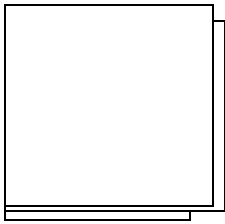


Access Appeals Commission Hearing: September 26, 2001



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

**ACCESS APPEALS COMMISSION**

**MINUTES**

**Wednesday, September 26, 2001**

**1:00 P.M.**

**City Hall**

**1 Dr. Carlton B. Goodlett Way, Room 416**

**1. CALL TO ORDER AND ROLL CALL**

The regular meeting of the Access Appeals Commission was called to order by Vice-President Chatillon at 1:08 PM.

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

**COMMISSION MEMBERS ABSENT:** Ms. Enid Lim, President

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

**2. PUBLIC COMMENT:**

There was no public comment.

Public comment was closed.

**3. APPROVAL OF MINUTES:**

A unanimous vote by the commissioners approved the minutes for the commission hearing of August 8, 2001.

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Mr. Torres-Gil made note of the communication from the appellant for 201 Turk Street Appeal # 01-05, and their request for a further continuance of the hearing.

Commissioner Brown requested an opportunity to make a site check. Mr. Torres-Gil referenced the nature of the proposed resolution violation and possible scope of appeal issues.

**5. CONTINUED APPEALS:**

a. Appeal # 01-06 (PA200106262413S)    590 Bosworth Street    Heston Chau

Revised summary presented by Mr. Torres-Gil incorporating references to additional code section pertaining to the issue under appeal, specifically sections 1103B, 1105B, 1109B and 1134B, the definition of demolition of existing residential buildings, the definition of ‘existing’ buildings and reference to AAC decision # 96-59.

Comments by Miriam Stomblar concerning definitions of equivalent facilitation, change of use and occupancy, general requirements for elevators in new buildings, unreasonable hardship and ratification.

Commissioner Brown commented that there appeared to be no exceptions for medical facilities.

Ms. Stomblar elaborated on elevator related requirements.

Testimony by Dr. Gustavson. He acknowledged the authority of the AAC to rule on the elimination of the elevator and to consider equivalent facilitation in terms of the duplication of services on the lower and second floors.

Testimony by Ms. -----mire. She commented on the economic feasibility and increased accommodation of patients in the proposed new facility, the lack of space in the existing facility, the difficulty of accommodating a dental facility in the neighborhood, and her general support of the appeal.

Testimony by Heston Chau, Architect. He emphasized the full access provided on the 1<sup>st</sup> floor with accommodation of 40 percent and does not feel that the code exception requiring the elevator applies under the circumstances presented.

Testimony by Ms. Karamardian, President, San Francisco Dental Society. She paraphrased the letter provided to the commissioners dated September 18, 2001 in support of the appeal.

Testimony by Ms. Nordstrom, President, Glen Park Association. She presented comments from her letter of September 18, 2001, in support of the appeal.

Testimony by Mr. Holtstein (sp), Chiropractor in Glen Park for 15 years. He commented on parking concerns, need for services, his acquaintance with Dr. Gustavson, the accommodation of the disabled on the 1<sup>st</sup> floor in the proposed structure and rationale for approving the hardship and the fact that Dr. Gustavson can not provide any services for people in wheelchairs in his current location. He is in support of the appeal.

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Testimony by Walt Jebe, President of the San Francisco Council of District Merchants Association. He is very familiar with Dr. Gustavson's circumstances and feels that consideration should be given to the accommodation for the disabled that will exist on the 1<sup>st</sup> floor, without the need for an elevator to the second floor.

Testimony by Ms. Curiel, assistant to Dr. Gustavson. She emphasized that having an elevator interferes with the day-to-day operations and that a small business and small office does not need an elevator.

Testimony by Ms. Mendez, the patient coordinator for Dr. Gustavson. She commented on the general working environment and the intrusion that will be caused by an elevator in a small office. She is partially disabled by carpal tunnel syndrome and recognizes the need for accessibility. She emphasized that the new office will accommodate disabled patients and employees and expressed concern about the expense of an elevator.

Testimony by Ms. Chan, Finance Manager, Glen Park Dental. She indicated that putting in the elevator will have an impact on salaries, bonuses and the staff.

Testimony by Ron Gustavson, Business Manager. He indicated that the elevator would impact employees and office space.

Testimony by Mr. Jones. He commented on the percentage of disabled that would be accommodated by the two new dental chairs provided in the new office.

Testimony by Mr. Arnold of Patterson Dental Supply Company. Mr. Arnold elaborated on the accommodations provided by the new equipment that will be installed in the proposed dental office that meets or exceeds any of the needs of the disabled, elderly or limited mobility patients. The proposed office dramatically improves the quality of care that would be provided.

Testimony by Mr. Martinotti, an Equipment and Design Specialist. Mr. Martinotti referenced the letter by Timothy F. Comstock, Executive Director of the California Dental Association. He spoke of the equipment being ordered by Dr. Gustavson, exceeding the requirements normally provided for accommodation of the disabled.

Public comment closed.

Commissioner Stables thanked the applicant for the presentation. He was the one, who opposed, somewhat forcefully, the position that was presented today - at the last meeting. He appreciated the thoroughness of the department's and City Attorney's presentation. It clarified that there are choices that can be made. He cited section 101 '... to insure that they are accessible and useable by persons with disabilities...'. It seems to him that the proposal without the elevator did do that. The exceptions in the code and the full access to the 1<sup>st</sup> floor, along with space constraints makes the case sufficient for financial hardship. **He moved that the appeal be granted due to demonstration of financial hardship and that they are providing equivalent facilitation in the form of equal services on an accessible floor.**

Commissioner Baltimore stated that she had a problem with the applicability of AAC appeal # 96-59 and that she had not heard discussed the option of expansion of the building envelope. She has a

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problem finding physical constraints as a basis for hardship. The economic constraints associated with the cost of the elevator are not proved.

Commissioner Brown stated that she concurred on both points.

Ms. Stomblor indicated that an affirmative vote of 3 members would be required to take any action.

**Vote**

<b>President Lim:</b>	<b>Absent</b>
<b>Vice President Chatillon:</b>	<b>Nay</b>
<b>Commissioner Baltimore:</b>	<b>Nay</b>
<b>Commissioner Brown:</b>	<b>Nay</b>
<b>Commissioner Stables:</b>	<b>Aye</b>

**The motion to grant the appeal failed to pass.**

**Commissioner Baltimore made a motion to grant the appeal on the condition that the applicant install an Article 15 Elevator.**

**Vote**

<b>President Lim:</b>	<b>Absent</b>
<b>Vice President Chatillon:</b>	<b>Aye</b>
<b>Commissioner Baltimore:</b>	<b>Aye</b>
<b>Commissioner Brown:</b>	<b>Aye</b>
<b>Commissioner Stables:</b>	<b>Nay</b>

**The Motion passed.**

Commissioner Stables asked that the motion state the nature of the equivalent facilitation.

Commissioner Baltimore stated that the applicant met the burden of showing a financial impact sufficient for the reduced cost of the Article 15 elevator. The elevator will serve as equivalent facilitation.

Commissioner Brown requested that the Department provide the appellants a list of Article 15 elevators vendors.

**6. COMMISSIONERS AND STAFF'S QUESTIONS AND COMMENTS:**

Commissioner Stables inquired what the Departments stance was. It would be better to have a staff recommendation as to whether to uphold or deny the appeal.

Commissioner Baltimore indicated that it was specially requested that the past secretary not do that (provide staff recommendations).

Commissioner Stables commented that he would have liked something to go on – whether the permit should or should not be granted.

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Discussion occurred over the nature of the Department's position in light of the denial of the Hardship.

**7. PUBLIC COMMENT:**

There being no public comment, the meeting was adjourned at approximately 2:52 PM.

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