



## INFORMATION SHEET

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**NO. DA-12**

**DATE** : May 25, 2018

**CATEGORY** : Disabled Access

**SUBJECT** : **Path of Travel obligations for Seismic Mitigation Projects in Mixed Use Buildings.**

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**SECTIONS INVOLVED**

: California Building Code (CBC) Sections:  
Section 1.8.2.1.2 Housing Accessibility (HCD 1-AC)  
Section 1.9.1.2 Application (DSA AC)  
Section 202 Definitions:  
Common Use, Common Use Areas  
Path of Travel, Public Building or Facility  
Section 1102A.1 Where required (Multi-family Dwelling)  
Section 11B-202.4 Path of travel requirements in alterations, additions and structural repairs  
Division of the State Architect Advisory Manual Advisory 11B-202.3  
San Francisco Ordinance #66-13 Mandatory Seismic Retrofit Program

**INTENT** : To clarify the forms and requirements for upgrading the Path of Travel elements for mixed use buildings undergoing seismic mitigation

**DISCUSSION** :

In 2013, the City of San Francisco passed the "Soft Story" Ordinance (Ordinance #66-13) which requires that wood frame buildings three (3) or more stories or two (2) stories over a basement or under floor area that has any portion extending above grade, with five (5) or more residential dwelling units perform certain mandated seismic upgrades. This Ordinance includes mixed use buildings for both residential and commercial units.

Additionally, a number of mixed use buildings are required to perform seismic upgrades under a number of sections located in the San Francisco Building Code Chapter 34. Still others have undergone seismic upgrades solely on a voluntary basis.

The California Division of the State Architects Advisory Manual, Advisory Number 11B-202.3 references Legal Opinion No. 94-1109 dated May 10, 1995 in which the State Attorney General concluded that seismic strengthening work in an existing building constitutes a "building alteration, structural repair or addition" for

purposes of providing access to the building for persons with disabilities. In existing buildings or facilities, if seismic strengthening or upgrade work does not affect the primary use or function of the building or facility and/or does not alter the design of specific rooms or spaces, then the requirement for an accessible path of travel to the area of specific alteration does not apply. However, an accessible primary entrance, toilet and bathing facilities, drinking fountains, signs and public telephones, as well as an accessible route connecting these elements must be provided.

In existing buildings or facilities, when the primary use or function of the building or facility and/or design of specific rooms or spaces are altered, the seismic strengthening or upgrade work must comply with all applicable accessibility regulations for new construction. In addition, an accessible primary entrance to the building or facility and path of travel to the specific area of alteration, including toilet and bathing facilities, drinking fountains, signs, and public telephones serving the area must be provided.

When applying this to the seismic upgrading of a mixed use building, a number of questions arise; including how to define the area of alteration, if Section 11B-202.4 applies to the residential occupancy portion of the building; and how to determine the “adjusted cost of construction.”

In answering these questions, there are a number of factors that need to be addressed, not the least of which is the fact that the requirement for path of travel upgrades in Chapter 11B can only be attributed to that portion of the building that fall under the scoping of Chapter 11B.

The scoping for Chapter 11B is contained in Section 1.9.1.2 of the CBC and it includes all privately funded public accommodations and commercial facilities. It also applies to transient lodging such as hotels and motels, but this Chapter does not govern privately funded apartment buildings. Privately funded apartments, along with a few similar residential uses built for first occupancy after March 13, 1991 fall under the jurisdiction of the Department of Housing and Community Development and Chapter 11A of the CBC. Chapter 11A has no path of travel upgrade requirements for alterations to existing buildings. The remainder of existing residential buildings not covered by Chapters 11A or 11B are basically exempt from all accessibility requirements.

Thus, the obligation to upgrade the path of travel cannot be applied to the residential portion of a building that is not governed by Chapter 11B. It would only apply to privately funded public accommodations, commercial occupancies and transient lodgings. Therefore in a mixed use building, only that portion of the building that is covered by Chapter 11B, i.e. commercial, would have path of travel upgrade obligations.

The Department recognizes that a seismic retrofit benefits the entire building, not just the area where the actual work is performed. Therefore, any evaluation of cost should be applied to the entire building and not only to an isolated section. Based upon this, the “adjusted cost of construction” should be determined by calculating the percentage of gross floor area that is “commercial” and using that percentage of the total project cost as the “adjusted cost of construction”.

For example:

A four (4) story building with the 1<sup>st</sup> floor completely commercial and the top three floor residential apartments has a mitigation project with a total cost of \$200,000. The floor area subject to the path of travel upgrades would be confined to the 1<sup>st</sup> floor only, thus 25% of the total floor area. Taking 25% off of \$200,000 you would have \$50,000 as your adjusted construction cost. The owner would be liable to make upgrades to the path of travel totaling 20% of the adjusted construction cost of \$50,000. The owner would have to make \$10,000 in upgrades.

Another example would be a five (5) story building with 50% of the 1<sup>st</sup> floor area commercial; the remainder, residential. The mitigation project total cost would be \$150,000. The total floor area subject to Chapter 11B would be 10%; thus the adjusted construction cost would be \$15,000 (10% of \$150,000). The owner would be liable to perform \$3,000 in upgrades (20% of \$15,000).

In filling out the Disabled Access (DA) checklist, the applicant should use the adjusted construction cost in line 3. It will be helpful and avoid confusion if the percentage calculation is included; i.e. 25% of \$100, 000 = \$25,000 (See example 1).

*Tom C. Hui*

*5/29/18*

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Tom C. Hui, S.E., C.B.O.  
Director  
Department of Building Inspection

*on*

Date

Attachment: Example 1 (Disabled Access checklist)

This Information Sheet is subject to modification at any time. For the most current version, visit our website at <http://www.sfdbi.org>

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**D.A. CHECKLIST** (p. 1 of 2): The address of the project is : 1660 Mission Street

*For ALL tenant improvement projects in commercial use spaces, both pages of this checklist are required to be reproduced on the plan set and signed.*

1. The proposed use of the project is Office / Residential (e.g. Retail, Office, Restaurant, etc.)
2. Describe the area of remodel, including which floor: Seismic Upgrade Entire Building
3. The construction cost of this project *excluding disabled access upgrades to the path of travel* is 25% of \$200,000=\$50,000, which is ; (check one)  more than /  less than the 2015 Accessibility Threshold amount of \$147,863.00 (updated annually by the California Division of the State Architect)).
4. Is this a City project and/or does it receive any form of public funding? Check one:  Yes /  No  
 Note: If Yes, then see Step 3 on the Instructions page of the Disabled Access Upgrade Compliance Checklist package for additional forms required.

**Conditions below must be fully documented by accompanying drawings**

5. Read **A** through **D** below carefully and check the most applicable boxes. Check one box only:

<input type="checkbox"/> <b>A:</b> All existing conditions serving the area of remodel fully comply with access requirements. No further upgrades are required: Fill out page 2 of D.A. Checklist
<input type="checkbox"/> <b>B:</b> Project Adjusted cost of construction is greater than the current valuation threshold: Fill out and attach page 2 of D.A. Checklist and any other required forms to plans
<input checked="" type="checkbox"/> <b>C:</b> Project adjusted cost of construction is less than or equal to the current valuation threshold: List items that will be upgraded on Form C. All other items shall be checked on page 2 of the D.A. Checklist in the "Not required by code" column.
<input type="checkbox"/> <b>D:</b> Proposed project consists entirely of Barrier removal: Fill out and attach Barrier removal form to Plans
<input type="checkbox"/> <b>E: <u>Proposed project is</u></b> minor revision to previously approved permit drawings only. (Note: This shall <u>NOT</u> be used for new or additional work) Provide previously approved permit application here: _____ . Description of revision: _____ -

CBC chapter 2 section 202 Definitions:

**Technically Infeasible.** An alteration of a building or a facility, that has little likelihood of being accomplished because the existing structural conditions require the removal or alteration of a load-bearing member that is an essential part of the structural frame, or because other existing physical or site constraints prohibit modification or addition of elements, spaces or features that are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility.

**Unreasonable Hardship.** When the enforcing agency finds that compliance with the building standard would make the specific work of the project affected by the building standard infeasible, based on 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 on 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 persons with disabilities

1. No additional forms required
2. Fill out Request for an Unreasonable Hardship form for each item checked and attach to plan. All UHR must be ratified by the Access Appeals Commission (see UHR form for details)

## Form C: DISABLED ACCESS 20% RULE

This form is only required for projects equal to or under the valuation threshold when box "C" is checked off on the D.A. Checklist and is for providing an itemized list of the estimated costs for the expenditures used for disabled access upgrades for this project. Reproduce this form along with the D.A. Checklist and any required form(s) on the plans.

Based on CBC Section 11B-202.4 Exception 8, only projects with a construction cost less than or equal to the valuation threshold are eligible for the 20% rule. In choosing which accessible elements to provide, priority should be as listed on p. 2 of the D.A. Checklist.

In general, projects valued over the threshold are not eligible for the 20% rule (see CBC 11B-202.4 Exceptions 1 through 8 for other exceptions).

CBC Section 11B-202.4, Exception 9 (*abbreviated*): In alteration projects involving buildings & facilities previously approved & built without elevators, areas above & below the ground floor are subject to the 20% disproportionality provisions described in Exception 8, even if the value of the project exceeds the valuation threshold in Exception 8. Refer to the Code for the types of buildings & facilities that qualifies for this 20% disproportionality provisions when project valuation is over the threshold.

	<b>Contractor's Estimated Cost</b>	<b>DBI Revised Cost</b>
<b>A) Cost of Construction:</b> (Excluding Alterations to the Path of Travel as required by 11B-202.4)	\$ 50,000	\$
<b>B) 20% of A) :</b>	\$ 10,000	\$

**List the Upgrade Expenditures and their respective construction cost below:**

1. Install Ramp at Front Door	\$ 7,500	\$
2. Enlarge Toilet Compartment	\$ 1,500	\$
3. Install Grab Bars	\$ 500	\$
4. Install signs	\$ 475	\$
5.	\$	\$
6.	\$	\$
7.	\$	\$
8.	\$	\$
9.	\$	\$

<b>Total Upgrade Expenditures</b> <small>Should be approximately equal to, but not to exceed, Line B</small>	\$9,975*	\$
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