programmatic access as well. Commissioner Paravagna agreed that programmatic access elements need to be thought about more.

Ms. Goldkorn agreed with the need for increased funding for the CCDA. She stated the need for the state of California to hit back at Forbes Magazine for running an article speaking against the Department of Justice (DOJ), who is suing UC Berkeley for their inaccessible online curriculum. She suggested contacting Americans with Disabilities (ADA) Coordinators to coordinate programming through their departments.

Sarah Couch, Legal Assistant, Assembly Member Lackey's Office, responded to Commissioner Dolim's comment. She stated ServSafe is a good program that is straightforward in getting information across. She stated Assembly Member Lackey brought the previous building inspector checklist to his office team and stated he was impressed by it. She offered to help disseminate the consumer checklist once it is completed, such as by dropping it off at every Assembly Member's office, emailing it to appropriate staffers and chambers of commerce, or sharing it on social media.

Matthew Hargrove, Senior Vice President of Government Affairs, California Business Properties Association (CBPA), agreed that funding is a huge issue. The CBPA supported two bills over the last two years that would have brought in additional funding for the CCDA. He encouraged Commissioners to partner with the CBPA. In lieu of funding and Goal 2, hopefully this group can figure out ways to coordinate with professional organizations, such as real estate organizations. He offered to help connect the Commission to real estate organizations that offer training programs, such as the Building Owners and Managers Association (BOMA), the International Council of Shopping Centers (ICSC), and the National Association of Industrial and Office Properties (NAIOP) to talk to them about disability access.

Commissioner Wilson stated the need to emphasize universal access in discussions and plans.

Goal 3: Create Training Programs for Targeted Constituencies

(No feedback offered for Goal 3.)

Goal 4: Create and Identify Revenue Streams to Fund Access Needs

(No feedback offered for Goal 4.)

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Goal 5: Create Financial and Other Incentives for Access Compliance

Mr. Hargrove stated his industry is not looking for financial incentives as far as statewide across the board, but many in the industry are looking for clarity in the law and local governments to implement the law consistently. The commercial real estate industry wants to provide access and accommodate all tenants and customers.

Mr. Hargrove suggested better training, better knowledge, getting stakeholders involved at the planning stage, having individuals at the planning desk during tenant improvements who can clearly answer what access requirements are, and strengthening the CASp program to have more individuals consulting with architects and building owners in a manner that allows them to move forward on projects while also expanding and providing more access.

Henry Avila, Senior Vice President, Donahue Schriber Realty Group (DSRG), stated he echoed Mr. Hargrove's comments about the need for clarity and consistency in the law. In Mr. Avila's experience, not one jurisdiction looks at the ADA the same way. Executive Director Jemmott suggested the CCDA Accessibility Construction Inspection Checklist for Building Inspectors/Officials, put out by the Commission, clearly outlines ways to improve accessibility.

Vice Chair Wiele stated there is ambiguity and subjectivity in provisions of the ADA that do not serve a good purpose. He suggested focusing interest on subsidizing those that can use the funds without penalty, such as small merchants and small property owners who are retrofitting existing buildings, who can take good advantage of public grants and funds.

Commissioner Navarro suggested holding conferences and events for both the business and disability communities to break down the silos and begin have a conversation to find common solutions to issues.

Goal 6: Explore the Development of a State Level Americans with Disabilities (ADA) Access Office

Commissioner Wilson suggested creating three clearinghouses for information in different parts of the state to promote universal accessibility.

Commissioner Paravagna stated there is a fear that the Commission is asking for too many resources; in this instance, the Commission intends to use resources more effectively. City, county, and state government needs to become compliant with Title II so they can better guide their constituents. The state government does not have a consistent notice of ADA compliance grievance system, format for ADA self-evaluations and transition plans, or data processing through those transition plans. Without the mechanisms and processes in place, governmental entities are acting independently which leads to inconsistency. He suggested that the CCDA could be a training resource for ADA coordinators.

Ms. Cohen stated a state office is a good idea. She asked if the Commission has done anything to reach out to state government to talk with them about it and, if not, if there

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are any plans to. Executive Director Jemmott stated Commissioner Lackey could best host this discussion point and recommended starting the discussion at the state level.

Dennis Corelis, Division of the State Architect (DSA), stated the state-level standard is the California Building Code (CBC). The CBC aligns with the ADA, but there is room for interpretation in code compliance.

Ms. Couch asked for research that she could bring to Assembly Member Lackey.

Mr. Hargrove suggested strengthening the relationships with the California Building Standards Commission (CBSC) and the California Building Officials (CALBO). Everyone at the local level looks to the CBSC for direction, guidance, and interpretation.

Mr. Corelis asked about the role that the DOJ plays and if the DOJ could get involved. Commissioner Seferian stated the DOJ has brought some disability access actions, although the policy is that the primary enforcement mechanism is at the local level, starting with the building departments.

Goal 7: Advocate to Hold Authorities Having Jurisdiction Accountable for the Built Environment to Avoid Passive Non-compliance for Architectural and Program Access

Commissioner Navarro stated sharing of best practices for compliance creates an opportunity for uniformity. She suggested that the CCDA study lawsuits in addition to monitoring them to find the genesis of the noncompliance.

Vice Chair Wiele stated the CCDA was formed to establish a dialogue between the business and disability communities to find common ground. The public realm was not part of that mandate. He suggested that the CCDA expand the dialogue between the business and disability communities to include the public realm.

Ms. Cohen suggested that the federal and state governments impose planning requirements on localities – General Plan updates and housing, traffic, and accessibility elements – and that planning jurisdictions go into great detail about what they need to do to make their land use plans work for all populations.

Commissioner Dolim stated uniformity is a novel and noble goal. The DSA has monthly CASp conversations and invites everyone to join in to discuss this issue. It is important for the building official industry to join in those discussions for better understanding of compliance. Executive Director Jemmott suggested that the CCDA continue to convene events and advertise opportunities such as the monthly DSA CASp meetings to bring entities together for discussion and sharing of tools and best practices.

Mr. Hargrove praised the CCDA for treating the different types of properties regardless of who owns them the same. This does not happen in other code areas. Continuing to treat all properties the same does much to help the CCDA reach Goal 7.

Goal 8: Maintain Data on Status of Access Compliance

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Executive Director Jemmott suggested collaborating with the CBPA to bring in individuals or organizations for recognition from the state of California on behalf of the CBPA for their successful compliance and for them to share their best practices.

Commissioner McGuinness stated the sole mechanism allowed in the law to ensure laws are enforced is lawsuits. In the larger context, lawsuits are a good thing.

Commissioner McGuinness referred to Objective 2 and asked what will help the CCDA find out where the problems are to be proactive to eliminate them so lawsuits can be reduced. The Legislature now requires the CCDA to collect information when lawsuits are filed, including the nature of the lawsuit, some of the details, when the lawsuit was completed, and what the outcome was. The question can be answered through collecting this data, but lawsuits only provide one small view into the compliance problem. She suggested that the CCDA think about ways to collect information about the problems, such as having a place on the website where a person who has encountered a barrier can note it. Inviting people with disabilities to record their experiences will allow the CCDA to get a sense of what individuals run into on a daily basis.

Commissioner McGuinness referred to Objective 6 and suggested facilitating a roundtable with businesses that have successfully complied to share how they found solutions to help other businesses better understand what they can do to increase access. She suggested creating a space contractors can turn to for access construction problems where volunteers are available to assist them. The CCDA can collect the experiences of people with disabilities and assist businesses in finding solutions to the problems they encounter in complying.

Vice Chair Wiele stated the state runs a website called GeoTracker with a history of every property that has ever had a problem with hazardous materials contamination. He suggested creating a parallel website with a history of every property that had an accessibility issue recorded. It would serve as an incentive to fix the issues to be removed from that list.

Vice Chair Wiele stated one of the CCDA's tasks in collecting lawsuit data is to sort through which claims are legitimate and what are perhaps not.

Mr. Corelis stated there are applications such as TripAdvisor to rate places when traveling, which includes accessibility. He suggested creating an app for individuals to rate locations on their accessibility.

Mr. Hargrove thanked Commissioner McGuinness for her comments. He stated it is not often that someone from the business community agrees that lawsuits do have a role in enforcement. Much of the focus is on frivolous lawsuits. California has done a good job trying to balance this issue and incentivize stakeholders to become compliant while at the same time other stakeholders are suing them, which often ends in closure of the business.

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Mr. Hargrove stated Goal 8 is already helping his industry comply in ways that the CCDA might not know. What the CCDA puts out is appreciated and helpful. He stated the CCDA's website with the collected list of lawsuits has been the number-one most useful thing to his industry for the last few years. He sends the top-ten list of lawsuit violations from the CCDA website to approximately 10,000 companies every three months to show them what businesses are currently being sued for. The top-ten list helps business owners realize that there are things they can easily do to avoid most of the top ten lawsuit violations.

Commissioner Navarro stated there are legal clinics in Los Angeles for people from the disability community, not to look for issues to sue about, but as an educational activity for conflict resolution. Chambers of commerce also have conflict resolution sessions.

Mr. Hargrove spoke against the CCDA hosting a website for the public to post complaints about properties and accessibility issues because that already exists and a government entity hosting it has the imprint of authority on it.

Goal 9: Expand Methods of Identification, Obligation, and Enforcement of Barrier Removal in the Built Environment

Commissioner Wilson stated the CCDA is ready to host public/private sector partnership conferences in Northern, Central, and Southern California in 2017 as an education tool.

Ms. Cohen stated the need to include the disability community and CASps in the conferences.

Commissioner Navarro asked where local ordinances are registered. Mr. Corelis stated, if it is a local ordinance that enhances the CBC, it must be submitted to the CBSC, but the CBC only deals with the built environment and does not address all issues encountered by the disability community. He stated there is no state clearinghouse for local ordinances.

Executive Director Jemmott thanked stakeholders on behalf of the Commission for taking time out of their day to participate in the discussion and provide valuable feedback on the strategic plan.

8. ADJOURN

Vice Chair Wiele adjourned the meeting at 3:55 p.m.