



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

ACCESS APPEALS COMMISSION

MINUTES

(Subject to approval by the Commission)

Wednesday, June 25, 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. Linton Stables

COMMISSION MEMBERS ABSENT: Ms. Enid Lim
Mr. Francis K. Chatillon

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

2. PUBLIC COMMENT: None

3. APPROVAL OF MINUTES (from June 11, 2003):

Commissioner Stables made a motion to approve the minutes with correction of certain items on page 4. At the paragraph which starts with, "Commissioner Stables said. . .", in the second sentence, the word 'not' should be inserted before the word 'generic'. The end of the sentence should state, ". . .program that isn't even in place and they cannot apply for. . ." (add the word 'and'.) Motion approved 3-0.

4. REVIEW OF COMMUNICATION ITEMS: None

Access Appeals Commission Hearing: JUNE 25, 2003**5. REHEARING OF APPEAL:****a) Appeal No. 03-04 (200305194957)****Jennifer Francica and Diana Sorriano**

1275 Market Street

Swearing in of appellants.

Commissioner Baltimore: Appellants have the option of continuing the hearing since only three Commissioners are present and all three Commissioners would have to agree in order to approve the appeal. Appellant will wait a few more minutes to see if another Commissioner appears. In the meantime, the Commission will go to **item 7**, Commissioners and staff questions and comments.

7. STAFF QUESTIONS AND COMMENTS (note that this item is out of numerical order):

Acting Secretary Friedman did not put on the Agenda the presentation by Building Inspector Ron Tom regarding the Building Certification Process for Disabled Access, so the Commissioners would not be able to ask questions of Inspector Tom, but he could give a 3 minute presentation within the Public Comment section and return, calendared (placed on the agenda), to the next AAC Meeting.

President Brown's understanding is that the certification program has not been finalized.

Commissioner Baltimore would like to have a special session held with the City Attorney to discuss the issue of the number of years for which a decision may be granted. The issue of building certification for Disabled Access will be placed on the agenda as part of the same hearing.

The next regular meeting will be held on July 23, due to vacations, and will include the above two items.

5. (return to) REHEARING OF APPEAL (note that this item is out of numerical order):**a) Appeal No. 03-04.1 (200305194957)****Jennifer Francica and Diana Sorriano**

1275 Market Street

This is a continuation of one of two appeals. One appeal, granted at the last AAC Meeting, was for ratification of non-standard parking stall sizes.

The appeal being re-heard is for solutions that would allow the passage of persons in wheelchairs behind vehicles other than their own, in the parking garage of the subject property. At the June 11, 2003 AAC Meeting, the Commission asked the appellant to provide solutions for this condition. The Commission preferred that solutions and responsibility for this condition be assigned to the driver of the car rather than the person in the wheelchair. The appellant asked that the solution, if approved, be precedent setting (for the subject property) with an unspecified period of time.

Ms. Francica presented several options:

Option A Signage located at the front of the stall to alert a driver, when backing up, to the possibility that a wheelchair user might be behind the vehicle. An additional sign would alert the driver to pull forward, as far as possible, in the stall

Option B Safety mirror(s) to allow a driver to see who or what is behind the vehicle before backing up

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Option C Audible/visual warning device(s) using photo sensors at each stall, at a cost of \$25-30,000.

Appellant would like to know (on behalf of her client) what term of time a decision would stand and what would determine the dollar amount to be spent on a solution to the problem.

Commissioner Stables thinks the options A & B are useful, but that Option C may be excessive and may at any rate not solve the problem because it seems more oriented towards warning a wheelchair user to get out of the way, than it is directed at the driver to use caution. He would approve of the first two options, but does not have an answer regarding longevity or precedent setting of the decision.

Vice-President Baltimore prefers option '3' (C, above), but does not think it is warranted based on the amount of money (approximately \$1700) being spent on the permit being appealed. She would go with A&B but without making them precedent setting.

President Brown agrees that options A & B are okay, but thinks the signs need more information such as "Clear Walkway and Pull Completely Forward" and "Caution, Watch for Pedestrians." The mirrors are important. She would also not make this precedent setting, but rather for three years at a maximum.

Deputy City Attorney Boyajian stated that unreasonable hardships are based on cost and because of that, that is one reason she is not comfortable with precedent setting. For a project such as this, with a low permit cost, it would not make sense to spend a lot of money on a solution. However, on another (more costly) project, it would make more sense to spend more money on a solution. There is nothing in the code that allows one to 'grandfather', respectively, permit applications. One problem is that the codes change every three years. Plus, the permit costs need to be tracked for three years (for determining whether the accumulation of permit costs might put the current permit over the 'threshold amount', thereby triggering full accessibility.)

President Brown agrees that if they (the appellant) were to do a major amount of work, in say, the next six months, it might trigger doing something major in the garage.

Acting Secretary Friedman stated that the current state of construction of the garage may not allow anything to ever be changed.

President Brown stated that the amount of work done in the future might trigger using Option 'C' (which currently, is too costly given the small permit amount in question.)

Ms. Francica asked if the dollar amount for the next permit would take the accumulated total over the 'threshold amount.'

Acting Secretary Friedman asked the appellant whether the tenant work currently proposed, in fact was over the threshold amount.

Ms. Francica said that they separated this permit (parking) from others, and that there is a separate tenant improvement permit for over \$100,000. Her understanding now is that each time a permit is submitted which is over the 'threshold' of \$97,000 or takes the accumulated permit costs (within a three year period) over \$97,000, that the parking issue would have to

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be revisited.

Vice-President Baltimore stated that she would like to know what the accumulated amount of permit costs are for this building over the past three years.

Ms. Francica said that given the tenant improvement permits in the near future, they will exceed the 'threshold' amount. She would like to know the best way to proceed so that she would not have to come back to the AAC for appeals of the next permit applications.

Ms. Francica said that there will be approximately \$500,000+ worth of work in the near future. They have surveyed the entire building for accessibility. The parking issue will be the one issue that will hold them up (repeatedly) for future permits. They have applied for the 10th floor tenant improvement permit and will be applying for a permit for the 7th floor within the next three weeks.

Deputy City Attorney Boyajian said that one option would be to wait until the next permits come before the AAC, before making any decision on the parking situation.

Commissioner Stables said that, since the owner is willing to do all of the options (A, B, C) now, that a three year precedent could be given and, the appellant would not have to return. He made a motion to approve the unreasonable hardship as requested with the equivalent facilitation that is being recommended (Options A, B, & C noted above), with the possibility that the wording of the signage could be changed upon review by the Building Department, and that this decision should have a precedent of three years.

Commissioner Brown requested a role call: The motion passed 3-0.

6. NEW APPEALS:

a Appeal No. 03-05 (200304253755)

Wesley T. Fukumori

111 Pine Street

There was no one present for this case.

Recording Secretary stated that the appellant was informed that a hearing would take place.

Commissioner Stables said that this would mean an automatic denial of the appeal unless the Commissioners choose to continue the appeal.

Vice-President Baltimore made a motion to continue this appeal.

President Brown asked that the role be taken. On a vote of 3-0, the motion was approved to continue this appeal (without a specific date.)

7. PUBLIC COMMENT:

Inspector Ron Tom outlined the Disabled Access Certification Program for buildings which is currently being formulated by the Department of Building Inspection. With this program, an accessible path of travel covering specific items, would not have to be presented each time a permit was requested for a building. A certification letter would be used instead. It is not a 'blanket' program. High rise office building owners would be the primary users interested in this program. Currently this program is in the stage of a draft Administrative Bulletin (#AB-056). There is also a worksheet for DBI staff and end users of the program. There is a strong

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interest in the program by the end users. The benefit of the program is (mainly) uniformity in application of the disability codes for staff. 1 California is an example of the use of the program: van accessibility was a hardship as was a shuttle elevator which traveled one floor to parking. The certification letter can now be put on a set of plans rather than providing an entire reference set of accessibility drawings. With this program, the drawings, referred to by the certification letter, have been placed in a file at DBI for reference by staff if needed, The applicant will be made aware of the accumulation of value (triggering 'threshold' amounts) and the need to review all items. He provided documents for review by the Commissioners.

President Brown asked if there were any other comments.

Acting Secretary Friedman said that there were still the issues of time setting precedence (overall), and time setting as it pertained to the Nordstrom parking lot case (255 Winston Drive), recently heard.

Deputy City Attorney Boyajian stated that this issue is not on the agenda, but that for Nordstrom, the period of precedence for that decision would be 5 years.

Vice-President Baltimore reminded staff to put the issue of time-setting precedence on the agenda for the next AAC Meeting.

Deputy City Attorney Boyajian said that the issue would be on the agenda for the July 23, 2003 AAC Meeting.

The meeting was adjourned by President Brown at approximately 2:45 PM.

Summary of Motions:**1275 Market Street:**

A motion was made by Commissioner Stables to approve the unreasonable hardship, as requested (for allowing passage of a wheelchair behind a parked vehicle other than his or he own), with the equivalent facilitation that is being recommended (Options A, B, & C noted above), with the possibility that the wording of the signage could be changed upon review by the Building Department, and that this decision should have a precedent of three years. The motion passed by a vote of 3-0.

111 Pine Street:

A motion was made by Vice-President Baltimore to continue this case until the next hearing. The motion passed by a vote of 3-0.

Neil Friedman, Senior Building Inspector

Department of Building Inspection

Acting Secretary to the Access Appeals Commission