



**ABATEMENT APPEALS BOARD**  
**Wednesday, December 19, 2012 at 9:10 a.m.**  
**City Hall, 1 Dr. Carlton B. Goodlett Place, Room 416**  
**ADOPTED April 17, 2013**

**MINUTES**

**A. CALL TO ORDER and ROLL CALL.**

The meeting of the Abatement Appeals Board for Wednesday, December 19, 2012 was called to order at 9:10 a.m. and a roll call was taken by Commission Secretary Sonya Harris, and a quorum was certified.

**BOARD MEMBERS PRESENT:**

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

**Sonya Harris, Building Inspection Commission Secretary**

**D.B.I. REPRESENTATIVE PRESENT:**

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

**Jana Clark, Deputy City Attorney**

**B. OATH:** Commission Secretary Harris administered an oath to those who would be giving testimony.

**C. 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 comment.

- 1. CASE NO. 6766: 3825-3829 – 24th Street**
- 2. CASE NO. 6767: 3825-3829 – 24th Street**
- 3. CASE NO. 6768: 3831 – 24th Street**
- 4. CASE NO. 6769: 3835 – 24th Street**
- 5. CASE NO. 67701 1018 Noe Street**

**Owner of Record and Appellant:** Susanna Shaw, 3831 – 24th Street, San Francisco, CA 94114

**ACTION REQUESTED BY APPELLANT:** Requesting more time to complete required work.

**NOTICE OF DECISION:** After deliberation of the evidence submitted and the relief sought, the AAB made the following findings and decision: The AAB voted to uphold the Order of Abatement and to impose the Assessment of Costs. Appellant is given three months to obtain the necessary permit and three months to complete all work including final inspection approval. All time periods specified in this decision become effective on the date of the Notice of Decision dated September 28, 2012.

Rosemary Bosque, Chief Housing Inspector, said as a housekeeping matter, she wanted to let the Board know that the Agenda, Items 1 through 4 are related to the same property, which is 3825-3829 - 24th Street and the open cases were all considered as part of one Order of Abatement and she will address them all at one time.

Inspector Bosque explained that there were so many other details to include which were not in the staff report, and this would also include Agenda Item 5, which is the Noe Street property all owned by the same property owner. This is a City Attorney case and these two properties and the third property at the 3300 block of 24th Street were part of the City Attorney referral that went through the Litigation Committee and went on to the City Attorney. A lawsuit was filed against this property owner in March of this year for failing to comply with the San Francisco Housing Code, having numerous Notices of Violation and Orders of Abatement on the two properties before the Board and the other properties.

As a point of reference regarding the inability of this property owner to maintain her property, the property that is not before the Board on the 3300 block of 24th Street required an Emergency Order to be issued. There was a fire at that property and someone was very devastatingly injured. It was not the staff's opinion, based on the information detailed in the photographic evidence, the Notices of Violation and the chronologies regarding both the Noe Street and the 24th Street properties that were before the Board today, that these were cases that warrant additional time.

The property owner has had sufficient time. As she indicated, a lawsuit was filed in March of this year. The City Attorney worked with the property owner's attorney on this to get compliance and with respect to the fact that a tremendous amount of time had occurred and they have the same pattern repeating itself. Not unlike Mr. Blanding and that was a failure to comply

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or maintain the property in a timely manner, a constant failure to respond to Notices of Violation in a timely manner, a failure to obtain the requisite required permits, detail the correct description of the scope of work, a failure to take out permits when they were required and recurring violations.

They had a situation where the two properties had condominium subdivision. Although it was their understanding Ms. Shaw was still the property owner for both of the properties that were before the Board, Agenda Items 1 through 5 that was the 24th Street and Noe Street properties. On the basis of site inspections, they found these violations recurred and the subsequent permits were required to do the repairs. There was lengthy evidence of outstanding violations. The field inspector did repeated inspections and the information and case was forwarded to the Deputy City Attorney in charge.

On the basis of that, staff does not feel that these cases specifically Agenda Items 1 through 5, warrant additional time, and the filing of the lawsuit will address these issues. The inspector who performed those inspections was present and there was a tremendous amount of detail to this. There were 20 pages on the complaints and she stopped counting after he referenced the 8 or 9 Orders of Abatement. The staff strongly recommended that no additional time should be given in this case.

Susanna Shaw, the Appellant, said she wanted to appeal. On August 9th, she went to a Director's Hearing and that was the first time she had any knowledge of the other four cases and they were not received in 2009. The tenant gave her the posting on her building at 1016-1020 Noe Street and she resided at 3825 - 24th Street. The four cases involved units in her building and the building next door but there were no postings.

Ms. Shaw said when she received information on the cases, she immediately noticed that all four of them contained items. In 1990, she purchased this building which originally was a 6-unit building on 24th Street near Church Street. The former owners warned her about the problems with the tenants. They had been partners for 30 years but were selling because they had problems dealing with the tenants. She believed she could manage the problems with the difficult tenants because she was in her 40s.

In 1994, she legitimately increased the rental and the tenants notified the Housing Department. They have three other units of complaints and three NOV's filed against her buildings, including the fire damaged building at 3356 - 24th Street. There were rent strikes and 16 death threat calls by the same person, hanging up and calling back and a sign placed on her door to "lynch the landlord." She went into bankruptcy partly because of the rent strikes and finally burst in 2005. Since that time, she had three NOV's at 3825-3829 – 24th Street, three NOV's at 3831-3835 – 24th Street and about five NOV's on the fire damaged building. She immediately complied with the Housing Department and worked on the adjacent building next door. She later converted the building into condos and applied for three separate loans.

Inspector Ivan Sarkany brought out the file and on one of the lists, a Building Inspector had marked the list with about 20 items and each item was circled in red ink. She informed Inspector Sarkany that someone already came out and checked this list and he accused her of forgery and

grabbed the file and refused to give her the copies. These three cases appeared on her file report and she cannot refinance the property with a lender until the outstanding abatements were complied with.

She had three condo conversions on her buildings and had not met Inspector Bosque but expected to speak with level headed professional Building Inspectors. Chief Inspector Bosque came out with Senior Inspector David Gogna, and Ivan Sarkany and all three screamed at her and accused her of forging this list and threatened to send it to the City Attorney to prosecute her. Her attorney eventually picked up these three cases and she believed it was complied with in 2006 even though they reappeared on these four notices from 2009. At the same time, Inspector Gogna denied that she ever cleared them and she was not aware that Inspector Isabel Olivares inspected her Noe Street property and entered the passage way, which was twice unlocked and wrote four pages of items including the back staircase which was completed with a permit in 2001. It was completely redone and they had permits and plans to remove and replace the old staircase.

At that point, she believed that she was targeted by the Housing Department and basically holds Inspector Bosque responsible for keeping up a toxic environment in her Department for years and she could have stopped it at any time but it continued. She is 62 and cannot tolerate any more and it was not true that she had done work without permits. At least two of her buildings were converted into condos with certificates for final completion and electrical permits for the heaters. She often applied for permits and was used to dealing with very level headed people at the Building Department but they denied her filed Appeal.

Ms. Shaw's time was up but Deputy City Attorney Clark said it was up to the Board's rules and procedures because there were five separate matters and the Department presented all in one and it was not fair to limit her time. The Board approved and allowed her an additional three minutes to speak.

Ms. Shaw said when the Appeal was filed, the Housing Inspectors checked their computers and found that none of the three cases were cleared on that building. She went to the Housing Department the next day and they found one of the revocations on file for Complaint 167806 and that all three cases were cleared. She later realized the Records Department had destroyed all the cases two years ago and therefore not all records were in the computer. The cases were not recorded but they were finally abated and these cases were included as they were highly inflammatory items.

There was a lawsuit filed after the fire because she had limited liability insurance and the City Attorney filed a suit four days later without checking any allegations in the lawsuit that supported them. They were totally false and it was the Department's priority to aid these people. Her building was included in the lawsuit because they wanted to help and she believed that this was an abuse of power and the public's trust. When she looked at these papers and she is a citizen, they must be right because they were part of the Building Department but she realized that they had destroyed records which can verify she had complied with all of them. The Housing Department should not have destroyed any records and she was extremely shocked but the items were finally cleared in about eight months.

Three years ago, she filed a complaint to Ed Sweeney about Inspector Bosque on the Noe Street situation with the back staircase. Mr. Sweeney informed her that Inspector Bosque denied she was targeted but she believed there was some kind of a secret contempt because Inspector Bosque took advantage of the Board's nature of the Building Inspection and all she had to do was deny it. She was frightened and has been mistreated for seven years and she will not tolerate this anymore. In addition, she was frustrated and scared that her building had a fire and people were injured.

Commissioner McCarthy asked for a brief explanation of Ms. Shaw's attempts for compliance? Ms. Shaw said they worked with Inspector Mungovan and a lot was done. Yesterday she met with the City Attorney and it was a very productive meeting. Most of the fire damaged buildings were corrected over the years. When she went into bankruptcy, it was a contested case and she probably lost over a million dollars because of that. It was one struggle after another and her bankruptcy attorney, David Ruplico, was jailed for first degree murder and finally the Housing Department closed the case. There were many difficult times dealing with the Housing Department and it was one horrible situation after another in her life.

When she came to the Building Department, she was asked if Inspector Bosque had targeted her and she was shocked they mentioned a few days later if she planned to sue for harassment and did not know that possibility existed because she was not litigious. She converted her buildings into condos that were inherited as a family business. Her parents started the business in San Francisco in 1952 and she always loved the building.

Commissioner Walker said they were at the hearing because there were outstanding Notices of Violation. Ms. Shaw admitted that there were issues listed that needed be resolved and she worked on them. Commissioner Walker said the issue with the Department was that this went back awhile ago and in the meantime, one of her properties had a fire and the Board's job was to make sure that the buildings are safe and habitable. She believed that from looking at the pictures and reading the documents that the Housing Department did what they were required to resolve the outstanding violations that affected the habitability. Ms. Shaw admitted the issues listed were being worked on.

Ms. Shaw said she tried to explain after that incident in 2006. Inspector Oliveras inspected her Noe Street property and she felt targeted at that point and was afraid of these people. She came before the Board and asked for time, but wanted this situation to change and was afraid that these people and the Department was a bad relationship. After her bankruptcy, she went to the Housing division and wanted to clear her properties. She wanted to get everything done but could not withstand the bullying and intimidation, since they were powerful in a public position and to find these cases supposedly in compliance but still outstanding baffled her.

Commissioner Walker said it was the Board's job to make sure the violations were in compliance and that was not the case. Ms. Shaw believed they were in compliance and the Department should not have destroyed records and included the old cases. She said there was a Revocation of the Order and possibly two more and she searched for her papers because Records Management destroyed the tapes. There were two more that were already cleared and these inflammatory items were included to help people who filed lawsuits which portrayed she had

horrible properties and confiscated her properties. She believed it was an abuse of the public's trust when these situations no longer existed.

Commissioner Walker said it appeared that they were. Ms. Shaw said she read this from the paper and assumed that it must be true and she was the public and this abused that trust. She showed the Board the Revocation of the Order but assumed that did not count. Commissioner Walker said this was not the issue in front of them.

Vice President Melgar said she wanted to put this into context: She is a landlord doing a business, such as a restaurant or any other for profit enterprise and must operate according to the rules. Ms. Shaw wanted to be in the business but there are Codes for a reason because people did what they were supposed to do and the taxpayers hired them did not mean that they abused the public's trust. The Board has pictures including records and all sorts of evidence, and Ms. Shaw presented very little evidence to the contrary.

Vice-President Melgar said Ms. Shaw must be a very wealthy woman since she owned a lot of real estate in one of the most expensive areas in San Francisco. She had resources and assets that would allow her to fix the problems in at least some of her buildings and she owned significantly more than that. Her bankruptcy was 7 years ago and she had options. She wondered why Ms. Shaw believed that she was victimized by this Department when the Department followed the rules.

Ms. Shaw said she had debts of \$4 million and there was also rent control. She explained what happened 7 years ago and reiterated that she was targeted and holds Inspector Bosque responsible. Vice President Melgar said it was her job to protect the tenants. Ms. Shaw wondered why she was screamed at and the Department did not follow up with Inspector Alex Fong to ask if he made that inspection. She was frustrated and wanted that hostile situation to change and hopefully a potential turning point in her life.

Commissioner Mar said aside from what she believed was a hostile environment, she should resolve some of the NOV's and submit some paperwork on violations that were resolved. She could request more time if needed but the Department wanted to know she at least applied for certain permits and evidence of documents such as the application for an Electrical or Plumbing permit.

Ms. Shaw said she did not have them but gave Inspector Steve Mungovan the recent building permit for the floor of the stairwell and expected he had seen that. Commissioner Mar said those were the things they need to deal with and to see some progress or some of the work that was done. They wanted to see if she had applied or at least started and if it were listed, they could ask the staff later. Ms. Shaw said Inspector Mungovan had the permits and can verify the back staircase was totally done, and a couple of handrails inside the apartment were done. Commissioner Mar said they could try to verify it.

Inspector Bosque rebutted there were a lot of records and she had researched tremendously on the filed permits such as the Electrical permits that were discussed. They found the third conversion but no permit to legalize heaters that were installed in the 24th Street building or

there would be a note with calculations for some of the heaters. It was that kind of pattern, one thing after another. They had spent a tremendous amount of hours and the staff worked with her to assist her through the process. The notices were issued in 2009 and several years later, this process started before the Notices of Violation were issued that was never resolved.

Inspector Bosque said were there some notices currently being resolved? Yes, they filed lawsuits to force Ms. Shaw to comply. Currently there was some movement and hopefully that will help them get final resolution, which they preferred to do with three of these properties. Did staff believe because of the history before the Board that this warrants an additional extension of time? No, staff believed that an Order should be issued and recorded on the property so that anybody that moved into this building had ample notice and that was how the process was supposed to work. The Hearing Officers were right in what they did, given the gravity and the extent of the information that both Ms. Shaw and the Board has on these two properties. No additional time should be given and that process is an important code enforcement tool that was consistent with everything else that the Board had before them.

Commissioner Lee asked what were some of the outstanding items that needed to be fixed so they had an idea of what was left to do? Inspector Bosque said Inspector Steve Mungovan, field Inspector, was on the site and he could briefly give the Board a running list of things that were ongoing.

Inspector Mungovan said on 24th Street there were a number of violations: Roof leaks, electric heaters installed in six units without permits, window sashes in disrepair, missing handrails or handrails installed improperly. On the roofing, there were several layers of roof and he had not been there but had some pictures. There were supposed to be at least three layers in certain areas and there was probably four or five and the composition of the roofing was so worn out that it was actually frayed. There were no permits for ever having re-roofed. He would expect that the original roof, a wood shingle roof was there and at least three layers of roof, which he guessed was more like four or five.

Commissioner McCarthy said when Inspector Mungovan itemized these items, they were not huge dollar amount items and the roofing was probably the highest. He asked if he had met the contractor? Inspector Mungovan said he had not met the contractor on the site. Commissioner McCarthy asked if there was a contractor assigned? Inspector Mungovan said Ms. Shaw had people who worked for her and they were not introduced to him as contractors and he viewed them more as laborers.

Commissioner Melgar asked if there were children under 6 living in any of these buildings? Inspector Mungovan said he did not know but did not believe so. Commissioner McCarthy asked Inspector Bosque if she knew what caused the fire? Inspector Bosque said she did not know exactly what caused the fire at the 3300 block but there were open violations at that building, which included smoke detectors and an illegal unit down on the ground floor area and the Department issued an emergency order.

President Clinch said the Department had no more questions. He asked for the Appellant's rebuttal.

Ms Shaw said she had Electrical permits and other permits, there was also another Hearing on June 21st and they said there were no permits for the back staircase. She did get a permit in 2010 for the back staircase and it was completed but they could not find any permit for the repeated Violation Notices about the heaters. She went to the Permit Section and found the permits within two minutes. They were to comply with the 3-R report for the condo conversion and she had the Electrical and a physical inspection for the condo conversions that was required. On the Electrical Inspectors' report when they inspected the buildings, they wanted compliance with what was written on the report. She had the Electrical on both buildings and immediately found it.

Ms. Shaw said from her bad experience, they did not spend a lot of time and she was often accused of not having permits and wanted changes to the hostile environment. She is 62 years old and cannot tolerate it anymore and she hoped for some sort of change but most likely it will not happen. Ms. Shaw said she brought the 2009 permits with her for the heaters and they were from her buildings at 3825-3829 – 24th Street and 3831-3835 – 24th Street. She was unsure if she gave the Board her Certificate of Final Completion (CFC). President Clinch confirmed yes.

Ms. Shaw said that was the Revocation of Order to comply with the Building, Electrical and Plumbing. There were conflicts between these Departments and according to the Building Department, they passed it for the code violations that were corrected. Commissioner Walker said she thought that the conditions of these buildings made these uninhabitable even though people were living in them and the issues of unpermitted electric heaters and those types of things made it a real risk for a fire.

***Commissioner Walker made a motion, seconded by Commissioner Melgar, to uphold the Department's recommendation, the Order of Abatement, and maybe allow 30 days to take out permits and resolve these issues.***

Attorney Clark said she wanted to clarify Commissioner Walker's motion. Commissioner Walker said the Department had habitability issues on the violations on these properties and it made the buildings unsafe to occupy, even though they were occupied and the potential risk for fire, the mold that they see, and the evidence presented all were health risks for the people living in them. Therefore, she believed that it was imperative for them to support the Department's action of abatement and allow for the maximum of 30 days to take out the permits and cure these Notices of Violation.

Attorney Clark clarified Commissioner Walker's motion to uphold the Order of Abatement and allow 30 days to complete the work based on the Board's findings that the evidence presented by DBI supported the Director's Order of Abatement as issued. Inspector Bosque said the motion was to issue a 30-day Order of Abatement and for Agenda, Items 1 through 5. Commissioner Lee said he believed 30 days was fair because the type of violations left were not long and large items. They should be able to take care of it in 30 days

There was no public comment. Commission Secretary Harris called a roll call vote on the motion.



<i>President Clinch</i>	<i>Yes</i>
<i>Vice President Melgar</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 vote carried unanimously.*

#### D. GENERAL PUBLIC COMMENTS

There were no General Public Comments for items that were on the Abatement Appeal Board Agenda and they moved to adjournment.

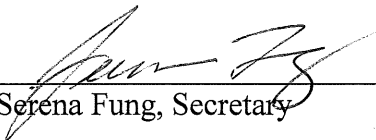
#### E. ADJOURNMENT

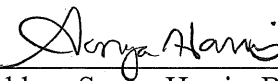
*President Clinch made a motion, seconded by Commissioner Mar that the meeting be adjourned.*

*The motion carried unanimously.*

The meeting was adjourned at 9:55 a.m.

Respectfully submitted,

  
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Serena Fung, Secretary

  
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Edited by: Sonya Harris, BIC Secretary