



DEPARTMENT OF BUILDING INSPECTION
City & County of San Francisco
1660 Mission Street, San Francisco, California 94103-2414

ACCESS APPEALS COMMISSION

MINUTES

Wednesday, June 11, 2003

1:00 P.M.

City Hall

1 Dr. Carlton B. Goodlett Way, Room 416

1. CALL TO ORDER AND ROLL CALL

The meeting of the Access Appeals Commission was called to order by President Brown at 1:00 PM.

COMMISSION MEMBERS PRESENT: Ms. Alyce G. Brown, President
Ms. Roslyn Baltimore, Vice-President
Mr. Francis K. Chatillon
Mr. Linton Stables

COMMISSION MEMBERS ABSENT: Ms Enid Lim

CITY REPRESENTATIVES: Mr. Rafael Torres-Gil, DBI, Acting Secretary
Mr. Neil Friedman, DBI, Acting Secretary
Ms. Susan Pangilinan, DBI, Recording Secretary
Ms. Doris M. Levine, Reporter

2. PUBLIC COMMENT: None

3. REVIEW OF COMMUNICATION ITEMS:
No items were received.

4. CONTINUED APPEALS:

a) Appeal No. 03-02 (2000212244139)
285 Winston Drive

Rosalind Mitchell

Presentation of revised summary by Neil Friedman.

Ms. Mitchell referenced additional materials that she had provided the commissioners.

Commissioner Chatillon asked if the estimated cost was \$873,000. Ms. Mitchell indicated that would be one of two proposals. One is to install an elevator in the parking garage and

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the other is to provide accessible parking by alternate means without an elevator.

Commissioner Stables asked which proposal the commission was being asked to approve. Ms Mitchell requested approval of the non-mechanical proposal. The other proposal was included to show the cost of that option.

Commissioner Stables moved to grant the appeal based on the hardship of physical and financial difficulties and based on provision of equivalent facilitation in the form of ramps and other non-mechanical means of providing access from accessible parking spaces to the store.

Commissioner Chatillon asked if the appellant could talk a little on the non-mechanical option.

Mr. Anglim (sp), Architect, Robin Fang and Co., presented architectural details of the disabled access features of the proposal.

President Brown complimented the appellant and presenter on their plan.

Vote on the motion by Commissioner Stables:

| | |
|---------------------------------|------------|
| Vice President Baltimore | Aye |
| Commissioner Stables | Aye |
| Commissioner Chatillon | Aye |
| President Brown | Aye |

The motion passed on a vote of 4-0.

Ms. Mitchell asked about the time of the appeal and whether, if someone brought a claim of non-access on one of the levels that doesn't have access, would they be able to rely on the decision.

Vice President Baltimore made the motion to amend the decision to make it precedent setting for 5 years.

Commissioner Stables indicated that he sees the proposal as a permanent solution.

Discussion continued on issues of time limits and the opinion of the City Attorney's Office. In the absence of Judy Boyajian, Deputy City Attorney, it was agreed to make the decision for five years but if the City Attorney agrees that it can be permanent, the decision would be modified.

Vote on the motion by Vice-President Baltimore:

| | |
|---------------------------------|------------|
| Vice-President Baltimore | Aye |
| Commissioner Stables | Aye |
| Commissioner Chatillon | Aye |
| President Brown | Aye |

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Commissioner Stables asked for clarification on the motion and the City Attorney's input on the motion.

It was agreed that the motion would be dependent on the decision of the CA on 5 years vs. permanence.

Mr. Mike Connick of Nordstrom asked if the intent of the 2nd motion were that if Nordstrom applies for a permit to do remodeling five weeks or a year from now would they be going through a similar situation? What is the intent of the motion?

Vice President Baltimore said that the intent was to give the maximum amount of time, and since the City Attorney was not present, that they would have to get clarification from the City Attorney.

Mr. Connick indicated that they have another permit they are applying for to remodel a café in the building. This decision would cover that remodel but after five years it would be a different situation.

Mr. Torres-Gil spoke of the long- term applicability of the decision and the role of "triggers" and the proposed accessibility of the garage. He looks toward to the decision/recommendation of the City Attorney's Office.

Ms. Mitchell expressed her concerns related to possible changes in the law and the hope of getting a 'permanent' decision.

5. NEW APPEALS:**a. Appeal No. 03-03 (200301286068 & 200304172561)****Janet Drake**

235 Pine Street

Mr. Friedman presented the Summary of the appeal.

Commissioner Stables asked of Ms. Janet Drake if she was asking the commission to approve the Unreasonable Hardship.

Ms. Drake indicated that she had received approval of the hardship in the past from DBI but that she was now asking for 'precedence' since there are a number of floors in the building and they will be having permits come up periodically.

Vice-President Baltimore asked how 2 ½ feet would allow people to get beyond the column.

Ms. Drake addressed the architectural features involved in her appeal.

President Brown inquired about vehicles (for the disabled) that are too wide and whether they can park in any of the five spaces.

Ms. Drake elaborated on the parking features in the garage and noted that they have received continual tenant improvement permits in this building.

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President Brown said that she was confused about cases where DBI has issued permits based on coming to the AAC for ratification but that this is not the case.

Mr. Friedman clarified the situation that is affecting the appeal. DBI is trying to institute a program in which buildings are certified as to being accessible. Thereafter, an architect does not have to go through all the machinations of submitting full accessible plans - the building is already certified as being accessible. The building has gone through the process many times before and if the commission 'certifies' this appeal it would allow the DBI program to allow them to submit plans without having to document the Unreasonable Hardship and accessibility details every time.

President Brown expressed her understanding of the 'certification' process.

Ms. Drake indicated that she was not doing that and elaborated on the prior situations that triggered this appeal.

Commissioner Stables asked if the current parking arrangement is original and why the spaces were angled.

Ms. Drake stated that the parking arrangement has been in place since 1991 and indicated that the building is very narrow and if the spaces were straight-on, it would be difficult for cars to park.

Vice-President Baltimore requested training on the 'certification' process so that they know what the building department has in mind and how it would address code changes and future DBI review.

Mr. Friedman elaborated on some aspects of the 'certification' process and the fact that the column intruding on the parking space is supporting 25 stories.

Vice-President Baltimore inquired if technology is factored into the 'certification' process.

Commissioner Stables said that he does not know why there is a test case on a process that isn't in place. This situation is not generic and doesn't seem like it would apply to many buildings and the appellant is the subject of a denial of a UHR based on a program that isn't even in place and they cannot apply for.

Mr. Friedman indicated that he may be taking them down the wrong path in discussion of the 'certification' process and if the commission would look to the last appeal, they could set a time limit for the approval and DBI can take it from there.

President Brown asked if DBI only wanted the commission to ratify this, it would be a clearer question.

Ms. Drake said that in a general sense this a perfect situation for an Unreasonable Hardship because of physical and cost constraints associated with modification of the column.

Vice-President Baltimore said why don't they deal with this as they have in the past and in that respect she would be willing to make a motion that they grant unreasonable hardship based on physical constraints with a five-year precedent.

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Vote on the motion by Vice-President Baltimore:

| | |
|---------------------------------|------------|
| Vice-President Baltimore | Aye |
| Commissioner Stables | Aye |
| Commissioner Chatillon | Aye |
| President Brown | Aye |

The motion passed on a vote of 4-0.

b) Appeal No. 03-04 (2003/05/19/4957)**Diana Soriano**

1275 Market Street

Mr. Torres-Gil presented the Summary of the case.

Ms. Soriano elaborated on her appeal issues.

President Brown indicated that as far as ‘certification’ is concerned they would have to limit themselves and just go on the merits of the appeal. She understands that DBI did make exceptions based on ratification by the commission.

Ms. Soriano agreed regarding hardship #2 but that for #1 they are appealing to establish ‘precedence’. In their current situation there are physical constraints that they cannot do anything about on their future projects.

President Brown said she sees this as a ratification of both UHR’s.

Commissioner Stables indicated that he is in favor of granting these hardships, he is not one to make new laws, but in UHR #2, part of the solution is to provide a detectable surface for wheelchairs and walkers so they know they are in a hazardous situation. It seems to him that the real hazard is the drivers. He is wondering if the drivers shouldn’t have some type of ‘warning’. He doesn’t think that detectible surfaces will work. Some sort of sign up ahead of the space saying, ‘Warning to driver. There could be someone you can’t see behind your vehicle as you back out’. That’s not in the law or requirement, but it’s the drivers who are the danger, not the people in wheelchairs. Could that sign be added?

President Brown said that signage is important but she feels that mirrors put up at the right spot will reflect pedestrians.

Ms. Soriano said they certainly could put up signage at the front of the stall and/or the mirrors. She presented a version of a proposed sign.

Vice-President Baltimore said that this second request is a good example where technology could probably help in some way and she gave as examples, ‘beeping’ sounds that indicate to the driver that someone is in the walkway. She would hope they could separate the two hardships so that the second one, which may have a technological solution, would not be tied to the first. **She would be willing to make a motion on the first one, that is straight forward, for a hardship based on physical constraints – for five years, but on the second**

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one she would not want to do that because there may be some technology - that if they looked, they may be able to find some - such as the 'beeping' sound.

President Brown suggested the possibility of backing in.

Ms. Soriano said that they do not have the turning radius in the path of vehicle travel to do that and elaborated on vehicle circulation patterns.

Mr. Torres-Gil elaborated on the code requirement for forward use of accessible parking stalls.

President Brown said that there is a motion on the floor

Vote on the motion by Vice-President Baltimore:

| | |
|---------------------------------|------------|
| Vice-President Baltimore | Aye |
| Commissioner Stables | Aye |
| Commissioner Chatillon | Aye |
| President Brown | Aye |

The motion passed on a vote of 4-0.

Commissioner Stables presented a motion to approve the (second) Unreasonable Hardship Request for five years based on physical constraints and with the provision of signage and some physical or technical means of protecting pedestrian's traffic.

President Brown said that it should not only be an audible sound because there are people who cannot hear.

Commissioner Stables asked if people who cannot hear be allowed to drive?

Commissioner Chatillon asked, concerning the electric gadgets, if the commission had the authority to tell people how to design garages and mentioned the 'beep' type of warning.

President Brown said that the only alternative was to ask them to go back and bring more information, if they don't add the mechanical and electronic devices to alert pedestrians and drivers.

Vice-President Baltimore said, that given the changes in technology, she doesn't know what's feasible and feels the architects don't know at this point as to what can actually be done considering costs and other solutions that may be less expensive. She is personally not ready to vote on this and she would like to see more information because she thinks this could come up in other cases and warrants a little more investigation. She hopes that staff could work with the architects in terms of what devices are out there that might help.

Mr. Torres-Gil indicated that he was curious whether the code prescribes any audio/visual elements to exiting and entering garages and crossing pedestrian paths and there is nothing in the code that he and Mr. Friedman can recall. The code calls for tactile and visual elements and he does not know how far beyond that the commission can go. The code does allow

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pedestrians to go behind the car with ratification.

Commissioner Stables indicated that there are other cases where the commission has required beyond what's in the code. For example, things that have now been made into administrative bulletins – platform lifts, automatic closers, etc, that are not in the code but are basically part of the code. They are not plowing new ground with some sort of technology. The appellant should be able to provide a warning to the driver to look out.

Mr. Torres-Gil noted the sidewalk lights located on the Polk Street side of City Hall as a potential solution.

Vice-President Baltimore requested that Commissioner Stables consider withdrawing the motion so that the architects and the department have ample time to study the matter and come back to the commission at a later time.

Commissioner Stables asked the appellants about time constraints.

Ms. Soriano indicated that other permits are forthcoming and they would do some research and cost estimating to see what is feasible.

President Brown asked if this would be a conditional decision similar to the prior one.

Mr. Torres-Gil inquired of the availability of the commissioners for the June 25th hearing and whether solutions can be provided, by that hearing.

Mr. Stables said he would be willing to withdraw the motion if it were agreeable to the appellant to move it to the next hearing.

Ms. Soriano said it was ok.

President Brown continued Appeal # 03 - 04 (UHR #2) until June 25th.

6. COMMISSIONERS' AND STAFF'S QUESTIONS AND COMMENTS:

President Brown referenced the Uniform Building Code supplements distributed to the commissioners.

Vice-President Baltimore asked the department about training concerning the 'certification' process.

Mr. Friedman presented an overview of the status of the 'certification' process.

President Brown asked if it would be helpful if the committee could come to the AAC with what they have any explain where they are going with this.

Mr. Friedman said that that would be informative to all of us and that he will ask the person who is formulating this to come to the next meeting.

Mr. Torres-Gil spoke on the scheduling of Appeal # 03-01 350 Sansome St. The appellant is

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requesting 5 commissioners and staff has been unable to contact Commissioner Lim. It is uncertain if she will be available for the foreseeable future. Mr. Felthouse was advised that it was up to the President of the commission to agendize this item.

President Brown said she felt bad knowing that they want or need their permit and that it is hard to agendize for the 25th without knowing if Commissioner Lim would be here.

Vice President Baltimore spoke on the possibility of a 2-2 vote and the need for City Attorney input.

Mr. Torres-Gil said he would speak to the City Attorney regarding her presence on June 25th. He said he would speak to Mr. Felthouse and then contact the President for a decision on agendizing the appeal for 250 Sansome. Also he mentioned the forthcoming appeal regarding 111 Pine St. and the detail of the appeal. He indicated that he would send the appeal package out ASAP.

President Brown mentioned the lack of Minutes and the possibility of utilizing transcripts by the Ms. Levine.

Mr. Friedman indicated the cost factor involved in providing transcripts.

Mr. Torres-Gil elaborated on Minutes vs. transcripts, commission standards and current DBI staffing concerns.

7. PUBLIC COMMENT:

There were none

The meeting was adjourned at 2:29

Neil Friedman, Senior Building Inspector
Department of Building Inspection
Acting Secretary to the Access Appeals Commission