



ABATEMENT APPEALS BOARD
Wednesday, November 19, 2014 at 10:30 a.m.
City Hall, 1 Dr. Carlton B. Goodlett Place, Room 416
ADOPTED January 21, 2015

MINUTES

A. CALL TO ORDER and ROLL CALL.

The meeting of the Abatement Appeals Board for Wednesday, November 19, 2014 was called to order at 12:57 p.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 (Excused)
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
Rosemary Bosque, Chief Housing 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 the meeting held on September 17, 2014.

President Clinch made a motion, seconded by Vice-President Melgar, to approve the minutes of September 17, 2014.

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

The motion carried unanimously.

D. CONTINUED APPEALS: Order of Abatement(s).

1. CASE NO. 6791: 921 Central Avenue

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

Owner of Record: S. Loeb, 601 Van Ness Avenue, E415, San Francisco, CA 94102

ACTION REQUESTED BY APPELLANT: Continue Stay of Order of Abatement to allow owner time to abate 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 AAB continues to hold the Order of Abatement in abeyance for sixty days to allow the Appellant time to remedy the violations, including pursuing assistance from the Mayor's Office of Housing and Community Development's Lead Hazard Control Grant Program. At the next hearing, the Appellants will be expected to present evidence demonstrating further progress toward abating the violations. If the Appellants do not provide such evidence, the AAB will not extend the abeyance any further.

Chief Housing Inspector Rosemary Bosque stated that this case was before the AAB in September and October. At the October 15, 2014 meeting, it was incorrectly reported that the Appellant was not cooperating with the Mayor's Office of Housing and Community Development's Lead Hazard Control Grant Program. The Appellant has filed an application for the lead remediation process with the Mayor's Office of Housing and Community Development's Lead Hazard Control Grant Program. Progress has been made, and there was a site inspection of the property and a risk assessment was made. Staff recommendation was that another 60 days be given to the Appellant to complete this process and a progress report be provided.

Appellant stated she had a letter from the Mayor's Office of Housing and Community Development's Lead Hazard Control Grant Program stating the necessary steps to address the issues were being taken.

Members of the Abatement Appeals Board (Kevin Clinch, Myrna Melgar, Frank Lee, 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. There was none.

Commissioner Walker made a motion, seconded by President Clinch, to extend the Order of Abatement and hold it in abeyance until the January 21, 2015 meeting.

Secretary Harris called for a roll-call vote:

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

The motion carried unanimously.

2. CASE NO. 6794: 819 Ellis Street

Owner of Record: Achilles Revoc. Trust 2003, Philip Achilles Trustee, 819 Ellis Street, San Francisco, CA 94109

Agent for the Appellant: Armando Jimenez, 819 Ellis Street, 3rd Floor, San Francisco, CA 94109

Counsel for the Appellant: Susanne B. Kelly, Counsel, Hanson Bridgett LLP, 425 Market Street, 26th Floor, San Francisco, CA 94105

ACTION REQUESTED BY APPELLANT: Appellant is requesting that the Order of Abatement be held in abeyance until they receive an approval from the Planning Department.

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 AAB holds the Order of Abatement in abeyance until December 17, 2014, provided the following conditions are timely satisfied: (1) Appellants shall immediately stop all advertising for unauthorized uses, including residential occupancy and auto repair; (2) Appellants shall immediately stop all auto repair activities; (3) Appellants shall immediately install code-compliant fire extinguishers, fire alarms, and carbon monoxide detectors; (4) Within 7 days of the hearing, Appellants shall file permits to cure the violations outlined in the Notices of Violation; (5) Within 7 days of the hearing, all transient residential occupancy shall stop; (6) Within 20 days of the hearing, Appellants shall properly close off access to areas of the second and third floors and restrict elevator access as represented at the hearing; (7) Within 21 days of the hearing, all residential occupancy shall stop and occupants vacated; (8) Appellants shall work with DBI to schedule inspections of the property to take place at 7 days, 14 days, and 25 days from the hearing date. If any of these conditions is not timely satisfied, the Order of Abatement will be issued within 21 days of the hearing.

Chief Housing Inspector Rosemary Bosque presented the case and stated that the staff report included a floor plan from a recent inspection, photos and a Notice of Violation issued by the

Planning Department. This case was referred to the City Attorney's Office by the Litigation Committee. This is a three story commercial garage. The third floor was being used as a residential and tourist hotel. Along the west of the property, there were guestrooms built however there were no windows or ventilation. There were bunk beds, which created overcrowding. The Housing Code states in Chapter 5, when there are bunk bed dormitory types of configuration, you need to have a horizontal distance of at least 3 feet. Photos demonstrated this was not the case. There was substantial illegal occupancy. The stairway system along the building, from the 3rd floor to the front was not of sufficient width, rise and run, guard, handrail or landing for it to be able to deal with R-1 occupancy. In April 2014, inspection photos showed elevated window and framing, now there was a wall built in that space. The Appellant has been expanding the use of the building and it does not have sprinklers, proper occupancy separation, proper fire safety requirements, carbon monoxide alarms, smoke detectors or fire extinguishers. There was a storage room containing a lot of material and it also does not have a sprinkler system, a requirement for R-1 or R-2 occupancy. The building doesn't have enough sanitary facilities for the amount of occupants. They have to go from the 3rd floor down to the 2nd floor and walk across the garage to access a shower. Staff recommendation was to modify the Order of Abatement so the Appellant vacates from the tourist and residential hotel.

Mr. Brett Gladstone, Hanson Bridgett Law Firm and Attorney for the Appellant, stated he was hired to assist with the already filed application to the Planning Department to produce hotel type housing, which Planning advised they can accept in the future but not with the current Notices of Violation issued by the Department. The Appellant requested that the recording of the Order of Abatement be delayed due to concern that the lender may initiate a foreclosure once the Order of Abatement is recorded. If the property was foreclosed, the idea of housing would not happen for several years and the lender would take over the building, something that would not be good for the City in terms of the housing stock. Mr. Gladstone discussed possible subordination options with Chief Housing Inspector Bosque as a possible alternative for the mean time. The Appellant was willing to remove tourist and permanent tenants from 2nd and 3rd floors, close the entrance to the 3rd floor, allow periodic inspections, no car repair, remove advertising, turn off the car elevator, cease expansion and file permits to remove illegal construction. Fire extinguishers will be distributed while tenants are there. The Appellant intends on helping tenants find a place to live.

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

Rebuttal from the Department – Chief Housing Inspector Bosque stated residential or tourist hotel use was not legal in the building. There were provisions for about 54 beds, including bunk beds. It was discussed that those which were tourist or transient residents could be gone within seven days, and those that are permanent residents be provided more time. Staff recommendation was that the Order of Abatement be recorded to compel the Appellant to continue abating the Notices of Violation. The Department can provide time and make a site inspection to see the gradual vacation of the property. The Notice of Violation issued by the Planning Department requests that there be immediate vacation of the use and a hearing was scheduled to go before the Board of Appeals on December 17. Subordination would not be

needed if the Order of Abatement was not recorded. If the subordination was needed, the Appellant would record the document stating the Department would subordinate the cost of the work to a lender so the Appellant was allowed to obtain lending. This was something the Department offered so code enforcement does not preclude someone from obtaining a loan to complete the work.

Rebuttal from Attorney for the Appellant – Mr. Gladstone was concerned that even with the subordination, the lender may still begin proceedings to foreclose. Also, once the subordination was recorded, three years of tax deductions from the State would be automatically undone. Mr. Gladstone recommended that if the property was not vacated in 21 days, the Order of Abatement be recorded. Mr. Gladstone also suggested that the Appellant record a declaration stating the property has Notices of Violation and there was an abatement procedure.

Chief Housing Inspector Bosque recommended that if the Appellant does record a notice, that the Deputy City Attorney assigned to the case review the document first.

President Clinch called for public comment. There was none.

Members of the Abatement Appeals Board (Kevin Clinch, Myrna Melgar, Frank Lee, 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 Commissioner McCarthy,, to hold the Order of Abatement in abeyance until the December 17, 2014 meeting, assuming that in seven days, all transient occupants be vacated and all long term residents be vacated within 21 days, a permit to cure Notices of Violation be applied for within seven days, no car repair, no advertising, no unauthorized uses, add carbon monoxide sensors, add fire extinguishers, close off the 3rd floor and residential part of the 2nd floor, as well as access to the elevator. If these are not complied with, the Order of Abatement will be recorded within 21 days.

Secretary Harris called roll-call vote:

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

The motion carried unanimously.

E. GERENAL PUBLIC COMMENT

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

F. ADJOURNMENT

President Clinch made a motion, seconded by Commissioner McCarthy, that the meeting be adjourned.

The motion carried unanimously.

The meeting was adjourned at 1:46 p.m.

Respectfully submitted,

Adriana Ortiz, Senior Clerk

Edited by: Sonya Harris, BIC Secretary