



ACCESS APPEALS COMMISSION--DRAFT

MINUTES

Regular Meeting Wednesday, September 22, 2010

1. CALL TO ORDER AND ROLL CALL

The meeting was called to order by President Lerner at 1:40 P.M.

COMMISSION MEMBERS PRESENT: Mr. Arnie Lerner, President
Mr. William Scott Ellsworth, Vice- President
Mr. Walter Park
Ms. Alyce G. Brown

CITY REPRESENTATIVES: Mr. Tom Fessler, Secretary
Ms. Rick Halloran, Recording Secretary

2. REVIEW AND APPROVAL OF MINUTES:

The minutes from August 11, 2010 & August 25, 2010 were adopted with inclusion of the vote on the by-law amendments.

3. REVIEW OF COMMUNICATIONS ITEMS:

The Secretary informed the Commission in regards to discrepancy as to whether or not Commissioner Vernali would be able to serve on the Commission. The Secretary was asked to get clarification from the BIC Secretary, Ann Aherne with the status on this matter.

4. NEW APPEAL: APPEAL 10-07

425 Mason Street

Appeal 10-07 has been filed for the ratification of an Unreasonable Hardship Request (UHR) for one issue: a control system to be installed for the elevators at 425 Mason Street that does not comply with current California Building Code (CBC) Section 1116B standards. The appellant is proposing that the destination-based elevator control system be accepted as equivalent facilitation in lieu of standard controls per CBC 1116B.1.1, exception 1.

BACKGROUND:

425 Mason Street is a Type "A" fire rated building of 7 stories with a basement. The structure is used primarily as a B occupancy, office units. The building was constructed 1922.

Permit application # 201009130764, for which a hardship approval ratification is being sought, is for elevator controls, with a value of \$380,160. The three year total of building permits is not in

excess of the current threshold amount. An accessible path of travel to the elevator controls will be provided as part of this permit.

DISCUSSION:

The criteria for 'Destination Based Elevators' have apparently been adopted and accounted for in the 2003 American National Standards Institute (ANSI) A117.1 standards, the 2004 Americans with Disabilities Act and Architectural Barriers Act Accessibility Guidelines, and the 2006 International Building Code (IBC). However, none of these codes or standards have been adopted by the State of California in the California Building Code (CBC). The IBC was adopted by California in 2007, for enforcement beginning on January 1, 2008, without the inclusion of chapter 11 or mention of destination based elevator controls. This system is compliant with current Federal ADA/ABA regulations adopted on June 26, 2010.

The appellant is making a case for equivalent facilitation for use of their destination-based elevator car-call system. The California Building Code (CBC), Section 1116B.1.1, exception 1 states that "an exception to such regulation shall be granted when equivalent facilitation is provided." The appellant is stating that this system complies with all but one of the conditions of AB-090, Administrative Bulletin for Approval of Destination-Based Elevator Control Systems (approved by the Code Advisory Commission on January 13, 2010) should constitute equivalent facilitation.

The approved AB states that "in cases where there are proposals substantially different from the alternatives prescribed in this bulletin, such proposals shall go to the Access Appeals Commission."

The only condition that is not complied with in the current AB is item 1 C .2 (white character on black surface) as this feature is not currently available. The appellant is therefore requesting that this proposal be accepted as equivalent facilitation and that the hardship be ratified.

Commissioner Lerner spoke of additional concerns aside from the light on dark that is different from AB 090. He pointed out that on item 2, the signage or the keypad consoles is above the faceplate and not on the wall. He said that it may be a problem to someone finding it based on how high it is and where it is located and why it cannot meet requirements.

In response, Katherine Ransome of KONE Elevator Company Inc. stated that the signage will not be placed at the building entry and that it will remain at the exact location where it is currently which is ADA requirements on the wall. There will be no console on the middle of the lobby for this building therefore item 2 & 3 does not apply.

Commissioner Ellsworth inquired of when the keypad feature will be available. Jeff Sam of KONE who leads the major projects engineering group stated that (white character on the black surface) this feature is currently unavailable. Mr. Sam explained that the way the controls work behind the buttons they were not able to buy off the shelf buttons from a third party manufacturer. The brains for the buttons are in the buttons itself and the board that controls it is within the device. He mentioned that the buttons will have to be developed in-house to meet the requirements of the market. The Commission asked as to how long the development of the device will take. Mr. Sam stated that he will consult with their development group as to when the device will become available although the way approval goes and the certification they have to get through outside test agency, it could take longer.

Commissioner Park mentioned that the effective date of the bulletin is January 1, 2011. He stated it was originally discussed that between the standard agreed upon and manufacturing availability that it would take nine months. Commissioner Park asked if the deadline of January 1, 2011 is accurate to have the buttons available and to have keypads that comply with AB 090 which would be the white character on black surface. Mr. Sam responded that he does not expect it to be ready by the deadline.

Commissioner Park inquired about where the drawings pertaining to signature block came from. Mr. Sam, KONE confirmed that the equipment supplier that provides manufactures of the equipment is from Finland.

Questions in regards to issues concerning of compliance or non-compliance of AB 090 was discussed. Commissioner Park referred to the chart on A-2, that said that they will not put the word "elevator" in raised characters nor Braille on the faceplate itself but that it will be on an additional plate that is placed directly above because the faceplate is already made. Commissioner Park inclined to let it pass for now and that it is important to be there. This also covers 3.

Commissioner Park questioned the note on which stated "wall mounted keyboard console at the main landing will be limited by Section 1133B.8.6". It was determined that the key pad would not project more than four inches from the wall and would comply with AB 090.

Commissioner Park also requested that future submittals should not refer to the Accessibility Function key as the wheel chair button. Being that the purpose of the key was for the visually impaired not persons in wheel chairs.

Drawings for the lobby regarding elevator keypads were discussed. There are two elevators in the building. At the lobby, there will be two elevator keypads on the wall. The location of one of the keypad is between the two elevators and the other one is located on the side of the elevator toward the main entrance. The primary function for having two keypads at the lobby is to handle the heavier traffic flow where everyone is coming in. All the other floors will have a single keypad in the center between the two elevators. It was suggested that the software operating the keypad at the lobby should coincide with each elevator. Mainly, that the keypad closest to the street should only work with the adjacent elevator next to it and the keypad located in between the elevator should work for both. This will make it easier for someone with disability to navigate. Jeff Sam stated that both keypads would be identical and both will have disability function key.

Commissioner Park asked if there was any security connected to the elevator system directly. Katherine Ransome of KONE responded that there is currently no security set up on the elevator system. Though there is no plan at the moment pertaining to security for the building, there is however a space for a card reader should this be a consideration in the future.

Commissioner Brown asked if KONE is working on developing the keys to conform with AB 090. Mr. Jeff Sam of KONE responded that their company is addressing these issues of development of the buttons for their product that complies with AB 090 in order to meet the market demand

and in terms of continuing to do business in the San Francisco area.

The proposed use of two elevator key pads at the first floor lobby created some confusion. The commissioners wanted to confirm that the key pad would only call the elevator car which was adjacent to it. Mr. Sam of KONE assured the commission that the keypads would be programmed to call only the adjacent elevator cars.

Commissioner Park made a motion to approve appeal 10-07 with the conditions agreed to in the appellant's packet including adjacency. There was no public comment.

The motion was approved by a vote 4-0.

5. CONSENT CALENDAR APPEAL No 10-6

555 CALIFORNIA STREET:

The appellant is proposing that Appeal #10-06 be ratified as a consent calendar item renewing the prior AAC decisions from appeals #94-67 and 96-08. This appeal, however, may not comply with the requirements for consent calendar items under Rule 7 (b) #3 due to changes in site conditions.

This appeal has been made in response to a Department of Building Inspection (DBI) disabled access complaint # 201036576 (see attached) items #33 through 36. This DBI complaint states that the van accessible parking spaces approved under AAC decisions # 94-67 and 96-08 for high top van parking are currently only being allowed to be used for "drop off and pick up" purposes, and that the garage management had informed the secretary that no high top vans are not currently allowed to park in these parking stalls (as specified in the original AAC decisions). The secretary also noted that the garage management has been allowing maintenance vehicles to park in these spaces in violation of the California State Vehicle Code and the California State Building Code (CBC). As a result of these infractions, the appellant has been directed by the department staff, in this notice of violation, to appear before this Commission to obtain re-ratification of these hardships.

BACKGROUND:

555 California is a Type 1 fire rated building of 52 stories connected to a lower concourse level and 3 basement parking levels. The structure is used primarily for 'B' occupancy business offices with retail and restaurants on the concourse levels. The building was constructed in the early to mid 1960's.

The original appeal for which a hardship approval ratification was sought in 1994, was for the lack of 8'2" clearance at the parking garage. (Current CBC Section 1130B) The subsequent decision in 1996 allowed the approved alternate van spaces to face each other in order to provide protection from moving vehicles to the parking spaces access aisles without the use of bollards. (Current CBC Section 1129B.3 #3)

DISCUSSION:

Section 1130B: Parking Structures, of Chapter 11B of the 2007 CBC specifies that "all entrances to and vertical clearances within parking structures shall have a minimum clearance of 8 feet 2 inches".

Under this code section, exception #1 states that “an exception to such regulation may be granted when equivalent facilitation is provided.” Exception #2 states that “This section shall not apply...where the enforcing agency determines that, due to legal or physical constraints, compliance with these regulations or equivalent facilitation would create an unreasonable hardship”. Exception #2 requires ratification by an appeals board (this Commission).

In appeal 94-67, that appellant stated that full code compliance and equivalent facilitation could not be provided due to both cost constraints and physical constraints. In 1994 a cost estimate of \$2,192,000 for altering the structural elements of the garage to provide 8'2" access was provided by Huntsman Architectural Group. The current appeal request states that this would be over \$3,000,000 in today's dollars.

The three year total valuation of building permits from 2007 to 2010 is in excess of 21.5 million dollars (\$21,500,000). This amount is of issue because the current appeal request letter is asking for a financial hardship rather than a hardship based upon technical infeasibility or physical constraints. The total estimate for alteration of the garage would be less than 20% of the accrued permit values for the last three years. When this amount plus the accrued value of permits over the prior thirteen years since 1994 are considered, the certainty of cost disproportionately becomes questionable.

President Lerner asked that this item be taken off the consent calendar. This appeal will then be moved to a regular agenda item in the condition that it is agreed upon by all parties from the Commission and the appellant. He stated that because of the building code changes and the 20% rule, the hardship that was requested by the appellant therefore does not apply.

Commissioner Park recognizes that this building is not only but may arguably be the signature building in San Francisco. As he stated on another large visible project like the Embarcadero Center, great buildings go with great responsibilities. And that first class building really demands first class access. He recalls being a member of the Commission in 1994 when this case was formerly heard. He asked to see the old documents from the 1994 appeals packet. He requested that an appeals packet be submitted to the Commission which is a requirement in order for this case to be heard. He pointed out that the Commission really expects the most with the building such as 555 California Street because he knows this building can do the most and must do the most for people with disabilities in San Francisco.

Commissioner Park discussed the Secretary's case summary pertaining to the van accessible parking spaces approved under AAD decisions #94-67 and 96-08 for high top van parking. The garage management has been allowing maintenance vehicles to park in these spaces. He has also heard from people with disability that high top vans are not permitted to park in these spaces. He would like to hear some discussion about the implementation of the original decision let alone the renewal of that decision. He reiterated that this item has been taken off the consent calendar and be moved to a regular meeting at the earliest possible date.

6. DISCUSSION AND POSSIBLE ACTION ON ADMINISTRATIVE MATTERS (continued) BY-LAWS AMENDMENT.

Rick Halloran stated that in the last meeting that the Commission has adopted a number of

changes to the by-laws which the Deputy City Attorney Warren has provided to the Commission. This is in response to Commissioner Park's request to review the language of the Mayor's Disability counsel on attendance. Commissioner Park stated that it is probably not a requirement to add in the by-laws since it is already under city documents that states it is a duty for a commissioner to attend every meeting and to vote on every item. The lack of attendance by Commissioner Vernali was discussed. Deputy City Attorney Warren suggested the commission direct their concerns to the building inspection commission, because they appoint commissioners and could vote to remove commissioners. After discussion of how to ascertain the status of Commissioner Vernali, it was determined Secretary Fessler would contact the BIC secretary regarding the status of Commissioner Vernali.

Commissioner Brown addressed a concern that the elevator companies are not able to meet all the requirements of AB-090. Commissioner Brown suggested more out reach to the elevator companies, describing the requirements of AB-090, may be useful. President Lerner stated the elevator companies were involved in the creation of AB-090. Therefore no further out reach was needed. In response to Commissioner Brown's inquiry, Rick Halloran clarified that the elevator companies have no new requirements to conform that didn't exist prior to the AB and what the AB does is if they wish to take advantage of the exception that entitles equivalent facilitation. If they wish to call their system equivalency and have the hardship granted by the building department rather than this commission then they'll need to conform but if they choose not take that route then they can still ask for a hardship under the second exception and present it to the Appeals Board. He stated that there is actually no legal requirement for them to conform to AB 090.

7. COMMISSIONER'S AND STAFF'S QUESTIONS AND COMMENTS:

The Commission welcomed the new Secretary, Tom Fessler. They also acknowledge all the hard work put in by former Secretary, Rick Halloran. The Commission expressed their thanks & appreciation to him.

President Lerner asked Secretary Fessler to request a status from Ann Aherne, BIC Secretary in regards to the standing of the newly appointed Commissioner Vernali's condition as to whether or not he would be able to serve on the Commission in the future..

8. PUBLIC COMMENT:

There was no public comment.

9. ADJOURNMENT:

Thomas Fessler, Building Inspector
Department of Building Inspection
Secretary to the Access Appeals Commission