



President's Message



President Bill Zellmer

CASp Impartiality.

The question of CASp impartiality has come up in several public meetings over the past year, and I think it is worth discussing. On more than one occasion I have witnessed first-hand that the advocates for the disabled community have pressed hard to have CASps serve their interest more. While I empathize with the advocates, I have to 'push back' and press for independence and impartiality.

A CASp has no authority to make anyone do anything

We CASps are experts in our field; we take in the data, analyze it, and develop a report or other instrument of our service. We hand that document over to our client, and **they** decide what to do with that information. CASps do not over-rule architects or building officials, nor do we have the authority of a judge or a building official to act on behalf of the people of California. In the end we offer our expert opinion, and others decide what to do with that opinion.

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Welcome New Members!!!

Robert Cooley

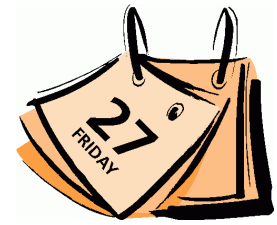
Scott Karlin

Leslie Nelson

Qihua Shi



CALENDAR OF EVENTS



ADA NATIONAL SYMPOSIUM

DENVER, COLORADO

JUNE 19TH – 21ST, 2016

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

NORCAL SEMINAR: MARCH 25, 2016

SoCAL SEMINAR / WEBINAR: APRIL 1, 2016

<http://casinstitute.org/>

CASI | SUMMER SEMINAR

PRESENTATION FROM THE ACCESS BOARD!!

JUNE, 2016

<http://casinstitute.org/>

SAN DIEGO COUNTY CASI DISCUSSION GROUP

2ND TUESDAY OF EACH MONTH (12:00 – 1:30)

11440 WEST BERNARDO COURT, SUITE 300

SAN DIEGO, CA 92127

(858) 753-1765

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CASps must ‘Interpret’ code

Anybody can read the code and have an opinion. Which means that nobody really needs a CASp’s services at all unless that CASp can go deeper in their understanding of the reasoning and purpose behind the code. We need to be able to take the black-and-white code language, and put it into a specific project context and make logical sense out of it. It does go beyond what is black-and-white. We must interpret the code.

‘Interpret’ does not mean we ‘Advocate’

We can influence the decisions makers with our ‘interpretations’, but we are still expected to be impartial. Nobody wants to know what the code ‘should’ say, or what the code minimum ‘ought’ to be, they want to know what it actually is, so that they as the decision makers can make a well-informed decision.

We bring value because we are impartial

It is precisely our non-alliance with the advocates on either side that brings value to the industry we serve. The moment we align with one side or the other, our opinions lose their value. Most of the decision-makers are themselves impartial. Judges, building officials, and architects all are looking to CASps for insight into the most accurate, best understanding of the not-so-clear sections of code. We exist to help them understand these things and put them into perspective.

A place for all of us

Is there a place for CASps who are also disabled advocates? Of course. Likewise, there is also a place for CASps who look out for the interests of the building owners.

The caveat is this: We CASps, need to be clear with everyone when we move beyond an impartial analysis of the code (and ADA) minimums and into an advisory role. ✎

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

Parking Stall Corrections:

Have you ever encountered a parking stall corrective project and wondered about the area just beyond the parking stall edges? What slope requirements apply, if any?

Background:

In efforts to correct a parking stall, the existing parking lot slopes may require a dramatic slope differential between the 'fixed' parking stall and the adjacent parking stalls and drive aisle. Code doesn't seem to address this situation. Is it really considered code-compliant to have steep slopes immediately outside of an accessible parking stall?

Code Citation:

11B-502.4

Floor or ground surfaces

Parking spaces and access aisles serving them shall comply with Section 11B-302. Access aisles shall be at the same level as the parking spaces they serve. Changes in level are not permitted.

Exception: *Slopes not steeper than 1:48 shall be permitted.*



Is this Code Compliant?

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Problem:

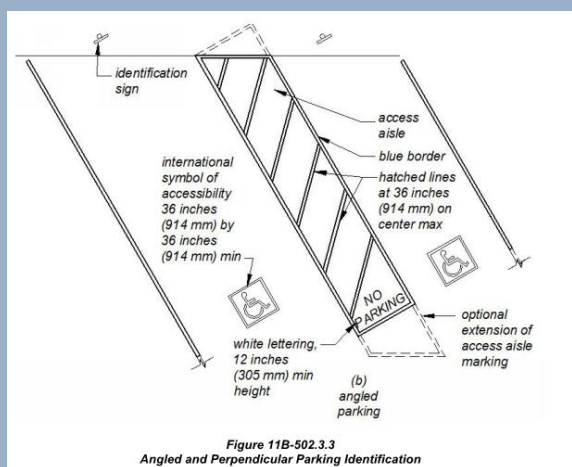
From the perspective of a person who is disabled:

There is a very real problem in getting into the trunk of a vehicle on such a steep slope or any other scenario where one must traverse the area around the car. In the case of some slopes, this may be quite dangerous.

From the architect/building owner perspective:

When the existing parking lot has a significant cross-slope, even considering a modest 5% slope of the adjacent area would result in 'chasing' the slope downhill, and the project would have to tear-out 20 or more parking stalls and adjacent sidewalks, planters and curbs, just to fix this situation.

Yet, after considerable code research, we have found that the code is silent on this area, it simply does not specify any slope requirements for the area beyond of the accessible parking stall and access aisle.



Possible Solutions:

1: 'Feather' the adjacent slopes at the best 'modest' slope that is reasonable.

Not an exact science, but provides a more usable result. Can't be code enforced, but rather depends upon conscientious 'good design'.

2: Provide an 'apron' around the accessible stalls.

The apron could be set at a lesser slope, before the slope drops off more dramatically. This approach has a down-side to it, as it creates a strange differential in level of the adjacent area. In some cases these areas are adjacent parking stalls to the side of the accessible stalls, and at the tail end of the parking stall it creates a possibly unsafe condition for drivers as there would be an abrupt change in driveway slope in the side-to-side direction.

This is a difficult situation to resolve. No obvious easy solutions.

3: Other Opinions Encouraged.

If the readers have other solutions, or other interpretations of this code section, we would be more than happy to share these with our readers in the next newsletter, either signed, or anonymous. ✉

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



Hi Low Door Openers:

We see the Hi-Low door opener question pop-up about once a month. The code text is so lengthy and has so many sub-points that it definitely qualifies as a 'Difficult Code'.

The central question:

When are high and low push pads both required at powered doors?

The code citation as reprinted further below is a big one, so I have highlighted some of the most relevant parts.

The short answer is that this code requirement only applies to a fairly rare situation that has 3 specific conditions as noted below, and effectively allows some leniency of the 5 lb force requirement when other compensating conditions are met. The three conditions:

1. The doors in question must be **EXTERIOR** doors.
2. There must be multiple doors serving the same area.
3. At least one of those doors must be a powered door.

If these three conditions exist, then, code Section 11B-404.2.9 **ALLOWS** the non-powered doors to meet a more relaxed 8.5 pounds to operate, rather than 5 lbs.

In return, the code requires that the powered door must meet a whole bunch of additional requirements as noted in exception 2 items a thru e. It is item 'c' that has the two push plates required, one high, and one low. See the code text as re-printed below with yellow highlights added to help add clarity.

Frequently Misunderstood

Because of the way the code text reads, there are frequently misunderstandings and miss-application of this code section. The code does NOT require both high and low push pads at all powered door conditions. Truly, this is an option available to the owner/architect. One is NEVER required to provide both high and low push pads, unless they are choosing to have some exterior doors meet a more relaxed 8.5 lb force allowance...then they have to meet the powered door requirements of exception 2, which provides multiple means of achieving powered door compliance: Automatic sensors, a vertical push bar, or high and low push pads.

It is easy to misunderstand this code text, partly because the code handles this as an 'exception' and partly because the code text includes what seems like broad directives such as "Powered doors shall..." that appear to be telling the reader that ALL powered doors ALWAYS shall meet the following... But that is not actually what the code intent is. It was written in a confusing way. One must remember; this code section is under the heading of DOOR OPENING FORCE, it is not the code section that specifies powered door requirements (although it sure seems like it). The powered door code section is 11B-404.3.

Here is the code text below with highlights that direct your attention to important features.

Code Citation:

11B-404.2.9 Door and gate opening force. The force for pushing or pulling open a door or gate other than fire doors shall be as follows:

1. Interior hinged doors and gates: **5 pounds** (22.2 N) maximum.

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Other Opinions Encouraged

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2. Sliding or folding doors: **5 pounds** (22.2 N) maximum.
3. Required **fire doors**: the minimum opening force allowable by the appropriate administrative authority, not to exceed **15 pounds** (66.7 N).
4. Exterior hinged doors: **5 pounds** (22.2 N) maximum.

These forces do not apply to the force required to retract latch bolts or disengage other devices that hold the door or gate in a closed position.

Exceptions:

1. ...
2. **When, at a single location, one of every eight exterior door leafs, or fraction of eight, is a powered door, other exterior doors at the same location, serving the same interior space, may have a maximum opening force of 8.5 pounds** (37.8 N).
The powered leaf(s) shall be located closest to the accessible route.
 - a. Powered doors shall comply with Section 11B-404.3. Powered doors shall be fully automatic doors complying with Builders Hardware Manufacturers' Association (BHMA) A156.10 or low energy operated doors complying with BHMA A156.19.
 - b. Powered doors serving a building or facility with an occupancy of 150 or more shall be provided with a back-up battery or back-up generator. The back-up power source shall be able to cycle the door a minimum of 100 cycles.
 - c. Powered doors shall be controlled on both the interior and exterior sides of the doors by sensing devices, push plates, vertical actuation bars or other similar operating devices complying with Sections 11B-304, 11B-305 and 11B-308.

At each location where push plates are provided there shall be two push plates; the centerline of **one push plate** shall be 7 inches (178 mm) minimum and 8 inches (203 mm) maximum above the floor or ground surface and the centerline of the **second push plate** shall be 30 inches (762 mm) minimum and 44 inches (1118 mm) maximum above the floor or ground surface. Each push plate shall be a minimum of 4 inches (102 mm) diameter or a minimum of 4 inches by 4 inches (102 mm by 102 mm) square and shall display the International Symbol of Accessibility complying

with Section 11B-703.7.

At each location where vertical actuation bars are provided the operable portion shall be located so the bottom is 5 inches (127 mm) maximum above the floor or ground surface and the top is 35 inches (889 mm) minimum above the floor or ground surface. The operable portion of each vertical actuation bar shall be a minimum of 2 inches (51 mm) wide and shall display the International Symbol of Accessibility complying with Section 11B-703.7.

Where push plates, vertical actuation bars or other similar operating devices are provided, they shall be placed in a conspicuous location. A level and clear floor or ground space for forward or parallel approach complying with Section 11B-305 shall be provided, centered on the operating device. Doors shall not swing into the required clear floor or ground space.

- d. Signage identifying the accessible entrance required by Section 11B-216.6 shall be placed on, or immediately adjacent to, each powered door. Signage shall be provided in compliance with BHMA A156.10 or BHMA 156.19, as applicable.
- e. In addition to the requirements of Item d, where a powered door is provided in buildings or facilities containing assembly occupancies of 300 or more, a sign displaying the International Symbol of Accessibility measuring 6 inches by 6 inches (152 mm by 152 mm), complying with Section 11B-703.7, shall be provided above the door on both the interior and exterior sides of each powered door. ✖

Code Citations

11B-201.1 Scope.

All areas of newly designed and newly constructed buildings and facilities and altered portions of existing buildings and facilities shall comply with these requirements.

11B-203 General Exceptions

11B-203.9

Employee workstations

Employee workstations shall be on an accessible route complying with Division 4. Spaces and elements within employee workstations shall only be required to comply with Sections 11B-207.1, 11B-215.3, 11B-302, 11B-303, 11B404.2.3. Common use circulation paths within employee workstations shall comply with Section 11B206.2.8.

Employee Access:

One of the most unclear areas of the code is the application of access requirements to employee areas. This is a topic that is so big it could probably justify a whole seminar dedicated just to this one topic.

Bottom line: In my humble opinion, the application of building code accessibility requirements to employee-use areas, frequently takes us to a place that we don't really want to go. If one is not careful, the results can get crazy.

No 'cherry-picking allowed

We are generally required to comply with all of the access requirements, not just the ones that are easy. So, when we start applying the access requirements to employee areas, we find ourselves needing to comply not just with reach-range and clear-floor-space, but also operable parts. This presents a problem when we consider work areas that have complex operable parts that require twisting, tight grip and/or exceed 5 lb of force to operate.



Conflicting and Confusing Codes

There are multiple relevant code sections, some of which seem to be at odds with each other. Furthermore, the code does not address what happens when employee areas co-mingle with public-use areas.

First, let's lay out the relevant code sections:

Section 202 Definitions:

COMMON USE. Interior or exterior circulation paths, rooms, spaces or elements that are not for public use and are made available for the shared use of two or more people.

WORKSTATION. [DSA-AC] An area defined by equipment and/or work surfaces intended for use by employees only, and generally for one or a small number of employees at a time.

Examples include ticket booths; the employee side of grocery store check stands; the bartender area behind a bar; the employee side of snack bars, sales counters and public counters; guardhouses; toll booths; kiosk vending stands; lifeguard stations; maintenance equipment closets; counter and equipment areas in restaurant kitchens; file rooms; storage areas; etc.

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The Co-Mingle Problem

In the real world, the employee work function frequently co-mingles with the 'Public Use' areas. By-the-book, I can't apply the employee workstation exemption, because the area is not ONLY for employees. So, I would have to classify this as a public area...which then requires access, and then I find that all of the dials and knobs and levers and switches that the employees use are suddenly supposed to be held to access requirements...which in some situations gets pretty crazy..



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

The 'Common-Use' problem

Equally problematic is that many employee functions occur in an area that is much larger than could be defined as a 'workstation' and therefore don't get the exemptions. Consider a commercial kitchen; technically speaking, the entire kitchen has more than one, or a few employees, and therefore qualifies as a 'common-use' area rather than a 'workstation', and all those operable parts would be subject to access requirements. ✂

EMPLOYMENT OPPORTUNITY

FACILITIES ACCESS COMPLIANCE SPECIALIST (ARCHITECTURAL & ENGINEERING)

COMPANY: LOS ANGELES UNIFIED SCHOOL DISTRICT

LOCATION: LOS ANGELES, CA

REFERENCE CODE: JP16-054-XA1

APPLICATION OPEN DATE: FEBRUARY 9, 2016

SALARY: \$89,300 - \$110,800

www.lausdjobs.org

National Beat

by Kaylan Dunlap, CASI Special Programs Chairperson

News from the US Access Board:

- ◆ Have questions about protruding objects? The latest installment of technical assistance was recently released in [“Guide to the ADA Standards”](#). This technical assistance includes an animation that shows various examples of protruding objects as they are frequently found in facilities, as well as demonstrates how a person using a white cane encounters these protrusions. Previous animations include wheelchair maneuvering, maneuvering at doors, and accessible toilet/bathing facilities.
- ◆ [Access Board public meetings](#) can now be attended via webcast – the next one is March 9, 2016, 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.
- ◆ Want the latest and greatest from the US Access Board? Sign up for newsletter updates by signing up for “Access Currents” at www.access-board.gov.

DOJ and the Civil Rights Division:

- ◆ In December the US Department of Justice released the [“ADA Compliance Brief: Restriping Parking Spaces”](#). This document can also be found in [CORADA](#) and includes links to the 2010 ADA Standards, 2010 ADA Regulations, products, and even a few conversations regarding parking ([in Voices](#)).
- ◆ You may sign up for newsletter updates from DOJ by signing up for “Access Currents” at www.ADA.gov.

And in other news...

CASI is 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.

Introducing...CORADA!

CASI is offering a **FREE** one year premium level subscription to its new and renewing members to www.corada.com as a benefit of membership. All you have to do is sign up through the email you received from CORADA, creating a password using your email. This offer also includes an electronic copy of the 2013 California Standards for Accessible Design Pocket Guide. The pocket guide is a downloadable PDF that includes hyperlinks in each section that will direct you right to the corresponding section on Corada.com (with an internet connection and a browser on your device) where you can find more info on other relevant sections from the standards and regulations, technical assistance documents, products, how-to videos, Corada Voices discussions, upcoming events, and more. This pocket guide is designed to work across all of your digital platforms – smart phones, tablets, laptops, and desktops. Your license for the pocket guide includes the opportunity to download it up to three times, even on three different devices that you own.

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](#).

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 Spring Seminar



CASp Workshop

How to conduct a CASp Inspection 101



CASI Member

Ron Johnson CASp #344

ADA Inspection Plus, LLC

Presentation to include:

- Techniques and methods of a typical CASp Inspection
- Lessons learned from numerous inspections and reports
- Engage in a dialog with our members so that we can learn and grow together

NORCAL SEMINAR: MARCH 25, 2016

SoCAL SEMINAR / WEBINAR: APRIL 1, 2016

<http://casinstitute.org/>

CASI Legislation Report

by Ida A. Clair, CASI Legislative Affairs Chairperson



AB 54



Introduced: May 6, 2015; Amended January 13, 2016

Committee on Judiciary – Disability access: Constructed related accessibility claims: demand letters.

CASI took no position on this bill

Specifies information required for demand letters sent to the California Commission on Disability Access in a standard format as specified by the CCDA .

HR 241 – 114th Congress



Introduced: January 9, 2015; No Change

ACCESS Act of 2015: ADA Compliance for Customer Entry to Stores and Services.

CASI took no position on this bill

Amends the American 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 improvements that will be made to remove such barrier or provided such description outlining improvements that will be made to remove such barrier or provided such description and failed to remove such barrier.

HR 3765



Introduced: October 20, 2015

Referred to the Subcommittee on Constitution and Civil Justice: November 3, 2015

ACCESS Act of 2015: ADA Compliance for Customer Entry to Stores and Services.

CASI took no position on this bill

Requires the following:

- Based on existing funding, the Disability Rights Section of the Department of Justice shall, in consultation with property owners and representatives of the disability rights community, 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 (as defined in section 3 of the Americans with Disabilities Act (42 U.S.C. 12102)). 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.
- It shall be unlawful for any person to send or otherwise transmit a demand letter or other form of pre-suit notification alleging a violation of section 302 or 303 of the Americans with Disabilities Act of 1990 (29 U.S.C. 12182; 12183) 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. Any person who violates this section shall be fined under title 18, United States Code.
- A civil action under section 302 or 303 based on the failure to remove an architectural barrier to access into an existing public accommodation may not be commenced by a person aggrieved by such failure unless:
 - (i) that person has provided to the owner or operator of the accommodation a written notice specific enough to allow such owner or operator to identify the barrier; and

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(ii) (I) during the period beginning on the date the notice is received and ending 60 days after that date, the owner or operator fails to provide to that person a written description outlining improvements that will be made to remove the barrier; or

(II) if the owner or operator provides the written description under sub clause (I), the owner or operator fails to remove the barrier or to make substantial progress in removing the barrier during the period beginning on the date the description is provided and ending 120 days after that date.

- The Judicial Conference of the United States shall, under rule 16 of the Federal Rules of Civil Procedure or any other applicable law, in consultation with property owners and representatives of the disability rights community, 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. To the extent practical, the Federal Judicial Center should provide a public comment period on any such proposal. The goal of the model program shall be to promote access quickly and efficiently without the need for costly litigation. The model program should include an expedited method for determining the relevant facts related to such barriers to access and steps taken before the commencement of litigation to resolve any issues related to access.

Recent data from the California Commission on Disability Access indicates that a handful of highly litigious plaintiffs and attorneys have targeted small businesses in the state, especially those without financial resources or sophistication, with lawsuits alleging violations of construction-related accessibility standards. The lawsuits appear to be motivated by a desire to obtain quick cash settlements with the businesses, rather than to improve access to public accommodations. As a result, small businesses are justifiably anxious about being used, while disabled consumers are viewed with blame and suspicion, even though they have a right to full and equal access and should be able to expect all public accommodations to comply with the 25-year old requirements of the Americans with Disabilities Act. It is necessary that this act go into immediate effect to ensure that small businesses have the information and resources they need in order to bring their properties into compliance with construction-related accessibility standards. It is also necessary that this act go into immediate effect to increase compliance with those standards for the benefit of the public, especially disabled consumers who have the right to go about their daily lives without difficulty, discomfort, or embarrassment, and with the basic dignity that comes from having the same access to public accommodations that nondisabled persons enjoy.

SB 269 - Roth



Introduced: January 11, 2016

Declared as Urgency Statute: January 25, 2016

Disability access: Constructed related accessibility claims: demand letters.

CASI Recommends Disapproval

Reason for Urgency

This act is an urgency statute necessary for the immediate preservation for the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Adds to CIV 55.53

3) The CASp shall provide, within 30 days of the date of the inspection of a business that qualifies for the provisions of subparagraph (A) of paragraph (3) of subdivision (g) of Section 55.56, a copy of a report prepared pursuant to that subparagraph to the business.

4) The CASp shall file, within 10 days of inspecting a business pursuant to subparagraph (A) of paragraph (3) of subdivision (g) of Section 55.56, a notice with the State Architect for listing on the State Architect's Internet Web site, as provided by subdivision 9d) of Section 4459.7 of the Government Code, 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.

5) The CASp shall post the notice described in paragraph (4), in a form prescribed by the State Architect, 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.

Adds to CIV 55.56

(e) (1) The following technical violations are presumed to not cause a person difficulty, discomfort, or embarrassment for the purpose of an award of minimum statutory damages in a construction-related accessibility claim, as set forth in subdivision (c), where the defendant is a small business, as described by subparagraph (B) of paragraph (2) of subdivision (g), the defendant has corrected, within 15 days of the service of a summons and complaint asserting a construction-related accessibility claim or receipt of a written notice, whichever is earlier, all of the technical violations that are the basis of the claim, and the claim is based on one or more of the following violations:

- (A) Interior signs, other than directional signs or signs that identify the location of accessible elements, facilities, or features, when not all such elements, facilities, or features are accessible.
- (B) The lack of exterior signs, other than parking signs and directional signs, including signs that indicate the location of accessible pathways or entrance and exit doors when not all pathways, entrance and exit doors are accessible.
- (C) The order in which parking signs are placed or the exact location or wording of parking signs, provided that the parking signs are clearly visible and indicate the location of accessible parking and van-accessible parking.
- (D) The color of parking signs, provided that the color of

the background contrasts with the color of the information on the sign.

(E) The color of parking lot striping, provided that it exists and provides sufficient contrast with the surface upon which it is applied to be reasonably visible.

(F) Faded, chipped, damaged, or deteriorated paint in otherwise fully compliant parking spaces and passenger access aisles in parking lots, provided that it indicates

(G) The presence or condition of detectable warning surfaces on ramps, except where the ramp is part of a pedestrian path of travel that intersects with a vehicular lane or other hazardous area.

(2) The presumption set forth in paragraph (1) affects the plaintiff's burden of proof and is rebuttable by evidence showing, by a preponderance of the evidence, that the plaintiff did, in fact, experience difficulty, discomfort, or embarrassment on the particular occasion as a result of one or more of the technical violations listed in paragraph (1).

(3) This subdivision shall apply only to claims filed on or after the effective date of SB 269 of the 2015–16 Regular Session.

Further adds to CIV 55.56:

(3) (A) Notwithstanding any other law, a defendant shall not be liable for minimum statutory damages in a construction-related accessibility claim, with respect to a violation noted in a report by a certified access specialist (CASp), for a period of 120 days following the date of the inspection if the defendant demonstrates compliance with each of the following:

- (i) The defendant is a business that, as of the date of inspection, has employed 50 or fewer employees on average over the past three years, or for the years it has been in existence if less than three years, as evidenced by wage report forms filed with the Employment Development Department.
- (ii) The structure or area of the alleged violation was the subject of an inspection report indicating "CASp determination pending" or "Inspected by a CASp"
- (iii) The inspection predates the filing of the claim by, or

receipt of a demand letter from, the plaintiff regarding the alleged violation of a construction-related accessibility standard, and the defendant was not on notice of the alleged violation prior to the CASp inspection.

(iv) The defendant has corrected, within 120 days of the date of the inspection, all construction-related violations in the structure or area inspected by the CASp that are noted in the CASp report that are the basis of the claim.

(B) Notwithstanding any other law, a defendant who claims the benefit of the reduction of, or protection from liability for, minimum statutory damages under this subdivision shall disclose the date and findings of any CASp inspection to a plaintiff if relevant to a claim or defense in an action.

(4) A defendant may claim the protection from liability for minimum statutory damages under paragraph (3) only once for each structure or area inspected by a CASp, unless the inspected structure or area has undergone modifications or alterations that affect the compliance with construction-related accessibility standards of those structures or areas after the date of the last inspection, and the defendant obtains an additional CASp inspection within 30 days of final approval by the building department or certificate of occupancy, as appropriate, regarding the modification or alterations.

(5) If the defendant has failed to correct, within 120 days of the date of the inspection, all construction-related violations in the structure or area inspected by the CASp that are noted in the CASp report, the defendant shall not receive any protection from liability for minimum statutory damages pursuant to paragraph (3), unless a building permit is required for the repairs which cannot reasonably be completed by the defendant within 120 days and the defendant is in the process of correcting the violations noted in the CASp report, as evidenced by having, at least, an active building permit necessary for the repairs to correct the violation that was noted, but not corrected, in the CASp report and all of the repairs are completed within 180 days of the date of the inspection.

(6) This subdivision shall not be applicable to intentional violations.

(7) Nothing in this subdivision affects the awarding of actual damages, or affects the awarding of treble actual damages.

(8) This subdivision shall apply only to claims filed on or after the effective date of Chapter 383 of the Statutes of 2012, except for paragraphs (3), (4), and (5), which shall apply only to claims filed on or after the effective date of SB 269 of the 2015–16 Regular Session. Nothing in this subdivision is intended to affect a complaint filed before those dates, as applicable.

(h) This section does not alter the applicable law for the awarding of injunctive or other equitable relief for a violation or violations of one or more construction-related accessibility standards, nor alter any legal obligation of a party to mitigate damages.

(i) In assessing liability under subdivision (d), in an action alleging multiple claims for the same construction-related accessibility violation on different particular occasions, the court shall consider the reasonableness of the plaintiff's conduct in light of the plaintiff's obligation, if any, to mitigate damages.

(j) For purposes of this section, the "structure or area inspected" means one of the following: the interior of the premises, the exterior of the premises, or both the interior and exterior.

Adds to CIV 4459.7

(2) The State Architect shall publish and regularly update on its Internet Web site easily accessible lists of all of the following:

(A) Businesses that have obtained a CASp inspection and have filed, or a CASp has filed on their behalf, a notice pursuant to paragraph (4) of subdivision (a) of Section

55.53 of the Civil Code

(B) Businesses which have been inspected by a certified access specialist on or after January 1, 2017, including the date of the inspection.

(d) By January 1, 2017, the State Architect shall develop a process by which a certified access specialist (CASp) may notify the State Architect that a structure or area on the premises of a business has been inspected by a CASp and to notify the public that the business has a "CASp determination pending," or has been "Inspected by a CASp," as provided by paragraph (3) of subdivision (g) of Section 55.56 of the Civil Code, which shall include the name and address of the business, the date of the notification, 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 a CASp.

(e) By January 1, 2017, the State Architect shall develop a form for a business to notify the public that the business has obtained a CASp inspection pursuant to paragraph (3) of subdivision (g) of Section 55.56 of the Civil Code, which shall include the date of the notification, the date of the inspection, and a description of the structure or area inspected by a CASp.

(f) For purposes of this section, the "structure or area inspected" means one of the following: the interior of

the premises, the exterior of the premises, or both the interior and exterior.

Adds to GOV 65946:

(3) "Written inspection report" means the CASp report required to be provided pursuant to subdivision (a) of Section 55.53 of the Civil Code.

(b) A local agency shall expedite review of a project application if the project applicant meets all of the following conditions:

(1) The applicant provides a copy of a disability access inspection certificate, provided by a CASp pursuant to subdivision (e) of Section 55.53 of the Civil Code, pertaining to the site of the proposed project.

(2) The applicant demonstrates that the proposed project is necessary to address either an alleged violation of a construction-related accessibility standard or a violation noted in a written inspection report.

(3) If project plans are necessary for the approval of a project, the applicant has had a CASp review the project plans for compliance with all applicable construction-related accessibility standards. ✖

