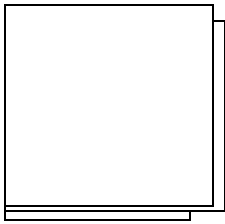


Access Appeals Commission Hearing: November 14, 2001



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

ACCESS APPEALS COMMISSION

MINUTES

Wednesday, November 14, 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 President Lim at 1:08 PM.

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

COMMISSION MEMBERS ABSENT: None

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 October 24, 2001.

Access Appeals Commission Hearing: November 14, 2001**4. REVIEW OF COMMUNICATION ITEMS:**

Reference by Mr. Torres-Gil to letter from Supervisor Hall.

5. REQUEST FOR REHEARING:

a. Appeal # 01-06 590 Bosworth Street

Presentation of Summary by Mr. Torres-Gil.

President Lim stated that it was her understanding that with a rehearing, the Commission votes first whether or not they want to have a rehearing and if the rehearing should be today or scheduled for another day.

Commissioner Baltimore presented a statement regarding 590 Bosworth Street for the purposes of giving background and clarification of the hearing on September 19, 2001 meeting. She feels the commission has no choice but to grant a rehearing. A copy of the statement was submitted for the record.

Motion by Commissioner Baltimore for a rehearing.

Commissioner Stables on a point of order inquired if the applicant gets to make a case for having a rehearing prior to the vote.

Ms. Stompler referenced that it shall be the general practice of the Commission to allow testimony for up to three minutes for each speaker when a request for rehearing is heard by the commission. The Sunshine Ordinance and the Brown Act do require public comment.

Statement by Dr. Dan Gustavson, regarding the request for rehearing.

Statement by Ms. Nordstrom, President of the Glen Park Association. Her organization is eager to have dental care in their neighborhood. President Lim indicated that the comments were only applicable to public comment.

Commissioner Chatillon indicated that he did not feel comfortable rehearing this matter without training on elevators/lifts.

President Lim indicated that after their decision, as to whether or not to rehear the appeal is made, that they may not rehear the appeal today because they still want to have training, especially the new commissioners, even if a special meeting is necessary, and as soon as possible.

Commissioner Brown asked if the motion could be amended to add a date or time.

Vote on the Motion by Commissioner Baltimore:

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

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The motion to grant a rehearing passes with a vote of 4-1.

President Lim requested that the staff schedule, as soon as possible, a training session and that the training be held before the rehearing.

Commissioner Brown presented the motion to delay the hearing until after the new commissioners as well as the old commissioners have received complete information and training by non-commercial people. It has to be by experts who have no vested interest in manufacturing or selling the product. She would be more comfortable being trained by an independent expert.

Commissioner Baltimore suggested training by Richard Skaff.

Commissioner Brown recommended a elevator/lift consultant from Marin. She was concerned about fairness and scope of letters and inquiry and feel it is incumbent on the Commission to get the best training it can get.

Commissioner Stables asked if the applicant gets any say in the timing of the hearing.

Ms. Stompler referred to Rule 7 of the By-Laws regarding continuances.

Mr. Torres-Gil inquired as to the status of the motion by Commissioners Brown.

Further general discussion ensued regarding the type of training, scheduling of the training and rehearing, and the motion by Commissioner Brown.

Dr. Dan Gustavson was recognized by President Lim and spoke of the presence of various experts and asked that the Commission hear some relevant testimony today from commercial interests and people from the Mayor's Office. The Commission may not have another chance at that testimony.

Commissioner Baltimore stated that she thought that was a reasonable request – to recognize people who have taken time out of their day to come and testify.

Commissioner Brown stated that to listen to technical things before she had training – she may not be prepared to understand. She felt it would be fair to have the training prior to a technical presentation.

Commissioner Brown restated her motion. After receiving training by noncommercial professionals and having gone on various trips to see (elevator and lift) mechanisms, at the call of the President, a date for rehearing will be made.

Vote on Motion by Commissioner Brown

Vice President Chatillon	Aye
Commissioner Baltimore	Yes
Commissioner Brown	Yes
Commissioner Stables	No
President Lim	Yes

Access Appeals Commission Hearing: November 14, 2001**The vote was 4-1 on the Motion by Commissioner Brown**

Commissioner Baltimore made a motion to allow testimony even though it will not be considered until the Commissioners are actually ready to vote on the motion – to allow public testimony. She asked Ms. Stombler if the Commission can actually stop people from testifying.

Ms. Stombler said there is the Public Comment period on the agenda and presented several options to the commissioners regarding testimony on the issue.

Commissioner Brown said that the vote was to delay testimony until the actual hearing. It would be to the Dr. Gustavson benefit to delay testimony until the Commission can do the whole thing at one sitting.

Ms. Stombler outlined the limits the Commissioners had in hearing of testimony on the appeal within the Public Comments item.

General discussion ensued on this topic.

President Lim indicated that there will be a Rehearing and asked that people who will be giving testimony be invited back at the Rehearing.

Commissioner Chatillon asked if the training would be agendaized and if public comment could be made on the agenda items.

Ms. Stombler discussed site visit formalities and transcription of those meetings.

6. COMMISSIONERS AND STAFF'S QUESTIONS AND COMMENTS:

Mr. Torres-Gil stated that Ms. Marie MacDonald, of Pacific Access, did volunteer but that she would be advised of the commissioner's decision.

Commissioner Brown stated that Ms. McDonald is not an unprejudiced professional.

Commissioner Stables stated that professionals should be advised and be invited to come and make public comments because the commissioners need's to hear all sides. In the past, the Commission has made an effort to accommodate individuals who have come to testify because of the difficulty in coming here, especially during the workday and especially the disabled. It seems unfair to accommodate other groups of people. Commissioners who are appointed to the commission have a responsibility to be knowledgeable on disabilities and the appliances that are required to overcome those disabilities, just as Commissioner Baltimore and he are experienced in construction. He doesn't mind going to training but he feels it should be unnecessary. It is the responsibility of the commissioners to train themselves on the part of their commissioner jobs that they are here to do. He feels that they are wasting a lot of people time and money by having these delays for training.

Mr. Torres-Gil suggested two separate training sessions in groups of two for a variety of reasons.

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Commissioner Stables objects for two reasons. One, it is a serial meeting and illegal, and two, he would learn more from hearing the questions and answers and also it would be less of an inconvenience to the trainers.

Commissioner Brown thought that Mr. Torres-Gil's suggestion was an accommodation of Commissioner Stables and that she is trying to self-educate by making independent inquiries on elevator and lifts. She is also here to represent the disabled community and to make sure they have access but also in a dignified way. She made an example of her experience with the Palace Hotel and access by a wheelchair bound individual. The disabled community has to have equal access and equal dignity in that access. That is one of the reasons she wants to have more training. Her own research involved talking to various people in the lift business and listening to their prejudices. She just feels, in all fairness, that they must have this training and those commissioners who feel they have been trained and can make an impartial and unemotional decision, should not attend.

Commissioner Baltimore said in the past when they have had training it was helpful to her to have elevator vendors present because they were able to point out how theirs is suppose to operate. The site visits were very educational; one of the elevators did not work, for the wrong reasons. Since it will be a public meeting, she does encourage them to come and share with us what they have. It is good to get a rounded perspective and to speak the same language.

Mr. Torres-Gil outlined a proposed schedule for the training and the rehearing.

President Lim outlined a schedule involving training in the first week in December.

General discussion ensued regarding scheduling of the training and rehearing.

7. PUBLIC COMMENT:

Andrew Sitkowski, a merchant in Glen Park, was pleased about the rehearing and the desire of the commissioners to be as educated as possible to make an informed decision. He emphasized two things; one, can the vertical lift do the job adequately. This lift will only be used to bring people to higher floors and that the access path will be provided on the first floor. Secondly, this will not be an old lift, will be used for one purpose only, will be clean and neat and the key will be available at the front desk. Comparing it to an old building will be inadequate. When gathering information for the costs, do look at the cost of vertical lifts vs an elevator. The economic and financial hardship should be considered by the commission. He will do his best to come back for the next hearing and hopes it will be determined if the vertical lift will be adequate for this situation and that cost be determined for consideration of financial hardship.

Ms. Barbara Berrick, from Pacific Access, stated that Commissioner Stables and Inspector Torres-Gil were correct regarding what Marie McDonald has done with the City. She emphasized safety for the user and the public, and overall, to put it under guidelines that can be controlled and watched over. She was asked to come not to push a product but to go over the differences between the Article 15 elevator and the vertical platform lift. Article 15 lifts have been installed for many years, since '86, with guidelines they absolutely have to comply

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with.

Vertical lifts have had been installed long before that. On the whole, the products are pretty much the same with periodic new features that adds to the product. The Palace Hotel is one of the unfortunate places in the City and they have fought consistently. The key must be kept with authorized people and must be kept at the main office. Lifts are coming under state jurisdiction and there is nothing that says they have to go back and make this equipment keyless. It is her understanding that all SF lifts have to be keyless.

Neal Chapin, representing McKinley Equipment Corporation, accessibility equipment in sales, California. He wants to echo the comments made including Ms. McDonalds efforts to help educate people in the City about accessibility equipment. He would like to suggest that they reconsider their agenda for the education day. That it be a full day, that the site visits be with all the City's technical help, have people from the industry and then come back and review the codes because the state codes changed about three and ½ years ago and all owners are now required to make weekly inspection of the operation of the lifts. The state mandates that they have to be maintained twice a year by a qualified person. He would be happy to provide a copy of these codes prior to that day so they can read them. A lot of what has been put in the (AAC) decisions are preempting the state. The state has done a very fine job of taking over and making a requirement that equipment must work consistently. Most of them sell the same products. They are contractors. They want to make sure the equipment works and want the commissioners to understand what the equipment can do. One last comment, Article 15 elevators have been used to travel over 12 feet. To travel under 12 feet, the state allows it to penetrate a floor and doesn't require any variance. Most people will use a platform lift for 0 -12 foot travel.

Jamie Desena, works for D&D Elevator Company. Emphasized the similarities between Article 15 elevators and lifts. Weight is different - 1000 lbs vs 750 lbs and that the button must be pressed at all times.

The meeting was adjourned at 2:28 PM.

Rafael Torres-Gil, Senior Building Inspector

Department of Building Inspection

Secretary to the Access Appeals Commission