



DEPARTMENT OF BUILDING INSPECTION

**City & County of San Francisco
1660 Mission Street, San Francisco, California 94103-2414**

ACCESS APPEALS COMMISSION

**MINUTES
Regular Meeting
Wednesday, July 13, 2005
Room 416, City Hall**

1. CALL TO ORDER AND ROLL CALL

The meeting of the Access Appeals Commission was called to order by President Lim at 1:09 P.M.

COMMISSION MEMBERS PRESENT: Ms. Enid Lim, President
Vice-President Francis K. Chatillon
Ms. Roslyn Baltimore
Ms. Alyce G. Brown

COMMISSION MEMBERS ABSENT: None

CITY REPRESENTATIVES: Ms. Judy Boyajian, Deputy City Attorney
Mr. Nancy Curvino, Acting Secretary
Ms. Doris M. Levine, Reporter
Ms. Susan Pangilinan

2. PUBLIC COMMENT:

None

3. APPROVAL OF MINUTES

The minutes of April 13th were approved.

4. REVIEW OF COMMUNICATION ITEMS

Moved to after item # 5

5. NEW APPEAL: Appeal # 05-02

Nancy Curvino presented the Summary of the Appeal.

Presentation by Anthony Fish, Architect.

Vice President Chatillon inquired whether the building had Landmark status.

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Mr. Fish indicated that it did not have Landmark status but that it was considered historically significant.

Ms. Boyajian confirmed that it qualified for historical status under the Planning and Building codes.

Vice-President Chatillon asked if they had looked at the cost of making it accessible.

Mr. Fish referenced tab #7 of the appeal package.

Commissioner Baltimore asked if the middle entry to Ruby Sky had steps.

Mr. Fish said no and that it ramps up.

Commissioner Baltimore noted that in order to get to the elevator you can go into Ruby Sky and around to the elevator.

Mr. Fish confirmed the approach to the elevator and that it was not available because it was a separate tenant.

Commissioner Baltimore asked what the term of the lease Ruby Sky was and if the owner was present.

Mr. Frank Fanelli, the owner of Ruby Sky, was asked to step forward by Commissioner Baltimore who then inquired about the lease. He indicated the lease was for 20 years beginning June 1st 2005.

Commissioner Baltimore said that it seems to her, given what she had just heard, that there is a little bit of shenanigans going on here because it could have been a legitimate entrance to the building if the lease was just negotiated.

Commissioner Baltimore said that shenanigans was the wrong word for her to use but that it seems to her that something is out of sequence.

Mr. Fanelli said that it was subject to interpretation and the need to understand the aspects of the lease.

Mr. Fanelli, Commissioner Baltimore, and Commissioner Brown discussed other aspects of the lease and its effect of access.

Mr. George Karpaty, President of Inner Circle Entertainment - owner of Ruby Sky and Slides, elaborated on the issues related to business ownership, the leases and providing access.

President Lim asked about the uses of the upper floors and whether there was a sharing of spaces.

Mr. Karpaty indicated that the uses were primarily offices with a small theatre group on the seventh floor and that he was not aware of sharing arrangements on those floors. He also elaborated on the specific difficulties of providing access.

Commissioner Brown asked how many stories the building was.

Mr. Karpaty said is eight stories.

Discussion continued between President Lim, Commissioner Baltimore, Commissioner Brown, Vice President Chatillon, Ms. Boyajian, Mr. George Karpaty, Ronald Taylor, contractor, and Mr. Fish regarding easements, investment interests of Ruby Sky and Slides, 'liquor' liability, use of the upper floors, potential construction conflicts with tenants, access through Ruby Sky, entry landing modifications, ABC regulations, escorted access through Ruby Sky, portable ramps, ratification of the UHR, equivalent facilitation, and conflict with corporate events at Ruby Sky,

Commissioner Baltimore indicated that she would be willing to vote to let them perform an investigation

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and carry over it over one meeting and to let them do an investigation, and if it is important, schedule a visit to the site. There are some alternatives that they need to be investigated.

Commissioner Brown said that she agrees whole-heartedly. She seconds that motion.

Vote on the motion by Commissioner Baltimore:

Vice-President Chatillon	No
Commissioner Baltimore	Aye
Commissioner Brown	Aye
President Lim	No

Ms. Boyajian advised the commission that there needs to be another motion, that it is not continued and that the commission needs to forge forward. The motion failed and the matter has not been continued.

Vice-President Chatillon proposed that the commission grant ratification of the hardship based on economic hardship.

Commissioner Baltimore said that all the investigation that needs to be done has not been done and feels it is premature. She is not ready to grant.

Vote on the motion by Vice President Chatillon:

Vice-President Chatillon	Aye
Commissioner Baltimore	No
Commissioner Brown	No
President Lim	Yes

Ms. Boyajian said that in the absence of a fifth commissioner it did not seem to her that the commission would get anywhere. She believes they will have a full commission shortly. She recommends that they continue it. If not, there is the direction to investigate, at least, until they have a full commission, unless there is some motion that can get three votes.

Mr. Karpaty said he understands the need to explore all options, and respects where the commission is coming from. There is only one option and that is portable ramping with his employees helping someone get into the space. The other option is probably months of trying to figure out, with attorneys, the potential unforeseen issues of combining two businesses. If they could shrink it down to the very doable - maybe for a ramp that could be allowed with the slope different than what they understood the commission would allow. He'll build anything they want, restore it, bring it out, have two guys -not one - help somebody up, gladly. The inside space will be fully accessible. It is not their fault there are not five people on the commission. It is causing them enormous pressure on their end to resolve this. They have met with so many people so many times. He's not trying to be a pain.

Commissioner Baltimore said that Mr. Karpaty makes a lot of sense except that they can't approve a slope without knowing what the slope is. In terms of when to continue it to, they are talking about a couple of weeks.

Commissioner Brown said that what everyone has to realize is that if you are physically dependant on an elevator or lift and are in a wheelchair, you cannot enjoy Slides unless someone carries you and that is very undignified. That makes the club very private and only physically fit people can go there.

Mr. Karpaty said that it was not the intention; it is the structural problem of the building. They have no intention of doing that.

Commissioner Brown thinks they should explore it because it is bad enough when you are physically unfit and it's worse if you can't do what everybody else does.

Mr. Karpaty said that he morally and socially understands, that is why he has exhausted every opportunity and

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tried everything. He professionally blundered because his heart said – come through Ruby Sky, and he can't really do that and he knew he couldn't do that. We are down to one possible solution, which is to allow for the ramp to be portable and to be at a different slope than code says. He doesn't know how much exploration needs to happen. It's two steps. If they will allow it he'll have it built by next week.

Commissioner Baltimore noted that the next scheduled meeting is July 27th and that they cannot approve it without knowing the slope.

Ms. Boyajian asked if there weren't 12 steps once you get onto the landing. You can't comply with accessibility by having someone carried down by somebody else. She doesn't know what they are going to do about the steps inside.

Mr. Karpaty said they are down to getting a chair lift to the right side of the building and utilizing the elevator. As soon as you get to the basement there is a landing elevation change and that they would put in a lift at that point.

Commissioner Brown and Mr. Karpaty continued with a discussion of plan details.

Commissioner Baltimore said that this is something they have to explore. She just wants to read off the dates of the next meeting - July 27th and August 10th. From what she understands, they may have a full commission. She understands the delay is costly.

Mr. Karpaty and Commissioner Baltimore continued with discussion of the impact on corporate events, discussions with other agencies, architectural solutions, ramp options, the need to acquire three votes from the commission, structural considerations, and the need for a site inspection.

Commissioner Baltimore and Commissioner Brown agreed to perform a site review and coordinate with Mr. Karpaty.

Commissioner Brown and Mr. Karpaty discussed the impact of a path of travel in Ruby Sky on corporate events.

President Lim continued the matter to the next meeting.

6. COMMISSIONERS AND STAFFS QUESTIONS AND COMMENTS:

Vice-President Chatillon announced his resignation from the commission effective July 30th.

Commissioner Brown expressed her regrets regarding Vice President Chatillon's resignation. She wishes him well.

Ms. Curvino advised the commission about Commissioner Fillon and Tang of the BIC being aware of the vacancies and the urgency. There is no definite decision as to when new appointments will be made.

Ms. Curvino noted the distribution of the Good Government Guide Parts 1 and 2.

7. PUBLIC COMMENT:

There was no public comment.

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The meeting adjourned at 2:24 PM.

Rafael Torres-Gil

Senior Building Inspector

Department of Building Inspection

Secretary to the Access Appeals Commission