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**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**



**FILE**

**FROM:** EXECUTIVE OFFICE

**SUBMITTAL DATE:** June 18, 2002

**SUBJECT:** Response to Grand Jury Report: Riverside County Department of Mental Health

**RECOMMENDED MOTION:** That the Board of Supervisors:

- 1) Approve with or without modifications, the attached response to the Grand Jury's recommendations regarding the Riverside County Department of Mental Health.
- 2) Direct the Clerk of the Board to immediately forward the Board's finalized response to the Grand Jury, to the Presiding Judge, and to the County Clerk-Recorder (for mandatory filing with the State).

**BACKGROUND:** On April 9, 2002, the Board directed staff to prepare a draft of the Board's response to the Grand Jury's report regarding the Riverside County Department of Mental Health.

Section 933(c) of the Penal Code requires that the Board of Supervisors comment on the Grand Jury's recommendations pertaining to matters under the control of the Board, and that a response be provided to the Presiding Judge of the Supervisor Court within 90 days.

**TONY CARSTENS**  
Deputy County Executive Office

ent Recommendation:  Consent  Policy  
Per Executive Office:  Consent  Policy

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**FINANCIAL DATA:**

|                          |    |                                |      |     |
|--------------------------|----|--------------------------------|------|-----|
| <b>CURRENT YEAR COST</b> | \$ | <b>ANNUAL COST:</b>            | \$   |     |
| <b>NET COUNTY COST</b>   | \$ | <b>IN CURRENT YEAR BUDGET:</b> | Yes/ | No/ |
|                          |    | <b>BUDGET ADJUSTMENT FY:</b>   | Yes/ | No/ |

**SOURCE OF FUNDS:**

**C.E.O. RECOMMENDATION: APPROVE.**

  
**County Executive Officer Signature**

**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Buster, seconded by Supervisor Tavaglione and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Venable, Wilson and Mullen  
 Noes: None  
 Absent: None  
 Date: June 18, 2002  
 xc: E.O., Grand Jury, Presiding Judge, Co. Clerk-Recorder(2)

Nancy Romero  
 Clerk to the Board  
 By:   
 Deputy

**3.5**

## SPECIFIC FINDINGS AND RECOMMENDATION

### RIVERSIDE COUNTY DEPARTMENT OF MENTAL HEALTH

**Overview:** The Grand Jury cover letter dated March 27, 2002, and its attached report '2001 – 2002 Grand Jury Report, Riverside County, Department of Mental Health,' in fact dealt with issues affecting several different departments. Specifically, the Grand Jury report was concerned with occupancy/use of the Department of Mental Health leased facility which opened in late 1996, early 1997. The Grand Jury report was transmitted to the Department of Mental Health on April 9, 2002. Mental Health subsequently solicited input from the County Safety Office, the County ADA Coordinator and Facilities Management. Mental Health compiled the various comments and transmitted them to the Executive Office. The following synthesizes those comments into a coordinated response.

#### **FINDINGS:**

##### **FINDING #1:**

***A pre-occupancy inspection of the mental health building was not conducted by the Americans with Disabilities Act (ADA) Coordinator, County Safety Department, Facilities Management, or the City of Riverside Building and Safety Division, to insure the building met current safety regulations and lease agreement requirements.***

\_x\_ Respondent disagrees partially with finding.

The County Facilities Management Department reports that the City of Riverside Planning/Fire Department conducts many inspections during permitted construction to approve framing, electric, plumbing, etc. Upon completion of a project, the City signs off on the appropriate inspection cards, which are posted on the premises during construction, which signifies the building is ready for occupancy.

After confirming that the inspection cards posted in the lobby had been signed off by the City, an inspection of this facility by Facilities Management (formerly Building Services) is scheduled. This is done as a matter of course on every project. The inspection at the Spruce Street facility was conducted on December 17, 1996, prior to occupancy. A punch list of incomplete items and items that needed correction was provided to the owner. It is important to understand that the inspection done by Facilities Management prior to or at the time of occupancy does not duplicate the City's inspection. The City looks for code compliance. The County makes sure that all the space requirements and improvements are substantially completed, which include paint, carpet, woodwork, lighting, signage, keying, data/communication outlets, etc.

The County Safety Office indicates they have made recommendations to individual departments including Facilities Management to provide notification before a department moves so that a Pre-Occupancy Inspection for Occupational

Health and Safety issues can be performed. In the past, such inspecting requests have not always been responded to.

Lastly, we note that the position of ADA Coordinator was not created until 1997. Before that time, ADA compliance functions were divided among several departments, including Human Resources (County employment), Building Services (now Facilities Management), and the Planning Department.

#### **FINDING #2:**

***A Grand Jury field inspection conducted on November 27, 2001, revealed the handicapped parking area, located at the east end of the building, was placed on a dangerously steep slope. This made moving on the surface difficult for handicapped persons in wheelchairs and walkers to navigate their way up or down the parking ramp. ADA regulations require a gradient of not more than 2 percent in any direction. (Ref: paragraph 4D, Surface Parking Space Design, page 154, dated c2000PCC) The grade at that time revealed a steep slope that was in excess of 20 percent. (Figure 1 and 2)***

  x   Respondent disagrees partially with the finding.

Facilities Management notes these items are the responsibility of the landlord/property owner (not the County) as required by his need to comply with City building codes. Each City's building codes are adopted from, or simply a repeat of, the State Building Codes, issued by the State Architect, which include the State's interpretation and application of Federal ADA requirements. The City of Riverside approved this building for occupancy indicating compliance with their building codes. There is documentation on file wherein the City states the ADA parking was borderline, and indicating the City instructed the owner to rework portions of the parking lot. Subsequently, the improvements received approval by the City, indicating the City's building code requirements had been met.

The County Safety Office notes that these issues were not addressed until the Grand Jury became involved.

#### **Finding #3**

***A 36-inch walkway between the front of parked vehicles and an adjacent building's walls was not available at the Mental Health Facility. (Figure 3 and 4). This violation forced patrons to walk behind several parked vehicles in order to gain access to the building. (Ref: paragraph 3, page 154, code 1129B.4.3, Arrangement of Parking Spaces of The California Disabled Accessibility Guidebook states, "Accessible parking spaces are located such that they do not compel users to travel behind parked cars other than their own.")***

  x   Respondent agrees with the finding.

Facilities Management states that these items are the responsibility of the landlord/property owner (not the County) as required by his need to comply with City building codes. Each City's building codes are adopted from, or simply a repeat of, the State Building codes, issued by the State Architect, which include

the State's interpretation and application of Federal ADA requirements. The City of Riverside approved this building for occupancy indicating compliance with their building codes. There is documentation on file wherein the City states the ADA parking was borderline, and indicating the City instructed the owner to rework portions of the parking lot. Subsequently, the improvements received approval by the City, indicating the City's building code requirements had been met.

The County ADA Coordinator contacted the Office of Universal Design of the Division of the State Architect to discuss the standards of the California Building Code: Title 24 which was in effect in 1996. The ADA Coordinator was advised that a slope in a parking area of up to 17% (as measured by an ADA consultant) would never have been compliant. Furthermore, Section 1023.1 of the 1996 code required walkways to be a minimum 48" wide, as well as accessible parking spaces to be located so that walking behind parked cars was not required.

The ADA coordinator cites correspondence from the Director of Building Services in 1998 describing a situation in which Building Services approached the City to find out why a permit was given for a facility when there were ADA deficiencies. That correspondence stated: "The City politely informed us that while they do inspect and enforce California Title 24 for accessibility, they are not the watchdog and do not Enforce the Federal ADA."

The County Safety Office notes that these issues were not addressed until the Grand Jury became involved.

#### **Finding #4**

***The asphalt surface of the parking area was irregular with deep grooves created by vehicles scraping the asphalt when parking on the steep inclined. (Figure 1) These grooves were a hazard, especially, for handicapped people using walkers or wheelchairs.***

  x   Respondent disagrees partially with the finding.

Facilities Management states that these items are the responsibility of the landlord/property owner (not the County) as required by his need to comply with City building codes. Each City's building codes are adopted from, or simply a repeat of, the State building codes, issued by the State Architect, which include the State's interpretation and application of Federal ADA requirements. The City of Riverside approved this building for occupancy indicating compliance with their building codes. There is documentation in file wherein the City states the ADA parking was borderline, and indicating the City instructed the owner to rework portions of the parking lot. Subsequently, the improvements received approval by the City, indicating the City's building code requirements had been met.

The County Safety Office notes that these issues were not addressed until the Grand Jury became involved.

**Finding #5**

***Numerous internal memos since April 1997, concerning these same safety issues were sent to managers and supervisors. Correspondence from the County Safety Office was sent to the Department of Mental Health on June 28, 1999, concerning these same issues.***

  x   Respondent agrees with the finding.

Facilities Management states that there are numerous memos and letters in the lease file located at Facilities Management concerning several issues at the building, one of which was the east side parking area. The memos were directed to the Department of Mental Health from the County Safety Office and the Office of the ADA Coordinator. The letters were also forwarded to the owner requesting his assistance with these issues, which were denied. The owner indicated he was in compliance by virtue of the City's inspections and approval, and that any improvements or reconfigurations in the parking lot required by the County would be the financial responsibility of the County.

There is a memo in the file from Facilities Management to the Executive Office, dated 7/00 regarding the cost to make these improvements. The central issue in this instance was about who would be responsible for the cost of any corrective work required. If an issue involving cost can wait until the lease comes up for renewal, the County has leverage. Without the leverage gained by having the opportunity to threaten to relocate and not renew, or in the case of resistance from the landlord during the term of the lease, the only recourse is take the matter to Court.

Related, the Department of Mental Health sent a memo to the Safety Office dated August 24, 1999 addressing numerous items identified by a memo dated June 28, 1999 "Review of Employee Safety Issue at Mental Health CCC." The Department responded to all four items brought to their attention in the above mentioned memo. No further correspondence was received from the County Safety Office and it was considered a closed issue from the Department's perspective.

The County Safety Office notes that these issues were not addressed until the Grand Jury became involved.

**Finding #6**

***Safety records reveal that annual building inspections are not being performed as required by Riverside County Standard Safety Operations Manual.***

Respondent disagrees partially with the finding.

Facilities Management notes there are inspection reports in the file issued by the County Safety Office dated 2/14/97, 6/12/01 and 2/25/02.

The County Safety Office reports they last performed an Annual Safety Inspection on January 29, 2002.

#### **Finding #7**

***The parking lot has been reconfigured to correct known violations.***

Respondent agrees with the finding.

#### **RECOMMENDATIONS:**

#### **Recommendation #1**

***Board of Supervisors direct all department heads to adhere to and enforce annual inspection schedules on all owned or leased properties, as required by paragraph IV-A, County of Riverside Standard Safety Operations Manual, revised 3/1/97.***

The recommendation has been implemented.

The County Safety Office indicates that a scheduling meeting has been instituted and will be held on the third Monday of every month to insure that inspections are conducted.

In addition, to accomplish the inspection of all leased facilities for ADA compliance, the ADA Office is in the process of recruiting a Building Inspector III.

#### **Recommendation #2**

***County Safety Department, ADA Coordinator, Facilities Management, and all appropriate city and county agencies inspect all county owned and leased buildings and grounds to insure they meet current ADA, fire, health and safety regulations before a certificate of occupancy is issued and the facility is occupied.***

Respondent disagrees with recommendation.

Unlike County-owned facilities, compliance with Federal ADA and Title 24 of the State Building Code are the responsibility of the owner, his architect, his contractor and the City in whose jurisdiction a facility is located. It is appropriate and a good practice for the Safety Office and the ADA Coordinator to inspect a facility immediately upon occupancy, and annually thereafter to determine compliance with evacuation plans and safety requirements and obvious non-compliance with ADA. ADA compliance should be evaluated formally by the County and if anything is obviously not in compliance, the Department of

Facilities Management, on behalf of the County, **as a tenant and not as a governmental agency conducting official inspections and issuing official approvals**, will bring the issue to the landlord for corrective action.

### **Recommendation #3**

***Continue to make appropriate repairs to all facilities bringing them up to current codes and safety regulations.***

\_x\_ The recommendation has been implemented.

Facilities Management indicates their agreement, but there will be a cost associated with repairs for any ADA issue determined to be necessary by the County and brought to the attention of the landlord/owner without a prior, valid complaint by a third party. If, however, repairs are to be initiated and paid for by the County, the Real Estate Division has a procedure in place that works very well to define the scope of work and cost, to procure the funds from the appropriate department to pay for the repairs, and to cause the landlord to make them in a timely manner.

The County Safety Office identifies unsafe acts and conditions to the Departments, Districts and Agencies. However, the Safety Office does not correct the situation; they may assist on occasion or as needed, however, it is incumbent upon supervisors, management and Department Heads to ensure appropriate repairs/corrections are made for identified hazards.



"People Serving  
People"

## CITY OF RIVERSIDE

**To:** Office of the Grand Jury  
County of Riverside  
P.O. Box 829  
Riverside, CA 92502

**From:** Dan Chudy, Ph.D., C.B.O.  
Building Official  
City of Riverside

**Subject:** Response to Grand Jury Findings and Recommendations  
Concerning the Riverside County Department of Mental Health

**Date:** April 24, 2002

***For the purposes of subdivision c of Section 933, as to the grand jury findings, I disagree partially with the findings as follows:***

**Page 1, Finding #1:** Finding 1 states, in pertinent part, that "A pre-occupancy inspection of the mental health building was not conducted by . . . the City of Riverside Building and Safety Division . . . to insure the building met current safety regulations . . ."

Prior to occupancy, Building Inspectors representing the City of Riverside Building and Safety Division provided numerous inspections on 15 separate visits to the mental health building (1695 Spruce Street - Permit #96-2399) between November 8, 1996 through December 20, 1996. Some of the inspections resulted in corrections being required to be made, while others resulted in the approval of that aspect of the construction. All required inspections were performed as requested by the contractor to assure that the current safety regulations were met. "Exhibit A" is a copy of the permit and inspection record for the project which shows the inspections performed as well as the date of approval of that aspect of the construction. Therefore, finding #1 as stated in the grand jury report is inaccurate and without merit.

***For the purposes of subdivision c of Section 933, as to grand jury recommendation #2, I will not be implementing because it is not warranted or is not reasonable due to the following:***

**Page 3, Recommendation #2:** Recommendation #2 states, in pertinent part, that ". . .

### PLANNING DEPARTMENT

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***all appropriate city and county agencies inspect all county owned and leased buildings and grounds to insure they meet current ADA, fire, health and safety regulations before a certificate of occupancy is issued and the facility is occupied."***

**1. The City of Riverside Building and Safety Division is in agreement with Attorney General Opinion #93-203 ("Exhibit B"), wherein local building departments are advised to enforce the state and local disabled access codes and not to enforce the federal ADA regulations. Compliance with the ADA regulations is the responsibility of the governmental body who is providing the service, in this case, the County of Riverside. Enforcement of the ADA regulations is under the authority of the federal government.**

**2. The City of Riverside Building and Safety Division's plan review and inspection procedures focus on State regulations contained in Title 24 of the California Code of Regulations, which contain disabled access requirements applicable to new construction projects requiring a building permit. With respect to Permit #96-2399, issued for 1695 Spruce Street for the Department of Mental Health tenant improvement and based on the information provided at the time of plan review and inspections, this project met the applicable State Title 24 disabled access regulations in effect at the time, even though the applicable ADA provisions were apparently not met.**

**3. The City of Riverside Building and Safety Division provides inspection services for all projects which have an active building permit issued by the City of Riverside. The codes and standards enforced are those State and City regulations in effect at the time of plan check submittal. Retroactive inspection of all county owned and leased facilities for compliance with current ADA, fire and health and safety regulations is not within the purview nor authority of the City of Riverside's Building and Safety Division. Nevertheless, the appropriate County agencies may provide that service and enforce any standards deemed appropriate for their facilities.**

**4. The City of Riverside Building and Safety Division has no inspection jurisdiction over construction activities on County owned buildings housing County agencies. Therefore, such facilities would only be subject to the applicable inspections by the authority having jurisdiction for the County of Riverside. Conversely, the City of Riverside will continue to maintain plan review and inspection jurisdiction over any county leased facilities as construction projects are undertaken. And likewise, we will continue to inspect for compliance with all applicable State and City building regulations prior to the issuance of a Certificate of Occupancy or final inspection approval.**

**c: Steve Whyld, Planning Director**

# **Exhibit A**

**(Attorney General Opinion #93-203)**

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**GOVERNMENT**

**AG: Local Building Departments Aren't  
Responsible for Enforcing Access Requirements  
Of Americans With Disabilities Act**

Requested by: TOM HAYDEN, Member  
California Senate

Opinion by : DANIEL E. LUNGREN  
Attorney General  
GREGORY L. GONOT  
Dep. Attorney General

Case No. : No. 93-203

Date Filed : July 14, 1993

THE HONORABLE TOM HAYDEN, MEMBER OF THE CALIFORNIA SENATE, has requested an opinion on the following questions:

1. Are local building departments responsible for enforcing the access requirements of the Americans with Disabilities Act incorporated into California law by chapter 913 of the Statutes of 1992?
2. If not, are local building departments authorized to elect to enforce the federal requirements incorporated into California law?
3. If so, are local building departments immune from liability for enforcing these state building requirements?
4. Is the California Attorney General responsible for enforcing the federal access requirements or civil rights provisions incorporated into California law by chapter 913 of the Statutes of 1992?

**CONCLUSIONS**

1. Local building departments are not responsible for enforcing the access requirements of the Americans with Disabilities Act; however, they are required to enforce state and local building codes which have incorporated the federal requirements.
2. Local building departments are not authorized to elect to enforce the federal access requirements; however, they are required to enforce state and local building codes which have incorporated the federal requirements.
3. Local building departments are generally immune from financial liability for enforcing state

building requirements.

4. The California Attorney General may bring a civil rights action to enforce state access requirements in certain circumstances; the responsibility for bringing actions to secure compliance with federal access requirements rests with private parties and the United States Attorney General.

**ANALYSIS**

In analyzing the roles of local building departments and the California Attorney General in enforcing the requirements for accessibility by disabled persons to places of public accommodation and commercial facilities, we preliminarily examine two legislative schemes. The first is a federal law, and the second is a state statute.

**A. The Americans With Disabilities Act**

The Americans With Disabilities Act of 1990 (Pub.L. No. 101-336; 42 U.S.C. § 12101, et seq.; hereafter "ADA")<sup>1</sup> was enacted by Congress as a civil rights statute to deal with discrimination against individuals with disabilities in the areas of employment (Title I), public services (Title II), and in the construction or alteration of places of public accommodation and commercial facilities (Title III). Unlawful discrimination occurs under Title III when a private party designs and constructs a new public accommodation or commercial facility, or alters an existing one, and fails to make the facility "readily accessible to and useable by individuals with disabilities." (§ 303.)<sup>2</sup> Title III is implemented by regulations issued by the United States Attorney General (§ 306(b)), and the standards included in the regulations are required to be consistent with the minimum guidelines and requirements promulgated by the Architectural and Transportation Barriers Compliance Board (§ 306(c)).

Enforcement of Title III access requirements occurs by means of (1) private suits by individuals who have been subjected to discrimination, or who have reasonable grounds for believing that they are about to be subjected to discrimination (§ 308(a)), and (2) suits commenced by the United States Attorney General when there is reasonable cause to believe that there is a pattern or practice of discrimination, or an individual act of

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discrimination that raises an issue of general public importance (§ 308(b)).

The United States Attorney General may, upon application of a state or local government, certify that a state law or local building code meets or exceeds the minimum requirements of the ADA for the accessibility and useability of facilities covered by Title III. (§ 308(b)(1)(A)(ii).)<sup>3</sup> Such certification provides rebuttable evidence that the ADA requirements are met or exceeded by the state or local code in an enforcement proceeding under section 308.

### B. Chapter 913 of the Statutes of 1992

Chapter 913 of the Statutes of 1992 was enacted by the Legislature "to strengthen California law in areas where it is weaker than the Americans with Disabilities Act of 1990 . . . and to retain California law when it provides more protection for individuals with disabilities than the Americans with Disabilities Act of 1990." (Stats. 1992, Ch. 913, § 1.) The areas addressed by the state legislation include employment, transportation, public accommodations, state and local government services, and telecommunications.

One of the basic changes in California law effected by chapter 913 was the adoption of the ADA's broad definition of "disability"<sup>4</sup> where that term is used in the Unruh Civil Rights Act (Civil Code, § 51) and various other anti-discrimination and equal rights statutes. (See, e.g., Bus. & Prof. Code, § 126.5; Civil Code, §§ 51.5, 51.8, 52, 53, 54, 54.1-54.3.) Chapter 913 also added a provision to Civil Code section 51 declaring a violation of the ADA to be a violation of the Unruh Civil Rights Act. However, Chapter 913 left unaffected the following proviso of the Unruh Civil Rights Act which is also contained in other anti-discrimination statutes (Civil Code, §§ 51, 51.5, 51.8, 52):

"Nothing in this section shall be construed to require any construction, alteration, repair, structural or otherwise, or modification of any sort whatsoever to any new or existing establishment, facility, building, improvement, or any other structure, or to augment, restrict, or alter in any way the authority of the State Architect to require construction, alteration, repair, or modifications that the State Architect otherwise possesses pursuant to other

provisions of the law."

Similarly, chapter 913 retained the following proviso in Civil Code section 54.1, subdivision (b), which concerns full and equal access to all housing accommodations:

"Nothing in this subdivision shall require any person renting, leasing, or providing for compensation real property to modify his or her property in any way or provide a higher degree of care for an individual with a disability than for an individual who is not disabled."

Chapter 913 amended one statute specifically governing building construction. Government Code section 4450 ensures "that all buildings, structures, sidewalks, curbs, and related facilities, constructed in this state by the use of state, county, or municipal funds, or the funds of any political subdivision of the state shall be accessible to and useable by individuals with disabilities." Under this statute the State Architect has adopted regulations and building standards necessary to assure access to and useability of public buildings by individuals with disabilities. The same regulations are made applicable by Health and Safety Code sections 19955 and 19956 to public accommodations or facilities constructed with private funds. Chapter 913 added the directive with respect to these statutes that "In no case shall the State Architect's regulations and building standards prescribe a lesser standard of accessibility or useability than provided by regulations of the Federal Architectural and Transportation Barriers Compliance Board adopted to implement the Americans With Disabilities Act of 1990." (Gov. Code, § 4450, subd. (b).)<sup>5</sup>

Having briefly reviewed both the ADA and chapter 913 as they relate to each other in the context of accessibility requirements imposed at the time of building construction or alteration, we turn to the roles of local building departments and the California Attorney General in enforcing the two legislative schemes.

### C. The Role of Local Building Departments in Enforcing Access Requirements Under the ADA and Chapter 913

The enforcement of state laws that require places

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of public accommodation and commercial facilities to be made accessible to and useable by individuals with disabilities is the responsibility of local building departments. (Health & Saf. Code, § 19958.) Building standards to ensure such accessibility and useability have been adopted by the State Architect and approved by the State Building Standards Commission. (Health & Saf. Code, § 18938; Gov. Code, § 4450.) These standards have recently been revised to bring the California Building Standards Code (hereafter "CBSC") into conformity with the access requirements of the ADA.<sup>6</sup> While the ADA access requirements have not been incorporated *per se* into California law, the CBSC's recent revision ensures that the "readily accessible" standard of the ADA will be met when there is construction or alteration of a place of public accommodation or a commercial facility.

Neither chapter 913 nor the ADA has changed the access enforcement responsibilities of local building departments. They continue to be charged only with enforcement of those access requirements which appear as part of the CBSC or local building codes. The ADA does not provide for the enforcement of federal law by local building officials. (See § 308; U.S. Dept. of Justice, Technical Assistance Manual for Implementation of Title III of the ADA, § III-8.1000.) This is true even when the officials are enforcing a state or local code certified by the United States Attorney General. (*Id.*, at § III-9.1000.) The ADA's enforcement mechanism is the traditional case-by-case method of civil rights enforcement which depends on the filing of complaints rather than a system of government inspection. (*Id.*, at § III-9.2000.)

Chapter 913 uses certain features of the ADA to broaden and strengthen California's anti-discrimination and equal rights statutes, but it does not alter the pre-existing statutory structure for ensuring accessibility and useability in the construction or alteration of places of public accommodation and commercial facilities. It does not mandate local building officials to enforce the federal access requirements, nor could it; rather, it directs the State Architect to adopt those ADA requirements which prescribe a greater degree of accessibility and useability than that provided by existing state law while preserving state standards which exceed the level of accessibility and useability afforded by the ADA. Enforcement of state anti-discrimination and civil rights statutes modified by

chapter 913 continues to occur as described in the specified statutes.

When local building officials review construction activity that might constitute a violation of a state anti-discrimination or civil rights statute, their role is to enforce the terms of the state and local building regulations. They may not elect to assume greater or different enforcement powers than those specifically or necessarily implied under California law. (See *Ferdig v. State Personnel Board* (1969) 71 Cal.2d 96, 103-104 ["Administrative agencies have only the power conferred on them by statute and an act in excess of those powers is void"].)

Chapter 913 does not contain a provision which could be viewed as an implied grant of authority to interpret, apply, or directly enforce ADA accessibility requirements. If a building as proposed or in the process of being constructed contains certain features that are "not up to code" from an accessibility standpoint, a construction permit may be denied and construction halted; but the "code" utilized by local building officials in this regard continues to be the CBSC as revised, and the local building code, if any.<sup>7</sup>

We therefore conclude that local building departments are not responsible for enforcing the access requirements of the ADA; however, they are required to enforce state and local building codes which have incorporated the federal requirements. Local building departments are not authorized to elect to enforce the federal access standards apart from the CBSC and local codes. These conclusions render moot the question as to whether chapter 913, in conjunction with the ADA, affects the traditional immunity from financial liability granted to local building officials who are engaged in the performance of their official duties. (See, e.g., Gov. Code, §§ 820.2, 820.4, 821.2; Cal. Code Regs., tit. 24, § 202, subd. (f).)

### D. The Role of the California Attorney General in Enforcing Access Requirements Under the ADA and Chapter 913

As previously noted, the United States Attorney General is responsible for the enforcement of Title III of the ADA and may, under specified circumstances, commence a civil action in United States district court to secure the rights which Title III guarantees to individuals with disabilities. The California

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Attorney General has no role in directly enforcing the provisions of the ADA, but chapter 913 provides that violations of the ADA constitute violations of the Unruh Civil Rights Act (Civ. Code, § 51). Civil Code section 52, subdivision (c), which applies to the rights secured by Civil Code section 51, provides as follows:

"Whenever there is reasonable cause to believe that any person or group of persons is engaged in conduct of resistance to the full enjoyment of any of the rights hereby secured, and that conduct is of that nature and is intended to deny the full exercise of the rights herein described, the Attorney General, any district attorney or city attorney, or any person aggrieved by the conduct may bring a civil action in the appropriate court by filing with it a complaint. The complaint shall contain the following:

"(1) The signature of the officer, or, in his or her absence, the individual acting on behalf of the officer, or the signature of the person aggrieved.

"(2) The facts pertaining to the conduct.

"(3) A request for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to insure the full enjoyment of the rights herein described."

Thus, if an act of discrimination as specified under Title III of the ADA (for example, failure to remove architectural barriers when such removal is readily achievable) has occurred, the violation is part of a conduct of resistance to the civil rights of disabled persons, and such conduct is intended to deny disabled persons the full exercise of their civil rights, the California Attorney General (or a district attorney or city attorney) is authorized to bring a civil action against the person or group of persons engaged in the discriminatory conduct. While the complaint is to include a request for preventative relief, because of the proviso contained in subdivision (g) of Civil Code section 52,<sup>9</sup> the relief may not include an order requiring "any construction, alteration, repair, structural or otherwise, or modifications of any sort whatsoever to

any new or existing establishment, factory, building, improvement, or any other structure." Consequently, such an action would be limited primarily to securing prospective relief.

The same constraints, however, do not exist when the ADA violation is the subject of a civil action filed by the United States Attorney General in federal court. The United States Attorney General may proceed when there is either a pattern or practice of discrimination (§ 308(b)(1)(B)(i)) or an individual act of discrimination which raises an issue of general public importance (§ 308(b)(1)(B)(ii)). Moreover, the United States Attorney General may, without a finding of intentional discrimination, obtain civil penalties and injunctive relief, including an order to alter facilities to make them readily accessible to and useable by individuals with disabilities. (§ 308(b)(2).)<sup>9</sup>

In light of the foregoing, we conclude that the ability of the California Attorney General to enforce the ADA access requirements through the Unruh Civil Rights Act and related statutes, as modified by chapter 913, is narrowly limited by California law;<sup>10</sup> the primary responsibility for enforcement of the ADA access requirements through legal action rests with private litigants and the United States Attorney General.<sup>11</sup>

### Footnotes

1. All unidentified section references hereafter are to the ADA.

2. Discrimination may also occur through a failure to remove structural barriers when such removal is "readily achievable" or a failure to utilize readily achievable alternative methods if removal of the barriers cannot be readily achieved. (§ 302(b)(2)(A)(iv), (v).)

3. Modifications to the California Building Standards Code (title 24, Cal. Code of Regs.) have been prepared by the State Architect to bring the code into conformity with the requirements of the ADA. The revisions were approved by the California Building Standards Commission on March 5, 1993, and will become effective 180 days after publication. The code, as revised, may then be submitted to the United States Attorney General for certification.

4. "Disability" is defined in the ADA (§ 3) and chapter 913 (see, e.g., Bus. & Prof. Code, § 126.5; Civil Code, § 54) to mean any of the following with respect to an individual:

## ATTORNEY GENERAL: Opinion Report

(1) a physical or mental impairment that substantially limits one or more of the major life activities of the individual, (2) a record of such an impairment, or (3) being regarded as having such an impairment.

5. Chapter 913 added the same requirement to Government Code section 19952. Under this section, the owner or manager of a place of public amusement and resort must provide seating or accommodations for physically disabled persons in a variety of locations within the facility at the time of its construction.

6. This administrative process was begun in response to the need to obtain certification of the CBSC from the United States Attorney General under the ADA's provisions and was underway when chapter 913 was enacted.

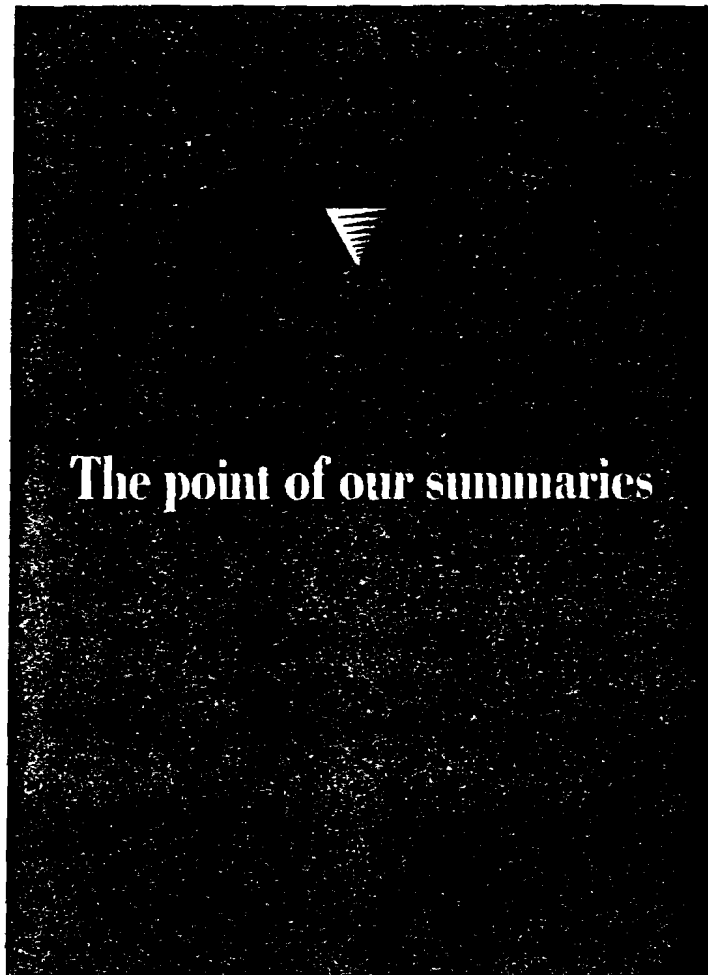
7. Until such time as the revised accessibility-related provisions of the CBSC have been certified by the United States Attorney General, private parties who design and construct places of public accommodation and commercial facilities must look to the ADA in order to have reasonable assurance that they are not engaging in a form of discrimination thereunder.

8. This proviso is also contained in the Unruh Civil Rights Act.

9. Under either the ADA or the Unruh Civil Rights Act, a person who has been subjected to discrimination may bring an action against the discriminating party. (See § 308(a)(1), (2); Civ. Code, § 52, subds. (a), (g).) The California Attorney General may intervene in a private action which seeks relief from the denial of the equal protection of the laws under the Fourteenth Amendment to the United States Constitution on account of a person's disability if the case is of general public importance. (Civ. Code, § 52, subd. (d).)

10. Of course, the California Attorney General has broad general authority to enforce the laws of the state. (See Cal. Const., art. V, § 13; *D'Amico v. Board of Medical Examiners* (1974) 11 Cal.3d 1, 14-15; *People ex rel. Lynch v. Superior Court* (1970) 1 Cal.3d 910, 912, fn. 1.)

11. To the extent that state access standards exceed those of the ADA, federal enforcement action would not be available.



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cities in the absence of an express grant of authority and in the absence of any specified limitations. (See *Safer v. Superior Court* (1975) 15 Cal.3d 230, 236-238; *Board of Trustees v. Judge* (1975) 50 Cal.App.3d 920, 927; 76 Ops.Cal.Atty.Gen. 86, 89 (1993); see also *Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190, 196; *DeWeese v. Unick* (1980) 102 Cal.App.3d 100, 106.) "The mode prescribed is the measure of the power." (*People v. Zamora* (1980) 28 Cal.3d 88, 98.)

It is concluded that a general law county or a general law city may not enter into a "job order contract" in excess of \$50,000 for the performance of public projects involving minor construction, and the renovation, alteration, painting, or repair of existing facilities, except under the narrowly defined conditions of section 20128.5 applicable only to counties.

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**Opinion No. 93-203—July 14, 1993**

Requested by: MEMBER OF THE CALIFORNIA SENATE

Opinion by: DANIEL E. LUNGREN, Attorney General  
Gregory L. Gonot, Deputy

THE HONORABLE TOM HAYDEN, MEMBER OF THE CALIFORNIA SENATE, has requested an opinion on the following questions:

1. Are local building departments responsible for enforcing the access requirements of the Americans with Disabilities Act incorporated into California law by chapter 913 of the Statutes of 1992?
2. If not, are local building departments authorized to elect to enforce the federal requirements incorporated into California law?
3. If so, are local building departments immune from liability for enforcing these state building requirements?
4. Is the California Attorney General responsible for enforcing the federal access requirements or civil rights provisions incorporated into California law by chapter 913 of the Statutes of 1992?



## CONCLUSIONS

1. Local building departments are not responsible for enforcing the access requirements of the Americans with Disabilities Act; however, they are required to enforce state and local building codes which have incorporated the federal requirements.

2. Local building departments are not authorized to elect to enforce the federal access requirements; however, they are required to enforce state and local building codes which have incorporated the federal requirements.

3. Local building departments are generally immune from financial liability for enforcing state building requirements.

4. The California Attorney General may bring a civil rights action to enforce state access requirements in certain circumstances; the responsibility for bringing actions to secure compliance with federal access requirements rests with private parties and the United States Attorney General.

## ANALYSIS

In analyzing the roles of local building departments and the California Attorney General in enforcing the requirements for accessibility by disabled persons to places of public accommodation and commercial facilities, we preliminarily examine two legislative schemes. The first is a federal law, and the second is a state statute.

### A. The Americans With Disabilities Act

The Americans With Disabilities Act of 1990 (Pub.L. No. 101-336; 42 U.S.C. § 12101, et seq.; hereafter "ADA")<sup>1</sup> was enacted by Congress as a civil rights statute to deal with discrimination against individuals with disabilities in the areas of employment (Title I), public services (Title II), and in the construction or alteration of places of public accommodation and commercial facilities (Title III). Unlawful discrimination occurs under Title III when a private party designs and constructs a new public accommodation or commercial facility, or alters an existing one, and fails to make the facility "readily accessible to and useable by individuals with disabilities." (§ 303.)<sup>2</sup> Title III is implemented by regulations issued by the United States Attorney General (§ 306(b)), and the standards included in the regulations are required to be consistent with the minimum guidelines and requirements

<sup>1</sup> All unidentified section references hereafter are to the ADA.

<sup>2</sup> Discrimination may also occur through a failure to remove structural barriers when such removal is "readily achievable" or a failure to utilize readily achievable alternative methods if removal of the barriers cannot be readily achieved. (§ 302(b)(2)(A)(iv), (v).)

promulgated by the Architectural and Transportation Barriers Compliance Board (§ 306(c)).

Enforcement of Title III access requirements occurs by means of (1) private suits by individuals who have been subjected to discrimination, or who have reasonable grounds for believing that they are about to be subjected to discrimination (§ 308(a)), and (2) suits commenced by the United States Attorney General when there is reasonable cause to believe that there is a pattern or practice of discrimination, or an individual act of discrimination that raises an issue of general public importance (§ 308(b)).

The United States Attorney General may, upon application of a state or local government, certify that a state law or local building code meets or exceeds the minimum requirements of the ADA for the accessibility and useability of facilities covered by Title III. (§ 308(b)(1)(A)(ii).)<sup>3</sup> Such certification provides rebuttable evidence that the ADA requirements are met or exceeded by the state or local code in an enforcement proceeding under section 308.

#### B. Chapter 913 of the Statutes of 1992

Chapter 913 of the Statutes of 1992 was enacted by the Legislature "to strengthen California law in areas where it is weaker than the Americans with Disabilities Act of 1990 . . . and to retain California law when it provides more protection for individuals with disabilities than the Americans with Disabilities Act of 1990." (Stats. 1992, Ch. 913, § 1.) The areas addressed by the state legislation include employment, transportation, public accommodations, state and local government services, and telecommunications.

One of the basic changes in California law effected by chapter 913 was the adoption of the ADA's broad definition of "disability"<sup>4</sup> where that term is used in the Unruh Civil Rights Act (Civil Code, § 51) and various other anti-discrimination and equal rights statutes. (See, e.g., Bus. & Prof. Code, § 126.5; Civil Code, §§ 51.5, 51.8, 52, 53, 54, 54.1-54.3.) Chapter 913 also added a provision to Civil Code section 51 declaring a violation of

<sup>3</sup> Modifications to the California Building Standards Code (title 24, Cal. Code of Regs.) have been prepared by the State Architect to bring the code into conformity with the requirements of the ADA. The revisions were approved by the California Building Standards Commission on March 5, 1993, and will become effective 180 days after publication. The code, as revised, may then be submitted to the United States Attorney General for certification.

<sup>4</sup> "Disability" is defined in the ADA (§ 3) and chapter 913 (see, e.g., Bus. & Prof. Code, § 126.5; Civil Code, § 54) to mean any of the following with respect to an individual: (1) a physical or mental impairment that substantially limits one or more of the major life activities of the individual, (2) a record of such an impairment, or (3) being regarded as having such an impairment.

the ADA to be a violation of the Unruh Civil Rights Act. However, Chapter 913 left unaffected the following proviso of the Unruh Civil Rights Act which is also contained in other anti-discrimination statutes (Civil Code, §§ 51, 51.5, 51.8, 52):

“Nothing in this section shall be construed to require any construction, alteration, repair, structural or otherwise, or modification of any sort whatsoever to any new or existing establishment, facility, building, improvement, or any other structure, or to augment, restrict, or alter in any way the authority of the State Architect to require construction, alteration, repair, or modifications that the State Architect otherwise possesses pursuant to other provisions of the law.”

Similarly, chapter 913 retained the following proviso in Civil Code section 54.1, subdivision (b), which concerns full and equal access to all housing accommodations:

“Nothing in this subdivision shall require any person renting, leasing, or providing for compensation real property to modify his or her property in any way or provide a higher degree of care for an individual with a disability than for an individual who is not disabled.”

Chapter 913 amended one statute specifically governing building construction. Government Code section 4450 ensures “that all buildings, structures, sidewalks, curbs, and related facilities, constructed in this state by the use of state, county, or municipal funds, or the funds of any political subdivision of the state shall be accessible to and useable by individuals with disabilities.” Under this statute the State Architect has adopted regulations and building standards necessary to assure access to and useability of public buildings by individuals with disabilities. The same regulations are made applicable by Health and Safety Code sections 19955 and 19956 to public accommodations or facilities constructed with private funds. Chapter 913 added the directive with respect to these statutes that “in no case shall the State Architect’s regulations and building standards prescribe a lesser standard of accessibility or useability than provided by regulations of the Federal Architectural and Transportation Barriers Compliance Board adopted to implement the Americans With Disabilities Act of 1990.” (Gov. Code, § 4450, subd. (b).)<sup>5</sup>

<sup>5</sup> Chapter 913 added the same requirement to Government Code section 19952. Under this section, the owner or manager of a place of public amusement and resort must provide seating or accommodations for physically disabled persons in a variety of locations within the facility at the time of its construction.

Having briefly reviewed both the ADA and chapter 913 as they relate to each other in the context of accessibility requirements imposed at the time of building construction or alteration, we turn to the roles of local building departments and the California Attorney General in enforcing the two legislative schemes.

C. The Role of Local Building Departments in Enforcing Access Requirements Under the ADA and Chapter 913

The enforcement of state laws that require places of public accommodation and commercial facilities to be made accessible to and useable by individuals with disabilities is the responsibility of local building departments. (Health & Saf. Code, § 19958.) Building standards to ensure such accessibility and useability have been adopted by the State Architect and approved by the State Building Standards Commission. (Health & Saf. Code, § 18938; Gov. Code, § 4450.) These standards have recently been revised to bring the California Building Standards Code (hereafter "CBSC") into conformity with the access requirements of the ADA.<sup>6</sup> While the ADA access requirements have not been incorporated per se into California law, the CBSC's recent revision ensures that the "readily accessible" standard of the ADA will be met when there is construction or alteration of a place of public accommodation or a commercial facility.

Neither chapter 913 nor the ADA has changed the access enforcement responsibilities of local building departments. They continue to be charged only with enforcement of those access requirements which appear as part of the CBSC or local building codes. The ADA does not provide for the enforcement of federal law by local building officials. (See § 308; U.S. Dept. of Justice, Technical Assistance Manual for Implementation of Title III of the ADA, § III-8.1000.) This is true even when the officials are enforcing a state or local code certified by the United States Attorney General. (*Id.*, at § III-9.1000.) The ADA's enforcement mechanism is the traditional case-by-case method of civil rights enforcement which depends on the filing of complaints rather than a system of government inspection. (*Id.*, at § III-9.2000.)

Chapter 913 uses certain features of the ADA to broaden and strengthen California's anti-discrimination and equal rights statutes, but it does not alter the pre-existing statutory structure for ensuring accessibility and useability in the construction or alteration of places of public accommodation and

<sup>6</sup> This administrative process was begun in response to the need to obtain certification of the CBSC from the United States Attorney General under the ADA's provisions and was underway when chapter 913 was enacted.

commercial facilities. It does not mandate local building officials to enforce the federal access requirements, nor could it; rather, it directs the State Architect to adopt those ADA requirements which prescribe a greater degree of accessibility and useability than that provided by existing state law while preserving state standards which exceed the level of accessibility and useability afforded by the ADA. Enforcement of state anti-discrimination and civil rights statutes modified by chapter 913 continues to occur as described in the specified statutes.

When local building officials review construction activity that might constitute a violation of a state anti-discrimination or civil rights statute, their role is to enforce the terms of the state and local building regulations. They may not elect to assume greater or different enforcement powers than those specifically or necessarily implied under California law. (See *Ferdig v. State Personnel Board* (1969) 71 Cal.2d 96, 103-104 ["Administrative agencies have only the power conferred on them by statute and an act in excess of those powers is void"].)

Chapter 913 does not contain a provision which could be viewed as an implied grant of authority to interpret, apply, or directly enforce ADA accessibility requirements. If a building as proposed or in the process of being constructed contains certain features that are "not up to code" from an accessibility standpoint, a construction permit may be denied and construction halted; but the "code" utilized by local building officials in this regard continues to be the CBSC as revised, and the local building code, if any.<sup>7</sup>

We therefore conclude that local building departments are not responsible for enforcing the access requirements of the ADA; however, they are required to enforce state and local building codes which have incorporated the federal requirements. Local building departments are not authorized to elect to enforce the federal access standards apart from the CBSC and local codes. These conclusions render moot the question as to whether chapter 913, in conjunction with the ADA, affects the traditional immunity from financial liability granted to local building officials who are engaged in the performance of their official duties. (See, e.g., Gov. Code, §§ 820.2, 820.4, 821.2; Cal. Code Regs., tit. 24, § 202, subd. (f).)

<sup>7</sup> Until such time as the revised accessibility-related provisions of the CBSC have been certified by the United States Attorney General, private parties who design and construct places of public accommodation and commercial facilities must look to the ADA in order to have reasonable assurance that they are not engaging in a form of discrimination thereunder.

D. The Role of the California Attorney General in Enforcing Access Requirements Under the ADA and Chapter 913

As previously noted, the United States Attorney General is responsible for the enforcement of Title III of the ADA and may, under specified circumstances, commence a civil action in United States district court to secure the rights which Title III guarantees to individuals with disabilities. The California Attorney General has no role in directly enforcing the provisions of the ADA, but chapter 913 provides that violations of the ADA constitute violations of the Unruh Civil Rights Act (Civ. Code, § 51). Civil Code section 52, subdivision (c), which applies to the rights secured by Civil Code section 51, provides as follows:

"Whenever there is reasonable cause to believe that any person or group of persons is engaged in conduct of resistance to the full enjoyment of any of the rights hereby secured, and that conduct is of that nature and is intended to deny the full exercise of the rights herein described, the Attorney General, any district attorney or city attorney, or any person aggrieved by the conduct may bring a civil action in the appropriate court by filing with it a complaint. The complaint shall contain the following:

"(1) The signature of the officer, or, in his or her absence, the individual acting on behalf of the officer, or the signature of the person aggrieved.

"(2) The facts pertaining to the conduct.

"(3) A request for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order against the person or persons responsible for the conduct, as the complainant deems necessary to insure the full enjoyment of the rights herein described."

Thus, if an act of discrimination as specified under Title III of the ADA (for example, failure to remove architectural barriers when such removal is readily achievable) has occurred, the violation is part of a conduct of resistance to the civil rights of disabled persons, and such conduct is intended to deny disabled persons the full exercise of their civil rights, the California Attorney General (or a district attorney or city attorney) is authorized to bring a civil action against the person or group of persons engaged in the discriminatory conduct. While the complaint is to include a request for preventative relief, because of the proviso contained in subdivision (g) of Civil Code section 52,<sup>\*</sup> the relief may not include an

<sup>\*</sup> This proviso is also contained in the Unruh Civil Rights Act.

order requiring "any construction, alteration, repair, structural or otherwise, or modifications of any sort whatsoever to any new or existing establishment, factory, building, improvement, or any other structure." Consequently, such an action would be limited primarily to securing prospective relief.

The same constraints, however, do not exist when the ADA violation is the subject of a civil action filed by the United States Attorney General in federal court. The United States Attorney General may proceed when there is either a pattern or practice of discrimination (§ 308(b)(1)(B)(i)) or an individual act of discrimination which raises an issue of general public importance (§ 308(b)(1)(B)(ii)). Moreover, the United States Attorney General may, without a finding of intentional discrimination, obtain civil penalties and injunctive relief, including an order to alter facilities to make them readily accessible to and useable by individuals with disabilities. (§ 308(b)(2).)\*

In light of the foregoing, we conclude that the ability of the California Attorney General to enforce the ADA access requirements through the Unruh Civil Rights Act and related statutes, as modified by chapter 913, is narrowly limited by California law;<sup>10</sup> the primary responsibility for enforcement of the ADA access requirements through legal action rests with private litigants and the United States Attorney General.<sup>11</sup>

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**Opinion No. 93-209—July 14, 1993**

Requested by: MEMBER OF THE CALIFORNIA SENATE

Opinion by: DANIEL E. LUNGREN, Attorney General  
Gregory L. Gonot, Deputy

THE HONORABLE MARIAN BERGESON, MEMBER OF THE CALIFORNIA SENATE, has requested an opinion on the following question:

\* Under either the ADA or the Unruh Civil Rights Act, a person who has been subjected to discrimination may bring an action against the discriminating party. (See § 308(a)(1), (2); Civ. Code, § 52, subs. (a), (g).) The California Attorney General may intervene in a private action which seeks relief from the denial of the equal protection of the laws under the Fourteenth Amendment to the United States Constitution on account of a person's disability if the case is of general public importance. (Civ. Code, § 52, subd. (d).)

<sup>10</sup> Of course, the California Attorney General has broad general authority to enforce the laws of the state. (See Cal. Const., art. V, § 13; *D'Amico v. Board of Medical Examiners* (1974) 11 Cal.3d 1, 14-15; *People ex rel. Lynch v. Superior Court* (1970) 1 Cal.3d 910, 912, fn. 1.)

<sup>11</sup> To the extent that state access standards exceed those of the ADA, federal enforcement action would not be available.

# **Exhibit B**

**(Building Permit and Inspection Record)**



PERMIT NUMBER

96-2399

# CITY OF RIVERSIDE

3900 MAIN STREET  
RIVERSIDE, CA 92522



## BUILDING & SAFETY DIVISION

(909) 782-5697

Address: 1695 SPRUCE ST  
Location:

Insp Area: I

Type: BLDGRES  
Category: ACDM  
Class Code: 437

Status: APPROVED  
Submittal: 07/19/1996  
Issued: 11/07/1996

Parcel #: 249-120-016  
Cons Tr:  
Use Code: III-N

Zoning: MP

Occupancy Group: B

Owner: THE MAGNON COMPANIES  
Applicant: THE MAGNON COMPANIES  
Address: 1650 SPRUCE ST 400-A  
RIVERSIDE CA 92507  
Contractor: THE MAGNON COMPANIES  
Bus Lic: 011822

Phone: 909 684-0860  
Phone: 909 369-6884

Phone: 909 369-6884  
License: 801392037

\*\*\*\*\*  
Permit Description:  
T I - DEPARTMENT OF MENTAL HEALTH (19,872 SQ. FT.)  
PC CHECK #7651  
PMT CHECK #7729

|                 |           |           |  |
|-----------------|-----------|-----------|--|
| SERVICE - Type: |           | SETBACKS  |  |
| Amps/Volts:     | Front: .0 | Back: .0  |  |
| Undrgrnd/Ovrhd: | Left: .0  | Right: .0 |  |

VALUATION: 150,000.00

|           |      |                    |          |            |
|-----------|------|--------------------|----------|------------|
| Occupancy | Type | Factor             | Sq. Feet | Valuation  |
|           |      | Subtotal:          |          | .00        |
|           |      | Multiplier 1.00:   |          | .00        |
|           |      | Addl Fixed Amount: |          | 150,000.00 |
|           |      | Total Valuation:   |          | 150,000.00 |

Table Date: 06/07/1991

|                 |        |                   |          |
|-----------------|--------|-------------------|----------|
| *****           |        | *****             |          |
| FEE DESCRIPTION | AMOUNT | FEE DESCRIPTION   | AMOUNT   |
| Issuance        | 25.00  | General Plan      | 246.42   |
| Plan Check      | 814.50 | Acreage fee       | .00      |
| Building        | 814.50 | Storm Drain       | .00      |
| Microfilm       | 24.00  | Park Fee          | .00      |
| Plumbing        | 95.00  | Regional Park     | .00      |
| Mechanical      | 144.00 | Other Dept. Fees  | .00      |
| Electrical      | 596.16 | Extra Fees (Misc) | .00      |
| SMIP            | 15.00  |                   |          |
|                 |        | TOTAL FEES        | 2,774.58 |

THIS PERMIT SHALL BE VOID AND OF NO FURTHER FORCE OR EFFECT IF WORK HEREUNDER IS NOT COMMENCED WITHIN 180 DAYS FROM DATE OF ISSUANCE HEREOF OR IF WORK IS SUSPENDED OR ABANDONED FOR A PERIOD OF 180 DAYS OR MORE AFTER WORK IS COMMENCED.

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CALL FOR INSPECTION  
24 HOUR REQUEST LINE  
(909) 782-5361

OFFICE USE ONLY

IN ACCORDANCE WITH HEALTH AND SAFETY CODE, SECTION 19825, ALL REQUIRED DECLARATIONS HAVE BEEN PROPERLY SIGNED AND DATED BY THE PERMITTEE.

VERIFIED BY: *PC*

The Declarations below are mandated by the State of California under Section 19825 and Section 19826 of the Health and Safety Code.

**LICENSED CONTRACTORS DECLARATION**

I hereby affirm that I am licensed under provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

License Class 11790 Lc. No. 11790 Date 11/7/90

Contractor Signature [Signature]

**OWNER-BUILDER DECLARATION**

I hereby affirm that I am exempt from the Contractors License Law for the following reason (Sec. 7031.5, Business and Professions Code: Any city or county which requires a permit to construct, alter, improve, demolish, or repair any structure, prior to its issuance, also requires the applicant for such permit to file a signed statement that he or she is licensed pursuant to the provisions of the Contractors License Law [Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code] or that he or she is exempt therefrom and the basis for the alleged exemption. Any violation of Section 7031.5 by an applicant for a permit subjects the applicant to a civil penalty of not more than five hundred dollars (\$500).):

I, as owner of the property, or my employees with wages as their sole compensation, will do the work, and the structure is not intended or offered for sale (Sec. 7044, Business and Professions Code: The contractors License Law does not apply to an owner of property who builds or improves the structure, and who does such work himself or herself or through his or her own employees, provided that such improvements are not intended or offered for sale. If, however, the building or improvement is sold within one year of completion, the owner-builder will have the burden of proving that he or she did not build or improve for the purpose of sale).

I, as owner of the property, am exclusively contracting with licensed contractors to construct the project (Sec. 7044, Business and Professions Code: The Contractors License Law does not apply to an owner of property who builds or improves thereon and who contracts for such projects with a contractor(s) licenses pursuant to the Contractors License Law).

I am exempt under Sec. \_\_\_\_\_ B. & P.C. for this reason \_\_\_\_\_

Date \_\_\_\_\_ Owner Signature \_\_\_\_\_

**WORKERS' COMPENSATION DECLARATION**

I hereby affirm under penalty of perjury one of the following declarations:

I have and will maintain a certificate of consent to self-insure for workers' compensation, as provided for by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued.

I have and will maintain workers' compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. My workers' compensation insurance carrier and policy number are:

Carrier Calif. Comp Policy Number 1196709783

(This section need not be completed if the permit is for one hundred dollars (\$100) or less).

I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the workers' compensation laws of California, and agree that if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions.

Date: 11/7/90 Applicant: [Signature]

**WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES, AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3708 OF THE LABOR CODE, INTEREST, AND ATTORNEYS FEES.**

**CONSTRUCTION LENDING AGENCY**

I hereby affirm under penalty of perjury that there is a construction lending agency for the performance of the work for which this permit is issued (Sec. 3067, Ch. C.).

Lender's Name \_\_\_\_\_ Lender's Address \_\_\_\_\_

I certify that I have read this application and state that the above information is correct. I agree to comply with all city and county ordinances and state laws relating to building construction, and hereby authorize representatives of this county to enter upon the above mentioned property for inspection purposes.

[Signature] Signature of Applicant Date 11/7/90

| Swimming Pool/Spa Inspection |      |      |  |
|------------------------------|------|------|--|
| Type                         | Date | Sign |  |
| U/G Plumbing                 |      |      |  |
| Steel & Location             |      |      |  |
| Electrical Bonding           |      |      |  |
| U/G Electrical               |      |      |  |
| U/G Gas Piping               |      |      |  |
| Gas Test                     |      |      |  |
| Fence & Gates                |      |      |  |
| Other                        |      |      |  |
| Final Approval               |      |      |  |

| Plumbing Inspection |                |                    |  |
|---------------------|----------------|--------------------|--|
| Type                | Date           | Sign               |  |
| U/G Plumbing        |                |                    |  |
| Rough Plumbing      | <u>11-8-90</u> | <u>[Signature]</u> |  |
| Gas Test            |                |                    |  |
| Sewer               |                |                    |  |
| Septic System       |                |                    |  |
| Other               |                |                    |  |
| Sewer Cap           |                |                    |  |
| Final Approval      | <u>11-5-90</u> | <u>[Signature]</u> |  |

| Structural Inspection |                 |                    |  |
|-----------------------|-----------------|--------------------|--|
| Type                  | Date            | Sign               |  |
| Foundation, Location  |                 |                    |  |
| Grout Lift            |                 |                    |  |
| Slab                  |                 |                    |  |
| Roof Sheathing        |                 |                    |  |
| Shear Panel/Hold Down |                 |                    |  |
| Framing               | <u>12-6-90</u>  | <u>[Signature]</u> |  |
| Insulation            |                 |                    |  |
| Drywall               | <u>12-11-90</u> | <u>[Signature]</u> |  |
| Firewall              |                 |                    |  |
| Exterior Lath         |                 |                    |  |
| Fireplace             |                 |                    |  |
| T-Bar Ceiling         | <u>12-6-90</u>  | <u>[Signature]</u> |  |
| Special Inspection    |                 |                    |  |
| Other                 |                 |                    |  |
| Clean-up              |                 |                    |  |
| Final Approval        | <u>1-5-91</u>   | <u>[Signature]</u> |  |

| Electrical Inspection |                 |                    |  |
|-----------------------|-----------------|--------------------|--|
| Type                  | Date            | Sign               |  |
| Grounding Electrode   |                 |                    |  |
| U/G Conduit           |                 |                    |  |
| Rough Wiring          | <u>12-15-90</u> | <u>[Signature]</u> |  |
| Other                 |                 |                    |  |
| Final Approval        | <u>1-5-91</u>   | <u>[Signature]</u> |  |

| Mechanical Inspection |                |                    |  |
|-----------------------|----------------|--------------------|--|
| Type                  | Date           | Sign               |  |
| Vents & Ducts         | <u>12-6-90</u> | <u>[Signature]</u> |  |
| Combustion Air        | <u>12-6-90</u> | <u>[Signature]</u> |  |
| Dampers               |                |                    |  |
| Other                 |                |                    |  |
| Final Approval        | <u>1-5-91</u>  | <u>[Signature]</u> |  |

| Special Inspection |               |                    |  |
|--------------------|---------------|--------------------|--|
| Type               | Date          | Sign               |  |
| Other              |               |                    |  |
| Clean-up           |               |                    |  |
| Final Approval     | <u>1-5-91</u> | <u>[Signature]</u> |  |

UTILITY CLEARANCE  GAS  ELEC  UNDERGROUND  3 WIRE  4 WIRE \_\_\_\_\_ AMPS

NOTES: 11-8-90 P. Rd. Lake Mass. / Eny Kelly worker  
du. to set T-bar Panel @ Primeco Fire Condon only 11-25-90  
12-3-90 P. Part T-bar