



**DEPARTMENT OF BUILDING INSPECTION**

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

**ACCESS APPEALS COMMISSION**

**MINUTES**

**Regular Meeting**

**Wednesday, August 24, 2005**

**Room 416, City Hall**

**1. CALL TO ORDER AND ROLL CALL**

President Lim called the meeting of the Access Appeals Commission to order at 1:14 P.M.

**COMMISSION MEMBERS PRESENT:** Ms. Enid Lim, President  
Vice-President - Vacant  
Ms. Roslyn Baltimore  
Ms. Alyce G. Brown  
Mr. Arnie Lerner

**COMMISSION MEMBERS ABSENT:** None

**CITY REPRESENTATIVES:** Ms. Judy Boyajian, Deputy City Attorney  
Mr. Rafael Torres-Gil, Secretary  
Ms. Doris M. Levine, Reporter  
Ms. Susan Pangilinan

**2. PUBLIC COMMENT:**

None

**3. APPROVAL OF MINUTES:**

The minutes of July 27 were reviewed. Approval was continued until the next meeting so that corrections could be incorporated.

**4. REVIEW OF COMMUNICATION ITEMS:**

Mr. Torres-Gil noted the distribution of code amendments.

**5. ELECTION OF OFFICERS:**

Commissioner Baltimore requested a list of the past officer assignments prior to consideration of the commissioner next in line for the position of Vice-President - based on the past practice of informal rotation.

**Access Appeals Commission Hearing: August 24, 2005**

President Lim requested a vote on whether to continue the election of the Vice-President to the next meeting.

**Vote on the motion by President Lim:**

<b>President Lim</b>	<b>Yes</b>
<b>Commissioner Brown</b>	<b>Yes</b>
<b>Commissioner Baltimore</b>	<b>Yes</b>
<b>Commissioner Lerner</b>	<b>No</b>

**The motion passed on vote of 3-1.**

**6. NEW APPEAL: Appeals 05-03 and 05-04, 100 Van Ness Ave.**

Presentation of the summary of the appeals by Mr. Torres-Gil.

Comments by Peter Shutts, Architect, and presentation of additional materials and information to the commissioners.

Commissioner Baltimore asked who used the parking area and where guest/visitors of AAA park.

Mr. Shutts said that it was assigned parking for employees. Guest parking is located in a different lot at 150 Van Ness along with 2 public parking lots nearby on Van Ness and 'blue zones'.

Commissioner Lerner and Mr. Shutts discussed the findings of the site inspection the day before, with Rafael Torres-Gil, the discrepancy regarding the 1996 approvals, the proposed and existing blue zones, covered parking, the AAA private parking lot van parking, visitor parking, parking patterns, and installation of a lift to the sidewalk.

Mr. Torres-Gil presented the parameters of AAC appeal 96-11 and two code sections regarding dispersal of parking and 'less than five spaces'

Commissioner Lerner noted that the 'less than five' code section did not apply.

Commissioner Baltimore requested an opportunity to visit the site and assess the actual conditions.

Commissioner Lerner mentioned the columns intruding on the off-loading aisle at the back of the van parking spaces.

Mr. Shutts outlined the dimensions of the van loading spaces.

Commissioner Lerner mentioned tandem-parking concerns on the 2<sup>nd</sup> level and the installation of mirrors similar to those referenced in the administrative bulletin on elevators to compensate for a path of travel behind vehicles.

Mr. Shutts noted that the proposal was to eliminate accessible parking on the 2<sup>nd</sup> level and put more parking on the 3<sup>rd</sup> level.

Commissioner Brown noted prior approvals of mirrors and automatic lights.

Mr. Torres-Gil referenced the prior appeal for 1275 Market Street.

Commissioner Brown asked if they were eliminating the two spaces behind the accessible parking space on the 2<sup>nd</sup> level.

**Access Appeals Commission Hearing: August 24, 2005**

Mr. Shutts said that the two tandem spaces would be eliminated and that all accessible parking would be on the 3<sup>rd</sup> level. He outlined the various problems associated with accessible parking on the 1<sup>st</sup> and 2<sup>nd</sup> levels.

Commissioner Lerner referenced Administrative Bulletin 056 - Disabled Access Compliance Status Documentation and its applicability.

Commissioner Brown asked if the accessible parking had to be at separate entrances and if that referred to 100 and 150 Van Ness.

Mr. Shutts said that the appeal only referred to 100 Van Ness.

Commissioner Lerner asked how many spaces they were obligated to provide in the building. The code says 4 accessible spaces with 1 being a van space. If the one van space cannot be provided in the building does that mean that only 3 spaces need be provided.

Mr. Shutts said that his proposal is for 4 spaces in the garage.

Mr. Torres-Gil identified that 100 and 150 Van Ness are separate buildings on separate lots and that CBC section 1129 – Van Parking, does not reference the need for a vertical height of 8 foot 2 inches which is a separate section in the code. Administrative Bulletin 007 does combine the issues nevertheless.

Commissioner Baltimore indicated that she had two issues; the 8 foot 2 inches. In the past the commission permitted parking at another location that meets the requirement. The other is, she is concerned that the initial decision was not followed and that there are discrepancies on the plan. She would like to see what was originally approved and what is proposed so she has a level of comfort in making a decision. She definitely would like a site visit as a formal meeting for the whole commission.

Commissioner Brown said that she agrees and that she had hoped to get there herself prior to the meeting. Can they vote on the 8'-2" issue and get that out of the way? They have approved/ratified prior appeals providing signage is installed.

Commissioner Baltimore said that there is an alternative lot where they can provide the 8'-2" height and that Commissioner Lerner said that there is an issue getting out of the lot into the other building. She thinks this is a part of the site visit - to review the parking lot and path through the other building if they are going to grant an exemption.

Commissioner Lerner said that he proposed a second alternative to parking there - get on a lift to the sidewalk then get to the building, which is preferable to a blue zone one or two blocks away that crosses a busy street. There is \$400,000 of remodel and more tenant improvements to come. A lift would be a tiny fraction of all of this work. The lot is at a separate building but is owned and used by (AAA). The people who use that lot use 100 Van Ness. He would like to determine that going through 150 Van Ness is not feasible.

Mr. Shutts said that the 150 Van Ness lot is built fully out to the sidewalk/property line and he does not know how a lift can be put in that stays on the property.

Mr. Shutts discussed the three separate lots owned by AAA.

**Commissioner Baltimore made the motion to conduct a site visit.**

**Commissioner Lerner seconded the motion.**

**Access Appeals Commission Hearing: August 24, 2005****Vote on the motion by Commissioner Baltimore:**

<b>Commissioner Brown</b>	<b>Yes</b>
<b>Commissioner Baltimore</b>	<b>Aye</b>
<b>Commissioner Lerner</b>	<b>Yes</b>
<b>President Lim</b>	<b>Yes</b>

**The motion passed on a vote of 4-0.**

Ms. Boyajian noted that since the meeting would be on site, there has to be a 15 day posting of the agenda.

Mr. Torres-Gil polled the commissioners on their availability for September 14<sup>th</sup>, Wednesday, and Mr. Shutts on the availability of a conference room. Mr. Torres-Gil will communicate with Mr. Shutts to determine any possible obstacles and will issue the agenda by August 30<sup>th</sup>.

Commissioner Baltimore asked about the lift from an accessible van. Could an accessible van be made available in order to resolve the issue of the column obstruction? She also asked about the list of Vice-President appointees for the next meeting.

Mr. Torres-Gil asked about installation of a proposed parking mock-up and the need to consider proposed blue zones and any proposed signage associated with the vertical height UHR ratification.

Commissioner Lerner asked about the van lift and possible column conflict, and the possible installation of a lift to get down to the sidewalk at the back lot.

Mr. Shutts said that physically, he thinks it is impossible to put in the lift, but will look into it.

Commissioner Baltimore asked for the presence of someone from AAA who could give a presentation.

Mr. Shutts, Commissioner Lerner and Commissioner Baltimore discussed various concerns related to the back/Hayes Street/150 Van Ness parking lot and disabled access.

Mr. Torres-Gil made note of the code language associated with assigned versus unassigned parking and public versus private parking.

**7. COMMISSIONERS AND STAFFS QUESTIONS AND COMMENTS:**

Commissioner Lerner noted his pleasure to be serving on the commission.

Mr. Torres-Gil noted that the BIC voted down Mr. August Longo's selection to the AAC and that a notice of a vacancy on the AAC will be issued by the BIC.

Commissioner Brown noted her impression that the AAC was to review AB-056 prior to being passed or accepted.

Mr. Torres-Gil noted that Mr. Kornfield, Chief Building Inspector had said that he would be presenting it to the AAC. He will contact Mr. Kornfield on that matter.

Commissioner Lerner referenced his copy of AB-056.

Commissioner Baltimore asked if AB-056 could be presented to the commission at the next regular meeting and how it affects the AAC.

**Access Appeals Commission Hearing: August 24, 2005**

Commissioner Brown asked if, according to the City Attorney, no term of more than 3 years can be given. Is that correct?

Ms. Boyajian said it was a guideline. There is nothing in the code that says that you can grandfather anything for any period of time. The code says that you look at each application as it comes through. It is just an accommodation that is made to make things easier. Three years seems to be the most sensible limit. She does not think the bulletin can bind the commission. One of the things they are trying to do is get the commission to buy-in so they can agree to it. Without the commission agreeing to it, cases will come and the commission can use the bulletin as guidance as they see fit.

Commissioner Baltimore asked if the commission can disagree and override it.

Ms. Boyajian said the commission can pay attention to the bulletin or not. She thinks the impact it will have is how it will get through the department without coming to the commission.

Commissioner Baltimore said that people could be subject to an appeal that could cause a problem at the commission.

Mr. Torres-Gil said that his understanding of the bulletin is that it does not alter or supercede what the AAC does. The building department looks to the decision of the AAC and code compliance. The decisions of the commission would be the basis for Path of Travel Certification.

Commissioner Baltimore asked if someone verifies compliance with an AAC decision. This is not the first time that the commission has made a decision that was not implemented.

Mr. Torres-Gil outlined the process by which AAC decisions are implemented and the fact that in this appeal, implementation will be tied to two permits.

Commissioner Baltimore said that they had ignored the previous decision and, in testimony from one of the commissioners, the person who is actually responsible may not follow the decision. Does the commission have any control once the decision is made?

President Lim also noted that the commission never hears about follow up to the decision.

Mr. Torres-Gil noted that there are no other controls outside of the permit review and inspection process. He thinks it may be a good idea for the Commission Secretary to be mandated, by procedures, to give final inspection approval on any permit associated with a decision. It has never been the case.

Commissioner Baltimore asked if it would need approval.

Ms. Boyajian said that the Director would have to be the one to set up the process. If the commission wants to recommend it, she would send them a letter.

Commissioner Lerner said that once the inspector is gone they could change it and the only recourse is then for someone to file a complaint.

Commissioner Baltimore said that commissioners are not precluded from filing complaints.

Ms. Boyajian said that if they filed one and it came before the commission, the commissioners would have to recuse themselves.

Commissioner Brown noted the lift on Harrison St. – Shoe Pavilion.

**Access Appeals Commission Hearing: August 24, 2005**

Mr. Torres-Gil said that he believes that they superceded the decision with a revised plan that was conforming. They took a different approach entirely.

Commissioner Brown also noted the concerns by persons in wheelchairs regarding lifts that did not work.

Ms. Boyajian said that the state had jurisdiction over maintenance of lifts.

Commissioner Baltimore said to feel free to complain anyway on those.

Mr. Torres-Gil said that the Department would also inspect non-functioning elevators as well and would initiate a complaint to the State Elevator Section.

Commissioner Baltimore said that she was confused about someone coming before the commission and deciding that they don't like the decision and saying they would like to do something else. Is the commission's decision meaningless? She thinks that once the commission has jurisdiction they would have to come back to the commission and not just deal with the building department.

Ms. Boyajian said that if they decide to comply with the code - they have that right.

Commissioner Baltimore asked whether they have to notify the commission that that is what happened.

Mr. Torres-Gil asked the commission to consider that all permits are proposals to do work. Until that permit is issued they haven't followed through with the proposal and once the permit is issued they can still elect to do the work or not. Once the permit is issued they can also chose to revise it and it may or may not involve an appeal or UHR. Mr. Torres-Gil also noted his discussion with ADA regarding chair lifts. They are not referenced in the ADA. Platforms lifts are referenced. As far as ADA is concerned, chair lifts are only approved for residential use. The commission has to decide whether they can be more, or less, restrictive than ADA.

Commissioner Lerner noted that ADA does not effect what we do. We are only governed by the CBC.

Commissioner Baltimore noted that the attorney, who quoted the architect, in the last case, brought up the issue. She had asked for clarification on that and would like to have that information brought back before the commission so they can find out what the issues are and get training.

Commissioner Lerner said that it was helpful to know the ADA - in trying to come to a compromise. They then know what has been approved by other bodies even though it does not apply, at least there is some precedence in the field. Strict enforcement of the ADA is not what we are doing.

Mr. Torres-Gil noted that CBC regulations for accessibility are tending to evolve toward ADA standards. At some future point they may even mesh.

Commissioner Lerner noted that it is very soon. California has been trying for about 5 or 6 years to be certified and is getting closer. On Friday there is a public meeting chaired by the Technical Services Division to talk about the proposed code changes to the State Historic Building Code, where they are going to talk about accessibility changes for the CBC and as part of this process, to be certified by the Justice Department as being compliant. California still is not there yet.

Ms. Boyajian said that she thinks Washington State has been certified and maybe one other. Sometimes people have come before the commission and have asked to have ADA as an equivalent - when the ADA was actually different. People are kind of in a Catch 22. If they comply with CBC they may be in violation of the ADA.

**Access Appeals Commission Hearing: August 24, 2005**

Commissioner Lerner said they have to pick the most restrictive and comply with that.

Commissioner Baltimore said that she thinks the whole commission would like to hear the outcome of the previous case.

Mr. Torres-Gil gave the commission an update on the 430 Mason Street appeal.

**8. PUBLIC COMMENT:**

There was no public comment.

**9. ADJOURNMENT:**

The meeting adjourned at 3:48 PM.

**Rafael Torres-Gil**

Senior Building Inspector

Department of Building Inspection

Secretary to the Access Appeals Commission