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1202 Greenacre Avenue | West Hollywood, California 90046-5708

TEL: 800-684-9100 323-874-8973 | FAX: 323-874-8948

www.mpgroup.com | EMAIL: experts@mpgroup.com

California Contractor's License No. 263193-B

October 12, 2006

**VIA MESSENGER**

Bert Jones, Esq.  
Law Offices of Bert Jones  
1234 South Main Street, Suite 100  
Any Town, CA 90000

Edward Smith, Esq.  
Law Offices of Edward Smith  
1234 North Main Street, Suite 107  
Any Town, CA 90000

Re: **REPORT OF FINDINGS**  
5976 Any Street Way  
Any Town, CA 90010  
JOHNSON v. ROBERTS  
WCAB No.: AHM 000000  
CLAIM NO.: 000-00002

Dear Counsel:

Pursuant to your selecting me as your “*agreed construction expert*” I am pleased to respond with this report. My services were retained by you both on June 23, 2006 to determine the reasonable scope of work and value for the handicap accessibility, ADA alterations and/or other alterations necessary in the home for the daily maintenance and care of Mr. Johnson which are reasonably necessary as a consequence of his industrial injury and subsequent quadriplegia.

**BACKGROUND**

My qualifications and background consists of more than 44 years as a general building contractor, construction manager, construction inspector, consultant and forensic expert witness. My legal consulting work has been that of litigation support as an expert witness designated over the past 34 years, representing both plaintiff and defense. I have relied not only on my education, training and experience as a construction professional with substantial experience with acute care hospital and skilled nursing facility construction, but also on my education and training as a United States Naval Hospital Corpsman. My curriculum vitae is attached hereto, and is a part of this report.

I have relied upon the expertise of Mr. Charles C. Munroe, III, Certified Professional Estimator for the construction cost estimating for the work which is recommended herein. Mr. Munroe’s curriculum vitae is also attached and is also a part of this report.



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### **DOCUMENTS REVIEWED**

Documents provided by counsel for my review consisted of the following:

- [1] Life Care Plan for Marion Johnson, prepared by Medical Care Managers, LLC, dated June, 2003;
- [2] Applicant's Medical & Exhibit List (package):
  - [2.1] David P. Smith, M.D., dated 10/21/05, 06/26/05, 03/15/05 and 02/02/04;
  - [2.2] Letter from Defense Attorney JONES, dated 10/15/04;
  - [2.3] Letter from Defense Attorney JONES, dated 12/02/04;
  - [2.4] Alfred Olcratez, Analytic Rehabilitation Report, dated 11/04/04;
  - [2.5] Westharber Construction letter, dated 09/02/05;
  - [2.6] Residence Blueprint (Site Plan);
  - [2.7] Applicant's Attorney's letter demand, dated 11/10/05;
  - [2.8] Letter from Defense Attorney JONES, dated 11/08/05;
  - [2.9] Westharber Construction letter, dated 02/09/05
- [3] Construction Drawings, prepared by Gonzalo Gonzalez, Design Services, consisting of the following sheets:
  - T-1 Title Sheet / General Notes;
  - A-1 Site Plan;
  - A-2 Floor Plan;
  - A-3 Elevations;
  - A-4 Sections;
  - S-1 Foundation Plan;
  - S-2 Framing Plan;
  - SD-1 Structural Details;
  - SD-2 Structural Details;
  - GN-1 General Notes;
- [4] Johnson Residence Tour Video;
- [5] Deposition Transcript of David Patterson, M.D., dated 02/26/01;
- [6] Johnson Excel spread sheets: Johnson.xls and Johnson Medical Pay Outs.xls;

Documents reviewed but **NOT** provided by counsel, consisted of the following:

- [7] The Fair Housing Act;
- [8] California Code of Regulations, Title 24;
- [9] California Code of Regulations, Title 25, Chapter 1, Subchapter 1;



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- [10] California Civil Code, Sections 54-55.2;
- [11] California Health and Safety Code, Sections 17950-17959;
- [12] 2001 California Building Code, Chapter 3: Use or Occupancy, Chapter 10: Means of Egress, and Chapter 11: Accessibility;
- [13] State of California Office of Statewide Health Planning and Development: LONG-TERM CARE FACILITY ANNUAL FINANCIAL DATA;
- [14] State of California Office of Statewide Health Planning and Development: California Long Term Care Facilities Licensed as of 12/31/05 and 06/30/06.

#### **SITE INSPECTION**

On August 14, 2006 a site inspection of the Johnson residence was conducted by me. Also in attendance were: Bert Jones, Esq., Carol W. Palmer, Esq., Kathleen Johnson, and Anthony Johnson. During the inspection 126 digital photographs were taken and measurements of relevant areas were recorded. Particular attention was made relative to the daily care needs as they relate to the "facility" within the residence and the accessibility for Mr. Johnson via his electric wheelchair within the residence as well as accessibility and modes of ingress and egress to and from the "public way."

The residence is a 3,847 square foot, single story wood frame and stucco, single-family dwelling with a 1,028 square foot four car attached garage. The home was built in 2004 by Westharber Construction, Inc., dba Westharber Development, located in Arcadia, California.

#### **APPLICABLE CODE STANDARDS**

While 5976 Any Street Way is primarily a single-family residence, it is also functions as a private **SKILLED NURSING FACILITY** with **SUB-ACUTE** capabilities with full-time licensed and skilled nursing staff to provide for the extensive needs which are indigenous to Mr. Johnson. Therefore, I find that my purview of this dwelling requires the prospective of **CODE STANDARDS** for both single-family residential construction and skilled nursing facility construction and administration aspects as well.

I have reviewed and relied upon the **CODES** and **STANDARDS** that I believe to be applicable to the above mentioned circumstances:



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**1. California Civil Code, § 54.** (a) Individuals with disabilities or medical conditions have the same right as the general public to the full and free use of the streets, highways, sidewalks, walkways, public buildings, medical facilities, including hospitals, clinics, and physicians' offices, public facilities, and other public places.

(b) For purposes of this section:

(1) "**Disability**" means any mental or physical disability as defined in Section 12926 of the Government Code.

(2) "**Medical condition**" has the same meaning as defined in subdivision (h) of Section 12926 of the Government Code.

(c) A violation of the right of an individual under the Americans with Disabilities Act of 1990 (Public Law 101-336) also constitutes a violation of this section.

**§ 54.1.** (a) (1) Individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to accommodations, advantages, facilities, medical facilities, including hospitals, clinics, and physicians' offices, and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes of transportation (whether private, public, franchised, licensed, contracted, or otherwise provided), telephone facilities, adoption agencies, private schools, hotels, lodging places, places of public accommodation, amusement, or resort, and other places to which the general public is invited, subject only to the conditions limitations established by law, or state or federal regulation, and applicable alike to all persons.

(3) "**Full and equal access**," for purposes of this section in its application to transportation, means access that meets the standards of Titles II and III of the Americans with Disabilities Act of 1990 (Public Law 101-336) and federal regulations adopted pursuant thereto, except that, if the laws of this state prescribe higher standards, it shall mean access that meets those higher standards.

(b) (1) Individuals with disabilities shall be entitled to full and equal access, as other members of the general public, to all housing accommodations offered for rent, lease, or compensation in this state, subject to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

(2) "**Housing accommodations**" means any real property, or portion thereof, that is used or occupied, or is intended, arranged, or designed to be used or occupied, as the home, residence, or sleeping place of one or more human beings, but shall not include any accommodations included within subdivision (a) or any single-family residence the occupants of which rent, lease, or furnish for compensation not more than one room therein.



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**2. California Health & Safety Code § 17950.** The provisions of this part, the building standards published in the **State Building Standards Code**, or the other rules and regulations promulgated pursuant to the provisions of this part which relate to apartment houses, hotels, motels, and dwellings, and buildings and structures accessory thereto, apply in all parts of the state.

**3. 2001 California Building Code, Chapter 3, § 301 – OCCUPANCY CLASSIFIED**

Every building, whether existing or hereafter erected, shall be classified by the building official according to its use or the character of its occupancy, as Set forth in Table 3-A, as a building of one of the following occupancy groups:

- Group A. Assembly (see Section 303.1.1)
- Group B. Business (see Section 304.1)
- Group C. Organized Camp (See Section 431A)
- Group E. Educational (see Section 305.1)
- Group F. Factory and Industrial (see Section 306.1)
- Group H. Hazardous (see Section 307.1)
- Group I. Institutional (see Section 308.1)
- Group M. Mercantile (see Section 309.1)
- Group R. Residential (see Section 310.1)**
- Group S. Storage (see Section 311.1)
- Group U. Utility (see Section 312.1)

Any occupancy not mentioned specifically or about which there is any question shall be classified by the building official and included in the group that its use most nearly resembles, based on the existing or proposed fire and life hazard.

**§ 310 – REQUIREMENTS FOR GROUP R OCCUPANCIES**

**310.1 Group R Occupancies Defined – Division 3.** [For HCD, SFM] Dwellings and those dwellings used for large family day-care homes (as defined in Chapter 2, Section 205) and lodging houses. Licensing categories that may use this classification include, but are not limited to: Adult Day-care Facilities, Family Day-care Homes, Adult Day-support Center, Day-care Center for Mildly ill Children, Infant Care Center and School Age Child Day-care Center. Congregate residences (each accommodating 10 persons or less).

**§ 310.4 Access and Means of Egress Facilities and Emergency Escapes.** Means of egress shall be provided as specified in Chapter 10. (See also Section 1007.6.2 for exit markings.) Access to, and egress from, buildings required to be accessible shall be provided as specified in Chapter 11.



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#### **4. 2001 California Building Code, Chapter 10, § 1001 – ADMINISTRATIVE**

**§ 1001.1 Scope.** Every building or portion thereof shall be provided with a means of egress as required by this chapter. A means of egress is an exit system that provides a continuous, unobstructed and undiminished path of exit travel from any occupied point in a building or structure to a public way. Such means of egress system consists of three separate and distinct elements:

1. The exit access,
2. The exit, and
3. The exit discharge.

#### **§ 1004. THE EXIT ACCESS**

**§ 1004.1 General.** The exit access is that portion of a means of egress system between any occupied point in a building or structure and a door of the exit. Components that may be selectively included in the exit access include aisles, hallways and corridors, in addition to those means of egress components described in Section 1003.3.

#### **§ 1005. THE EXIT**

**§ 1005.1 General.** The exit is that portion of the means of egress system between the exit access and the exit discharge or the public way. Components that may be selectively included in the exit include exterior exit doors, exit enclosures, exit passageways and horizontal exits, in addition to those common means of egress components described in Section 1003.3.

#### **§ 1006. THE EXIT DISCHARGE**

**§ 1006.1 General.** The exit discharge is that portion of the means of egress system between the exit and the public way. Components that may be selectively included in the exit discharge include exterior exit balconies, exterior exit stairways, exterior exit ramps and exit courts, in addition to those common means of egress components described in Section 1003.3.

#### **§ 1006.3.4 Exterior exit ramps.**

**§ 1006.3.4.1 General.** Exterior exit ramps serving as a portion of the exit discharge in the means of egress system shall comply with the requirements of Section 1006.3.4. An exterior exit ramp serves as an exit discharge component in a means of egress system and is open on not less than two adjacent sides, except for required structural columns and open-type handrails and guardrails. The adjoining open areas shall be either yards, exit courts or public way; the remaining sides may be enclosed by the exterior walls of the



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building. Any ramp not meeting the definition of an exterior ramp shall comply with the requirements for interior ramps.

**§ 1007. MEANS OF EGRESS  
REQUIREMENTS BASED ON OCCUPANCY**

**§ 1007.1 General.** In addition to the general means of egress requirements specified elsewhere in this chapter, the detailed requirements of this section shall apply to those occupancies described herein.

**§ 1007.6.3.4 Changes in level.** Changes in level up to 1/4 inch (6 mm) may be vertical and without edge treatment. Changes in level between 1/4 inch (6 mm) and 1/2 inch (12.7 mm) shall be beveled with a slope no greater than 1 unit vertical in 2 units horizontal (50% slope). Changes in level greater than 1/2 inch (12.7 mm) shall be accomplished by means of a ramp.

**5. 2001 California Building Code, Chapter 11 – ACCESSIBILITY**

**§ 1101. SCOPE**

**1101.1 General.** Buildings or portions of buildings shall be accessible to persons with disabilities as required by this chapter.

**§ 1101.3 Design.** The design and construction of accessible buildings and building elements shall be in accordance with this chapter and CABO/ANSI A117.1-1992. For a building to be considered accessible, it shall be designed and constructed to the minimum provisions of this chapter and CABO/ANSI A117.1.

**§ 1102. DEFINITIONS**

For the purpose of this chapter, certain terms are defined as follows:

**ACCESSIBLE** describes a site, building, facility or portion thereof that complies with this chapter and that can be approached, entered and used by persons with physical disabilities.

**ACCESSIBLE MEANS OF EGRESS** is a path of travel, usable by a mobility-impaired person, that leads to a public way.

**ACCESSIBLE ROUTE** is a continuous path connecting accessible elements and spaces in a building or facility that is usable by persons with disabilities.

**FACILITY** is all or any portion of a building, structure or area, including the site on which such building, structure or area is located, wherein specific services are provided or activities are performed.



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**PERSON WITH DISABILITY** is an individual who has an impairment, including a mobility, sensory or cognitive impairment, that results in a functional limitation in access to and use of a building or facility.

**§ 1103 . BUILDING ACCESSIBILITY**

**§ 1103.1 Where Required.**

**§ 1103.1.1 General.** Accessibility to temporary or permanent buildings, or portions thereof, shall be provided for all occupancy classifications except as modified by this chapter. See also Appendix Chapter 11.

**§ 1103.1.9 Group R Occupancies.**

**§ 1103.1.9.1 General.** Group R Occupancies shall be accessible as provided in this chapter. Rooms and spaces available to the general public and spaces available for the use of residents that serve Group R, Division 1 Occupancy accessible dwelling units shall be accessible.

**§ 1103.2 Design and Construction.**

**§ 1103.2.2 Accessible route.** When a building, or portion of a building, is required to be accessible, an accessible route shall be provided to all portions of the building, to accessible building entrances, connecting accessible pedestrian walkways and the public way.

**§ 1114B. FACILITY ACCESSIBILITY**

When buildings are required to be accessible, buildings and facilities shall be accessible as provided in this section and in those sections listed in Section 1114B.1.1.

**§ 1114B.1.2 Accessible route of travel.** When a building, or portion of a building, is required to be accessible or adaptable, an accessible route of travel shall be provided to all portions of the building, to accessible building entrances and between the building and the public way. Except within an individual dwelling unit, an accessible route of travel shall not pass through kitchens, storage rooms, restrooms, closets or other spaces used for similar purposes. At least one accessible route within the boundary of the site shall be provided from public transportation stops, accessible parking and accessible passenger loading zones, and public streets or sidewalks, to the accessible building entrance they serve. The accessible route shall, to the maximum extent feasible, coincide with the route for the general public. At least one accessible route shall connect accessible buildings, facilities, elements and spaces that are on the same site. At least one accessible route shall connect accessible building or facility entrances with all accessible



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spaces and elements and with all accessible dwelling units within the building or facility. An accessible route shall connect at least one accessible entrance of each accessible dwelling unit with those exterior and interior spaces and facilities that serve the accessible dwelling unit. Where more than one route of travel is provided, all routes shall be accessible.

**§ 1114B.1.3 Primary entry access.** All entrances and all exterior ground-level exits shall be accessible in compliance with Section 1133B.1.1.

**§ 1127B . EXTERIOR ROUTES OF TRAVEL**

**§ 1127B.1 General.** Site development and grading shall be designed to provide access to all entrances and exterior ground-floor exits, and access to normal paths of travel, and where necessary to provide access, shall incorporate pedestrian ramps, curb ramps, etc. When more than one building or facility is located on a site, accessible routes of travel shall be provided between buildings and accessible site facilities. The accessible route of travel shall be the most practical direct route between accessible building entrances, accessible site facilities and the accessible entrance to the site.

**§ 1133B.7 Walks and Sidewalks.**

**§ 1133B.7.1 Continuous surface.** Walks and sidewalks subject to these regulations shall have a continuous common surface, not interrupted by steps or by abrupt changes in level exceeding 1/2 inch (12.7 mm) (see Section 1133B.7.3), and shall be a minimum of 48 inches (1219 mm) in width. Surfaces shall be slip-resistant as follows:

**§ 1133B.7.1.1 Slopes less than 6 percent.** Surfaces with a slope of less than 6 percent gradient shall be at least as slip-resistant as that described as a medium salted finish.

**§ 1133B.7.1.2 Slopes 6 percent or greater.** Surfaces with a slope of 6 percent gradient shall be slip-resistant.

**§ 1133B.8.1 Warning curbs.** Abrupt changes in level, except between a walk or sidewalk and an adjacent street or driveway, exceeding 4 inches (102 mm) in a vertical dimension, such as at planters or fountains located in or adjacent to walks, sidewalks or other pedestrian ways, shall be identified by curbs projecting at least 6 inches (152 mm) in height above the walk or sidewalk surface to warn the blind of a potential drop off. When a guardrail or handrail is provided, no curb is required when a guide rail is provided centered 3 inches (76 mm) plus or minus 1 inch (25 mm) above the surface of the walk or sidewalk, the walk is 5 percent or less gradient or no adjacent hazard exists.



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## **FINDINGS AND RECOMMENDATIONS**

The following items were observed to be either absent or uncompleted and are deemed as being essential for the daily care, comfort and accessibility for Mr. Johnson:

### **1. KITCHEN**

**1.1.** The center island countertop is absent and has a temporary “make-shift” top in place. In order to maintain a clean and washable food preparation area and to adequately feed Mr. Johnson, a new laminated plastic countertop with a cantilever over the end needs to be provided for. See Photographs DSC\_0001.JPG and DSC\_0002.JPG. **THE ESTIMATED COST FOR THIS ITEM IS \$517.<sup>00</sup>**

### **2. BATHROOM**

**2.1.** The existing end wall adjacent to the toilet interferes with adequate access for the nursing staff in order to move and remove Mr. Johnson. Therefore, this wall needs to be removed and the floor tile replaced. The electrical switch box with conduits and wiring needs to be relocated, and the ceiling patched and painted. See Photographs DSC\_0019.JPG, DSC\_0020.JPG, DSC\_0021.JPG and DSC\_0026.JPG, DSC\_0027.JPG and DSC\_0028.JPG, DSC\_0029.JPG and DSC\_0030.JPG. **THE ESTIMATED COST FOR THIS ITEM IS \$508.<sup>00</sup>**

**2.2.** Cut the existing laminated plastic countertop, furnish and install new lavatory with new drain tail piece, hot and cold water lines and faucets. See Photographs DSC\_0024.JPG, DSC\_0025.JPG and DSC\_0026.JPG. **THE ESTIMATED COST FOR THIS ITEM IS \$957.<sup>00</sup>**

**2.3.** Install Owner’s existing lavatory with new drain tail piece, hot and cold water lines and faucets. See Photographs DSC\_0031.JPG and DSC\_0032.JPG. **THE ESTIMATED COST FOR THIS ITEM IS \$371.<sup>00</sup>**

### **3. DOOR (TYPE D-5) HALLWAY TO GARAGE**

**3.1.** Enlarge door and frame from 3 foot 0 inches (TYPE D-5) to 3 foot 6 inches (TYPE D-3) in order to facilitate better wheelchair accessibility to and from the garage. Additionally furnish

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and install a delayed door closure to facilitate wheelchair passage without the door closing quickly onto the wheelchair. Patch and paint finishes as needed. See Photographs DSC\_0042.JPG, DSC\_0043.JPG and DSC\_0044.JPG. **THE ESTIMATED COST FOR THIS ITEM IS \$3,298.<sup>00</sup>**

**4. DOOR (TYPE D-2) GARAGE TO EXTERIOR**

**4.1.** Change the direction of swing (toward the exterior) from hinged left to hinged right. Remove the foam/stucco "pop-outs" at both exterior columns to facilitate the door to open to 90 degrees, thereby allowing greater wheelchair accessibility. See Photographs DSC\_0049.JPG, DSC\_0050.JPG through DSC\_0056.JPG. **THE ESTIMATED COST FOR THIS ITEM IS \$596.<sup>00</sup>**

**5. GARAGE EXTERIOR**

**5.1.** Furnish and install an exterior weatherproof duplex electrical receptacle to facilitate urgent suction and/or respirator function connected to the emergency circuit. No photographs are depicted here. **THE ESTIMATED COST FOR THIS ITEM IS \$131.<sup>00</sup>**

**6. GARAGE INTERIOR**

**6.1.** Furnish and install missing laundry sink with drain tailpiece, hot and cold water lines and faucets. See Photographs DSC\_0059.JPG. **THE ESTIMATED COST FOR THIS ITEM IS \$1,012.<sup>00</sup>**

**6.2.** In order to facilitate a clean storage area for medical supplies and medical equipment the following is deemed necessary and is recommended:

**6.2.1.** Partition the north-east corner of the garage approximately 20 feet by 14 feet with 2x4 stud walls, drywall and painted. **THE ESTIMATED COST FOR THIS ITEM IS \$2,125.<sup>00</sup>**

**6.2.2.** Provide a double wide door opening with all necessary hardware and weather-stripping. **THE ESTIMATED COST FOR THIS ITEM IS \$2,467.<sup>00</sup>**

**6.2.3.** Furnish and install 1 new ceiling mounted 2x4 fluorescent lighting fixture with switch at the door. **THE ESTIMATED COST FOR THIS ITEM IS \$884.<sup>00</sup>**



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**6.2.4.** Furnish and install a through-the-wall air conditioning unit located at the north-east exterior wall, connected to the normal electrical circuit. See Photographs DSC\_0061.JPG through DSC\_0067.JPG. **THE ESTIMATED COST FOR THIS ITEM IS \$1,794.<sup>00</sup>**

**6.3.** Remove the existing medical storage cabinet located on the east garage wall and relocate it into the new storage area. See Photographs DSC\_0057.JPG and DSC\_0058.JPG. **THE ESTIMATED COST FOR THIS ITEM IS \$112.<sup>00</sup>**

**6.4.** Furnish and install a new medical storage cabinet (to replace the former) between the exiting doorway and washer/ dryer. Provision for a safe concealed storage space for the oxygen tanks is required to prevent accidental breakage of the valves which could cause an explosion if damaged. Also signage for the storage of medical oxygen should be placed on the exterior of the garage for the identification of hazardous storage materials for the Fire Department. See Photographs DSC\_0057.JPG and DSC\_0058.JPG. **THE ESTIMATED COST FOR THIS ITEM IS \$1,000.<sup>00</sup>**

## **7. EMERGENCY WATER PUMP**

**7.1.** At the rear of the property there are three water storage tanks which provide fresh potable water to the residence. In the event of a power failure there does NOT presently exist any means of pumping the water into the house. Since fresh potable water is essential for the health and safety for Mr. Johnson and that the care givers must constantly wash their hands, having flowing water at all times is most essential. **THE ESTIMATED COST FOR THIS ITEM IS \$3,782.<sup>00</sup>**

## **8. INTERCOM COMMUNICATIONS**

**8.1.** To facilitate clear communications throughout the residence at all times, a wireless intercom is recommended to be installed and utilized. This will also afford communications throughout even during a power failure. **THE ESTIMATED COST FOR THIS ITEM IS \$243.<sup>00</sup>**

## **9. EMERGENCY EGRESS**

**9.1.** In order to facilitate emergency evacuation of Mr. Johnson while confined to his bed, I find that the size of the front door is **NOT ADEQUATE** in width for the quick passage of the hospital bed to the front of the residence. Therefore, I recommend that this door be widened from its present size of (TYPE D-1) SINGLE 3 foot 6 inches to (TYPE D-4) (solid-core) PAIR 3



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foot 0 inch doors with or without side lights. See Photograph DSC\_0126.JPG. **THE ESTIMATED COST FOR THIS ITEM IS \$5,663.<sup>00</sup>**

## **10. SITE ACCESSIBILITY**

Despite the efforts made by the Johnson family to construct the residence in such a way as to fully accommodate not only the medical needs but also to address the mobility and accessibility for Mr. Johnson, areas still remain that Mr. Johnson can **not access** or can access only with some degree of difficulty:

**10.1. Concrete Paving:** Serious concern was voiced during the inspection regarding Mr. Johnson's evacuation exigencies in case of fire, for which the location has history. Considering that concrete paving surrounding the home is presently absent and that Mr. Johnson is totally dependant upon the assistance of others in that he is confined to either a hospital bed or the electric wheelchair, which is reportedly weighing in at around 750 pounds, the ability to remove Mr. Johnson from the residence and evacuated to safety under the current circumstances present hellacious difficulties. Therefore, it is necessary to complete the concrete paving completely around the residence in accordance with the Site Plan, Sheet A-1 and up to the chain-link gates adjacent to the water storage tanks so as to enable emergency responders to load and transport Mr. Johnson while in his bed during an evacuation.

**10.1.1.** It is for the previously described conditions that necessitate the provision of new concrete paving constituting walkways and a patio slab in order to facilitate accessibility. The construction of the concrete walks and patio slab should be inclusive of site preparation, fine grading and soils compaction, as necessary to support five (5") inch thick, 2500 p.s.i. concrete, reinforced with three-eighths (3/8" [no. 3]) reinforcing steel bars at eighteen inches (18") on center each way. This specification is, in my opinion, necessary to provide the needed strength and durability to withstand the weight of a 750 pound wheelchair without cracking. As shown on the Site Plan, SheetA-1, all walkways shall be constructed ten (10') feet in width and shall be continuous around the residence, in order to facilitate the wheelchair and/or hospital bed access with sufficient room for the staff assisting alongside. **THE ESTIMATED COST FOR THIS ITEM IS \$34,329.<sup>00</sup>**

## **11. CONCRETE CURBS AND GUARDRAILS**

**11.1.** In order to prevent Mr. Johnson from driving his wheelchair over the edges of the walkways

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(which nearly occurred during my site inspection), I recommend that continuous reinforced concrete curbs and pipe rail guardrails be constructed with all slabs, in accordance with the requirements of **§1133B.8.1 of the California Building Code and Figure 11B-27 RAMPS AND SIDEWALKS**. The presence of the curbs and guardrails should prevent a catastrophic accident by Mr. Johnson overturning his wheelchair and suffering severe injuries. **THE ESTIMATED COST FOR THIS ITEM IS \$40,399.<sup>00</sup>**

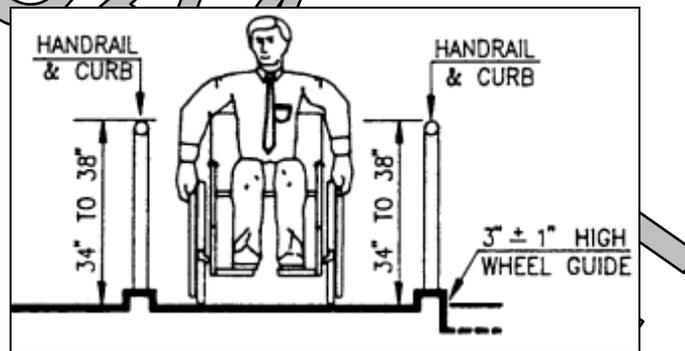


Figure 11B-27

The sum for items 1 through 11 total \$100,188.<sup>00</sup>, which includes contractor's overhead and profit. Cost for the contractor's supervision and temporary facilities must be added for the additional sum of \$10,133.<sup>00</sup>. The entire estimated cost for all the recommended work amounts to **\$110,321.<sup>00</sup>**.





Bert Jones, Esq.  
Edward Smith, Esq.  
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## SUMMARY

The California Building Code defines “**Persons with Disability**” as: “... *an individual who has impairment, including a mobility, sensory or cognitive impairment, that results in a functional limitation in access to and use of a building or facility.*” Under the Americans with Disabilities Act (ADA) the intent of the code is to remove access barriers from persons with disabilities in order to provide them with accessibility to buildings, structures, transportation and all other services which are otherwise available to persons without disabilities. The nature and degree of disabilities addressed in these “Access Codes” was structured primarily for persons with a predetermined disability level such as sight, hearing, speech, and mobility. With respect to the mobility aspect addressed, the primary consideration which is pervasive throughout these codes is for persons confined to wheelchairs and that had at least some use of one or both upper limbs, or paraplegics. The codes are silent pertaining to the highly special and ultimately utter dependent needs of persons with quadriplegia. With quadriplegics, as with Mr. Johnson, not only can he NOT walk, he can not use any of his limbs, nor feel anything below his neck. He is completely dependent upon the constant care and assistance provided by others in order to prevent further injury, illness and for life support itself.

I appreciate the trust bestowed upon me by you and while retained by counsel in opposition to one another I have attempted to remain as neutral as possible in all aspects of my review, findings and recommendations. However, I find that the codes cited herein provide for a clear unequivocal course of nothing less than **SAFE** and **COMPLETE ACCESSIBILITY**.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge and abilities, and as to those items stated on information and belief, I believe them to be true.



Bert Jones, Esq.  
Edward Smith, Esq.  
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In conclusion, I want to express my appreciation for the opportunity to be of service to you both and especially for the memorable experience of meeting two remarkable people ... the Johnsons.

Should you have any questions please do not hesitate to contact me.

Sincerely,  
**MPGroup**

MICHAEL S. POLES, GC, CM, RCI, DABFET, ACFE  
*CONSTRUCTION EXPERT / MEDIATOR*

MSP/la  
Enclosures

Copy: Honorable N. Gardian, WCALJ  
123 North Hope Avenue, 2<sup>nd</sup> Floor  
Any Town, CA 92000

Kathleen Johnson  
5976 Any Street Way  
Any Town, CA 90010