

PORT CODE PROCEDURE

NO. PCP-004

DATE : January 1, 2008

SUBJECT : Complaints regarding lack of accessible building features

TITLE : Complaints on the Accessibility of Existing Buildings and Facilities

PURPOSE : The purpose of this Port Code Procedure (PCP) is to describe the procedures to be used in receiving and resolving complaints concerning existing buildings, structures and facilities operated to serve public accommodations within Port boundaries.

This PCP is the Port of San Francisco's accessibility grievance and complaint procedure and is part of the Port's policy to provide accessibility to persons with disabilities. Accessibility grievance and/or complaint procedures are required under:

- 1) Section §35.107 Americans with Disabilities Act, 28 CFR PART 35 Nondiscrimination on the Basis of Disability in State and Local Government Services, (Title II) with the ADA's Accessibility Guidelines (ADAAG) and
- 2) State of California Government Code section 4453, known as the Unruh Civil Rights Act (UCRA).

The Port of San Francisco Chief Harbor Engineer (CHE) may, at his or her discretion, refer accessibility grievances or complaints regarding Port programs, services, or facilities to the Port of San Francisco's Accessibility coordinator. Appeals of the Port coordinator's decisions will be referred to the Access Appeals Commission of the San Francisco Department of Building Inspection. These grievances or complaints will be administered per the policies established by the Port Building Code. Appeals of the decisions of the Port Coordinator will be heard in accordance with PCP-004 and Section 105A.1 of the 2016 Port of San Francisco Building Code.

Additionally, complaints regarding the accessibility of a public accommodation's temporary or permanent buildings, structures and facilities may be directed to the Port of San Francisco Chief Harbor Engineer (CHE). This PCP addresses the procedure for investigation and, if required, abatement of the condition.

Where the complaint involves issues other than accessibility of real property, the complaint shall be directed to the Port's Accessibility Coordinator.

REFERENCE : 2016 Port of San Francisco Building Code (PBC) Section 104A.2.1

DISCUSSION : **A. Definitions**

Removal of Existing Architectural Barriers – means the Title II 35.150 (d), Title II §364.304 or State (UCRA) §51 requirement to removal barriers to access in existing facilities and buildings.

Path of Travel – means a requirement that, when an alteration affects or could affect the usability of or access to an area containing a primary function, that an amount not to exceed 20% of the cost of construction shall be allocated so as to ensure that, to the maximum extent feasible, the path of travel to the altered area and the restrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, unless such alterations are disproportionate to the overall alterations in terms of cost and scope as determined under criteria established by the Attorney General.

B. General Requirements. Where the complaint is made against Port of San Francisco tenants or temporary event operators that occur within the Port's boundaries, the compliant shall be investigated in the following manner.

1.0 Determination of Applicability of Standards. The CHE or designee shall review the facility complaint per PBC Section 102A and the applicable provisions of the building code. The Port's Chief Building Inspector or the Port's ADA Title 2 Coordinator may serve as the CHE's designee.

1.1 Determination of Standards. Where possible, a determination shall be made if the object of the complaint is a barrier removal obligation under the California Building Code (CBC)/Port Building Code (PBC) or a design compliance issue associated with construction that occurred after January 26, 1992. The object of the compliant shall be reviewed for its performance to the appropriate accessibility guideline standards.

1.2 Architectural Barriers in Existing Buildings. Complaints regarding the removal of existing architectural barriers in buildings or facilities existing prior to July, 26, 1992 shall be investigated for compliance to the alteration standard of ADAAG and/or CBC/PBC Chapter 11B of the code.

1.3 Barriers in New Construction or Alterations. Complaints regarding buildings or facilities constructed after July 26, 1992 shall comply with the new construction standard of this code or ADAAG.

1.4 Equivalencies. In determining equivalencies for the compliance of buildings and facilities, the CHE is permitted to utilize:

- 1) The most current edition of the US Access Board's ADA Accessibility Guidelines,
- 2) The most current edition of the PBC and/or
- 3) ICC/ANSI A117.1-2003 Accessible and Usable Buildings and Facilities standard.
- 4) Port of San Francisco Code Procedures

2.0 Acknowledgment and Time for review.

2.1 Acknowledgement. The CHE or his/her designee shall acknowledge the receipt of the complaint in writing within 5 working days.

2.2 Investigation. The investigation of the complaint shall be completed within 10 working days after acknowledgement of the complaint, to determine whether the complainant has identified an architectural barrier(s) for persons with disabilities.

2.3 Response to Complainant. The CHE or his designee shall respond in writing to the complainant on the results of the investigation within 20 working days after acknowledgement of complaint receipt.

2.4 Abatement. Where a building, facility or improvement is determined to be in non-compliance with the PBC due to architectural barriers to access for people with disabilities, it shall be declared a public nuisance and the CHE shall direct that it be abated, by repair, rehabilitation, demolition or removal per Section 102A and as provided herein.

3.0 Appeals. Appeal of the CHE's decisions may be made to the Port Building Code Review Board in accordance with Section 105A.

Eunejune Kim
Chief Harbor Engineer
Port of San Francisco

Date

Originally Approved by the Port Commission on 01/01/2008
Update reviewed and approved by Neil Friedman, Chief Building Inspector 10-26-2016