



## President's Message



President Bill Zellmer

### Hello!

This is the inaugural issue of the "CASI Central", a quarterly newsletter produced by CASI in efforts to provide a central connection point for the various CASp that CASI represent.

### Thanks

I would like to take a moment to first thank those who have helped make this newsletter happen: Sandra Miles of San Diego, Cris Vaughn of Loomis, Kaylan Dunlop of Birmingham, Ida Clair, and Hien Huynh of PESC, Fresno. Thanks to you for taking the time to make this happen.

### US Access Board Coming to CASI

We are all very excited that our Events/Speakers Committee is making arrangements to bring in a speaker from the US Access Board to present at one of meetings this year, stay tuned for more information as it becomes available.

### Committees

I'd like to encourage CASI members to get involved in CASI committees, it is a great way to network, learn, and give back...and CASI could use your help. Specifically, we could use a few people to staff the Legislative Committee, effectively working with Ida Clair to read through legislation that affects us as CASps and occasionally help write position papers, or

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## CALENDAR OF EVENTS



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### ADA COORDINATOR CONFERENCE- SAN DIEGO

HYATT REGENCY MISSION BAY, SAN DIEGO, CA

JANUARY 21<sup>ST</sup> & 22<sup>ND</sup>, 2016

[http://www.adacoordinator.org/events/event\\_details.asp?id=702122](http://www.adacoordinator.org/events/event_details.asp?id=702122)

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### ADA NATIONAL SYMPOSIUM

DENVER, COLORADO

JUNE 19<sup>TH</sup> – 21<sup>ST</sup>, 2016

<http://www.adasymposium.org/>

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### CASI | WINTER SEMINAR

FEBRUARY, 2016

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### CASI | SUMMER SEMINAR

PRESENTATION FROM THE ACCESS BOARD!!

JUNE, 2016

<http://casinstitute.org/>

# DIFFICULT CODES

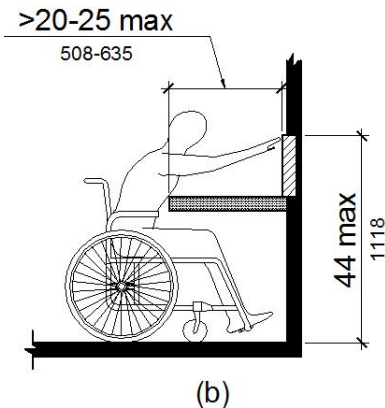
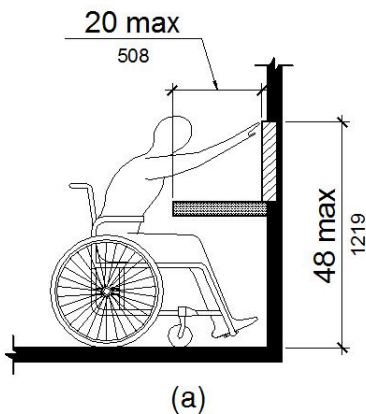
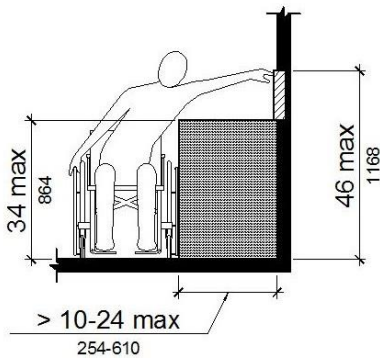
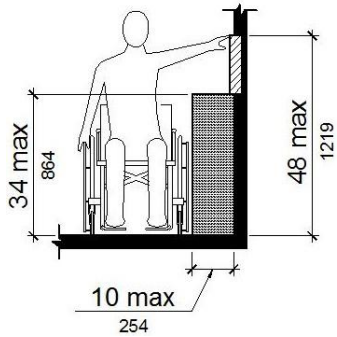
Editorial Commentary by Bill Zellmer, CASI President

## CODE FORUM

### Editor's Note:

The opinions contained in "Difficult Codes" are the opinion of the author only, and do not reflect the opinion of CASI, or the CASI Board. Responses and other viewpoints may be submitted for publication in the following newsletters. Please send responses to:

Editor: CASI Central  
info@casinstitute.org



## Reach Range: Limitation at Base Cabinets

Have you ever encountered a reach-range problem due to countertop depth? For the unsuspecting access specialist, this can be a real eye-opener.

### Problem:

The maximum side reach allowed is 24" ...yet standard construction practice is to provide 24" deep base cabinets, with a 25" deep countertop. Therefore, a strict reading of the code will not allow a side reach over a typical countertop...ever, regardless of height. Thus, any electrical outlet on the back wall over a typical countertop does not comply with reach range requirements.

### Code Citation:

**11B-308.3.2 Obstructed high reach.** Where a clear floor or ground space allows a parallel approach to an element and the high side reach is over an obstruction, the height of the obstruction shall be 34 inches (864 mm) maximum and the depth of the obstruction shall be 24 inches (610 mm) maximum. The high side reach shall be 48 inches (1219 mm) maximum for a reach depth of 10 inches (254 mm) maximum. Where the reach depth exceeds 10 inches (254 mm), the high side reach shall be 46 inches (1168 mm) maximum for a reach depth of 24 inches (610 mm) maximum.

### Possible Solutions:

1. **Provide base cabinets that are 23" deep or less.**  
Not practical at existing conditions and requires non-standard construction practice.
2. **Provide outlets or elements that perform the same function at an accessible location.**  
This may not be practical due to the nature and purpose of the outlet or element; however, it may provide the perfect solution for many situations.
3. **Provide knee space for forward reach which allows up to 25" up to a 44" height.**  
The obvious downside is that you lose base cabinets. ✖

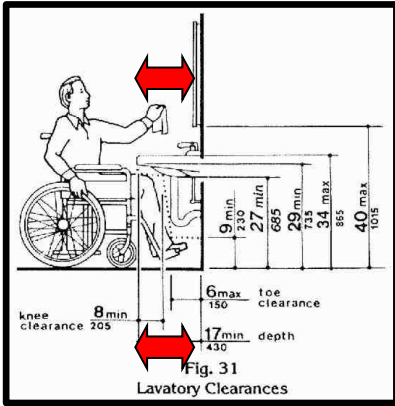
### Other Opinions Encouraged

If the readers have other interpretations or insights regarding these code sections, we would be more than happy to share these with our readers in the next newsletter, either signed, or anonymous. The intent is to help each other develop a better understanding of the codes. Please email to

info@casinstitute.org

# Reach Range: Limitation at Lavatories

As they say: 2+2 = 4. If you take the knee and toe space limitations at lavatories, and put it together with the requirement for knee and toe space below forward reach obstacles...you get a maximum reach range of 19" Yikes! Worse than that, there is an often over-looked by-product that requires a 10" depth at 27" above floor!



## Problem:

The CBC limits toe space at lavatories to 19" maximum, and also requires clear floor space (implicitly needs to have toe space) underneath a forward reach obstacle to the same depth as the reach. In other words, the reach above is limited to the toe space below, which is limited to a 19" maximum at lavatories.

## Code Citations:

**11B-308.2.2 Obstructed high reach.** Where a high forward reach is over an obstruction, the clear floor space shall extend beneath the element for a distance not less than the required reach depth over the obstruction. The high forward reach shall be 48 inches (1219 mm) maximum where the reach depth is 20 inches (508 mm) maximum. Where the reach depth exceeds 20 inches (508 mm), the high forward reach shall be 44 inches (1118 mm) maximum and the reach depth shall be 25 inches (635 mm) maximum.

**11B-306.2.2 Maximum depth.** Toe clearance shall extend 25 inches (635 mm) maximum under an element.

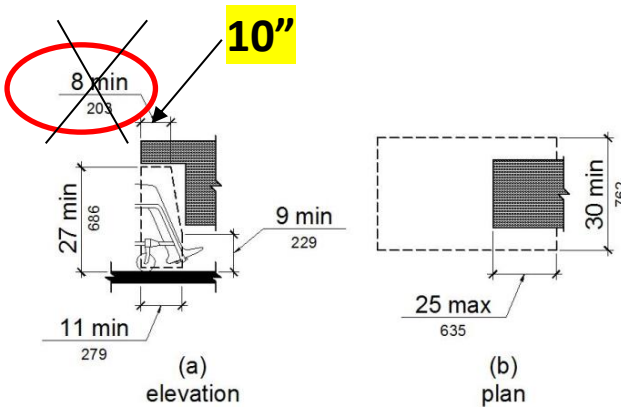
**Exception:** Toe clearance shall extend 19 inches (483 mm) maximum under lavatories required to be accessible by Section 11B-213.3.4.

The reach-range limitation obviously affects reach to the faucet; but also paper towel dispensers, soap dispensers, electrical outlets, or any other element that must be accessed.

## Knee space limitation:

Another by-product of these code sections is a often over-looked mathematical reality: A 19" deep toe space requires a 10" depth at a 27" height...not an 8" depth. All of the code diagrams including the ones above show the knee space requirements for a 17" depth, however, if one wants to have a 19" deep toe space, then the mathematics works as follows:

- 19" toe space depth =
- A: 6" maximum toe space extension beyond the knee space
  - B: 3" maximum sloped knee space 'reduction'
  - C: 10" remaining knee space at a minimum 27" height



## Other Opinions Encouraged

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# Hazardous Vehicular Areas – Problem in Definition:

As all of you are aware, the requirement for placement of detectable warnings (DW) hinges on the location and definition of the ‘hazardous vehicular areas’ (HVA) The lack of consistency in this issue results in a wide, wide range of opinions on where exactly the DW should be placed.

## Problem 1:

The CBC has no definition of HVA in the code, only a definition of ‘vehicular area’; and to the extent that a definition can be surmised, it is unclear how one should interpret areas where pedestrians and vehicles comele.

## Problem 2:

There is frequently little or no weight given to simple logic regarding how these DW will actually protect the vision impaired from walking out into traffic.

## Concepts:

### 1. There is no such thing as a non-hazardous vehicular area.

Pretty much literally, if an area is designed for vehicles to drive or park...it is a HVA.

### 2. The HVA may be interpreted as an entire parking lot

While there will always be interpretations of where the HVA is...I would argue that generally, it is the entire parking lot (with some exceptions), including accessible parking stalls, access aisles, and flush walks that collect pedestrians immediately within the over-all parking area. See drawing on the following page. In consultation with the AHJ, I would encourage interpreting entire parking areas as the ‘Hazardous Vehicular Area’, and then placing the DW only at the joint where the public enters into that HVA. While there will certainly be disagreements about this, it becomes a dialog that can be defined on the drawings and documented.

### 3. When somebody steps out of a car into a parking lot...they know they are in harm’s way

There is really no point in warning vehicle-users that they are stepping into a ‘hazardous vehicular area’, they already know it. It defies logic to argue otherwise.

### 4. Detectable warnings are bad for those who use accessible parking stalls.

Ironically, many parking lot designs have DW placed specifically at the worst possible location...at the place where people with mobility impairments are maneuvering to get to their cars. Life is hard enough on the disabled. Do we really need to spread DW out all over the parking lot as if it were a mine field? It’s like a cruel joke, placing barriers in the way of the disabled...in the name of disabled access.

Good design, and common sense would minimize placement of DW, not maximize them ✖

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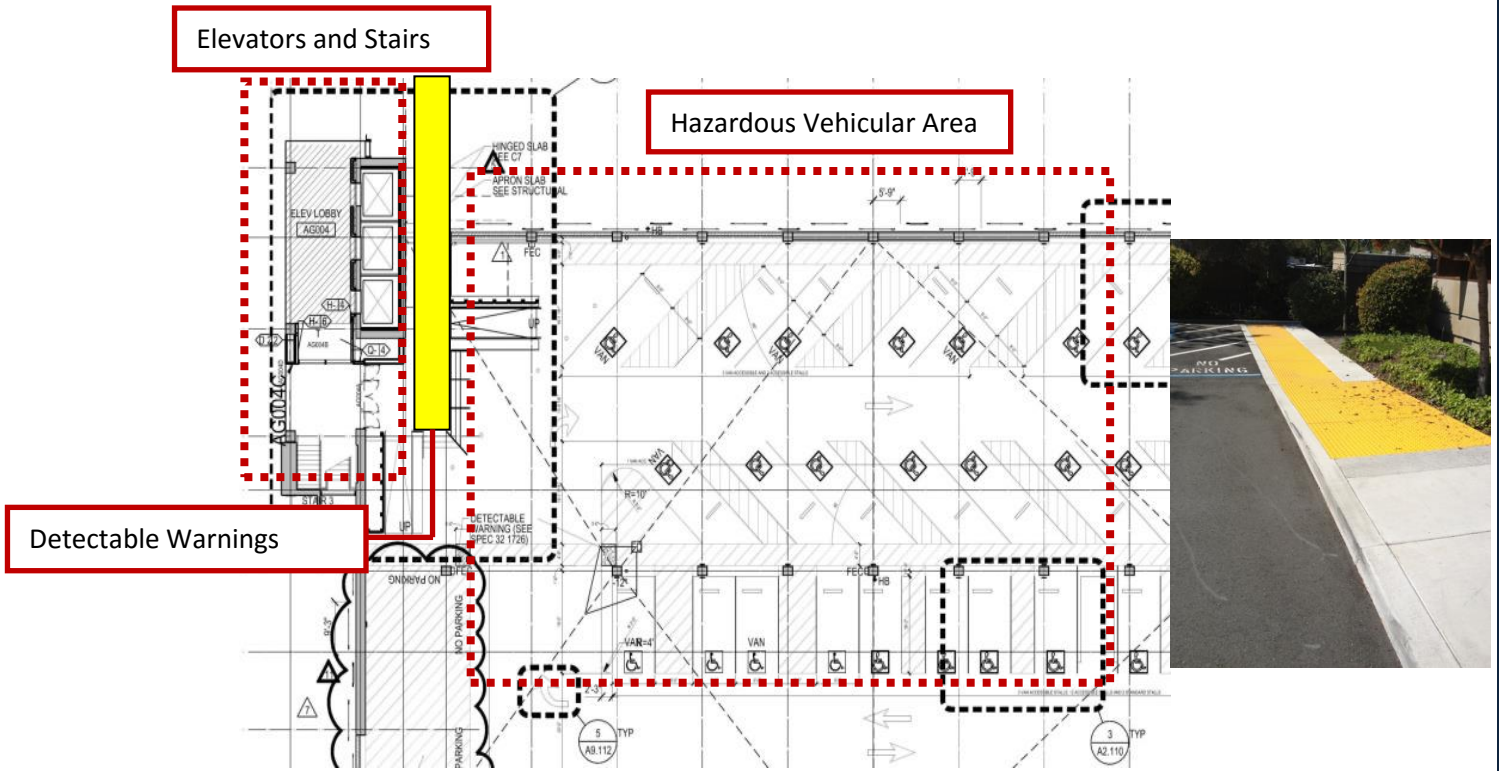
## Code Citation:

**11B-247.1.2.5 Hazardous vehicular areas.** *If a walk crosses or adjoins a vehicular way, and the walking surfaces are not separated by curbs, railings or other elements between the pedestrian areas and vehicular areas, the boundary between the areas shall be defined by a continuous detectable warning complying with Sections 11B-705.1.1 and 11B-705.1.2.5.*

## Other Opinions Encouraged

If the readers have other interpretations or insights regarding these code sections, we would be more than happy to share these with our readers in the next newsletter, either signed, or anonymous. The intent is to help each other develop a better understanding of the codes. Please email comments to [info@casinstitute.org](mailto:info@casinstitute.org)





## 2015 Board and Committee Members



CASI is happy to be offering a free one year premium level subscription to its new and renewing members to [www.corada.com](http://www.corada.com) as a benefit of membership. This offer also includes an electronic copy of the 2013 California Standards for Accessible Design Pocket Guide. If you are a current CASI member and have not received an email telling you how to take advantage of this benefit, please contact [Kaylan Dunlap](mailto:Kaylan.Dunlap@corada.com).

Haven't checked out [CORADA](http://www.corada.com) yet? It is a Comprehensive Online Resource for the ADA and was developed to help people identify, understand, and meet their obligations under the ADA and other access requirements. Corada offers a massive online database that connects ADA requirements and official technical assistance materials developed by the Department of Justice and the Department of Transportation, and the Access Board, to other relevant information such as products, how-to videos,

expert opinions, design ideas, possible solutions, training opportunities, and upcoming events.

Corada also hosts "[Voices](#)," an interactive place for occasional and regular users to discuss, share, collaborate and learn about accessibility. With peer support and targeted data for each section of the ADA Standards and regulations, it is our hope that Corada will become your go to resource to gain a better understanding of what is required; and then to successfully modify, design and construct facilities, and operate programs and policies that are inclusive of all people as required by law.

The "[Introducing Corada](#)" page offers videos and documents explaining why Corada was developed and giving you pointers on how to navigate around the website. ✈

# CASI Legislation Final Report 2015

by Ida A. Clair, CASI Legislative Affairs Chairperson



The end of the 2015 California Legislative Session is complete and Governor Brown has made his determination as to which bills will become law and which were vetoed. The following is the status of the bills sent to the Governor for signature:



## **AB 662** Bonilla –

**Public accommodation: disabled adults: changing facilities**  
 CASI took no position on this bill  
 10/10/15 Approved by Governor, Chapter 742, Statutes of 2015

Requires a person, private firm, organization, or corporation that owns or manages a commercial place of public amusement to install and maintain at least one adult changing station for persons with a physical disability that is accessible to both men and women when the facility is open to the public if:

- a) The commercial place of public amusement is newly constructed on or after January 1, 2020; or
- b) An existing commercial place of public amusement is renovated on or after January 1, 2025, and requires a permit or the estimated cost of the renovation is \$10,000 or more.

## **SB 251** Roth - Disability access

CASI recommended veto

Introduced: 02/18/15

**10/10/15 Vetoed by the Governor. Consideration of Governor's Veto Pending**

*Governor vetoed by stating that he could not support providing additional tax credits that will make balancing the state's budget even more difficult. Tax credits, like new spending on programs, need to be considered comprehensively as part of the budget deliberations.*



1) Does not award statutory damages for certain "technical violations" in a construction-related accessibility claim, where the defendant is a small business, the defendant has corrected, within 15 days of the service of a claim or receipt of a written notice, of all of the technical violations that are the basis of the claim, for specific violations.

2) Protects certain businesses from liability for minimum statutory damages in a construction-related accessibility claim made during the 120 day period after the business obtains an inspection of its premises by a CASp, under specified conditions.

It includes the following requirements for the CASp:

# LEGAL CORNER



## ADA DOES NOT IMPOSE LIABILITY ON THE TENANT FOR ADA VIOLATIONS THAT OCCUR IN THOSE AREAS EXCLUSIVELY UNDER THE CONTROL OF THE LANDLORD

by Cris Vaughan--Attorney, CASp and Immediate Past CASI President

### Kohler v. Bed Bath & Beyond, LLC

780 F.3d 1260 (9th Cir. 2015)

Plaintiff Chris Kohler (Kohler) sued the landlord and Bed Bath and Beyond of California, LLC (BB&B) alleging barriers to access in the parking lot at the shopping center where BB&B was a tenant. Under the terms of the lease, the parking lot was included within the definition of “common area” and the lease provided “landlord shall operate, maintain, repair and replace the common areas... [and] shall comply with all applicable Legal Requirements.”

Kohler argued that BB&B had liability for the common area parking lot barriers to access under the Americans with Disabilities Act (ADA), based upon the 2000 Ninth Circuit decision in *Botosan v. Paul McNally Real.*, 216 F.3d 827 (9th Cir. 2000). In the *Botosan* case, the Court held that since the ADA imposes access compliance obligations on both landlords and tenants, the landlord could not escape liability by contracting away the responsibility to comply with the ADA requirements to the tenant in the lease. In the Kohler case, the court rejected Kohler’s claim and characterized it as an effort to extend ADA liability to tenants for those areas of the property controlled exclusively by the landlord. The court pointed out that BB&B had no pre-existing control of the property and did not assume any control or responsibility for the parking lot under the terms of the lease.

The Ninth Circuit decision reviewed the ADA implementing regulations adopted by the US Department of Justice (DOJ). The court specifically discussed 28 C.F.R. § 36.403, which addresses the scope of landlord and tenant obligations dealing with path of travel compliance requirements. The court quoted the following provision of § 36.403, “Alterations by the tenant in areas that only the tenant occupies do not trigger a path of travel obligation upon the landlord with respect to areas of the facility under the landlord’s authority, if those areas are not otherwise being altered.”

In addition to reviewing the regulations, the Court also reviewed the DOJ’s formal interpretation of the regulations in the Technical Assistance Manual. The court noted that the DOJ’s interpretations of its own regulations, such as the Technical Assistance Manual, are to be given substantial deference and will be disregarded only if plainly erroneous or inconsistent with the regulation. Based upon other comments previously made by this Court and the United States Supreme Court, the Technical Assistance Manual is an important source to assist a CASp in applying the ADA.

The Technical Assistance Manual is available on line at [www.ada.gov](http://www.ada.gov).

# Welcome New Members!!!

Michael Arias	Richard Fenton	Anthony Lindsey	Edwin Mohabir	Robert Thacker
Dwight Ashdown	Thomas Flitsch	Craig Lobnow	Steven Moore	Mark Tudor
Harold Bravo	Thomas Graham	Mark Lockaby	Binh Phan	Stephen Twist
Ernest Castro	Kai Haglund	Jane Martin	Saul Pichardo	Michelle Winnecke
Ed S. Chung	Brian Higgins	Timothy Mc Cormick	Elizabeth Sorgman	
Robert Dunbar	Michael Hogan	Terry Mc Lean	Russell Taylor	
Scott Fazekas	Wai Lau	Michael Midstroke	Christopher Taylor	

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- The CASp shall provide, within 30 days of the date of the inspection a copy of a report prepared pursuant to that subparagraph to the business.
- The CASp shall file, within 10 days of inspecting a business a notice with the State Architect for listing on the State Architect’s Internet Web site, indicating that the CASp has inspected the business, the name and address of the business, the date of the filing, the date of the inspection of the business, the name and license number of the CASp, and a description of the structure or area inspected by the CASp.
- The CASp shall post the notice in a conspicuous location within five feet of all public entrances to the building on the date of the inspection and instruct the business to keep it in place until the earlier of either of the following:
  - (A) One hundred twenty days after the date of the inspection.
  - (B) The date when all of the construction-related violations in the structure or area inspected by the CASp are corrected.

## the annual budget process.

Requires a commercial property owner to state on every lease form or rental agreement executed after January 1, 2016, additional information to the tenant or lessor about the condition of the rented or leased property. The law requires:

*If the subject premises have undergone inspection by a CASp the commercial property owner or lessor shall provide, prior to execution of the lease or rental agreement, a copy of any report prepared by the CASp with an agreement from the prospective lessee or tenant that information in the report shall remain confidential, except as necessary for the tenant to complete repairs and corrections of violations of construction-related accessibility standards that the lessee or tenant agrees to make.*

Requires the Commission to establish a permanent legislative outreach coordinator position and a permanent educational outreach coordinator position.

## AB 1342 Steinorth –

Disability access: appropriation

CASI recommended veto because the bill's requirements were inconsistent with existing provisions for the issuance of a report and Disability Access Inspection Certificate, and due to required report disclosure.

10/10/15 Vetoed by Governor. Governor vetoed because it creates two permanent positions funded from the General Fund, something more appropriately addressed in



## AB 1230 Gomez –

California Americans with Disabilities Act Small Business Compliance Financing Act

CASI took no position.

10/11/15 Approved by the Governor. Chapter 787, Statutes of 2015

This bill would enact the California Americans with Disabilities Act Small Business



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# National Beat

by Kaylan Dunlap, CASI Special Programs Chairperson

## News from the US Access Board:

Access Board public meetings can now be attended via webcast – the next one is November 10, 2015, at 3pm EST (12 noon PST). You can listen in to see what's new from the Board and chime in during the public comment period during the last 15 minutes of the meeting.

The Access Board is on Twitter! Follow them by using @AccessBoard.

President Obama appoints new board members  
Karen Tamley and Dr. Victor Santiago Pineda  
Have you seen the Access Board's guidance document "Guide to the ADA Standards"? You can also find this document on [www.corada.com](http://www.corada.com) by searching CORADA for "Guide to the ADA Standards".

You may sign up for newsletter updates from the Access Board by signing up for "Access Currents" at [www.access-board.gov](http://www.access-board.gov).

## DOJ and the Civil Rights Division:

Is your town or community part of Project Civic Access? Check [here](#) to see a list state by state and to find out what is included in these settlement agreements.

You may sign up for newsletter updates from DOJ by signing up for "Access Currents" at [www.ADA.gov](http://www.ADA.gov).

## And in other news...

CASI is now on Twitter and Facebook. Check us out and join in on the conversation, share your "what were they thinking" photos or favorite tips. You can find us with @CASIGroup on Twitter and Facebook. ✈

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Compliance Financing Authority Act to establish a self-sustaining program to provide loans, to assist small businesses finance the costs of projects that alter or retrofit existing small business facilities to comply with the federal American with Disabilities Act.

## AB-1521 Committee on Judiciary -

**Disability access: construction-related accessibility claims**

**CASI took no position**

**10/10/15 Approved by the Governor. Chapter 755, Statutes of 2015 - Effective immediately upon signature.**

Provides additional information and legal resources to small business owners who may not realize how to minimize their liability for Americans with Disabilities Act (ADA) violations or respond to a lawsuit filed against them. Also limits the practice of high-volume lawsuits motivated by quick settlement with business owners, rather than correction of ADA violations.

On the federal level, two bills have been introduced to Congress that affect compliance with the Americans with Disabilities Act:

## H.R. 241 114th Congress:

**ACCESS (ADA Compliance for Customer Entry to Stores and Services) Act of 2015**

**CASI took no position**

Introduced 01/09/15

There has been no activity on this bill since it was introduced.

Amends the Americans with Disabilities Act of 1990 to prohibit an aggrieved person from commencing a civil action for discrimination based on the failure to remove a structural barrier to entry into an existing public accommodation unless the owner or operator of such accommodation: (1) is provided a written notice specific enough to identify such barrier; and (2) has, within specified time periods, either failed to provide the aggrieved person with a written description outlining

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**U.S. Access Board Webinar: Accessible Museum Exhibits**  
Thursday December 3rd, 2015 from 2:30 pm - 4:00 pm Eastern Time

<https://www.corada.com/calendar/u-s-access-board-webinar-accessible-museum-exhibits>



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improvements that will be made to remove such barrier or provided such description and failed to remove such barrier.

## **H.R. 3765** 114th Congress:

### **ADA Education and Reform Act of 2015**

Introduced 10/20/15

There has been no activity on this bill since it was introduced.



Requires the following:

- Requires the Disability Rights Section of the Department of Justice to develop a program to educate State and local governments and property owners on effective and efficient strategies for promoting access to public accommodations for persons with a disability. Such program may include training for professionals such as Certified Access Specialists to provide a guidance of remediation for potential violations of the Americans with Disabilities Act.
- Establishes a fine for any person to send or otherwise transmit a demand letter or other form of pre-suit notification alleging a construction-related violation if such letter or communication does not specify in detail the circumstances under which an individual was actually denied access to a public accommodation, including the address of property, the specific sections of the Americans with Disabilities Act alleged to have been violated, whether a request for assistance in removing an architectural barrier to access was made, and whether the barrier to access was a permanent or temporary barrier.
- Requires notification to an owner prior to suit or demand letter and establishes a right-to-cure period of 120 days.
- Requires the Judicial Conference of the United States to develop a model program to promote the use of alternative dispute resolution mechanisms, including a stay of discovery during mediation, to resolve claims of architectural barriers to access for public accommodations. ✂

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otherwise represent CASI in summarizing the effect of proposed legislation. We could also use a little help on the CASp Central Newsletter, and our Events / Speakers Committee, if interested, send me an e-mail at [zellmeb@sutterhealth.org](mailto:zellmeb@sutterhealth.org), and we will get you plugged in.

## **Code Interpretations and Forum**

I am personally going to 'push the envelope' a little and start a codes form of sorts with this newsletter. My central focus is on three things:

1. Help the less experienced CASps get a better understanding of complex code issues
2. Develop more of a 'Shared Understanding' of the codes
3. Sharpen our collective understanding of the codes

This should be less about who is right or wrong, and more about getting our whole profession on the same page as much as possible.

In the interest of getting better as a profession, we welcome other viewpoints and want to encourage others of you (especially the 'senior-level' experts) to share, correct, dispute and otherwise participate in the dialog.

## **Northern Cal / Southern Cal**

One of the difficulties of running a small organization that spans the whole state is that it costs a lot to have our speakers travel back and forth between northern and southern California.

Complicating matters, our meetings in Sacramento and Cerritos are still a long way from many of our CASps. We are looking into a few efforts to address these issues:

1. Rotating the location for meetings (Sacramento, Dublin, Berkeley / Cerritos, other?)
2. Improve our Webinars
3. Have Norcal CASI members run Norcal meetings, and Social CASI members run Social meetings

## **Impartial Experts**

I'd like to take the opportunity to make a point that CASI as an organization and CASps in general are understood to be impartial, un-biased experts. As an organization, we do not lean to the left or to the right to favor either building owners, or the disabled. As an organization we do not represent either side, but rather, we represent an impartial interpretation of the codes and standards.

In my humble opinion, CASps should make clear that our opinions are not for sale, and that we will always represent the codes and the laws in an impartial manner to the best of our ability and understanding. I believe that this is our strongest and best card to play. We have no agenda, and can be trusted to arbitrate / advise / interpret the codes, without prejudice.

**Have Fun!** It is football season; the holidays are here...life is great! ✂