# Implementing the Certified Access Specialist program





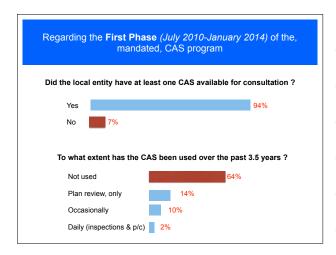


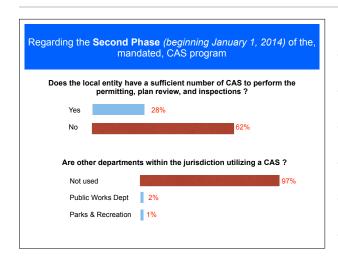




# CALBO Membership Responses regarding the CAS program Implementation

- Two requests for responses were sent to the membership, via the listserve, requesting feedback regarding:
- the CAS program, in general
- the implementation of the program locally
- challenges Building Officials have encountered, or foresee with the CAS program
- · Public Outreach programs, locally





# Local CAS Outreach programs Has, or does, your local jurisdiction provided disabled access related public outreach programs to the local business community? Yes 10% No 90% Are other departments within the jurisdiction utilizing a CAS? Not used 97% Public Works Dept 2% Parks & Recreation 1%

### **Comments Provided**

- Business owners don't want to pay for the limited protection of the CAS process
- It seems like the private sector does not realize the importance of the CASp
- It seems like another layer of bureaucracy that will hold up projects
- The cities that I represent do not want to get involved with the CASp. Best handled by companies specializing in providing this service.
- · We have not established a process for operating this program
- The local business community does not want to know. Knowing would shake the tree.

### **Comments Provided**

- We are unaware of the need for other departments to utilize a CAS
- · There is an obvious shortage of CAS
- How do we "KILL" the requirement for City staff to provide this service?
- Government is not in the business of providing services in this manner
- If government provides a CAS inspection, are we now working for an individual and not the general public?
- Other city departments do not interpret the ADA Title II requirements correctly.

### **Comments Provided**

- Is it legal for a non-CAS to perform the plan review or inspections if a CAS signs the plans and reports?
- Public works dept. hides from us, as they don't want to spend the money to do work correctly
- · The public is trying to use us (the City) as the CAS consultant
- There is no incentive for staff to take the CAS exam in our jurisdiction
- · How do we change the system to less onerous?
- Building departments have been providing accessibility plan reviews and inspections for years, now we have to be certified, and get to charge more fees - Where will it stop?

# The CASp Puzzle Local Entities responsibility



### HSC 19958

The building department of every city, county, or city and county shall enforce this part within the territorial area of its city, county, or city and county. The responsibility for enforcing Chapter? (commencing with Section 4450) of Division 5 of Tills of the Government Code in its application under this part shall be just building logariment within the territorial area of its city, county, or city and county.

"Building Department" means the department, bureau, or officer charged with the enforcement of laws or ordinances regulating the erection and construction, of buildings.

# Local Entities responsibility



SB 262 (2003) Government Code 4459.5

Title 21, Div1, Ch1, SubCh2.5

Voluntary Certified Access Specialist Program

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SB 1608 (2008)

Civil Code 55.51-55.545

Construction-Related Accessibility Standards Compliance Act

# Local Entities responsibility

Civil Code 55.52(a)(6)

Construction-Related Accessibility Standards

a provision, standard, or regulation under state or federal law requiring compliance with standards for making new construction and existing facilities accessible to persons with disabilities, including, but not limited to, any provision, standard, or regulation set forth in Section 51, 54, 54, 1 or 55 of this code. Section 1995.5 of the Health and Safety Code, the California Building Standards Code (Title 24 of the California Code of Regulations), the federal Americans with Disabilities Act of 1990 (Public Law 101-336, 42 U.S.C. Sec. 1201 et seq.), and the federal Americans with Disabilities Act Accessibility Guidelines (Appendix A to Part 36 of Title 28 of the Code of Federal Regulations).



### Civil Code 55.53(d)(1)

July 1, 2010 – a local agency shall employ or retain at least one building inspector who is a certified access specialist (CAS).

(1) This CAS shall provide consultation to the local agency, permit applicants, and members of the public regarding the construction-related accessibility standards

(2) If a local agency employs or retains two or more CAS, at least one-half shall be building inspectors

# Local Entities responsibility



### Civil Code 55.53(d)(2)

January 1, 2014 - each local entity shall employ or retain a sufficient number of Certified Access Specialists (CAS) to:

- (1) Conduct permitting, plan checking, and inspection services for public accommodations
- (2) If a local agency employs or retains two or more CAS, at least one-half shall be building inspectors



SB 1186 (2012) Government Code 4467

provides an avenue for local jurisdictions to expand the CAS program to help bring businesses into compliance and develop tools to educate the business community in expanding disabled access

Note: The \$1 Business license, CAS, fee will only be collected from January 1, 2013 to December 31, 2018

# Local Entities responsibility



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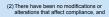
# Property Owner related CASp provisions Property Owner related CASp provisions (2) Statutory damages may be reduced from \$4,000 to \$1,000

# Property Owner related CASp provisions (1) Small businesses (25 or less), not CAS inspected, have 30 days to fix a violation Property Owner related CASp provisions (1) Demand letters restrictions (2) Attorneys sending demand letters must also send to the State Bar, which will examine for law compliance

# Property Owner related CASp provisions \$1 Business license tax to help bring businesses into compliance and to help facilitate expanding disabled access Property Owner related **Procedural Safegards** In essence, this stops the lawsuit (and plaintiff's attorneys' fees) and forces the plaintiff to justify the merits of the suit to the court. (1) The property has been CAS inspected and meets the standards, or (2) has a CAS determination pending, or (3) has been inspected and there are no modifications or alterations necessary, and a CAS report has been issued

# Property Owner related Procedural Safegards

(1) The property's construction or improvements (after January 1, 2008) was approved by they local jurisdiction, by permit and inspection process



(3) All violations have or will be fixed within 60 days



### Property Owner related Procedural Safegards

(1)The property's construction or improvements (after January 1, 2008) was approved by the local building department's CAS inspector

(2) There have been no modifications or alterations that affect compliance, and

(3) All violations have or will be fixed within 60 days



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### Property Owner related Procedural Safegards

- (1) The defendant is a small business (25 or less employees and has gross receipts of less than \$3,500,000.), and
- (2) All violations have been or will be corrected within 30 days



Special damages limitations is available to small businesses, that are liable for a construction-related accessibility claim.

If violations are corrected within 30 days, minimum damages will be reduced from \$4,000 to \$2,000.

## Additional CASp provisions

Commercial Lease Terms (effective January 1, 2013)

Property owners must state whether a CAS has inspected the property, and what, if any, violations



# Additional CASp provisions Continuing Education regarding disabled access (1) Building Inspectors & Plans Examiners (2) Licensed Architects (3) The Courts (Judges) Additional CASp provisions Division of the State Architect (DSA) Management of the Disability Access and Education revolving fund

## Additional CASp provisions

California Commission on Disabled Access (CCDA)

Redefined the CCDA's powers and duties to: develop and disseminate educational materials and information to promote and facilitate disabled access compliance



## the CASp Puzzle, solved









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Questions ?	
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Have a very merry day at the	
happiest place on earth!	
Access Services, Plus CASp Services® (Certified Access Specialist Services)	