



ABATEMENT APPEALS BOARD
Wednesday, November 21, 2012 at 9:10 a.m.
City Hall, 1 Dr. Carlton B. Goodlett Place, Room 416
ADOPTED March 20, 2013

MINUTES

A. CALL TO ORDER and ROLL CALL.

The meeting of the Abatement Appeals Board for Wednesday, November 21, 2012 was called to order at 9:10 a.m. and a roll call was taken by Commission Secretary Ann Aherne, and a quorum was certified.

BOARD MEMBERS PRESENT:

Kevin Clinch President
Myrna Melgar Vice-President (Excused)
Frank Lee, Commissioner
Warren Mar, Commissioner
Angus McCarthy, Commissioner
Dr. James McCray, Jr., Commissioner
Debra Walker, Commissioner

Ann Aherne, Building Inspection Commission Secretary {Retired}
Sonya Harris, Building Inspection Commission Secretary (Excused)

D.B.I. REPRESENTATIVE PRESENT:

Edward Sweeney, Deputy Director of Permit Services and Secretary to the Board
Rosemary Bosque, Chief Housing Inspector
John Hinchion, Acting Senior Building Inspector, Code Enforcement Division
Teresita Sulit, Secretary

Jana Clark, Deputy City Attorney

- B. OATH:** Commission Secretary Aherne administered an oath to those who would be giving testimony.
- C. APPROVAL OF MINUTES:** Discussion and possible action to adopt the minutes for the meeting held on September 19, 2012.

Commissioner Lee made a motion, seconded by President Clinch, to approve the September 19, 2012 minutes.

Commission Secretary Aherne called for public comment and there was none.

The motion carried unanimously.

D. NEW APPEALS: Order(s) of Abatement

In the beginning of the proceeding, the Department and the Appellant each had 7 minutes to present their case and 3 minutes each for rebuttal, discussion and public comments.

1. CASE NO. 6765: 118 Taylor Street

Owner of Record and Appellant: Laleh Zelinsky Revocable Trust, 172 Golden Gate Avenue, San Francisco, CA 94102

Agent for the Owner: Henry Karnilowicz, 1019 Howard Street, San Francisco, CA 94103

ACTION REQUESTED BY APPELLANT: Seeking relief from the requirement of the San Francisco Housing Code, Section 505, Subsection B, which requires a minimum of two public bathrooms per floor.

Chief Housing Inspector Rosemary Bosque said this particular property was built in 1906 and is a residential hotel. It has 63 guest rooms, 38 are residential and 25 either falls within the hotel conversion ordinance and is classified as a residential hotel. The issue before the Board today for this building is it had 3 floors of occupancy over a commercial space.

Inspector Bosque showed a photo of the building, and said the issue before the Board was that there was a provision in Chapter 5 of the San Francisco Housing Code, which was retroactive that requires a minimum number of public or common bathing facilities and sanitation facilities per floor. This particular provision had, as it is today in the Housing Code since 1995, been reaffirmed by the Building Inspection Commission and the Board of Supervisors over the years.

A brief history on this was it used to be that these public bathrooms had gender labels for men and women and the Code was changed back in 1994 and 1995 because the City saw that there was a greater demand for men in these rooms and the women in the residential hotels did not have any bathrooms so the Code was changed to require at least two of these facilities: a water closet, a bathing facility and a sink if the lavatory and sink were not in the room. That would be a tub/shower and tub/shower combination and at least two for every floor of occupancy that had 2 to 20 rooms and then from 21 to 30 it goes up to 3 then 4, 5 and went in increments of 10.

In this particular building they had 19 guest rooms on the first floor, 22 guest rooms on the 2nd and 22 on the 3rd. There were some private bathrooms: 1st floor had 8 and 2nd floor had 9 and

essentially there were at least 11 guest rooms with no bathroom on the first floor of occupancy and 13 on the 2nd. Obviously this falls within the 2 to 20 range so you needed at least two.

Inspector Bosque showed a schematic of what the building looked like and focused on the area that was taken off the Hotel Emergency Plan. There was a water closet and one shower room that was typical for all of these. It was irrelevant to this Code section that the building was built in 1906 and it may or may not have these. The Board of Supervisors, the Commission and the Mayor had determined that the minimum standard given the occupancy load of this building was a minimum of two.

The Housing Code had the authority under local and state law to be retroactive and indeed there was a whole list of retroactive provisions and this Code section was one that was listed in Chapter 2 of the Housing Code. The inaugural structural engineer on this Commission, while going through the changes, had each of those descriptions of what sections were listed and it was retroactive. All other buildings built at this time were also required to implement this.

There may be a handful of properties that are not in compliance and in this particular instance, Ben Ng, of the Code Enforcement Outreach Program, actually brought this to their attention. Staff went out to look at it and saw they were in violation and wrote a Notice of Violation (NOV). They had the typical process required by Code and the Notice of Violation went to the property owner on site, and they dealt with the lessee as far as trying to work with them to see what some solutions were.

In this instance because there were private bathrooms in some of these rooms and one of the options that they had was to make one of those rooms to take that particular bathroom or shower to create access into the public hallway and would require a building permit as indicated on the NOV. Some of the rooms were occupied and from her discussions with the field Inspector there was a transient nature to the occupancy of this building and as such some of these rooms that had vacant bathrooms would come up for vacancy then the property owner would have the opportunity to do this. They were willing to give the property owner time to work this out but strongly felt that a minimum of two bathrooms were required as far as health and safety.

There was no equivalent for a bathing facility and from that standpoint there was not an equivalency and what essentially happened was that the person had to get to the 3rd floor above and compete with everybody else trying to share that one shower. The other thing to consider was that of all of the items that the Housing Division and the Building Inspection Department received as far as the complaints in the residential hotels such as: Problems with the bathrooms being improperly maintained or unavailable – This was the other reason why two bathrooms were required and inevitably one would be down for whatever reason, and if the shower is down you would be competing for two showers and there were quite a few of them.

President Clinch asked if there was a timeline that the properties had to comply with the ordinance when it was passed in 1995?

Inspector Bosque said she was not the Chief then but when first scheduled they actually had more than two and realized there were many buildings not in compliance and dropped to what

the City felt was the absolute minimum and they worked with the property owner on that. They did not write any violations initially and gave them opportunity as rooms became vacant to place them in and most have complied. In this instance it came to the Department's attention to give property owners enough time but there were people occupying them and competed for three showers and it needed to be reasonable.

Commissioner Mar wanted to know how long this violation has been in effect? Inspector Bosque said the Notice of Violation was issued in August 2012, and this case did not go to a Director's Hearing since the property owner asked to waive it and go before the Abatement Appeals Board.

Commissioner Lee asked if the NOV was issued in August, when was the first time the Department found out about it? Inspector Bosque said generally as they do inspections they would see that these situations occur. One photo showed some of the doors as they walked by, and unless the doors were open the garbage may have been stuck if the doors were closed with another shower room. In this particular instance, it came to their attention that the property was not in compliance when the Notice of Violation was written in August.

Inspector Bosque said when they walked down the hall and if the doors were closed, and there was not a specific complaint about this issue Inspectors would not necessarily have known. There may be a handful of buildings that are not in compliance, because of a lot of these buildings were done on a room to room inspection and Inspectors found problems and worked with the property owners to force them into compliance. The Code Enforcement Outreach program was absolutely crucial to help in this situation. Generally when buildings fell below the requirement usually there were alterations without a permit and that affected the situation as well, but there was no evidence of that here.

Commissioner McCarthy asked why there was no hearing on this? Inspector Bosque said there is a provision in Chapter 1A of the San Francisco Building Code that allows a property owner when they have a Notice of Violation to be scheduled for a Director's Hearing or if they wish they can ask that it be waived and come directly to the Commission. Staff received a request in writing from the property owner's representative, Mr. Karnilowicz.

Commissioner McCarthy asked was this hotel operated by the owner or a lessee? Inspector Bosque said she believed it was a lessee involved and it may be Bill Ticore who had been a lessee of record in the past. While the Notice of Violation was issued to the property owner on site when they were there and possible options were discussed with the lessee if they were in control of the property, so the Department communicated with both.

Commissioner McCarthy asked who would come to the Hearing? Inspector Bosque said the property owner or the lessee's representative and the owner's agent, Mr. Karnilowicz can explain that.

Henry Karnilowicz, representative for Bill Ticore, the lessee of the hotel. As Inspector Bosque stated the building was built in 1906 and he tried to find the original drawings and could not find them from Records Management. He got the original permit but it did not indicate how many

rooms were in the hotel. Most of the hotel was for traveling salesmen and not made to live in and never had all the facilities that other usual hotels had since people stayed briefly a day or a week and moved on.

Mr. Karnilowicz said it was the existing floor plan when it was built, and it was not unusual that the hotels did not have the two bathrooms. The hotel did have private bathrooms on each floor and asked for an exemption from this ordinance, because when it was built and the floor plan had not changed and not different from many other residential hotels in the area. It would take away the private bathrooms from people that have them right now and tenants would object and may file a claim from the Rent Board, so to prevent them from doing that this is their opposition at this time.

Commissioner Walker asked if they were willing, if next time one of these becomes a private room that have a bathroom and the owner would want to convert that to public access? Mr. Karnilowicz said they would have to do that and he believes it will come out of his pocket and not from the owner's pocket and would like to avoid that. It would be nice to have a room with a full bathroom with better quality of life, and the other rooms without a bathroom were not right. He would need some time depending on what the Commission decided.

Commissioner Mar said it was kind of related and 25 of the rooms are tourist hotel rooms and they did not stay there very often. He asked if some of the tourist rooms have private bathrooms? Mr. Karnilowicz said the way the hotel was set up and when they came up with the HOR Ordinance, he believes the City did a survey of how many days people occupied the rooms and if it was more than 30 days, and how many were not and came with residential and tourist rooms. They are primarily run as residential hotels and not tourist hotels. It was hard to rent out rooms to residential hotels and to tourists because of the clientele that was there and that was not usually how it was done and there were no turnovers in those rooms.

President Clinch said there was no rebuttal from the Department.

Pratibha Tekkey, Organizer Coordinator of the Central City Collaborative, a part of the Tenderloin Housing Clinic and funded by DBI to work with DBI inspectors on habitable issues and the Tenderloin and South of Market, said they had a mini presentation and briefly gave the framework of what they did and her co-workers would present specific issues in the Warfield Hotel, including tenants from there that would address the issue.

There is a Tenants Outreach Program and some of the tenants who became Tenant Organizers do outreach to hotels and talk to tenants about their tenants' right issues, habitability issues, and how to address them. When there are series of issues on one particular building, they try to have a tenant meeting to address those issues. They send a letter to the landlord or lessee to work on these issues and give them 7 to 14 days to fix the problem, depending on the seriousness of the issue. If not, they contact the DBI inspector and tend to work with the tenants because the tenants are usually afraid of DBI inspectors or talk directly with the landlords and she and her staff are arbitrators and address the issues. They have done this with the Warfield Hotel and next the Board will hear from some of her staff and tenants on how it went.

Ben Ng, who worked with Pratibha, said he is with the Tenderloin Housing Clinic and is the Program Coordinator for the Code Enforcement Program. He explained how they were involved with the building and tenants and gave common issues that they faced on a daily basis and some quick facts. Within the last 2 years (2010 to present), there have been a total of about 29 NOV's that were issued to the Warfield. There were about 9 issued this year, about 10 NOV's in 2011 and 9 NOV's in 2010. There were 49 total complaints filed against the Warfield and the majority of the complaints filed were based on habitability and common area issues that were identified as Housing Code Violations.

Some issues consisted of no heat in the building, broken or inoperable windows, missing or no smoke detectors in the rooms, broken door knobs or broken locks. There were holes in the walls, major pest rodent infestation, including but not limited to bed bugs, mice, cockroaches and leaks underneath the bathroom sinks or broken sinks, electrical outlet issues and inoperable elevator that consistently broke down; and as mentioned by Inspector Bosque as the latest violation, inadequate public sanitary facilities for the hotel and there was no uniform visitor policy posted in the common area.

There were two major inspections done by DBI. A room by room inspection conducted by Inspector Der Vartanian in December, 2010 and a recent inspection by Inspector Herring, who worked closely with the City Attorney's Office and was issued in June, 2012 and both of these NOV's were active. He recommended the Board deny this Appeal and move it forward to an Order of Abatement.

Preissa Honey, Community Organizer at the Organizing Division of the Tenderloin Housing Clinic, wanted to give more detailed insight regarding the issue of access inside these types of buildings, especially the Warfield, which was extremely difficult to access. Community and organizers who went inside the building were greeted with hostility upon requesting to go inside and meet with the tenants. The management's usual response was "get out of here."

If the organizers were treated this way, she imagines the tenants who were uneducated about their rights were also disrespectfully treated. The lack of their presence is proof of the fact that their outreach at the Warfield was not successful. The tenants at the Warfield were on fixed incomes and most of them were on SSI or GA. Most of the tenants were afraid to come out to speak against the managers because of the fear of becoming a victim. She showed photos of specific issues in Room 220, a ceiling falling off, a broken window, the flooring is basically cement, the trash within the stairway and a small example of some of the rodent infestation which was very common in the building and in fact it was not an isolated incident and tenants were living there. In conclusion, they had given the operators ample opportunities to collaborate with them by inviting them to resolve the tenant issues by writing letters and requesting with peers but they have not cooperated and they would deny this Appeal and recommended a swift Order of Abatement.

Denise Maloney, Peer Counselor at the Collaborative, which means that when tenants come in and they were afraid to talk to people of authority they can talk to a peer, somebody who lives in the Tenderloin and knows what they have been through and may be more candid with people like

them and there are 10. She has been doing this about 2 1/2 years and talked to numerous tenants from the Warfield.

Many of them no longer come to the Collaborative because they left the building and could not get their needs met. Habitability is increasingly a problem. In June, she saw a tenant, who is here today, Arthur Bray, who came in and wanted to get a lifeline telephone since they provide low-income telephone services for tenants. Most hotels in the area have a phone jack in the rooms but Arthur's room did not have a phone jack. They typically write a letter requesting that a phone jack be installed with ample time and this was in June. Arthur did not have a phone jack in his room and he did not have the right to contact the doctor or call 911 if he had a crisis.

She visited there about 2 or 3 times and was denied twice to access the building and the manager told her twice that AT&T was on their way and would be coming today or tomorrow and constantly staving off this not seeing it as a necessity, not seeing a person's right to have a phone jack. Whatever authority the Board has, she wanted to make sure these people have their habitability rights taken care of.

Kelly Spearman, tenant at the Warfield Hotel, shared one bathroom and tub and he has AIDS, vertigo and Rye Syndrome. It was filthy with bedbugs, a lot of roaches and dirty carpet. They have no privacy and no access for visitors, no phone in the lobby or bathroom and they were rude. His doctor wrote a note that he needed a bathroom, which was difficult and the building is filthy. The environment is ugly and there was no shower heads in the bathroom and no notice when the water is turned off. The garbage area is very bad. Two people had TB from that area in the 2nd and 3rd floor and no sanitation for the garbage. There were no mirrors for grooming for him and his wife but the bedbugs are a very serious issue with scars on his back, which his doctor had prescribed medicated soap. He has been there for awhile and did not want to leave but it needed changes.

President Clinch called for public comment.

Arthur Bray, tenant at the Warfield Hotel, said there was a major issue with no heat in the building and he shivered at night and cannot sleep. The condition is very unsanitary to the max and they do not clean the bathroom and the trash is not disposed of. There has been severe harassment of tenant's visitors. He is grateful for housing but does not approve of paying rent for no heat. He lived there for about 5 years and the conditions of the building were filthy and the elevator breaks down every two weeks. There are a lot of seniors and disabled people in wheel chairs who have problems getting downstairs.

They do not appreciate their visitors or guests being harassed using the bathroom in the hallway with cameras installed in the hallways. Whenever they approached management with negotiations, they blatantly lied to them or turned a deaf ear and he gave up waiting another 6 months for the phone jack that they refused to install in his room. The tenants do not exist unless it is check day and that was what he was trying to say. It was like a magic trick which they exist momentarily to pay rent and then they disappear again.

Anthony Boyle, former tenant, said he used to live at the hotel for two years and testified it was all true and it was so horrendous that he moved last spring. The elevator being out, the bedbugs, the horrendous hallways and he wanted to support and serve justice to the people who still live there.

There was no further public comment and no Department rebuttal.

Henry Karnilowicz, Agent for the owner, said the issue was not about the issues the tenants have raised. There is no doubt that these hotels have these problems and they are not the only one that runs on the location of Taylor and Turk.

He recalled a few years ago in another hotel and while walking there were bullets flying around and police cars and it is a very rough area and very hard to maintain these places with the tenants themselves with all kinds of problems. It was very hard work to maintain from cockroaches and rotten food left there and sitting in their room with a lot of issues. They should look mainly at the bathroom and concentrate on that and the other issues were separate that were not their concern at this time. If the Commission decided they need to add more bathrooms, they will certainly consider that but will need time until it becomes vacant and that was where they were at now.

Commissioner McCarthy asked how much time he was talking about. Mr. Karnilowicz said when the room becomes vacant he would like to ask for 3-6 months.

Commissioner Walker thanked the tenants who came and spoke about this issue. She believes that some of these projects came forward, and this was one of the reasons why they have funded the Code Enforcement Outreach Program because the people doing the work try to help the landlords make these conditions habitable which was really the point and it worked very well.

Commissioner Walker appreciated the work that the Code Enforcement Outreach Program did with the Housing Division, and she thought about what it would be like to live in these conditions and Mr. Karnilowicz's client had taken on a building that needed a lot of work. This was one of the situations when they could really do something to help the landlord to make the conditions better there. She felt that a good solution was offered to allow time to have an empty unit with a bathroom that was private to be made public as a reasonable option to them and for the people living in the building and the owner of the building.

Commissioner McCarthy said they did not discuss the timeframe and Mr. Karnilowicz mentioned 3-6 months, but immediately they probably could organize on each floor in the bedrooms a secondary bathroom. Could that be organized? Mr. Karnilowicz said they wish they could but they cannot and the rooms should have bathrooms in them, and there was no way to cut into a door to take that away from the tenant that was in that room and go to half a bathroom decreasing the use for the tenant.

Inspector Bosque said when the Board asked Mr. Karnilowicz if the guest rooms that had bathrooms were all occupied by residential or tourist residents was that answered. If they were tourist and shorter terms, some of those rooms may become available or are they residential.

Even though a building has residential and tourist rooms and can be used primarily for residential, the fact of the matter is that what most of the operators do is realize they can have residential use but it can be shorter than a 7-day period or shorter and it can be more transient.

From that standpoint, the Devy Law that was required by the Hotel Conversion Ordinance would not necessarily tell them but they do have a list of what those rooms are and it maybe some of those rooms may come up with earlier than 3-6 months to be able to do that or that was just the possible alternative. The property owner may have a vacant room that may be a tourist room right now that they can use as a portion of that to do a conversion with a building permit. Since these were not all residential rooms, they can decrease the number of tourist rooms without any impact to the Hotel Conversion Ordinance so there is that option and they can do that right now.

Commissioner McCarthy asked in past cases if there was a hotel that wanted to comply, what has been the time frame? Inspector Bosque said in most situations, most of the residential hotels do not have private bathrooms they have to take one of the guest rooms and convert it into a sanitation facility that they need. DBI tries to work with them when that results in a reduction of a residential guest room designated by the Hotel Conversion Ordinance, but as you can see they have plenty of tourist rooms on each floor, any one of which if they can become vacant they can use that.

The number of residential and tourist rooms and how they are used can change in the building. Room one today can be used for residential and tomorrow, if that is validly vacant, it can be used as tourist so they move around the building. After talking with her Inspectors, there may be at least one guest room for each floor that may become available that they could use for a conversion to a bathroom. As far as it being vacant, it could be used in the future as a residential or tourist room depending upon how many they have occupied in any given day and that is why they have to keep a daily log.

Commissioner McCarthy said Plan A as a compromised plan if possible to facilitate and the final plan with regard to having the bathrooms up to Code, how long would the hotel be allowed if they were to pull the permit.

Inspector Bosque said this was a 30-day notice which was very typical and they get the owner to the process and try to work with them. As provocative as it was going through the Board rather than going through the process with a Director's Hearing, they would generally force the property owner to comply within 3 months or earlier because these people only have one shower. Commissioner Lee asked when the Department found out about it. Ms. Bosque said most likely the other Notice of Violation and it may be cited there as well, they inspected the garbage room on the floor to see if it was ever used as a shower room but they cannot validate that. At some point in time there could have been another shower in this building by virtue of the fact there were private bathrooms, because they did not know and there were no plans readily available.

Commissioner McCarthy believed the hotel lessee would like to comply. He asked Ms. Tekkey in regards to this kind of negotiation what she thought would be a fair timeframe for them to comply? Ms. Tekkey said it is challenging in terms of the vacant rooms for them to change it, nobody monitors it and she disagreed that this was the right framework to go with. This notice

was given since August so they had ample time to do something but nothing was done. She dealt with this bathroom issue in another hotel and it was done within a month or less.

Commissioner McCarthy said from a construction perspective, he wanted to be realistic so there would be no situation but a month's time is a lot of action. Inspector Bosque wanted them to get the permit and get the process started. It had been extended now and 3-6 months construction can be easily done by then.

Commissioner Lee said Commissioner McCarthy asked for Inspector Bosque's experience on dealing with those situations and knowing about these tenants in these residential units. They wanted to get some idea of how often tenants turnover and if there is a vacant soon.

Ms. Honey gave a specific example, and said yesterday she went through a list of 20 people. There was a meeting at the Warfield Hotel about 7-8 months ago and they held a meeting in their office. She contacted these tenants and 80% of them indicated they had moved out and it was a very high turnover rate for 6 months.

Commissioner Mar said before they get into the specifics about the date when they should put in a bathroom that he was not that inclined to extend it, and to him there were not that many bathrooms to put in and talking about putting only 1 or 2 per floor. There is a Catch 22 here, and why were there so many other things outstanding besides the bathroom.

He was glad working with the SR collaborative and other organizers to deal with the building inspectors but they are not a replacement for their inspectors. Part of the problem the inspector had to write up the violations and that was the only thing that puts heat on the lessee or the owner. It was great that the organizers were trying to work with the landlords but do not wait until after you were not allowed in before you contact the Commission.

The Housing Inspectors had to inspect anyway and they should not wait until the Collaborative invited them in. There had to be some regular inspections and that was why it had taken so long. He believed that without the inspectors, who cannot be stopped from going in and that is the reason they have ID badges and drive City vehicles. The landlord, lessee and the manager cannot stop them from entering the rooms they wanted to see.

Inspector Bosque said it was not correct to say the Inspectors waited for the Collaborative to invite them in, and they are in these buildings constantly. The problem is an Inspector is not a substitute for good management of a property and that was what Commissioner Mar said. They wrote a notice for compliance and it gets repaired and then breaks. In those situations where they can document that, as was done with the Grand Southern and other buildings. For those in the Litigation Committee they refer those cases to them and ask them to be referred to the City Attorney. In this instance, they were participating in a City Attorney Task Force effort on this property and if that did not result in things being repaired then the Litigation Committee will probably see this case before it. It would not be the first time that the Warfield has gone through that particular course and she wanted to clarify that issue.

However, they cannot be everywhere and they have about 5 vacancies she is trying to fill and it was definitely their intent to be in these buildings as often as possible to change how they were being operated, but they will never be able to step into the shoes of onsite management and they do not have the ability to do that.

Commissioner Walker said she believed it was very important to remember the reasons the Board put this Code Enforcement Outreach Program together and funded it because tenants often times were afraid to talk to City representatives and it was an outreach of our Inspectors. They were doing the initial meeting, grades, and interviews and discussed things with the tenants and then hopefully passed it along immediately to their Department so that they know because they have a Housing Division that was sort of nationally renowned for its proactive inspections. Clearly they have a lot of buildings in inventory that have habitability issues and have been a priority for the Department and that was why they have the tenant organizers assisting them.

Commissioner Walker made a motion, seconded by Commissioner Mar, to uphold the Department's recommendation that they set a time limit of a month to file for the permit and 3 months to initiate it or put it together. It seemed to be a reasonable amount of time and if the owner wanted to do it or whether they wanted to take one of the tourist units off or make public a private bathroom is kind of up to them.

Mr. Karnilowicz believed it should work for them. The rooms with the private bathrooms actually faced the common corridors. It will be a job but he thinks they could at least apply for a permit within 30 days that should not be difficult to do, and as soon as the rooms become vacant they could provide extra bathrooms.

Ben Ng wanted to reiterate what Commissioner Walker and Inspector Bosque mentioned about why this whole program was designed. The Code Enforcement Outreach Program (CEOP) was here to leverage some of the work that DBI does. When they went into the buildings they were able to resolve some of the issues between management and tenants to avoid the Building Inspector's inspection for another time for more severe building issues.

Their role works with much more leverage between the tenants and to understand what their specific issues were. Inspector Bosque said the Department is short staffed so the primary purpose of this program is designed for them to step in to resolve these issues as quickly as possible and without passing forward to the Building Inspectors. They had many opportunities to work with the landlord and managers and that was why they were passing forth this case. It was not that they did not want to contact the DBI firsthand but the fact that they were given this opportunity to actually work with the tenants to have a better understanding of the internal issues prior to contacting the Building Inspectors to step in to do the inspection.

Commissioner Walker said when they heard about conditions like these, it was everyone's responsibility and it should not be the case. Whatever it was that the Board needed to do to help the landlord make conditions better they wanted and needed to do it and it was not OK.

Commission Secretary Aherne verified that ***there is a motion that the Appellant obtain permits within 30-days and have 3 months to get the work started and completed as soon as possible***

and to uphold what the Department is recommending. Commissioner Lee clarified that they were looking for a permanent solution within 3 months.

Commission Secretary Aherne called a roll call vote:

<i>President Clinch</i>	<i>Yes</i>
<i>Commissioner Lee</i>	<i>Yes</i>
<i>Commissioner Mar</i>	<i>Yes</i>
<i>Commissioner McCarthy</i>	<i>Yes</i>
<i>Commissioner McCray, Jr.</i>	<i>Yes</i>
<i>Commissioner Walker</i>	<i>Yes</i>

The motion carried unanimously.

Commission Secretary Aherne asked if there was any general public comment related to the Abatement Appeals Board.

Inspector Bosque addressed the Chair and the City Attorney, and said this was a waiving of the Director's Hearing going right to the AAB. The AAB was issuing an Order to that fact and the question she had is if an Order of Abatement will be recorded or something else, because that would be the question before the Hearing Officer at the Director's Hearing?

Attorney Clark said she looked at the Code Section and it was not clear from the Codes. Basically it said that the Board was hearing a direct appeal pursuant to Section 102A and to uphold, modify or reverse such Orders and it did not clarify or it was not clear. There was no Order of Abatement from DBI and stepped into the shoes of the Building Official. She understood her question but not exactly sure what the answer was and needed to look into it. She thinks that you issue an Order of Abatement as if you were at the Director's Hearing and by coming directly here then the appeal that would normally happen after that does not occur. If that makes sense, she believed that they were in effect issuing an Order of Abatement.

Inspector Bosque said that was what staff would prefer. Commissioner Walker said instead of upholding it they were issuing it. Inspector Bosque said in addition they would prepare an Order but they would have a Notice of Decision that would be attached to that. Attorney Clark said that was her understanding based on what was in front of her but if it was any different she will let them know immediately.

Mr. Karnilowicz said he wanted to stay the Order of Abatement and would like to move on with this, and it was unfair for the owner to do that. Inspector Bosque said his client waived the Hearing before the Board and is subject to that action.

F. GENERAL PUBLIC COMMENT

There was no General Public Comment for items that were on the Abatement Appeals Board Agenda.

G. ADJOURNMENT

President Clinch made a motion, seconded by Commissioner Mar, that the meeting be adjourned.

The motion carried unanimously.

The meeting was adjourned at 10:04 a.m.

Respectfully submitted,

Serena Fung, Secretary

Edited by: Sonya Harris, BIC Secretary