



**ABATEMENT APPEALS BOARD**

**NOTICE OF MEETING**

**Wednesday, December 15, 2021 at 9:30 a.m.**

**Remote Hearing via video and teleconferencing**

Watch SF Cable Channel 78/Watch [www.sfgovtv.org](http://www.sfgovtv.org)

Watch: <https://bit.ly/3Ey4sy1>

**ADOPTED JANUARY 19, 2022**

**PUBLIC COMMENT CALL-IN: 1-415-655-0001 / Access Code: 2481 608 6837**

**MINUTES**

**A. CALL TO ORDER and ROLL CALL.**

The meeting of the Abatement Appeals Board for Wednesday, December 15, 2021 was called to order at 9:33 a.m. and roll was taken by Commission Secretary Sonya Harris, and a quorum was certified.

**BOARD MEMBERS PRESENT:**

**President Alysabeth Alexander-Tut**  
**Vice President Jason Tam**  
**Commissioner Raquel Bito**  
**Commissioner J.R. Eppler**  
**Commissioner Angus McCarthy**  
**Commissioner Angie Sommer**  
**Commissioner Sam Moss**

**Sonya Harris, Building Inspection Commission Secretary**

---

**MEMBERS OF THE BOARD**

Alysabeth Alexander-Tut, President  
Jason Tam, Vice-President  
Raquel Bito, Commissioner  
J.R. Eppler, Commissioner  
Angus McCarthy, Commissioner  
Sam Moss, Commissioner  
Angie Sommer, Commissioner

---

**DEPARTMENT REPRESENTATIVES**

Joseph Duffy, Secretary to the Board (628) 652-4411  
Sonya Harris, BIC Secretary (628) 652-3510  
Melissa Reyes, Recording Secretary (628) 652-3427

**CITY ATTORNEY'S OFFICE REPRESENTATIVE**

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

---

## **Abatement Appeals Board – MINUTES – Notice of Meeting of December 15, 2021 – Page 2**

Land Acknowledgment read by President Alexander-Tut, 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. APPROVAL OF MINUTES: Discussion and possible action to adopt the minutes for meetings held on: October 20, 2021 and November 17, 2021.**

*Vice President Tam made a motion, seconded by Commissioner Moss, to adopt the minutes for meetings held on October 20, 2021 and November 17, 2021.*

### **C. REVISION OF ABATEMENT APPEALS BOARD PROCEDURAL RULES (Discussion item)**

**The Board will discuss the current procedural rules governing abatement appeals and possible revisions and updates to those rules.**

Commissioner Alexander-Tut asked if the rules were posted in time to be adopted at today's meeting.

Secretary Harris advised that input from the Board would be accepted and the ten-day notice would be posted for the next meeting.

Deputy City Attorney Zachary Porianda gave an overview of the revisions to the process and procedures the Board had been operating under the past 25 years. He and Vice-President Tam worked together on synthesizing and refining some of those practices that may have had some ambiguity. Two significant changes under section 3D and 3E, Mr. Porianda explained that currently when an appellant files an appeal, the appellant only completed the Notice of Appeal form describing the basis for the appeal in two lines. The rules now allow the Appellant to submit three weeks before the hearing a written statement explaining the basis for the appeal. The other change was the Department submits its report one week before the hearing whereas prior there was no firm deadline to submit. Also, a copy of the staff report would be given to the Appellant to understand reasoning to uphold or sustain an Order of Abatement.

Vice-President Tam thanked Mr. Porianda for all of his work and explained that giving the Appellant the opportunity to explain their case and provide the Board with additional information is key to becoming sufficient and perhaps the appeal would not reach the Board with the staff having access and a better understanding of the situation. Also, Commissioner Tam stated that the rules are amendable as the Board evolves and could tailor them to the future as the processes become more streamlined.

### **Abatement Appeals Board – MINUTES – Notice of Meeting of December 15, 2021 – Page 3**

Deputy City Attorney Porianda clarified that this was the time for the Board to propose any further amendments to the rules and have public comment, and if there were no further amendments the rules would be posted for the January 2022 meeting for formal adoption.

Vice-President Tam stated that in section 3d (2) regarding the Department response, that the Board getting information early would help significantly with their ability to operate more efficiently.

Commissioner Eppler asked regarding Article(A) part (2), the meeting start time states 9:00 a.m. however, this morning's meeting began at 9:30 a.m. Should there be a sentence stating "unless noticed" to give flexibility as exercised today. Secondly, in Part(C) same article, Commissioner Eppler clarified if there would be an affirmative rule for a Commissioner to forward all communication received from an Appellant to the Secretary to be shared with the Board if necessary. Further, to define business day as perhaps any day that is not a weekend or City holiday. Also, there was a recommendation as to the font size to use for written submittals. Finally, the Rules should specify to whom a hand delivery would go to.

Secretary Harris explained that the person would change depending on if the documents were for the Code Enforcement Section (CES) or Housing Inspection Services (HIS). She suggested perhaps it could state the fourth floor could be used for hand delivery.

Commissioner Sommer said an appeal is heard on the grounds of substantial error on the part of the Department, and asked if the form for submittal had been updated or revised to make clear that was what the Board would seek in an appeal.

Deputy City Attorney Porianda responded that the language in that provision was taken directly from the Building Code section applicable to the Abatement Appeals Board and that section also appears on the Notice of Appeals form. An Appellant should be on notice that is the applicable standard; However, in terms of the Appellant basing their argument toward that is where some of the disconnect had come from. Now that it is expressly written in the Rules, it is the Board's hope that would heighten the Appellants awareness to what the Board would review in an Appeal. Another step the Board could take would be to announce that rule in the beginning of the hearing. The form is old and once the rules are formalized it could be revised.

Commissioner Sommer asked about the failure to appeal section, if there could be a link between the two rules of the Order of Abatement being immediately effective and the rule of granting continuances for good cause.

Deputy City Attorney Porianda explained that section was taken from the Building Code and the language was pursuant to Ordinance in terms of what happens if an Appellant failed to appear. In the recent situation where the Appellant failed to appear we gave leniency due to the virtual meetings; However, in a pre-COVID world had the Appellant failed to show the rules are strict in that matter.

**Abatement Appeals Board – MINUTES – Notice of Meeting of December 15, 2021 – Page 4**

Commissioner Sommer stated there were two sections with the numbers 3 for future reference to possibly renumber the sections, then asked regarding the Request for Rehearing, what was the process for approving a rehearing.

DCA Porianda stated the Request for Rehearing section is codified and the provision was taken from the Code section and the Board is locked into that language, but the process is there is a Notice of Appeal form, and a Notice of Rehearing form which is on the back of the Notice of Appeal form and it cites the standard: The Appellant fills out the basis for the appeal, then it comes before the Board where the Appellant has to show that there was some evidence that came to light that would have changed the outcome. From there, the Board would decide to rehear the appeal and find if the outcome indeed would be different.

President Alexander-Tut asked if the nomination notifications were updated and confirmed in the Rules, and when would the Board receive the submittals and reports for appeals. Also, what was the procedure of contacting the AAB and forwarding correspondence to the AAB Secretary.

Deputy City Attorney Porianda stated historically he has not tracked what would normally be done, and with the new rules it implements the Appellant having the option of filing a brief and the procedure could be that it is transmitted to the Board. DBI staff would have access to the brief, which would inform the staff of the case going forward and the Board would receive the full packet prior to the hearing.

Secretary Harris clarified that Joe Duffy is officially the AAB Secretary and that correspondence may be sent to either Mr. Duffy or Ms. Harris.

Deputy City Attorney Porianda added that the Secretary, Mr. Duffy, could designate a staff person as the point of contact.

President Alexander-Tut asked for clarification regarding the authority of the Board in decisions that would be made including putting something in abeyance.

DCA Porianda said at the Board's discretion pursuant to the Code, the AAB may uphold an Order of Abatement or hold it in abeyance for a period of up to 60 days. The Board has not had a formal document and this will serve as such and can be amended going forward.

President Alexander-Tut suggested that the Abatement Appeals Board should annually go over the Rules at the December meeting.

Commissioner Bito asked about what the two changes were for the Appellant.

Deputy City Attorney Porianda said the two changes were for the Appellant to submit a statement 21 days before the hearing date, and the second change was the deadline set for DBI to file a staff report one week before the hearing.

**Abatement Appeals Board – MINUTES – Notice of Meeting of December 15, 2021 – Page 5**

Vice President Tam thanked Deputy City Attorney Porianda for his work on the Rules to better serve the public.

There was no public comment.

**D. GENERAL PUBLIC COMMENT**

There was no general public comment.

**E. ADJOURNMENT**

*There was a motion to adjourn by Vice-President Tam, which was seconded by Commissioner Moss. The motion carried unanimously.*

The meeting adjourned at 10:10 a.m.

Respectfully submitted,

*Monique Jones*

\_\_\_\_\_  
Monique Jones, Assistant BIC Secretary

*Sonya Harris*

\_\_\_\_\_  
Edited By: Sonya Harris, BIC Secretary