

Agenda Item C

*Minutes of May 18, 2022 and
June 15, 2022*



ABATEMENT APPEALS BOARD

NOTICE OF MEETING

Wednesday, May 18, 2022 at 9:00 a.m.

Remote Hearing via video and teleconferencing

Watch SF Cable Channel 78/Watch www.sfgovtv.org

Watch: <https://bit.ly/38AH4Fb>

PUBLIC COMMENT CALL-IN: 1-415-655-0001 / Access Code: 2482 337 9496

DRAFT MINUTES

A. CALL TO ORDER and ROLL CALL.

The meeting of the Abatement Appeals Board for Wednesday, May 18, 2022 was called to order at 9:07 a.m. and roll was taken by Commission Secretary Sonya Harris, and a quorum was certified.

BOARD MEMBERS PRESENT:

President Jason Tam
Vice President J.R. Eppler
Commissioner Alysabeth Alexander-Tut
Commissioner Raquel Bito, Excused
Commissioner Bianca Neumann
Commissioner Angie Sommer

Ramaytush Ohlone Land Acknowledgment.

The Abatement Appeal Board acknowledges that we are on the unceded ancestral homeland of the Ramaytush Ohlone, who are the original inhabitants of the San Francisco Peninsula. As the indigenous stewards of this land and in accordance with their traditions, the Ramaytush Ohlone

MEMBERS OF THE BOARD

Jason Tam, President
J.R. Eppler, Vice-President
Alysabeth Alexander-Tut, Commissioner
Raquel Bito, Commissioner
Bianca Neumann, Commissioner
Angie Sommer, Commissioner

DEPARTMENT REPRESENTATIVES

Joseph Duffy, Secretary to the Board (628) 652-4411
Sonya Harris, BIC Secretary (628) 652-3510
Code Enforcement Section (628) 652-3430
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CITY ATTORNEY'S OFFICE REPRESENTATIVE

Zachary Porianda, Deputy City Attorney (415) 554-4665

have never ceded, lost, nor forgotten their responsibilities as the caretakers of this place, as well as for all peoples who reside in their traditional territory. As guests, we recognize that we benefit from living and working on their traditional homeland. We wish to pay our respects by acknowledging the Ancestors, Elders, and Relatives of the Ramaytush Ohlone community and by affirming their sovereign rights as First Peoples.

B. FINDINGS TO ALLOW TELECONFERENCED MEETINGS UNDER CALIFORNIA GOVERNMENT CODE SECTION 54953(e). (*Discussion and Possible Action*)

The Board will discuss and possibly renew findings that it adopted at its October 20, 2021 meeting that are necessary to authorize the Board to hold meetings remotely under the modified Brown Act provisions in Assembly Bill 361.

Secretary Harris asked if all Commissioners were in agreement to continue to meet remotely. All members said aye.

The motion carried unanimously.

C. APPROVAL OF MINUTES: (*Discussion and Possible Action*) Discussion and possible action to adopt the minutes for a meeting held on: February 16, 2022.

Vice President Tam made a motion, which was seconded by Commissioner Eppler, to adopt the minutes for the AAB meeting of February 16, 2022. The motion carried unanimously.

There was no public comment.

D. D. NEW APPEAL(S): Orders of Abatement

1. CASE NO. 6905: 2195 GREEN ST_202174624

Owners of Record & Appellant: PAMELA WIGET

ACTION REQUESTED BY APPELLANT: Appellant appeals the November 5, 2021 Order of Abatement regarding an unauthorized roof deck. Appellant contends that the roof deck was inspected and approved in 1980 and 1981 and the Order was therefore issued in error and should be reversed.

Mr. John Hinchion, Acting Chief Building Inspector of Code Enforcement, presented the case regarding 2195 Green Street. Mr. Hinchion discussed the following points:

- The original Notice of Violation #202174624 was issued on April 21, 2021.
- An unauthorized roof in use as a roof deck with furniture and plants, located on the fourth floor and no code compliant guard rails.

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- Director’s Hearing was held October 6, 2021 and an Order of Abatement was issued.
- There was no permit to comply with the NOV and staff recommended to uphold the Order of Abatement and impose the assessment of fines.

President Tam asked to confirm that the amount was \$2,116.26

Mr. Hinchion confirmed the amount for \$2,116.26

Mr. Niall Vignoles said that Attorney. Jim Quadra would speak for the Appellant.

Mr. Quadra spoke on behalf of Pamela Wiget, and presented the case regarding 2195 Green Street. Mr. Quadra discussed the following points:

- The Commission has the power to reverse the Order of Abatement and he requested they do so.
- The request for reversal was warranted due to the fact that the roof deck had been properly used for over 40 years, and all evidence indicated it had been properly permitted.
- The Department based its actions on its own inability to locate records from over 40 years ago, in 1981 when the roof deck was first approved and ignored records that showed its approval.
- Ms. Wiget’s roof deck was built in 1981. Unfortunately, at the time the Department was not able to preserve records properly, likely because of the transition from microfilm to computerization.
- The Department based its Order of Abatement on the incorrect statement of having all the records, and that was not true.
- Referenced in the Appeal brief, a prior Administrative Law Judge already found the Department did not accurately track records before 1983.
- For example, there were no revised plans regarding the property, and the Appellants brief listed a number of missing records regarding the roof deck that should have been in the DBI’s records.
- Another example of record that was approved by the Department was the tiling of the roof deck in 1981. The Department inspected the tile work before issuing a Certificate of Final Completion (CFC) for the pent room and deck.
- The penthouse room and deck were allowed because the Department approved the newly built fire escape as a second means of egress.
- Months after the Department issued the Certificate of Completion in 1981, it approved the construction of roof deck greenhouse expanding the occupancy.
- In 1997, the Department approved Ms. Wiget’s permit for its rooftop restoration, which was included as Exhibit Q in the Appeal brief.
- Additionally, Ms. Wiget’s position was supported by a San Francisco Superior Court ruling where the court found the rooftop deck use could continue.

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- A summary of the records available and those missing were included in the Expert Report provided by Avalor Construction.
- Mr. Vignoles said they would not be here if not for one disgruntled neighbor who made an incorrect assertion of an application not being previously approved, but the Department said it missed this issue rather than reviewing evidence that it had continuously acknowledged the existence of the roof deck.
- The Department should not be able to say it simply does not have records from forty years ago as the sole basis to deny Ms. Wiget's right to a property she purchased with a roof deck.
- The burden is on the Department to prove it had all records, which it has not been able to do. For these reasons the Board should reverse the Order of Abatement.

Attorney Jim Quadra and Mr. Niall Vignoles said in November 30, 2021 they submitted a brief to the Department that contained eight exhibits of 380 pages.

Secretary Harris asked if the submittal was for a Director's Hearing.

Mr. Vignoles said that the exhibit was not for a Director's Hearing, but the Abatement Appeals Board and the appeal had been pending for six months.

Ms. Pamela Wiget presented her case regarding 2195 Green Street and discussed the following points:

- Ms. Wiget asked for patience because she was 75 years old and recovering from a surgery.
- Ms. Wiget said she owned her property for more than 40 years and used her roof deck continuously over those 40 years.
- Due to various issues from the roof such as leaks, the City had inspected the roof numerous times and had the opportunity to tour the roof several times.
- Ms. Wiget helped raise her family using the roof deck, and showed pictures of her nephew who was a toddler on the deck, which showed the handles going from the deck to the pent room.
- The nephew Ms. Wiget mentioned was now 28 years old.
- For 40 years she had enjoyed the property, and was confused and appalled that the Department would fine her after all of those previous inspections and that she was told to stop the use of her property.
- One major reason Ms. Wiget purchased the property was the roofdeck and it would mean the citizens of San Francisco could have their property declared illegal.
- Ms. Wiget said she had shown the Board numerous examples of the City's approval of the use, and it was unspeakable to treat a person that way after having used the property for more than 40 years. The Department was essentially taking her property away and she asked DBI to reconsider.

Public Comment:

Mr. Scott Maines said he read the Appellant's brief and it was dense with factual errors and unsubstantiated assertions. In short, Mr. Maines said records had been known to go missing from DBI, and as it happens the Appellant was missing a unicorn. The unicorn would confirm the legality of the pentroom as the hub of a 4,000 square foot rooftop entertainment space that accommodates dozens of inebriated occupants for which a single ladder leads to a hazardous four story drop to the sidewalk below and serves as egress. Also would preserve the legality in the face of removal of fifty tons of structural unsound tile work which would render the space unsafe for any pedestrian use. The unicorn would also be necessary to examine existing hazards on the site today. There were non-compliant railings, structurally compromised parapet, a light shaft with a three story drop to the bottom below. Although the Appellant mentioned doors, it was not clear the doors facing the north west wall were ever permitted and the original requirement for a second means of egress was an order to satisfy conditions for Planning approval for a sleeping room and it somehow morphed into a 4000 square foot rooftop space. On less than six occasions, the Department had determined no legality had been conferred upon the rooftop. Additionally, the statement of the Appellant's extensive legal history somehow confirmed usage was false. Section 103a.4.7 was clear that a violation constituted a public nuisance which must be abated. DBI had evidence of multiple violations and hazards of the property for more than one year. The Appellant had refused entry ordered by the Building Inspectors, and refused to comply with orders to cease the illegal usage.

Mr. John Hinchion, Chief Building Inspector of Code Enforcement, gave his rebuttal as follows:

- The property owner filed a permit December 26, 2013.
- The description for the permit was new roof pavers wood over pedestal system.
- The permit filed was acknowledgement of an issue with the roof.
- If the permit would be issued and included a guard rail that would resolve the issue.

President Tam asked if the permit was signed off.

Mr. Hinchion said the permit was filed, but never issued and there was no follow up with Plan Review or any other reviews.

Ms. Pamela Wiget, the Appellant, gave a rebuttal as follows:

- At the time the Appellant was in Litigation when the permit was pulled.
- The responsibility was on the Home Owners Association (HOA) to follow through with the permit.
- The HOA did not follow up which caused the permit to expire.

Mr. Niall Vignoles added to the rebuttal of the Appellant as follows:

- There were numerous permits as evidence the roof deck had been historically approved.
- The permit requested was for replaced tile that had to be pulled due to weight issues.
- The rooftop usage had never discontinued and had been in use for forty years.

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- The specific issue of the tile was the only thing that should have been addressed in that permit.
- Ms. Wiget and the HOA would be okay with adding a guard rail, but it was not a requirement for continued use of the already permitted roof deck.

President Tam said with regard to the exhibits and the briefs, the Board did not have those documents in front of them.

President Tam made a motion, which was seconded by Vice President Eppler, to continue item D, case 2195 GREEN ST_202174624 to June 15, 2022.

Public Comment:

Mr. Niall Vignoles said they would submit the brief again.

Deputy City Attorney Zachary Porianda said the Public Comment should be limited to the motion on the floor, and that it was not open for Public Comment on the item at that time.

Mr. Maines said there were constraints on the Board to grant the Appeal with the intent that the action taken be in line with the Building Code. This case had been going on for a year and there had been numerous large gatherings on that roof deck. All the hazards had gone unaddressed and would continue to do so as long as enforcement was not brought in the matter. Mr. Maines said he understood the need to review the brief, and the discrepancies were stunning. This would also delay the enforcement of the safety hazards for which the Department had for over one year.

President Tam asked if the rooftop was a shared space or was this a deeded issue.

Mr. Hinchion said that the rooftop was a common area.

Secretary Harris Called for a Roll Call Vote:

President Tam	Yes
Vice President Eppler	Yes
Commissioner Alexander-Tut	Yes
Commissioner Bito	Excused
Commissioner Neumann	Yes
Commissioner Sommer	Yes

The motion carried unanimously.

2. CASE NO. 6903: 21 FLOOD AVE_202059231

Owners of Record & Appellant: OFELIA MORAN / MARLENE MORAN

ACTION REQUESTED BY APPELLANT: Appellant appeals the February 18, 2021 Order of Abatement requiring all permits required for compliance be completed and final within 30 days of the Order. Appellant contends that there was insufficient time to comply with the Order and requests that it be modified to allow additional time for compliance.

Mr. John Hinchion, Acting Chief Building Inspector of Code Enforcement, presented the case regarding 21 Flood Avenue. Mr. Hinchion discussed the following points:

- Notice of Violation issued October 9, 2020 related to minor kitchen fire damaging small areas of dry wall material at the wall and ceiling.
- A Director's Hearing took place February 9, 2021 and Order of Abatement was issued.
- No permit was applied for and staff recommended the Board uphold the Order of Abatement, and impose the Assessment of Costs.
- The next appeal in item 3 Case 6904 was the same address and he asked if it was okay to address at that time or separately.

Secretary Harris said the Board would call the cases separately.

Ms. Marlene Moran spoke on behalf of Ofelia Moran, and presented her case regarding 21 Flood Avenue and discussed the following points:

- In October of 2020 there was a small fire inside the property at 21 Flood Avenue.
 1. The San Francisco Fire Department (SFFD) showed up along with the Department of Public Works (DPW). The Planning Department became involved because the house was big, and there was a large family living area that was accommodating family members without a permit. They made a mistake but were not informed it was needed.
- The City was notified and went out to investigate the unit, but this all occurred during the pandemic and all the City Departments were closed. Appointments were given by other means that were new to lots of people, including herself.
- After the investigator went to the unit they began communicating via email and tried to cope with the new system. Although they had been working to solve their problem, navigating the new system was not easy.
- Late 2020 or early 2021 they were instructed to pull a permit for zoning, but had to quarantine due to several family members having COVID one after the other -- That was time consuming.
- There were protocols put in place that had to be followed preventing ability to move freely and have people go into the house.
- Electrical and Plumbing permits were pulled to have utilities restored but the Planning permits were a difficult task. They hired a contractor to help with the drawings, but he became ill as well and had been in and out of the hospital.
- Later the contractor sent drawings but an email from Mr. Jones stated there was something missing from the drawings.

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- In February 2022 the Appellant contacted the contractor to complete the work and comply with the instructions from the email. The contractor said he would have them done in two days but they did not hear from the contractor again.
- The Appellant said they were looking for another contractor and intended to restore the building to the original dwelling if it would be easier to comply with the City.
- The pandemic delayed the Appellants and put them into a hardship by not having the ability to move around freely and get the work done.
- The Appellant said they had verification of all the communications with the City during the pandemic.
- Ms. Moran said we are living in unknown times and the pandemic had put them in an unsecure, uncertain, and awkward time as well as others. They worked with the best they had and would continue to do so until compliance is met.
- The Appellant said they were humbly appealing to the Board's understanding in helping to remove the Abatement and comply with it.

There was no public comment.

The Department and Appellant had no rebuttal.

President Tam asked if this case begin from an unwarranted unit or an added stove in an unpermitted area.

Mr. John Hinchion said some of the pictures related to the next appeal case, but the main case was regarding the fire at the rear deck and the next appeal would go into more detail of the legality of the unit.

President Tam said he wanted to understand what he was looking at, and asked if the pictures showed an added kitchen underneath the staircase and if it was part of the original plans.

Mr. Hinchion said the kitchen would be captured in the next case following this one in regard to the fire.

President Tam asked if the Appellant had acquired any permits at all.

Mr. Hinchion said no permits had been acquired since 2019.

Commissioner Alexander-Tut said her questions were also regarding the permits and it looked like there was an electrical permit pulled in October of 2020. Inspector Michael Choy said a final inspection failed and then a plumbing permit was pulled and they were issued a violation notice. She asked for clarification.

Mr. Hinchion said there was a Building Code violation and the solution would not have been Electrical or Plumbing permits it should have been a Building Permit, and those permits pulled

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were included in the supporting documents to show there was permitting activity but those did not relate to the solution of the case. The last building permit for this address was concluded October 2, 2019 and that was a Housing Abatement Appeals case. There had been no Building Permit issued since October 2, 2019 and no Building Permit had been pulled that dealt with the fire or deck or any other Building Code issues.

Commissioner Alexander-Tut asked what would be the cure for the Notice of Violation and was it for the drywall material at the wall and ceiling.

Mr. Hinchion said for the Appellant to pull a permit to repair the fire damage at the deck area and whatever fire damage happened at the area. The Appellant would also need to get the necessary permits to have those repairs completed and bring the unit back to its Code compliant condition.

Commissioner Alexander-Tut asked if the Electrical and Plumbing Permits were in any way related to the fire.

Mr. Hinchion said part of pulling the Building permit would be to get the associated Electrical and Plumbing permits where appropriate.

Commissioner Alexander-Tut asked if the Electrical and Plumbing permits were pulled before the Appellant was able to apply for the Building Permit.

Mr. Hinchion said the Appellant would need to get the Building permit and in conjunction would pull any necessary Electrical and/or Plumbing permits required and the inspections would go on between the three disciplines and it would finish with a signed off Building Permit along with signed off Electrical and Plumbing permits.

Commissioner Alexander-Tut asked the Appellant if they would explain what happened in October 2020 and what had been their progress since then.

Ms. Moran said the utilities were shut off when the fire happened because the Fire Department came and ordered that. They were told to pull the Electrical and Plumbing Permit to restore the utilities to the house, and that was done to turn the electricity and water back on not for the fire.

Mr. Hinchion said he concurred with the statement that Ms. Moran made.

Commissioner Eppler asked if were the photos in the brief taken April of 2022.

Mr. Hinchion said that was correct the photos were taken April 2022.

President Tam asked if the property was occupied at that time.

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Mr. Hinchion said the property was occupied by many different groups.

President Tam said he recommended to uphold the Order of Abatement and impose all fines as this was a safety issue and the property had many occupants.

Commissioner Sommer said the brief showed the extent of damage to the property was not structural and the Order of Abatement was related to the next case and the current case was for no filing for a Building Permit for fire damage.

Mr. Hinchion said the concern of the fire damage was stemming from the Vacant Building Program, and when fire damage is not dealt with quickly it could escalate into areas of buildings being abandoned. For life safety purposes and building maintenance, the Department asked that those are taken care of as not to lead to blight.

Deputy City Attorney (DCA) Zachary Porianda said the Appellant in the case was requesting additional time to comply with the permit and the ruling should include the request.

President Tam asked how much time the Appellant was requesting.

DCA Porianda said the time was not specified in the brief.

President Tam withdrew the motion to uphold all fines and gave another forty-five to sixty days to comply.

DCA Porianda said the Board could uphold the Order of Abatement, but modify it to allow greater time for the Appellant to comply with the permits.

Commissioner Alexander Tut made a motion, which was seconded by President Tam, to uphold the Order of Abatement, include the Assessment of Costs, and a modification for sixty days to commence the work and eighteen months to complete.

There was no public comment.

Secretary Harris Called for a Roll Call Vote:

President Tam	Yes
Vice President Eppler	Yes
Commissioner Alexander-Tut	Yes
Commissioner Bito	Excused
Commissioner Neumann	Yes
Commissioner Sommer	Yes

The motion carried unanimously.

3. CASE NO. 6904: 21 FLOOD AVE_202059031

Owners of Record & Appellant: OFELIA MORAN

ACTION REQUESTED BY APPELLANT: Appellant appeals the February 12, 2021 Order of Abatement requiring all permits required for compliance be completed and final within 30 days of the Order. Appellant contends that there is insufficient time to comply with the Order and requests that it be modified to allow additional time for compliance.

Mr. John Hinchion, Acting Chief Building Inspector of Code Enforcement, presented the case regarding 21 Flood Avenue. Mr. Hinchion discussed the following points:

- The Notice of Violation was issued on October 8, 2020 and states building had been subdivided into five separate dwelling units with five kitchens.
- The Director’s Hearing was February 9, 2021 resulting in Order of Abatement subject to filing conditions.
- All permits required for the violation must be completed and final within thirty days.
- No permit complied and staff recommended uphold the Order of Abatement and impose assessment of cost.

Ms. Marlene Moran spoke on behalf of Ofelia Moran and presented her case regarding 21 Flood Avenue and discussed the following points:

- The statement from the first case #6905 would be applied to this case as well.

There was no public comment.

There was no rebuttal from The Department and no rebuttal from the Appellant.

President Tam said the building was turned from a two-unit to a five-unit building with five separate kitchens and three of the units were unwarranted with closed off stairways and were there any permits in the process of all of those changes.

Commissioner Neumann said she wanted to bring into consideration that there were numerous people in the building which may have made it difficult to re-house everyone and there was a Cover Program provided by Mayor Office of Housing and Community Development (MOHCD) which was a loan program for properties with Code violations to access low interest loans for repairs.

Commissioner Alexander-Tut said were all of the buildings units occupied.

Ms. Moran said two of the units were occupied.

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Commissioner Alexander-Tut asked if someone would walk through the process of legalizing the units and or building.

Mr. Hinchion said for the record the Department’s intention was not to displace anyone and the legal description was a two-unit building. If the Appellant has the opportunity to get a permit and legalize the additional three units or removing some of the units or what could be approved; However, the solution for this case was to have a signed off Building Permit in acknowledgement of the violation.

Commissioner Alexander-Tut questioned if there an implied order of eviction with the violation.

Mr. Hinchion said an eviction would be outside of the Building Code.

Commissioner Sommer said the two options for the Appellant were to submit a Building permit to legalize the additional units or remove scope from the building to match the allowed occupancy.

Mr. Hinchion said The Department acknowledges the housing shortage and once the Building permit was submitted, there was a new approach to legalizing units that would be taken rather than removing units and displacing tenants.

Mr. Joe Duffy, Deputy Director of Inspection Services and Secretary to the Board, said there were a lot of programs regarding legalizing units such as the (Accessory Dwelling Unit) ADU program. He advised the property owner to search for those resources and hire a design professional that worked in that business and had experience working with Planning staff or there was a program where the building may be legalized as five units and the best advice was to get a design professional to start the work.

President Tam made a motion, seconded by Commissioner Neumann, to uphold the Order of Abatement and include Assessment of Costs with the modification of 60 days for work to begin and be completed in eighteen months.

There was no public comment.

Secretary Harris Called for a Roll Call Vote:

President Tam	Yes
Vice President Eppler	Yes
Commissioner Alexander-Tut	Yes
Commissioner Bito	Excused
Commissioner Neumann	Yes
Commissioner Sommer	Yes

The motion carried unanimously.

E. GENERAL PUBLIC COMMENT

There was no general public comment.

F. ADJOURNMENT

Commissioner Alexander-Tut made a motion to adjourn the meeting, seconded by Commissioner Eppler. The motion carried unanimously.

The meeting was adjourned at 10:15 a.m.

Respectfully submitted,

Monique Mustapha, Assistant BIC Secretary

Edited By: Sonya Harris, BIC Secretary



ABATEMENT APPEALS BOARD

NOTICE OF MEETING

Wednesday, June 15, 2022 at 9:00 a.m.

Remote Hearing via video and teleconferencing

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Watch: <https://bit.ly/3sXp2UN>

PUBLIC COMMENT CALL-IN: 1-415-655-0001 / Access Code: 2485 579 9398

DRAFT MINUTES

A. CALL TO ORDER and ROLL CALL.

The meeting of the Abatement Appeals Board for Wednesday, June 15, 2022 was called to order at 9:09 a.m. and roll was taken by Commission Secretary Monique Mustapha, and a quorum was certified.

BOARD MEMBERS PRESENT:

President Jason Tam
Vice President J.R. Eppler
Commissioner Alysabeth Alexander-Tut
Commissioner Raquel Bito
Commissioner Bianca Neumann
Commissioner Angie Sommer

MEMBERS OF THE BOARD

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J.R. Eppler, Vice-President
Alysabeth Alexander-Tut, Commissioner
Raquel Bito, Commissioner
Bianca Neumann, Commissioner

Angie Sommer, Commissioner

DEPARTMENT REPRESENTATIVES

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CITY ATTORNEY'S OFFICE REPRESENTATIVE

Zachary Porianda, Deputy City Attorney (415) 554-4665

Ramaytush Ohlone Land Acknowledgment.

The Abatement Appeals Board acknowledges that we are on the unceded ancestral homeland of the Ramaytush Ohlone, who are the original inhabitants of the San Francisco Peninsula. As the indigenous stewards of this land and in accordance with their traditions, the Ramaytush Ohlone have never ceded, lost, nor forgotten their responsibilities as the caretakers of this place, as well as for all peoples who reside in their traditional territory. As guests, we recognize that we benefit from living and working on their traditional homeland. We wish to pay our respects by acknowledging the Ancestors, Elders, and Relatives of the Ramaytush Ohlone community and by affirming their sovereign rights as First Peoples.

B. FINDINGS TO ALLOW TELECONFERENCED MEETINGS UNDER CALIFORNIA GOVERNMENT CODE SECTION 54953(e). (*Discussion and Possible Action*)

The Board will discuss and possibly renew findings that it adopted at its October 20, 2021 meeting that are necessary to authorize the Board to hold meetings remotely under the modified Brown Act provisions in Assembly Bill 361.

Assistant Secretary Mustapha asked if all Commissioners were in agreement to continue to meet remotely. All members said aye.

The motion carried unanimously.

C. CONTINUED APPEAL(S): Order of Abatement

1. CASE NO. 6905: 2195 GREEN ST_202174624

Owners of Record & Appellant: PAMELA WIGET

ACTION REQUESTED BY APPELLANT: Appellant appeals the November 5, 2021 Order of Abatement regarding an unauthorized roof deck. Appellant contends that the roof deck was inspected and approved in 1980 and 1981 and the Order was therefore issued in error and should be reversed. At its May 18, 2022 meeting, the Board voted to continue this matter to its June meeting to allow it time to review written materials that Appellant submitted.

Mr. John Hinchion, Acting Chief Building Inspector of Code Enforcement, presented the case regarding 2195 Green Street. Mr. Hinchion discussed the following points:

- This case related to a ten-unit condominium building and the Notice of Violation (NOV) was issued April 21, 2021 for unoccupied roof in use as roof deck with furniture and plants located on four-story building and non-compliant guard rails.

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- Directors Hearing was on October 6, 2021 and Order of Abatement was issued requiring the property owner to obtain permits to comply with the NOV and complete and file within thirty days.
- There was no permit to comply with the violation and the Department recommended the Board uphold the Order of Abatement and impose the Assessment of Cost.

Attorney Niall Vignoles, representing Pamela Wiget, presented the case regarding 2195 Green Street. Mr. Vignoles discussed the following points:

- The Department has improperly found the property was a nuisance and must be properly abated.
- Ms. Wiget has owned the penthouse and roof deck.
- The Board has voting members who have the power to reverse the Order of Abatement, and this was a situation where overturning the action of the Department was completely warranted and logical given the roof deck had been in use and existence for over forty years.
- DBI was basing its action on its inability to locate documents from forty years ago when the roof deck usage was allowed after renovations.
- Ms. Wiget's roof deck pent room with windows and doors to the roof was built in 1981 pursuant to permit.
- In 1981 the Department was regularly throwing away its paperwork and had admitted to doing so.
- A Director's representative had based the issuance of the Order of Abatement on the blatantly false statement that the Department had all the records.
- A prior ruling found the Department did not track records accurately prior to 1983 with the institution of electronic records.
- The Department approved the tiling of the roof deck in 1981, and inspected the high-end tiling before issuing the Certificate of Final Completion (CFC) for the pent room and roof deck construction in 1981.
- The pent room and deck were allowed because the Department allowed the newly built fire escape as the second means of egress for the roof and entire area.
- DBI approved the construction of a greenhouse roof deck months after the CFC was issued in 1981.
- The Department had issued permits for the roof deck and the use had been continuous for forty years.
- Litigation regarding the roof deck and tiling had acknowledged the roof deck's usage and existence.
- The Appellant was seeking a permit for the tiling of the walking surface and at the time no permit was required for a guard rail when it was built in 1981.
- The Appellant did not object to the guard rail, but objected to the issuance of the Order of Abatement based on the fact that no permit had been located or unearthed.

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- The Appellant argued the permit was in existence for the roof deck use and if DBI was requiring a guard rail, they were not opposed but that did not mean the current use was a nuisance for Abatement.
- The Appellant asked for the Order of Abatement to be overturned, and questioned if it could be modified due to the underlying Notice of Violation (NOV) for no building permit.

There was no public comment.

Members of the Abatement Appeals Board (Jason Tam, J.R. Eppler, Alysabeth Alexander-Tut, Raquel Bito, Bianca Neumann, and Angie Sommer) made comments and asked various questions of DBI staff pertaining to the Appeal.

Vice President Tam made a motion, which was seconded by Commissioner Neumann, to uphold the Order of Abatement, with the modification that the Appellant should apply for a permit to repair the guard rails within 30 days. The motion carried unanimously.

There was no public comment.

D. GENERAL PUBLIC COMMENT

Mr. Scott Maines said that it was disturbing that the complainant has so little time to speak. Greater time has to be given as the complainant and the person referenced erroneously in the brief. He stated that he has a very detailed history of the case, but there was no way to interject it in this decision., and much of the discussion suffered because of it. Hopefully, in the weeks to come he would be able to provide further communications to DBI in order to clarify that.

Ms. Pamela Wiget's (Appellant's) sister spoke and said that she tried to call in previously for public comment during the virtual meeting, and she did not know how the navigation happened, but there were problems and she was not able to be heard. It is amazing to her that it has been 40 years, and she is confused how the owner is at fault, but the Home Owners Association (HOA) is not forced to do the things they need to do. She mentioned that she brought photos to show to the Board today, but unfortunately got lost trying to locate the hearing room in City Hall. She reiterated that there were problems with the virtual meetings if one is not an I-phone expert or not really tech savvy.

Ms. Pamela Wiget, Owner and Appellant, stated that it had been 15 years since the Order was issued by the court. The HOA has taken her to court and Mr. Maines has taken her to court to try to get rid of the judgement. When that did not work he went to DBI about her use of the deck, and in desperation she is the one trying to get a permit for things that are really the responsibility of the HOA, such as life safety and railings.

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Deputy City Attorney Porianda stated that this was the item for General Public Comment, and could not be about the matter that was previously heard.

E. ADJOURNMENT

Commissioner Alexander-Tut made a motion to adjourn the meeting, seconded by Vice-President Tam. The motion carried unanimously.

The meeting was adjourned at 10:23 a.m.

Respectfully submitted,

Monique Mustapha, Assistant BIC Secretary

Edited By: Sonya Harris, BIC Secretary