



Accessibility in California

THE FILES OF THE BUILDING DEPARTMENT

The first accessibility code in California, the 1981 edition of the State Building Code (Part 2, Title 24, California Administration Code) provided provisions for appeal of building department determinations with regards to Section 11 Handicapped Law Compliance. As stated in Section 11-D, Special Conditions for Physically Handicapped Requiring Appeals Action Ratifications: Whenever reference is made in these regulations to this section, the findings and determination required by the local enforcing agency shall be subject to ratification through an appeals process.

This appeals process is available to any concerned individual that may wish to challenge the building department's determination for unreasonable hardship. The 1981 State Building Code Section 11-A (6) states: When the total construction cost of alterations, structural repairs or additions does not exceed a valuation threshold of \$50,000 based on January 1981 average construction cost index, AND THE ENFORCING AGENCY FINDS THAT COMPLIANCE WITH THIS CODE CREATES AN UNREASONABLE HARDSHIP compliance shall be limited to the actual work of the project.

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REPORTING TECHNICALLY INFEASIBLE

The 2013 California Building Code Section 11B-202 .3 Exception 2 states: In alterations, where the enforcing authority determines compliance with applicable requirements for accessibility is technically infeasible, the alteration shall provide equivalent facilitation or comply with the requirements to the maximum extent feasible. THE DETAILS OF THE FINDING OF TECHNICALLY INFEASIBLE SHALL BE RECORDED AND ENTERED INTO THE FILES OF THE ENFORCING AGENCY.

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POINTS OF INTEREST

- How to challenge building department findings of unreasonable hardship.
- This issue's example of equivalent facilitation.



FUN FACTS

The first accessibility code mentioned in The Files Of The Building Department on page 1 of this newsletter means the first adoption of regulations for handicapped access by the Office of the State Architect. A number of the proposed regulations in the 1991 State Building Code were found to be in conflict with existing State Fire Marshall regulations. Chapters 441/442, Statute of 1979 required the State Fire Marshall to mandate that fire warning devices for the deaf be installed in buildings subject to Health and Safety Code, Section 13143.6. ♿



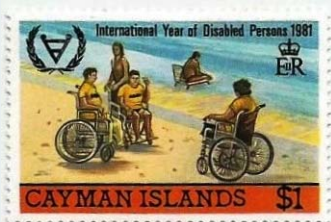
No person may be refused access to review public records or to request an appeal of the building department's findings for unreasonable hardship. Check with the California Attorney Generals Office for clarification.

THE STAMP BOX

In 1981, countries around the globe celebrated the International Year of the Disabled.

California's first accessibility code edition was 1981.

Each issue of this newsletter will include stamps from the various countries that celebrated the International Year of the Disabled (1981).



THE FILES OF THE BUILDING DEPARTMENT

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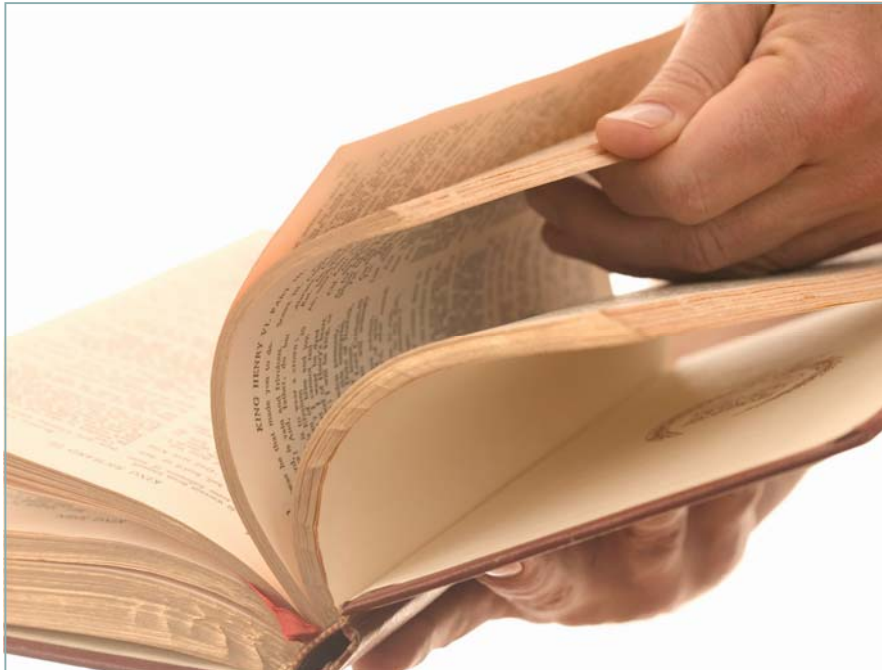
The 1981 State Building Code Section 2-422 (c) Unreasonable Hardship States:

An unreasonable hardship exists when the enforcing agency finds that compliance with the building standard would make the specific work of the project affected by the building standard, unfeasible based upon an overall evaluation of the following factors

1. The cost of providing access.
2. The cost of all construction contemplated.
3. The impact of proposed improvements and financial feasibility of the project.
4. The nature of the accessibility which would be gained or lost.
5. The nature of the use of the facility under construction and its availability to handicapped persons.

THE DETAILS OF ANY FINDING OF UNREASONABLE HARDSHIP SHALL BE RECORDED AND ENTERED IN THE FILES OF THE ENFORCING AGENCY.

Since 1981, the building departments have been required to keep records of their findings of unreasonable hardship. Their overall evaluation of the 5 factors should be recorded by the building department at the time of permit issuance to allow a reasonable amount of time for public review and appeal. ♿



“The details of the finding of technically infeasible shall be recorded and entered into the files of the enforcing agency”, is a legal process.

HOW TO RECORD TECHNICALLY INFEASIBLE

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The first step to recording technically infeasible is to declare how equivalent facilitation or how compliance to the maximum extent feasible was achieved. An exception can not be used without first meeting the qualifying requirements of the exception.

An engineer of record for a construction project may declare that it would be technically infeasible to accommodate the requirements for accessibility. Evidence should be provided by the design professional supporting their claims for review and approval by the building department. The evidence should be included in the record.

“The details of the finding of technically infeasible shall be recorded and entered into the files of the enforcing agency”, is a legal process. The person declaring equivalent facilitation or compliance with the accessibility requirements to the maximum extent possible, must be a Certified Access Specialist (CASp), in accordance with California Civil Code Section 55.53. ♿

HOW TO CHALLENGE A BUILDING DEPARTMENT'S FINDINGS OF UNREASONABLE HARDSHIP

Ask the building department to provide you their department file where they record their determinations of unreasonable hardship and technically infeasible.

Review the file to determine if an overall evaluation of the 5 factors was recorded.

Verify if the evaluation was performed by a qualified person as required by California Civil Code Section 55.53, which is a Certified Access Specialist.

Report your findings to the Building Official to request appeal of their determination of unreasonable hardship in accordance with the provisions of 2013 CBC Section 1.9.5.3. ♿

18 YEARS EXPERIENCE

In 1996 Clay worked as a tenant improvement project manager, responsible for providing accessibility improvements for four State owned buildings.

In 2004, Clay was recruited and trained by a former executive of California Housing and Community Development where he began performing plan reviews for accessibility.

In 2010, Clay provided building code adoption services in Abu Dhabi, where he co-chaired their first technical committee for the adoption of the 2009 ICC A117.1 Accessible and Usable Buildings and Facilities.

Clay is currently working on a highly specialized and advanced project in Cupertino, Ca.

AN EXAMPLE OF EQUIVELENT FACILITATION:



Oops... the building department missed this one. This before and after view shows an encroachment hazard along a path of travel with bottom edge of sign 40 inches above pavement. The sign was not lowered to less than 27 inches above pavement to comply with 2013 CBC Section 11B-307.2, instead a bollard was installed at the end of the sign and 8 inch height grouted masonry curb was installed below the sign to create detection for an individual using a cane.

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To all students of the California Building Code, and to every stakeholder their interpretations affect.

May we all develop good tolerances for this ever-changing book.

CMS

