



DEPARTMENT OF BUILDING INSPECTION
City & County of San Francisco
1660 Mission Street, San Francisco, California 94103-2414

ACCESS APPEALS COMMISSION

MINUTES

Tuesday, January 29, 2002

10:00 A.M.

City Hall

1 Dr. Carlton B. Goodlett Way, Room 416

1. CALL TO ORDER AND ROLL CALL

The special meeting of the Access Appeals Commission was called to order by President Chatillon at 10:00 AM.

COMMISSION MEMBERS PRESENT: Mr. Francis K. Chatillon, President
Ms. Alyce G. Brown, Vice-President
Ms. Roslyn Baltimore
Mr. Linton Stables III
Ms Enid Lim

COMMISSION MEMBERS ABSENT: None

CITY REPRESENTATIVES: Mr. Rafael Torres-Gil, DBI, Secretary
Ms. Susan Pangilinan, DBI, Recording Secretary
Ms. Judy Boyajian, Deputy City Attorney
Ms. Doris M. Levine, Reporter

2. REHEARING OF APPEAL:

a. Appeal No. 01-06 590 Bosworth Street PA # 200106262413 Heston Chau

Presentation of Summary of Appeal by R. Torres-Gil with reference to correspondence by Supervisor Mark Leno.

Comments by Commissioner Baltimore in reference to several facts presented at an earlier hearing - which they were not presented in the summary, that she wants to make sure they are included in the minutes. The first is that: any issues like restrooms would have to have been a separate motion and any member of the commission was able to made that motion. She was not solely responsible. The motion should not have included, according to the rules, any mention of accessible bathrooms.
(Typed statement attached)

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Presentation by Dr. Dan Gustavson. He referenced prior comments by supporters of his appeal, in December. He said that they could not attend and a couple of them felt that they did not have an opportunity to speak on his behalf and declined to attend this hearing. The President of the Glen Park Association has also come down with the flu and could not make it.

The new information concerns the financial implications of the Article 15 elevator. Several estimates were submitted by contractors and the range was somewhere in the \$150-250,000 range. They had also submitted information about vertical and inclined lifts. He and Heston Chau have done extensive research to determine the best way to provide access. There have been changes to the layout. This is the fourth and, hopefully, final hearing. The reasons for the cost of \$150-250,000 is the cost of building the shaft and putting in equipment, so they started exploring the vertical platform lift. They have been before the Planning Commission and they did get approval for Conditional Use and a variance application. He referenced the Gilman Street project presented to the Planning Commission. He feels his project is a very logical project, makes sense, not only for him, his patients, accessibility, but also for the people of San Francisco, especially being in a transit hub across from the BART station, and would like to get the same support the Gilman project got. He has over two hundred signatures from patients and people in the Glen Park area. Basically, they are supporting the project without the elevator.

There are several reasons why he is here. One – financing. He is trying to make the project more accessible. He cannot provide for patients in wheelchairs right now. He is allowing that situation to be abated. He is allowing for three chairs on the ground floor. Money is an issue. Space is an issue. It compromises the design for function in making appointments and consultations. In discussion with the Justice Department in Wash. DC, they said that if he has equivalent facilitation they don't have a problem. All patients can be treated and all jobs can be done on the ground floor without an elevator. US census data from 2000 indicated that 27,000 people in SF (4.5%) have trouble getting up stairs. The number of people in wheelchairs in SF is 5,472 - less than 1% of the population. He is in no way trying to deny this .09% of people access to his office. He is trying to improve access. If you consider the 1,300 dentists in SF, that is approximately 3 people in a wheelchair per dentist, he has three chairs designed on the ground floor. In an 8-hour day he can make 25-30 appointments. By statistical averages, he doesn't see why he has to put in a \$25,000 lift or an elevator. It's a financial hardship, it's a space hardship, and that is where he stands.

Vice President Brown inquired about the elimination of the bathroom in the basement and addition of a laundry. If he were putting in plumbing, the cost of a bathroom would be negligible.

Dr. Gustavson said that in the original drawing he had not thought of the process of washing the white gowns. He was trying to figure out a place to do this. This was the only space he could find to put in a washer and a dryer.

Vice President Brown said she was questioning the elimination of the bathroom.

Dr. Gustavson said the original idea for the bathroom was if he went out for a run or rode his bike to work, he only lives a 10-minute drive away, so he could store his bike and take a shower. He can use one of the upstairs restroom instead. The bathroom was simply for his purposes.

Commissioner Stables asked for a clarification on whether the application before the AAC was for a vertical lift in lieu of an Article 15 elevator.

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R. Torres-Gil responded that he questioned what was before the commission – an amendment to the original Notice of Decision or simply a reconsideration of all issues and a new Notice of Decision. But yes, fundamentally, the issue is one of the lifts being installed instead of the elevator. Viewing the plans he does not take issue with any elements associated with access to the lift. It seems very compliant especially considering the AAC's familiarity with lifts and maneuverability. This is a very accessible lift, in other words.

Commissioner Stables moved that the AAC grant this appeal with the provision that they provide a vertical lift for access between the first and second floors.

Commissioner Baltimore seconded the motion.

Vice-President Brown said that before the AAC voted on the matter she wanted to say that: "We as a commission have spent many hours on this case listening to the appellant, the supporters, and other members of the public. We have all received many letters about this case but to me it all comes down to the facts, and the code, and reasonably interpreting the code to the facts, as they have been presented and documented in this particular case. First, I would like to say that I have carefully read all the documents and listened to all the testimony as both a person with a disability and a small business owner. I believe that I am able to see all sides of this case with an open mind. I have carefully reviewed all the evidence that has been presented and reviewed the applicable code sections including sections 1103B, 1105B, as well as, section 1109B, and 1116B, as well as, the relevant subsections. After careful consideration, I have concluded that the appellants have failed to present a case that would warrant an exception. People with disabilities have a right to expect access to professional, medical, and dental facilities and they are specifically cited in the code. Again, I say, there has been no case made to convince me of hardship due to physical or legal constraints or that equivalent facilitation will be provided. Therefore, I urge all the members of this commission to vote to deny this appeal."

Vote on the motion by Commissioner Stables:

Vice President Brown	Nay
Commissioner Baltimore	Yes
Commissioner Lim	Yes
Commissioner Stables	Yes
President Chatillon	Yes

The motion to grant the appeal, with conditions, passed with a vote of 4-1.

Vice President Brown asked if there was a particular model that would be installed.

Dr. Gustavson responded that he had spoken to Marie McDonald and Barbara Barrett and he believes a 'Garaventa' will be installed and that there have been some modifications on how that lift operates – improvements that are in the works. He'll need to find out what those are.

Vice President Brown asked if they should specify the lift.

Commissioner Baltimore said – if he makes it code compliant (it is OK), because there are different lifts.

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R. Torres-Gil said if they'd like they could refer to OSHA and the need to comply with those regulations. But that that was a given.

Commissioner Stables indicated that they don't have to specify that because it is the law. He thinks they would be stepping into thin ice if they started specifying specific products because then they start endorsing manufacturers. Garaventa makes vertical as well as inclined lifts, the commission was specific about a vertical lift

Vice-President Brown asked if it was a one-stop or two-stop (two stop) and if the bathrooms were compliant.

Commissioner Stables said that, basically, they accepted the drawings as presented.

3. COMMISSIONER AND STAFF COMMENTS AND QUESTIONS:

There were none.

4. PUBLIC COMMENT:

There were no public comments.

5. REVIEW OF CORRESPONDANCE LOG:

There were none.

6. ADJOURNMENT:

The meeting was adjourned at 10:37 AM.

Rafael Torres-Gil, Senior Building Inspector
Department of Building Inspection
Secretary to the Access Appeals Commission