



ABATEMENT APPEALS BOARD
Wednesday, August 21, 2013 at 9:00 a.m.
City Hall, 1 Dr. Carlton B. Goodlett Place, Room 416
ADOPTED November 20, 2013

MINUTES

A. CALL TO ORDER and ROLL CALL.

The meeting of the Abatement Appeals Board for Wednesday, August 21, 2013 was called to order at 9:07 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
Debra Walker, Commissioner
Dr. James McCray, Jr., Commissioner

Sonya Harris, Building Inspection Commission Secretary

D.B.I. REPRESENTATIVE PRESENT:

Edward Sweeney, Deputy Director of Permit Services and Secretary to the Board
Tony Grieco, Chief Building Inspector
Patrick McKenzie, Senior 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. APPROVAL OF MINUTES: Discussion and possible action to adopt the minutes for the meetings held on May 15, 2013.

Vice President Melgar made a motion, seconded by Commissioner Walker, to approve the minutes of May 15, 2013.

The motion carried unanimously.

Commission Secretary Harris asked for public comment on the minutes and there was none. The minutes were approved.

D. NEW APPEALS: Order of Abatement(s)

1. CASE NO. 6779: 3580 San Bruno Avenue

Owner of Record and Appellant: Richard E. Thomas, P. O. Box 877, San Leandro, CA 94577

Owner of Record and Appellant: Elizabeth Quinlan, 63 Wawona Street, San Francisco, CA 94127

ACTION REQUESTED BY APPELLANT: The Appellant stated the Electrical Contractor claimed to him that the work was a minor correction.

NOTICE OF DECISION: The Appeal was withdrawn by the Appellant on August 19, 2013.

Commission Secretary Harris announced that Item D, for a new Appeal Case Number 6779, 3580 San Bruno Avenue had been withdrawn and the case would not be heard today.

E. CONTINUED APPEALS: Order of Abatements

1. CASE NO. 6778: 326-330 Presidio Avenue

Owner of Record and Appellant: Brendan A. and Elizabeth Quinlan, 63 Wawona Street, San Francisco, CA 94127

ACTION REQUESTED BY APPELLANT: The Appellant is requesting the AAB's assistance in securing the tenant's cooperation to complete the necessary repairs.

NOTICE OF DECISION: The AAB heard oral testimony and reviewed the documentary evidence provided by the Department of Building Inspection (DBI), the Appellant and other interested persons. After deliberation of the evidence submitted and the relief sought, the AAB made the following findings and decision: (1) The conditions at the property are as described in the Notice of Violation; (2) The Order of Abatement is modified to allow the property owner 60 days to complete the necessary work; and (3) The owner shall reimburse DBI for the Assessment of Costs incurred up to and including the date of the Hearing but shall not be required to reimburse DBI for any Assessment of Costs incurred after the date of the Hearing.

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Commission Secretary Harris said this was testimony, deliberation and possible action to uphold or modify the Order of Abatement.

Patrick McKenzie, Senior Housing Inspector represented Chief Housing Inspector Rosemary Bosque who was not able to be present. He gave a quick synopsis of the case and said the staff report had all pertinent information regarding the case. The property at 326-330 Presidio Avenue is a 6-unit apartment building. The Housing Inspection Services received a complaint on October 8, 2009 on the same day they inspected the property and found the violations of the San Francisco Housing Code and issued a Notice of Violation on maintenance repairs and peeling paint.

Over the course of the complaint, the owner and the tenant were allowed to work out accessibility to the unit to conduct the repairs and prior to the Notice of Violation has remained outstanding and a Director's Hearing was scheduled and the Order of Abatement was issued against the property for work that was not done. It appeared to the Department the owner was willing to do the work and HIS will abide by the Board's decision. Their recommendation was to uphold the Order of Abatement.

Commission Secretary Harris said the Department and the Appellant each had 7 minutes, and three minutes each for rebuttal.

Brendan Quinlan, owner of 326 Presidio Avenue, purchased the building in 2005. He met with Mr. Paxton at his apartment to discuss different issues, and a major part of the repair was in his bathroom so he agreed to take care of all the items as soon as possible. Mr. Paxton also sent him a letter with a detailed sketch of an enlarged and elaborate bathroom with a shower bench, a soap niche, a frameless glass enclosure, a new sink and new tiles which he did not agree to do more than what he was required to do which started the conflicts that developed and had been ongoing.

Mr. Quinlan said he was willing to do the repairs but Mr. Paxton refused them access to his unit. He desired to have a luxurious bathroom where he now has a regular bathroom. The tenant stopped paying his rent and applied his \$772 a month rental to purchase a shower valve for the bathroom which he expected to be refunded at the cost of \$1621. Mr. Paxton also stopped paying rent for 12 months and partially for the third month to reimburse and benefit himself.

As it was unreasonable to comply with his demand, it went on for a long time and he retaliated by contacting the Housing Inspection Division. The inspector verified and acknowledged that these problems existed and it should be taken care of. The Housing Inspector Ronald Dicks issued the Notice of Violation which they responded to immediately. They acknowledged that the problems existed and forwarded that letter to the management company to contact Mr. Paxton to make plans and move forward and make these repairs.

Mr. Paxton told the manager that no one would ever enter his unit. He contacted Housing Inspector Dicks and they had hearings which was not any closer to getting it done. The tenant wanted to make decisions which he said were in his lease on the color, quality and style on the replaced parts, which was on his lease and it was not a problem.

Mr. Quinlan said the tenant indicated this could cause disruption to his family life and wanted relocation a block away from the building at the Laurel Lynn Hotel during construction. He pre-booked a suite for his family but he still refused access to his unit unless he gets an elaborate remodel. The tenant claimed he gave them access on numerous occasions which they were allowed to look at the unit but refused them entry to schedule the work. It was a catch 22 situation and he did not know what else to do but he had exhausted every remedy, and contacted an attorney about how his residential lease was legally interpreted. He has done everything that he can and taken out a permit for the work but it is impossible to move forward and he urged the Board to take all of that into consideration. The scope of the work was submitted on the package and he went back to test the heating and it worked fine but Mr. Paxton continued to complain.

Mr. Quinlan said the tenant took this to the Superior Court and twice filed with the Small Claims Court where all cases were dismissed. Mr. Paxton continued as a difficult tenant and since Mr. Quinlan is a contractor and does this for a living he knows this is a simple job that could have been easily done if they were allowed entry to his unit to comply with the Notice of Violation. As of today, he will have his legal counsel to handle it because it went nowhere.

Commissioner Clinch asked for Department rebuttal.

Senior Inspector McKenzie stated that the decision was up to the Commission and he would abide by the Board's decision.

Commissioner McCarthy asked if it was the Department's position that the landlord did everything to comply? Senior Inspector McKenzie said he was not directly involved in this case but from the information he received and the landlord's testimony, he attempted to comply to resolve the issue of accessibility and the relationship between the tenant and the property owner in terms of overall resolving their problems.

Commissioner Walker asked what was the approximate time needed to do the work on this violation? Mr. Quinlan said about two to three weeks, probably two, outside of three, including all of the relevant inspections. He obtained the permit and had most of the materials. On a number of occasions, the subcontractors were ready to do the work and were denied access.

Commissioner Mar said the initial complaint came from the tenant and he asked if they talked with the tenant in regards to resolving the issue or complaint between the tenant and the property owner. Commissioner Walker suggested their tenant/landlord group get involved to help mitigate and said they have a whole program aimed at resolution on these concerns.

Senior Inspector McKenzie said he could refer them back to the actual complaint data sheet that was on one of the exhibits. There were no notes regarding a conversation between the inspector and the tenant to resolve the issue with the owner and he was not the initial inspector on the case.

Commissioner Lee said Commissioner McCarthy asked if the Department felt that the Appellant did everything possible within his power to correct this situation which he assumed was obtaining the permits and everything else. If that was the case, he wanted to know why was the Order of Abatement issued?

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Senior Inspector McKenzie said the Order of Abatement was issued because the Notice of Violation was issued on October 8, 2009 and it was four years down the road. It was the type of situation where they tried not to hold onto cases for too long and to find resolution one way or the other and ultimately the responsibility was on the property owner, so an Order of Abatement was issued to comply with the Notice of Violation.

President Clinch asked for the Appellant's rebuttal?

Mr. Quinlan said the Department acknowledged he made his best effort to resolve the issue and was in daily contact with Inspector Dicks. They have a paper trail of their communications on letters from the tenant where he clearly denied access of the unit. Beyond that, he was powerless to do anything and required access to get inside the unit.

Commission Secretary Harris said three minutes was allowed for public comment.

Mr. John Paxton said as a tenant, he urged the Board to deny Mr. Quinlan's appeal. There were 8 violations that went on for almost 4 years and none were corrected. He and his wife had successfully delayed the compliance and some of them were basically simple such as cleaning the vents was not done. The owners/contractor, property managers and their attorneys had been in their unit on dozens of occasions and to say he denied them access was an outright misrepresentation. They can maneuver the violations into an excuse for not living up to their strong and unique contractual obligations under his lease which was negotiated with the previous owner. Mr. Quinlan failed to review his lease before he purchased the building and was bound by the contract he voluntarily agreed to be bound by.

The situation at 330 Presidio Avenue was one that was too common in the City and the water leaks were treated by Housing as a cosmetic problem when they frequently caused serious structural deterioration. As a result of the 1989 Loma Preita Earthquake, there was moderate damage to the building resulting from the wood deterioration. The building was cited and the owner was required to make 104F repairs which were never done. The water leaks seeped through the entire height of the northern wall for years and the present violation had no requirement for structural evaluation or even a building permit.

Mr. Paxton said in 2012, another violation was issued for water damage to the apartment below them which required the owner to paint over the problem. In his rebuttal package, he included the photos of the water damage to the unit on the first floor, two floors down, showed damage from the leaks from their shower, and the owner's worked only to perform a superficial cosmetic repairs without any inspections or structural evaluations with the probability of the structural decay that existed.

The building is a wood frame building and required to comply with the Soft Story Ordinance. It had other significant other problems which he hoped the BIC would recognize the wood rot was a structural problem for the City's housing stock. It appeared that the resolution was to have the court appoint a receiver to take control of the needed repair and he urged the Board to deny Mr. Quinlan's appeal to expedite the process required to repair the building.

Commissioner Walker asked about the statement made by the building owner regarding his requirement that seemed to expand what was already there. The Board is not a court of law and is not required to review the lease, but they are trying to resolve this issue. What was the issue regarding expanding the bathroom or the amenities?

Mr. Paxton said as a tenant, his rights are protected under the Building Code that states when showers are replaced they will be brought up to certain minimum size. It was a very small room and in order to get that minimum mandated statutory area the configuration needed to be changed. On the photograph in the Board's package, a large amount of tiles came off the walls and their shower pan had completely deteriorated and needs replacement, and when they are replaced the code requires a minimum area for that new shower and that configuration then triggered a change of design.

There was a certain minimum circle, you needed to be able to put in. He did not think that it was accessibility and believed that any shower needed to have a minimum size where it did not meet those standards it triggered some other requirements in terms of having a larger area. In order to have that work in their bathroom, the sink had to be moved and required some plumbing changed.

Commissioner Walker asked the Department if it was addressed in the building permit approval? Tony Grieco, Chief Building Inspector, said the Plumbing code did have a minimum requirement for shower size, 30 inches and 60 inches above the drain and 1024 square inches that was a separate issue addressed through the permit. Commissioner Walker said the Department would address those types of issues once the project started, just to be clear.

Mr. Paxton said Mr. Quinlan recently pulled his permit within the last two weeks and there was no mention of that and he recently received the permit. President Clinch said certainly, if the construction was not done per code, he would not get a sign-off and then he would have to rip it out. It behooved him to be aware of what the code requirement was, and assumed that as a contractor it would be done per code.

Mr. Paxton said he was optimistic that the work was going to be done appropriately and as pointed out the units below him had work done because of the seeping water. The probability of wood decay, it was merely cosmetic, without any permits or any inspection and he was very concerned that they have a building that has some serious structural problems. On this work there was no indication that this was being taken care of and performed by the code.

Commissioner Mar said that other violations were being raised but their inspectors have not cited those structural problems. Their inspectors only have the NOV's that addressed the bathroom problems and the paint. The issue of peeling paint in Mr. Paxton's dining and living room and his opinion that there were structural problems, but HIS inspectors had not cited that on the building and it was not part of their discussion today, unless the Department wanted to clarify otherwise.

Mr. Paxton said he was absolutely correct and perhaps Inspector Dicks tested his fingers into the studs and said that will be taken care of when the owner did his work, and he also said that he

cannot cite something he cannot see and this was a citywide problem. When you have years of water seepage through wood framed buildings, studs, and structural members deteriorated which he had seen in this building during the Loma Prieta Earthquake and this problem continued and raised this with the inspector and he said not to worry it would be taken care of. He was very worried because they had the whole height of the building where cosmetic and superficial repairs were made without any attention to that. On the list of 8 items which were cited, none of them had been done.

Commissioner Lee said Mr. Paxton mentioned some of these problems took a year of development to mold, mildew and such. Their records showed that a report for a complaint was filed at the Department of Building Inspection in 2009 and at that time, the inspection showed they were already missing tiles, mildew and rock. --Obviously it did not happen overnight. What happened prior to 2009 and what was done since he knew about the problem?

Mr. Paxton said it went on for years before that and there was a gradual deterioration of the shower and it started with the cracks. He brought it to the owner's attention and the building was later sold to Mr. Quinlan and when he bought it, the tiles started falling off, sheet rock started deteriorating and the bugs began appearing and the work needed to be done. When nothing was done, he ultimately contacted the Housing Division and would have preferred not to.

Commissioner Lee said he wanted to hear the property owner's response to that comment when the time comes.

Vice President Melgar said she has heard the appeal, but wanted to see some evidence to make a decision. She heard from the landlord and it appeared he was ready to go and there was no evidence where she can assume that he was acting in bad faith and only intended to do cosmetic repair.

They can only rely on the professional expertise of the Department's inspectors and they trust their assessment of the situation but she did not have any evidence to prove that this type of repair and replacement work necessitated a permit to enlarge the bathroom and whether the code mandates farther than the permit that he had pulled. Vice-President Melgar asked if Mr. Paxton's position was that he was not permitting the work to proceed if it did not meet with his professional opinion that the permit was inadequate?

Mr. Paxton said there were 8 items cited on the repair and not one of them had been done and the major one was the shower. He showed a photo viewed from a 90 degree angle, they have their shower which was deteriorated and two floors below him there was the shower, down on the first floor where nothing had been done.

With regards on what was his position, it was not rocket science when they have holes in the wall in other part of the residence where they have chipping lead-based paint that needed to be removed and there was not much discretion on that stuff and when it came to what his lease allowed that he tried to maneuver the Notice of Violation to skirt his obligation and the contractual rights under his lease, where he had discretionary control, when items were replaced,

he was not going to allow him to ignore those contractual obligations and rights. How come other items such as cleaning the flues were not done?

Mr. Paxton said that he did not know and there were many things that went on. Now Mr. Quinlan was in a world of financial hurt and he demonstrated that in the package that he just did not have the capacity to make these repairs and tried to buy as much time as he could. The building had a notice of foreclosure and there were tax liens, etc. He and his family wanted to live in a good, clean, safe environment where the building complied with the codes and the building laws.

Vice President Melgar asked if he would allow Mr. Quinlan and his workers access to the unit to do the repairs, which they had pulled permits for or was it his position that unless he agreed with the scope of work before he would let them in.

Mr. Paxton said he wanted to see a scope of work. Among other things, they were a family that had a normal routine and it was a fairly small apartment. When removing the only toilet and having major sheetrock work and repair, made the unit uninhabitable especially in the middle of the school year and no work was done during the summer season. The school year started again and there was certainly remedies to find them replacement housing. He had offered him solutions, some alternatives, and this had not come together. His family wanted the work done and been ongoing for many years and tired of it.

Commissioner Walker said it was somewhat of a conundrum and the permit had been applied for and received. Mr. Quinlan was ready to do the work and agreed to relocate the tenant to do it. She felt like until such time as their staff was able to inspect and address some of the concerns that he had, that would necessarily need to expand the scope of the permit, they were in between a rock and a hard place.

From what the Board had been given it was clear that the work needed to be done. It seemed like his routine had been disrupted already with the holes in the shower and those were the things they needed to address as a Department and to make sure that people live in safe and habitable places. At this point, someone stated that he was willing to do the work and had taken out permits and there was some disagreement about what color and the scope of it, but she felt like they cannot know those details until the work started.

The Board cannot make a decision on information that they did not have and was not before them, including other issues that might exist in the building. Hopefully staff can make note of those types of things on their inspection. As they inspected this job, it will be allowed to move forward. Generally in these kinds of situations, this Commission was limited as to what they can do, and they can deny the appeal, and hope to resolve the things in a way that would have the work done.

Maybe loosen the juggernaut and provide some resolution and she would like to see some immediate intervention with the Code Enforcement Outreach Program which included both the tenant and the landlord representatives to help resolve this quickly and these organizations tried to help get resolution in these kinds of situations. She felt for him and heard what he said. She

also felt for the building owner who had his idea about how he wanted to resolve the situation and felt somewhat stymied. She felt the Department needed to provide some intervention if allowed.

Mr. Paxton said that he and the property manager were seeing eye to eye and they discussed how to resolve the items. He had no problem with paying part of the construction costs. One of his prior attorneys suggested they both agree but it never got done. They had a prior contractor that said, here was the scope of what had to be done and he agreed. They had plenty of other agents who tried to intervene in a positive way to get the work done, and generally speaking, he agreed with him.

President Clinch asked if there was any more public comment?

Commissioner McCarthy said as a Commission, they have to fight hard to get the landlords to do anything in some of these cases and they have testimony where he was willing to do anything and it was a delicate situation between the tenant and the owner but as Commissioner Walker eloquently pointed out, they have certain perimeters that they have to work in and he believed they needed to uphold the abatement.

President Clinch asked if there was any more public comment?

Commissioner McCarthy made a motion, seconded by Commissioner Walker, to uphold the Order of Abatement and allow 60 days extension to complete the work.

Attorney Clark wanted clarification on the motion to uphold the Order of Abatement and wanted to know if the motion was based on his finding that the conditions were as stated in the NOV.

Commissioner Walker said that the work needed to be done. Commissioner Lee said he wanted some assurance that the tenant would also allow the property owner into the property to do the work. Commissioner Walker asked if they uphold this, and then the work was required, and then they gave them 60 days, was there a means by which the work can be forced? Would he be allowed to do the work that they permitted if the tenant did not let him in?

Attorney Clark said in order for the landlord to get access to the unit, without the tenant's permission, he needed a court order. There is no way he can force his way into the building and she was not a landlord/tenant lawyer. If there were provisions in the code for the Department to get an emergency order to go in and correct life-safety hazards and perhaps a substitute for Secretary Sweeney needed to address that and her understanding was the landlord on his own could not do that.

Commissioner Mar believed the intent of granting the extension to 60 days was to hopefully have the landlord with the Department's assistance and some community group have the landlord and the tenant groups, meet and mediate the access question, so that all of the work based on the permits pulled can be carried out and concluded. If that was impossible, they would rehear it after the 60 days and it was going to come back.

Commissioner Walker said the Board voted to uphold the Order of Abatement, and they were just giving them 60 days to do it, which was right since the work needed to be done. The question was, if they were not allowed access, it created a weird situation.

Attorney Clark clarified that the landlord could not force his way in but if the Board upheld the Order of Abatement and gave him 60 days; and when it expired, if the work was not done. There were permits the landlord did what he could have done. At that point, it would probably be referred to the Litigation Committee of the Department and the City Attorney's Office. Chief Building Inspector Grieco could probably speak more about it in terms of the City's enforcement and the City Attorney's Office at that point that would step in.

Commissioner Mar said although it may not come back to them, they would have more information from their Department, and the community groups in terms of their opinion in attempt to bring the two sides together. He believed that would go a long way in reporting to the Litigation Committee or to the next body because they would say at least they tried, and this was what the owner and tenant tried to do. If it was not resolved, at least the City will have an opinion through their Department about how both sides played out.

Commissioner Lee asked Mr. Paxton if he would let the property owner in to do the work? Mr. Paxton said he would certainly let the property owner in to do the work. They have 7 fairly minor items that did not have too much discretion and one major item on the shower repair and he would not simply waived his rights for control over quality of items that were used to replace it. He was quite concerned about a place to live and living with no toilet and sheetrock, having dust around and in the middle of the school year.

Commissioner Lee said they heard from the property owner that he agreed to relocate his family to another facility during the work and asked if that was acceptable to him? Mr. Paxton agreed but he gave him a list of materials that were acceptable.

Vice President Melgar said she was not an attorney and worked with tenants for many years and the landlord had quite a bit of rights under the California law. He had legal representation and it was his responsibility to find out what he can or cannot do. He had the right to access and this was why Mr. Paxton was savvy and negotiated on his lease. As a Department, they did not have the responsibility to enforce his lease on his behalf. They only have the responsibility to the codes in their process. She would caution them not to overstep their authority. In this regard, they were responsible for the violations as found by their staff who worked on their behalf.

She seconded Commissioner Walker's comments to uphold the Order and give them more time to encourage them to avail themselves of their relationships with the non-profits for mediation work because there was some negotiation that needed to take place and she hoped they would not see this case 60 days from now, but it was a difficult situation.

President Clinch asked to hear from the Department.

John Hinchion, Senior Building Inspector, said in regards to the access with a valid permit issued that was not relevant, and perhaps the City Attorney might comment and the inspector cannot do

the work if they did not get access on the initial permit and he wondered should any of this affect the permit issued?

Attorney Clark said as stated before, there were provisions in the code for emergency orders to be issued and for the Department under those orders for access which did not happen here. In the exception of an emergency order such as during an earthquake when buildings collapsed, the Department could obtain an emergency order for immediate access because of serious and eminent danger to the public or to the tenants which there was no mention of that situation. The landlord can go to a Superior Court and get an Order for access to conduct the repairs. If the court found it was necessary or rights existed under a tenant/landlord contract with emergency order exemption, no one can force their way into the property.

Tony Grieco, Chief Building Inspector, said on the two items, one was the Department certainly would have to facilitate any kind of outreach meeting to resolve this issue. With respect to their Department's actions if it were an emergency situation or life-safety hazard they will take the appropriate emergency order and enforce access to prevent the life-safety issue. On the permit inspection, they would leave if the owner of the property refused them access during the inspection. Under the permit, they have authorization to inspect the work but not inspect the rest of the premises and there was a limited scope of their inspection. If they ask them to leave, they will leave and seek an inspection which was the due process.

Commissioner Walker said was it not the case as he inspected the work which was permitted, if there were connected circumstances on rotting wood beyond what was anticipated in the initial permit, you would at that point note that.

Chief Building Inspector Grieco said the permit will have a defined scope of work and work performed to the codes. If it did not meet the codes structurally or any other provision to the codes, they will write additional corrections and require a revised plan to assure that full compliance was achieved.

Commissioner Walker said they have a motion and it might behoove them to hear this, although they had given them 60 days to report back next month at their next Abatement Appeals Board meeting. Attorney Clark said the motion was to uphold the Order of Abatement and not to continue the matter.

Commissioner McCray asked if they would impose the cost, to whom and from what point to what point. Commissioner Walker asked what were the costs to date on this? Senior Inspector McKenzie said since the Order had been appealed, they held back on the Assessment of Costs at this time and they would determine upon the issuance of the Order of Abatement. President Clinch believed it would be applied to the property owner.

Commissioner McCray asked if those costs were continuing to roll? President Clinch said at that point do they need the 60 days and would the costs continue to accrue during the 60 days? Senior Inspector McKenzie said it would if based upon the abatement and they were liable. Commissioner McCarthy said at the point of Order, did the Appellant have the right to come back and ask them to appeal that cost? Commissioner Walker said they have the opportunity

right now.

Commissioner McCarthy said if he tried to get in there and do the work and they penalized him, it sounded upside down. Commissioner Walker said as much as work was needed she believed the delay was an attempt to get a resolution. Senior Inspector McKenzie said basically it was a formula that if an Order of Abatement was issued, the Department was due an Assessment of Cost on an hourly basis. The cost for inspector time would be \$170 an hour, \$52 an hour administrative time and all rolled up into this case and assessed as Assessment of Cost to the owner of the property. In extenuating circumstances, the owner can appeal to the inspector up through the chain of command to the Chief in regards for modifying some of those costs.

Commissioner Walker asked if they uphold the Appeal and deal with the costs on a separate case? Attorney Clark said she was not sure but believed the Board had the power to waive the costs and she was fairly certain that the Board had the power to do that.

Commissioner Walker asked if there were any back costs? Commissioner McCarthy said they needed to take that into the motion. Commissioner McCray suggested they make the motion and then come back to the other motion of proposing the assessments. Commissioner Walker said it was all on one motion.

Commission Secretary Harris said the motion was to uphold the Order of Abatement and allow 60 days to get the work done and to waive the Assessment of Cost going forward and not the previous cost that was accrued. Commissioner Walker said during the 60 days there would be some advisement with their Code Enforcement Outreach Program representatives? Commission Secretary Harris said they can ask the Department to do that but it was not part of the motion. Attorney Clark clarified the motion was based on their finding that the conditions were as stated in the NOV and based on the testimony that the Board heard today.

Commissioner Lee said they did a fair thing because if the work was not done, it would affect the tenant and the tenant should allow them access otherwise he was hurting himself. He believed the property owner cannot do it and the Order of Abatement should stand.

Commission Secretary Harris asked for a roll call vote on the motion.

<i>President Clinch</i>	<i>Yes</i>
<i>Vice President Melgar</i>	<i>Yes</i>
<i>Commissioner Mar</i>	<i>Yes</i>
<i>Commissioner McCray</i>	<i>Yes</i>
<i>Commissioner McCarthy</i>	<i>Yes</i>
<i>Commissioner Lee</i>	<i>Yes</i>
<i>Commissioner Walker</i>	<i>Yes</i>

The motion carried unanimously.

F. GENERAL PUBLIC COMMENT

There was no General Public Comment for items not on the Abatement Appeals Board Agenda.

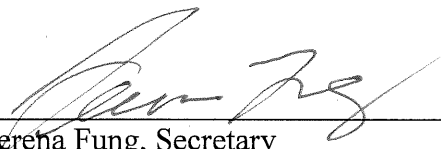
G. ADJOURNMENT

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

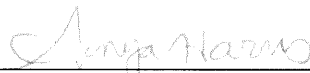
The motion carried unanimously.

The meeting was adjourned at 10:03 a.m.

Respectfully submitted,



Serena Fung, Secretary



Edited by: Sonya Harris, BIC Secretary