



ABATEMENT APPEALS BOARD

Wednesday, September 17, 2014 at 10:00 a.m.

City Hall, 1 Dr. Carlton B. Goodlett Place, Room 416

ADOPTED November 19, 2014

MINUTES

A. CALL TO ORDER and ROLL CALL.

The meeting of the Abatement Appeals Board for Wednesday, September 17, 2014 was called to order at 10:35 a.m. and a roll call was taken by Commission Secretary Sonya Harris, and a quorum was certified.

BOARD MEMBERS PRESENT:

Kevin Clinch, President

Myrna Melgar, Vice-President

Frank Lee, Commissioner

Warren Mar, Commissioner

Angus McCarthy, Commissioner

Dr. James McCray, Jr., Commissioner

Debra Walker, Commissioner

Sonya Harris, Building Inspection Commission Secretary

D.B.I. REPRESENTATIVE PRESENT:

Edward Sweeney, Secretary to the Board

Andy Kares, Acting Chief Housing Inspector

John Hinchion, Senior Building Inspector

Teresita Sulit, Recording Secretary

Zachary Porianda, Deputy City Attorney

B. OATH: Commission Secretary Harris administered an oath to those who would be giving testimony.

C. APPROVAL OF MINUTES: Discussion and possible action to adopt the minutes for meetings held on March 19, 2014, April 16, 2014 and May 21, 2014.

President Clinch made a motion, seconded by Vice-President Melgar, to approve the minutes of March 19, 2014, April 16, 2014 and May 21, 2014.

Commission Secretary Harris asked for public comment and there was none. The minutes were approved.

The motion carried unanimously.

D. NEW APPEALS: Order of Abatement(s)

1. CASE NO. 6791: 921 Central Avenue

Owner of Record and Appellant: Levine, Arnold Loeb-Levine S., 921 Central Avenue, San Francisco, CA 94115

ACTION REQUESTED BY APPELLANT: Stay Order of Abatement; request for additional time to complete abatement of violations.

NOTICE OF DECISION: The Abatement Appeals Board (AAB) heard oral testimony and reviewed the documentary evidence provided by the Department of Building Inspection, the Appellant and other interested persons. After deliberation of the evidence submitted and the relief sought, the AAB made the following findings and decisions. The conditions are as stated in the Director's complaint attached to the April 4, 2014 Notice of Violations and have not been corrected. Accordingly, the AAB upholds the Order of Abatement. However, to allow Appellants an opportunity to take steps to abate the violations, the Order of Abatement is held in abeyance for 30 days of the September 17, 2014 hearing. This matter shall be set for the next AAB hearing to determine whether the Order of Abatement shall be further held in abeyance. The Appellants will be expected to present to the AAB the steps taken toward remedying the violations, including whether Appellants have applied for assistance from the Mayor's Office of Housing and Community Development's Lead Hazard Control Grant Program. Absent evidence that such steps have been taken to correct the violations, the abeyance will not be extended.

Acting Chief Housing Inspector Andy Karcs presented the case and stated the issue was for a lead based anonymous complaint via 311. Field inspection found additional violations, which were corrected, except for the peeling paint at the exterior of the property. An Order of Abatement was issued on July 17, 2014. The Appellant would like to work with the Mayor's Office of Housing – Lead Abatement Program to obtain assistance to complete repairs. Staff recommendation was to uphold the Order of Abatement and impose Assessment of Costs.

Appellant and owner of the property stated she had problems with neighbors and complaints have been filed in retaliation. The Appellant previously applied to obtain help from the Mayor's Office of Housing – Lead Abatement Program and was approved for \$38,000. While waiting for work to begin there were issues with the first contractor and the second contractor only wanted to spray clean the house and paint it but not complete the other repairs.

Rebuttal from the Department – Acting Chief Housing Inspector Karcs stated the Department was willing to set up a timeline to work with the Appellant and complete repairs.

Rebuttal from the Appellant – Appellant stated she wants to complete repairs as it would be a benefit to her and her family.

Members of the Abatement Appeals Board (Kevin Clinch, Myrna Melgar, Frank Lee, Warren Mar, Angus McCarthy, Debra Walker and James McCray, Jr.) made comments, and asked various questions of DBI staff and the Appellant pertaining to the Appeal.

President Clinch called for public comment.

A member of the public questioned if there was a social department with citizen and mental health advocacy and communications to ensure there is no abuse taking place between neighbors. Someone who can clearly communicate and provide the assistance that is obviously needed.

Commissioner Walker made a motion, seconded by President Clinch, to uphold the Order of Abatement and hold it in abeyance for 30 days.

Secretary Harris called for public comment and there was none. She proceeded with a roll-call vote:

President Clinch	Yes
Vice-President Melgar	Yes
Commissioner Lee	Yes
Commissioner Mar	Yes
Commissioner McCarthy	Yes
Commissioner McCray, Jr.	Yes
Commissioner Walker	Yes

The motion carried unanimously.

2. CASE NO. 6792: 683 – 28th Street

Owner of Record: Josef J. Pohl Trust 1/3/07, Josef J. Pohl Trustee, 683 – 28th Street, San Francisco, CA 94131

Attorney for the Appellant: Gumbiner Law Associates, c/o Gordon D. McAuley, 100 B Drakes Landing, Rd., #260, Greenbrae, CA 94904

ACTION REQUESTED BY APPELLANT: The Order of Abatement should be overturned and the expired permits should be closed.

NOTICE OF DECISION: The Abatement Appeals Board (AAB) heard oral testimony and reviewed the documentary evidence provided by the Department of Building Inspection, the Appellant and other interested persons. At the request of the Abatement Appeals Board, the matter is continued.

Senior Building Inspector John Hinchion presented the case and stated that the violation was for four expired permits for a horizontal addition. An Order of Abatement was issued on March 3, 2014. Staff recommendation was to uphold the Order of Abatement and impose Assessment of Costs. Attorney for the Appellant, Gordon D. McAuley, submitted additional information which included a Declaration of Oath from the project architect stating the project was completed. In 1989, the first Notice of Violation was issued. A total of four Notices of Violation were issued and ended in litigation that proceeded for five years. There were monthly meetings in court. In

2004, due to the representation of the building inspector and the project architect, the court ruled that the work had been completed, Certificates of Occupancy were issued and the matter was closed. There was a settlement agreement with the City in which it stated that if settlement was paid, the matter would be closed. The Appellant paid \$700,000 and the City filed a Satisfaction of Judgment. The matter was resolved in 2005 and now, eight years later, DBI says that permits have not been closed. Mr. McAuley requests that the appeal be granted.

Rebuttal from the Department – Senior Inspector Hinchion stated there are four expired permits that did not get a final inspection therefore Certificates of Occupancy could not have been issued and the work was not completed.

Rebuttal from Attorney for the Appellant – Mr. McAuley stated permits were open during the litigation and they were open to resolve the Notices of Violation. Closing those permits is what needed to happen before the City would settle with the Appellant. Mr. McAuley believed that the City Attorney's office would have a better record than the court.

Members of the Abatement Appeals Board (Kevin Clinch, Myrna Melgar, Frank Lee, Warren Mar, Angus McCarthy, Debra Walker and James McCray, Jr.) made comments, and asked various questions of DBI staff and the Appellant pertaining to the Appeal.

Commissioner Walker felt that the AAB did not have jurisdiction over the case. Further guidance from the City Attorney determined that the City Attorney needs to assess if the violations fall within the scope and review the Satisfaction of Judgment to determine what the provisions were. If there were subsequent violations or they did not comply with one of those terms, it would allow the case to come before the AAB for current violations and it would be outside the scope of the settlement. The City Attorney further advised that in order to assess the jurisdiction of the case, it should be continued.

President Clinch called for public comment, and there was none.

Commissioner Walker made a motion, seconded by Commissioner Lee, to continue the case to the next meeting.

Secretary Harris called for public comment and there was none. She proceeded with a roll-call vote:

President Clinch	Yes
Vice-President Melgar	Yes
Commissioner Lee	Yes
Commissioner Mar	Yes
Commissioner McCarthy	Yes
Commissioner McCray, Jr.	Yes
Commissioner Walker	Yes

The motion carried unanimously.

3. CASE NO. 6793 360 Sanchez Street

Owner of Record and Appellant: Bleu, Thieu, 356 & 360 Sanchez Street, San Francisco, CA 94114

ACTION REQUESTED BY APPELLANT: Request for additional time.

NOTICE OF DECISION: The Abatement Appeals Board (AAB) heard oral testimony and reviewed the documentary evidence provided by the Department of Building Inspection, the Appellant and other interested persons. After deliberation of the evidence submitted and the relief sought, the AAB made the following findings and decision: (1) the Order of Abatement is upheld in abeyance for 90 days of the September 17, 2014 hearing to allow the property owners to apply for the permit, complete an inspection, and obtain proof that the work has been completed; (2) the Assessment of Costs is imposed.

Senior Building Inspector John Hinchion introduced the case and stated the violation was for a deck built 18' above grade that exceeded the scope of work in an existing permit. An Order of Abatement was issued on July 16, 2013. A permit was filed in August 2013 but has not made progress. Staff recommendation was to uphold the Order of Abatement and impose Assessment of Costs.

Kelton Finney of Bonza Engineering and representative for the Appellant stated an engineer was hired and permits obtained to address the Notice of Violation but the Appellant lost his job and so the project was put on hold. The Appellant is employed again and the project is being finalized.

President Clinch called for public comment, and there was none.

Members of the Abatement Appeals Board (Kevin Clinch, Myrna Melgar, Frank Lee, Warren Mar, Angus McCarthy, Debra Walker and James McCray, Jr.) made comments, and asked various questions of DBI staff and the Appellant pertaining to the Appeal.

Commissioner Walker made a motion, seconded by Vice-President Melgar, to uphold the Order of Abatement and hold it in abeyance for 90 days to complete work and impose Assessment of Costs.

Secretary Harris called for public comment and there was none. She proceeded for a roll-call vote:

President Clinch	Yes
Vice-President Melgar	Yes
Commissioner Lee	Yes
Commissioner Mar	Yes
Commissioner McCarthy	Yes
Commissioner McCray, Jr.	Yes
Commissioner Walker	Yes

The motion carried unanimously.

E. REQUEST FOR RE-HEARING: Case No. 6789, 641 – 48th Avenue, originally heard on May 21, 2014.

Owner of Record and Appellant: Wing K. King, 641 – 48th Avenue San Francisco, CA 94121

ACTION REQUESTED BY APPELLANT: To reverse the Order of Abatement.

NOTICE OF DECISION: A duly noticed hearing before the Abatement Appeals Board (AAB) regarding the request for rehearing of the May 21, 2014, Notice of Decision concerning the property located at 641 – 48th Avenue was held on September 17, 2014. The AAB reviewed the appeal application and found that no new evidence or legal error was presented by the Appellant sufficient to justify a rehearing pursuant to San Francisco Administrative Code Section 77.5(g).

Wing K. King, Appellant, stated he was unaware of the paperwork that needed to be submitted at the time the Notice of Violation was issued and Director's Hearing was held. When Mr. King tried to retrieve bills from PG&E, he was unable to access them as he was enrolled in electronic statements and PG&E did not have copies at the local office. Request to obtain copies was made to PG&E and Mr. King received those three days ago. Mr. King met with both Senior Inspector Hinchion and Inspector Lei, who both concluded that he had all the required paperwork to remove the property from the Vacant/Abandoned building list.

Senior Building Inspector John Hinchion stated the Board made a decision on May 21, 2014, related to the Directors Hearing and Notice of Violation issued. The NOV included the state of the property and citing the building as abandoned/vacant, since the matter was heard; they have received numerous documents, not available at the previous hearing, that have satisfied the need for registration for this year. The program is annual; therefore, the Appellant has satisfied the requirements for this year. The Appellant also got a permit to repair the fence due to fire damage in the back yard.

Members of the Abatement Appeals Board (Kevin Clinch, Myrna Melgar, Frank Lee, Warren Mar, Angus McCarthy, Debra Walker and James McCray, Jr.) made comments, and asked various questions of DBI staff and the Appellant pertaining to the Appeal.

Commissioner Walker made a motion, seconded by Vice-President Melgar, to deny the rehearing.

Secretary Harris called for public comment and there was none. She proceeded for a roll-call vote:

President Clinch	Yes
Vice-President Melgar	Yes
Commissioner Lee	Yes
Commissioner Mar	Yes
Commissioner McCarthy	Yes
Commissioner McCray, Jr.	Yes
Commissioner Walker	Yes

The motion carried unanimously.

F. GENERAL PUBLIC COMMENT

There was no General Public Comment for items not on the Abatement Appeals Board Agenda.

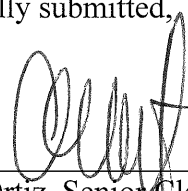
G. ADJOURNMENT

President Clinch made a motion, seconded by Vice-President Melgar, that the meeting be adjourned.

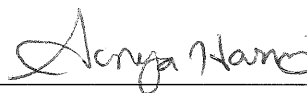
The motion carried unanimously.

The meeting was adjourned at 12:05 p.m.

Respectfully submitted,



Adriana Ortiz, Senior Clerk



Edited by: Sonya Harris, BIC Secretary