



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

ACCESS APPEALS COMMISSION

MINUTES

Wednesday, May 24, 2000

1:00 P.M.

City Hall

1 Dr. Carlton B. Goodlett Way, Room 416

1. CALL TO ORDER AND ROLL CALL

President Stables called the regular meeting of the Access Appeals Commission to order at 1:25 p.m.

COMMISSION MEMBERS PRESENT: Mr. Linton Stables, III, President
Ms. Enid Lim, Vice President
Ms. Roslyn Baltimore, Commissioner

COMMISSION MEMBERS ABSENT: Seat vacant due to resignation
Seat vacant due to resignation

CITY REPRESENTATIVES: Mr. Todd Jackson, DBI
Mr. Rafael Torres-Gil, DBI
Ms. Susan Pangilinan, DBI
Ms. Miriam Stompler, Deputy City Attorney
Ms. Doris M. Levine, Reporter

The meeting was called to order, roll call was taken and a quorum of three members was present, President Stables stated that there are two resigned commissioners and they are awaiting the Building Inspections Commission's action on the appointing of new members. Secretary Torres-Gil indicated that the BIC was advised of Commissioner Hogan's resignation and that consideration of the vacant positions was forthcoming by the BIC subcommittee.

2. APPROVAL OF MINUTES:

Commissioner Baltimore moved that the minutes for Wednesday, April 12, 2000 be approved. These minutes were approved without objection.

3. PUBLIC COMMENT:

President Stables prefaced Public Comment by stating that he wanted to make exception for continued Order of Abatement Appeal No. 99-01 (2675 Geary Blvd., Mervyns). Commissioner Baltimore asked the Counselor Stompler if we were within the time frame if it was continued. Ms Stompler indicated that the city has already exceeded the time frame. That time frame is set by State law, but where there are compelling circumstances, it is due on a case-by-case basis. The compelling circumstances are that the property owner has come in at the last minute with a proposal to either bring the store into compliance, which may also include an UHR. The department has not had it for sufficient time to evaluate it. President Stables stated that comments can be considered at this time and will be applied when the case is actually heard.

Wayne Sherman stated that he was greatly concerned about this case. Mervyn's is not a Mom and Pop. Mervyn's is a large multinational corporation. He wants to hear what Mervyns considers an undue hardship. This appeal should not be granted, they should be required to meet Title 24. He is also concerned about the vacancies on the AAC.

Public comment was closed.

4. CONTINUED APPEALS:

Item # 4b

Appeal No. OA99-01 was continued.

Item # 4a

Todd Jackson reiterated the department's position.

Jane Speich appeared for Hines. She described the building and predicament related to compliance. There is no room for expansion on the 11th floor and the proposal already calls for reduction of fixtures. The occupancy load is a factor. The only way to get both front and side transfer is by reducing to a single fixture. 40 people would be unserved by reducing the fixture count. Leases were reviewed and they do have leases that require that they provide a basic level of service, which is typically defined as compliance with the Plumbing Code. They have side transfer which is the method typically taught by occupational and physical therapists. They feel they already meet the needs of the vast majority of the people with disabilities with two fixtures. Reduction of fixtures would result in longer vacancies.

Commissioner Baltimore requested restatement of the prior decision. Todd Jackson restated the prior decision. Commissioner wanted to know what could be done to get space for another restroom.

Jane Speich indicated that because all the plumbing was within the core there was not the possibility of plumbing to create a new restroom. Commissioner Baltimore asked about the physical space and Ms Speich indicated that she believes it is a physical impossibility. Jeff Needs, Building Manager, indicated that the building is 100% leased and tenants are not going to give back space. Girders and required fall limit the extension of sewer lines.

Commissioner Baltimore indicated that they were not going to grant a precedent setting decision. Every time a lease came up they wanted to see it and require space as it became available. The access code has

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precedent over the Plumbing Code regarding fixtures.

Ms Speich spoke of the confusion associated between 353 Sacramento and 601 California regarding leases. She believes, based on extensive research, that the restrooms, as they are currently configured, meet the need of practically everybody and the only thing lacking is front transfer clearance. Side transfer is the method primarily taught for people who do use wheelchairs and would serve the vast majority of needs for people who do use wheelchairs.

Todd Jackson presented the details of the floor plans of the 11th floor. Fixture details were discussed. Vice President Lim expressed concern about path of travel to restrooms and inconveniences associated with travel to different floors. Ms Speich emphasized that the 'wait' factor would be greater going to the single compliant fixture on the 11th floor.

Commissioner Baltimore inquired when the leases would expire on the 5th, 6th and 16th floors. Jeff Needs responded.

President Stables said that it appears to him from the summary by Mr. Jackson that there is equivalent facilitation on all floors. Mr. Jackson referenced Administrative Bulletin # 006 and referred to the last paragraph. DBI does not recognize the side transfer as the only usable restroom, not all disabled people can use it. Some people need a fully accessible restroom and, that one has to be fully accessible somewhere in the building. Therefore, the UHR was denied.

Ms. Speich stated that the owners of the building are motivated to comply including voluntarily reducing to two fixtures.

Public Comment:

Bruce Oka: What works for one person does not work for others. Does not believe that the majority of people do side transfers – at most 50-50. It would be fair to say that if a fully accessible restroom were provide within two floors of one another it would meet the intent of access laws.

Wayne Sherman: He cannot make a side transfer and to say that this 22-story building cannot provide front transfer would say that he could not do business in this building. Accessible restrooms on alternate floors gives him a reasonable chance of finding one. He feels the project needs to be looked at more closely.

Public Comment closed.

Vice President Lim: Feels the path of travel is a very important factor and scrutinizes buildings when she is in them for accessible bathrooms. Is asking for a shorter path of travel to accessible front transfer bathrooms.

Commissioner Baltimore: Requested lease expiration dates for several floors of the building of Mr. Needs.

Discussion ensued regarding the identification of relevant floors for upgrades, and deadlines for submittal and completion of work.

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Motion by Commissioner Baltimore: Requesting two fully accessible restrooms on two additional floors and the submittal of building permits no later than 2002 and that the restrooms initially not be on contiguous floors.

Ms Speich: For clarification, the existing restroom need not be eliminated. They have the flexibility to keep that and add another if they decide that is the best approach. Commissioner Baltimore: Yes, but to be clear, one should be between 1-11th floors and the other between the 11-22nd floors. Ms. Speich: The existing configuration of the existing restrooms could be allowed to stay as a condition of adding the fully accessible ones.

President Stables: They could put in a single occupancy accessible restroom on any floor?

Commissioner Baltimore: We have the right to...any, that's exactly what I'm thinking.

Ms. Speich: Does that protect my client from litigation on a civil rights basis?

President Stables: Probably not.

Mr. Jackson: There is a provision in the building code that says when you have gender specific restrooms you're not supposed to have unisex for disabled but this commission does have authority to grant that but it must be in the motion.

Commissioner Baltimore: We are willing to allow two (2) bathrooms with the building permit to be initiated no later than the end of the year 2002. One bathroom or set of bathrooms must be between floors 11-22, and that the other one must be between the first and 11th floor. That there be signage indicating where the other restrooms are located. Unisex or single occupancy would be acceptable. It does allow the possibility of doing them on floors two and twenty-two.

President Stables: We are granting the appeal with conditions and the Unreasonable Hardship is based on physical and legal constraints.

President Stables: Aye

Vice President Lim: Aye

Commissioner Baltimore: Aye

5. COMMISSIONERS' AND STAFF QUESTIONS AND COMMENTS:

In reference to a similar case that was granted an option to have a rehearing, Commissioner Baltimore, asked how long do they have once a rehearing has been granted and how long to they have before a rehearing has to take place?

Mr. Jackson: They have 10 days to request a rehearing but it does not specify when it must occur. This is permitted work with a hardship, not an enforcement case (353 Sacramento). It is somewhat voluntary.

President Stables requested that rehearing be a separate item on the agenda, from appeals, and that it be a summary of pending cases in order for the commissioners to know what to save and what to toss. A 'pending' list at the end of the agenda would be helpful.

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Vice President Lim expressed concern about the current status of vacancies on the AAC.

Secretary Torres-Gil noted that the BIC is also expressing an interest in more applicants for various other Boards and Commissions, in particular, the Unreinforced Masonry Building Board, the Board of Examiners, as well as, the Access Appeals Commission. If any individuals are interested, please contact Ms. Ahern of the BIC. He also noted the memo from the Health Service System and the eligibility of members of Boards and Commissions.

Vice President Lim inquired of health coverage and costs involved and whether it includes commissions appointed by the Mayor, which the AAC is not.

Ms Stomblor said she would inquire of the status of the AAC concerning health coverage eligibility.

Commissioner Baltimore said that it would be important considering that the AAC might wind up with 2 new members.

Ms Stomblor said she would look into it. One problem is that the enrollment period has passed but there is next year and maybe they can reopen the enrollment for compelling circumstances for someone that didn't receive notice. Her understanding is that the commissioners will be given the same array of options as city employees but that each city employee group bargains for their own payment schedule. She will also look into the bargaining group the Commissioners may be under.

6. PUBLIC COMMENT:

There was no public comment.

There being no further business, the Access Appeals Commission adjourned at 2:17 p.m.

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