

**Date:** May 22, 2017

**To:** Mark Paxson, General Counsel, State Treasurer's Office

**From:** Ida A. Clair, Principal Architect, Division of the State Architect

**Subject:** Compliance with California Building Code, Chapter 11B for California Tax Credit Allocation Committee projects.

The genesis of the definition for "Public Housing" in Chapter 2 of the California Building Code (CBC) are the Americans with Disabilities Act (ADA) and the 2010 ADA Standards for Accessible Design (2010 ADAS) that regulates the built environment.

**2010 ADAS and ADA Title II Regulations Part 35, applicable to state and local government services.**

§ 35.102 (a) *"this part applies to all services, programs and activities made available by public entities."*

§ 35.151 (a) *"each facility or part of a facility constructed by, on behalf of, or for the use of a public entity....."*

§ 35.151 (j) *"The requirements..... also apply to housing programs that are operated by public entities...."*

The ADA mandates that when State or local governments establish a program that provides housing to its residents, that public entity has the obligation to ensure that its program is operated in a non-discriminatory manner whether the program is provided directly by the public entity or through "contractual, licensing, or other arrangements."

When a State or local government enters into an agreement with a private party the obligation to comply with the ADA is not contracted away. Adherence to the ADA and the 2010 ADAS is required in such an agreement.

The definition of public housing in CBC Chapter 2 includes the requirements in the above referenced sections. This is the starting point for determining whether or not a project is public housing and thereby regulated by CBC Chapter 11B.

*PUBLIC HOUSING. [DSA-AC] Housing facilities owned, operated, or constructed by, for or on behalf of a public entity including but not limited to the following:*

- 1. Publically owned and/or operated one- or two- family dwelling units or congregate residences;*
- 2. Publically owned and/or operated buildings or complexes with three or more residential dwellings units;*
- 3. Reserved.*
- 4. Publically owned and/or operated homeless shelters, group homes and similar social service establishments;*
- 5. Publically owned and/or operated transient lodging, such as hotels, motels, hostels and other facilities providing accommodations of a short term nature of not more than 30 days duration;*
- 6. Housing at a place of education owned or operated by a public entity, such as housing on or serving a public school, public college or public university campus;*
- 7. Privately owned housing made available for public use as housing.*

The California Tax Credit Allocation Committee (TCAC) facilitates the investment of private capital into the development of affordable rental housing for low-income Californians. As such this is a housing program administered by a public entity.

Projects receiving tax credits from the California Tax Credit Allocation Committee meet the definition of "public housing"; CBC Chapter 11B compliance is thus required.