

BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO
REHEARING REQUEST

BOARD OF APPEALS

Date SEP 08 2014

Filed: APPEAL # 14-128

Shorenstein Properties LLC
(Name of Requestor)

Appellant
(Indicate Standing: Appellant, Project Sponsor, DR Req. or Dept.)

seeks a rehearing of the aforementioned appeal which was decided on Aug. 27, 2014

This request for rehearing will be considered by the Board of Appeals on Wednesday, Oct. 08, 2014 at **5:00 p.m.** in **City Hall, Room 416,** One Dr. Carlton B. Goodlett Place.

DBI

Pursuant to Article V, § 9 of the Board Rules, the **RESPONSE** to the written request for rehearing must be submitted by the other party or Department no later than **10 days from the date of filing, on or before** Sept. 18, 2014 and must not exceed six (6) pages in length, with unlimited exhibits. An original and ten (10) copies shall be submitted to the Board office with additional copies delivered to the other parties the same day.

You or your representative **MUST** be present at the hearing. Three (3) minutes of testimony from each party will be allowed. From the Board Rules, Article V, § 9: Except in extraordinary cases, and to prevent manifest injustice, the Board may grant a Rehearing Request only upon a showing that new or different material facts or circumstances have arisen, where such facts or circumstances, if known at the time, could have affected the outcome of the original hearing.

Based on the evidence submitted and the testimony, the Board will make a decision to either grant or deny your request. Four (4) votes are necessary to grant a rehearing. If your request is denied, a rehearing will not be scheduled and the decision of the Board is final, and the written notice of decision and order shall be released. If your request is granted, a rehearing will be scheduled, and the original decision of the Board will be set aside, and after the rehearing, a second decision will be made by the Board.

If you have any questions or concerns, please call this office as soon as possible at 575-6880 during regular business hours.

Address, Tel. & Fax:

PAT BUSCOVICH

[Signature]
Signature of Requestor or Agent

Buscovich And Buscovich

235 MONTGOMERY STREET, SUITE 843, SAN FRANCISCO, CALIFORNIA 94104-2906 • TEL: (415) 788-2708 FAX: (415) 788-8653

September 05, 2014

Board of Appeals
City & County of San Francisco
San Francisco, CA

Appeal No: 14-128
Title SRI Vs DBI
Subject Property: 875 Stevenson Alley
Permit BPA 2014/07/03/07435

BOARD OF APPEALS
SEP 08 2014
APPEAL # 14-128
RO

Job Number: 14.097

Dear Commissioners,

This case was heard August 27, 2014 with four commissioners and one vacant seat. The vote was three to uphold DBI and one to overturn. Based upon this vote, the DBI decision was upheld to deny the new street address for block 3508, Lot 39, of 1 10th Street. The current address is 875 Stevenson Street. This address is no longer valid because in early 2014 the fronting section of Stevenson Alley was official reverted to a public access space. Building's address must be base upon the Street they front and as of 2014 this building address can no longer be Stevenson, has to be an odd number on 10th Street. 2014 was the earliest date to do the change of address.

The basis of the appeal are both "Manifest Unjustice in an Extraordinary Situation" and "Facts Not In Evidence".

Manifest Injustice

1. The DBI hearing officer, Sr. Inspector Joseph Duffy, presented email evidence to the Commission as part of his opposing my appeal. These emails should have been submitted to the Board one week prior to the hearing so both myself and the Board would have had an opportunity to review the emails. These emails were not given to me at the hearing and as of the writing of this brief I still have not been provided a copy, even though I have requested them. Since I was not given these emails, my client was denied a fair hearing.
2. The hearing office, Sr. Inspector Joseph Duffy never talked to Dep. Director Ed Sweeney. Sr. Inspector Duffy only talked to Wai Fong of CPB. This is important because the permit I filed was processed and denied exclusively by Dep. Dir. Ed Sweeney. Granted the architect tried to submit a ealier permit to Wai Fong but this permit was never even accepted by DBI. I was then asked by the Owner to help and I went directly to Dep. Dir. Ed Sweeney. I filled out a new permit application from scratch and submitted these documents directly to Dep. Dir. Ed Sweeney. Please note:

- A. The front cover of the permit was denied by Dep. Dir. Ed Sweeney 08/03/14.
- B. The rear intake note was signed by Ed Sweeney (undated).
- C. The disapproval letter was signed by Ed Sweeney.
- D. The only other person who handled my filing of My Permit application was a retired part time Clerk (Anita Lee) under the direct Direction of Ed Sweeney.

Note: In my first brief there is correspondence from June 2014 and prior from the architects regarding his address permit which I provide to the commission (I provided all documents I had). I started all over in July 2014. I filled out my original permit applicate and it was solely reviewed & denied by Dep. Director Ed Sweeney.

Based upon the denial by Ed Sweeney, which Wai Fong had nothing to do with, Sr. Inspector Duffy should have presented Dep. Director Ed Sweeney reason for denial since I was exclusively dealing with Dep. Director Ed Sweeney. I told Sr. Inspector Joseph Duffy at least three different times to talk to Dep. Dir. Ed Sweeney for the "Official Position" of DBI. For some reason Sr. Inspector Joseph Duffy did not talk to the second highest DBI officer to get the "Official Position" of DBI but a manager of a division of DBI who had nothing to do with this specific permit.

Since the "Official Position" of DBI was not presented at the hearing my client was denied a fair hearing.

3. It was mention by a Commissioner that this address permit should have be requested earlier in the remodel of 875 Stevenson in 2013 or earlier. In fact, the issue of address was not directly tied to the remodel work on 875 Stevenson Street but the termination by CCSF of Stevenson Street from a legal street to park which happened in early 2014.
4. It was mention by a commission that the "Street address" of 1 10th Street should be at the corner of Market and 10th Street and our request is 160 feet away and 160 feet is just too far". To be clear, right now if it was possible (ignoring a historic façade and the first floor 5 feet above the sloping sidewalk) the address One 10th Street could be place anywhere of the façade of 1355 Market, not just the corner. For example, the abandoned driveway opening (Now a back door down steps from a business fronting on the lobby) is located ten feet from Stevenson Street. I could have applied for address 1 10th at this location if it was legal to give driveways addresses (Also back door do not get address). Ignore an address for a driveway or back door that is clearly not legal and never will be, we were only asking for about 10 feet, not 160 feet.

Facts not in Evidence

The same emails that were presented to the Commission are not "Facts in Evidence" until they were also give to the appealant. As noted, I still do not have

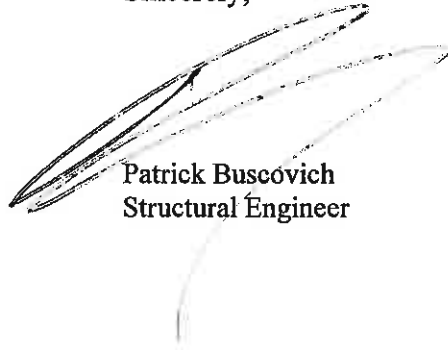
Buscovich And Buscovich

235 MONTGOMERY STREET, SUITE 843, SAN FRANCISCO, CALIFORNIA 94104-2906 • TEL: (415) 788-2708 FAX: (415) 788-2353

these emails but expect to be provided them eventually. These emails may not help my appeal and may even hurt my case, but I have a fundamental right to see and review evidence presented by DBI in there opposition to my appeal of DBI denial. See attach emails chain I was able to find.

In summary, I ask the commission to grant this request for a rehearing based upon extraordinary manifest injustice and new facts. In addition, based upon discussions with DBI after the hearing, evidence presented at the hearing and subsequent discussion with DBI and my client there may be a possible solution acceptable to both DBI and the property owner. Your denial prevents this possible solution.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patrick Buscovich', is written over the typed name. The signature is fluid and somewhat stylized, with a long horizontal stroke at the end.

Patrick Buscovich
Structural Engineer

Jean Rainer

From: Terry Kwik <tkwik@rmw.com>
Sent: Friday, September 05, 2014 5:01 PM
To: Jean Rainer
Subject: FW: Address Change Permit Filing Fees

Jeanie,

See email chain below. Not sure how helpful it will be.

From: Joe Pirrone
Sent: Friday, September 05, 2014 4:41 PM
To: Terry Kwik
Subject: FW: Address Change Permit Filing Fees

Terry, see email chain below.

Joseph J Pirrone AIA

RMW architecture & interiors
160 Pine Street
San Francisco, CA 94111
Tel 415.781.9800 Dir 415.490.1693
jpirrone@rmw.com www.rmwa.com

From: Cheung, Wai-Fong [<mailto:wai-fong.cheung@sfgov.org>]
Sent: Thursday, July 25, 2013 11:55 AM
To: Joe Pirrone; Friedman, Neil
Cc: Terry Kwik; Jeanie Rainer
Subject: RE: Commons Permit Filing Fees

Hi Joe,

I am scheduling an appointment for you to come in for your address questions. The next available time is 7/30 (Tuesday) in the morning 9:am, please let me know if it is also available for you. Thank you.


From: Joe Pirrone [<mailto:jpirrone@rmw.com>]
Sent: Wednesday, July 24, 2013 8:22 AM
To: Friedman, Neil; Cheung, Wai-Fong
Cc: Terry Kwik; Jeanie Rainer
Subject: RE: Commons Permit Filing Fees

All,

Attached is the SF AB-035 Procedures for Assigning Street numbers and attached also the Assessors Block plan indicating that the 1355 Market Street Buildings North West corner at Market Street and 10th Street is designated as "1", which is the city's recorded start of building addresses, with consecutive odd numbers moving southerly along 10th Street.

I point this out to call attention to the proposed entrance to Stevenson street from 10th street as "1-Tenth" is differing from the pre-recorded address star point as currently recorded by the city.

Joe Pirrone


160 Pine Street
San Francisco, CA 94111
Tel 415.781.9800 x693 Fax 415.788.5216
OFFICIAL USE ONLY - PUBLIC INFORMATION

From: Friedman, Neil [<mailto:neil.friedman@sfgov.org>]
Sent: Wednesday, July 24, 2013 8:06 AM
To: Joe Pirrone; Cheung, Wai-Fong
Cc: Terry Kwik; Jeanie Rainer
Subject: RE: Commons Permit Filing Fees

Joe-
I don't think you need an appointment; just go to the first floor counter. You are the representative for the owner.

Also, I looked at SF Building Code Amendments 107A.10. In addition to AB-035, this also talks about affixing numbers to buildings.

Neil Friedman

MA Architecture
Chief Building Inspector
-Disaster Coordination Unit
-Disabled Access Services
-Special Inspections
-Director's Hearings

Tel. (415) 558-6168
Fax (415) 558-6474
Neil.Friedman@sfgov.org

From: Joe Pirrone [<mailto:jpironne@rmw.com>]
Sent: Wednesday, July 24, 2013 7:48 AM
To: Cheung, Wai-Fong
Cc: Friedman, Neil; Terry Kwik; Jeanie Rainer
Subject: Fwd: Commons Permit Filing Fees

Hello Wai-Fong,

I am representing Shorenstein, the the building owner of 1355 Market Street and 875 Stevenson Street building. Shorenstein has purchased the portion of Stevenson Street fronting 875 Stevenson building and wishes to record this as a new address off if Tenth Street.

This portion of Stevenson Street is located at Block 3508 / Lot 055.

Stevenson street is bounded by the two buildings referenced above and will become the official entrance from 10 th street for the 875 Stevenson property.

I would like to schedule an appointment with you as soon as possible to start this process.

It would be very helpful if you could let me know what requirements to requesting a street address and whether or not the property owners will be required to be in attendance, what documentation will need to be provided, for this submittal request.

Thank you in advance and I look forward to hearing for you.

Joseph Pirrone
RMW architecture

Sent from my iPhone

Begin forwarded message:

From: "Joe Pirrone" <jpironne@rmw.com>
To: "Neil Friedman" <neil.friedman@sfgov.org>
Cc: "Terry Kwik" <tkwik@rmw.com>, "Jeanie Rainer" <JRainer@Shorenstein.com>
Subject: Fwd: Commons Permit Filing Fees

Neil,

Please see my email below summarizing where the process is to filing for the commons permits.

I plan to contact Wei Fong this morning, as I am told she is the person who administers address request.

I am really going in this blindly so any advice or support you can provide would be grateful.

I will let you know if I set up a time to meet with Wei Fong.

Joe

Sent from my iPhone

Begin forwarded message:

From: "Joe Pirrone" <jpironne@rmw.com<<mailto:jpironne@rmw.com>>>
To: "Jean Rainer" <JRainer@Shorenstein.com<<mailto:JRainer@Shorenstein.com>>>, "Terry Kwik" <tkwik@rmw.com<<mailto:tkwik@rmw.com>>>, "Chris Lomuto" <clomuto@shorenstein.com<<mailto:clomuto@shorenstein.com>>>
Cc: "Janelle Allen" <Janelle.Allen@bnbuilders.com<<mailto:Janelle.Allen@bnbuilders.com>>>, "Mark Lewis" <Mark.Lewis@bnbuilders.com<<mailto:Mark.Lewis@bnbuilders.com>>>, "Richard Lam" <Richard.Lam@bnbuilders.com<<mailto:Richard.Lam@bnbuilders.com>>>, "Bryan Trybus" <Bryan.Trybus@bnbuilders.com<<mailto:Bryan.Trybus@bnbuilders.com>>>, "Colin Alley" <alley@bcvarch.com<<mailto:alley@bcvarch.com>>>, "WMoss@cmgsite.com<<mailto:WMoss@cmgsite.com>>>" <WMoss@cmgsite.com<<mailto:WMoss@cmgsite.com>>>, "Jennifer Low" <JLow@cmgsite.com<<mailto:JLow@cmgsite.com>>>, "Darren Barboza"

<DBarboza@rmw.com<mailto:DBarboza@rmw.com>>, "Tom Tessier"
<ttessier@rmw.com<mailto:ttessier@rmw.com>>,
"KerryE@csfst2.com<mailto:KerryE@csfst2.com>"
<KerryE@csfst2.com<mailto:KerryE@csfst2.com>>,
"PHUI@mbcse.com<mailto:PHUI@mbcse.com>"
<PHUI@mbcse.com<mailto:PHUI@mbcse.com>>, "PAUL SARGENT
(psargent@mbcse.com<mailto:psargent@mbcse.com>)"
<psargent@mbcse.com<mailto:psargent@mbcse.com>>
Subject: RE: Commons Permit Filing Fees

Jeanie,

I tried to file for the remaining Commons permit pertaining to the Stevenson Street parcel and building will not take this in until this parcel (Block 3508/Lot055) has a street address.

As the project has been called 1 Tenth, please confirm if this is the actual street address that Shorenstein wants to submit for street address.

I will do my best to clarify the process with Building department to obtain a legal street address, but this may require someone from Shorenstein to be involved.

I'll let you know more tomorrow when I speak with the person at the city who administers these street address requests.

Long and short of this is the three Commons permit sets will not be taken in for permit review until this street address is obtained.

Feel free to contact me should you need to discuss.

Joe Pirrone

RMW architecture & interiors

160 Pine Street

San Francisco, CA 94111

Tel 415.781.9800 x693 Fax 415.788.5216

jpironne@rmw.com<mailto:jpironne@rmw.com><mailto:jpironne@rmw.com> www.rmww.com
<<http://www.rmww.com>><<http://www.rmww.com>>

From: Joe Pirrone

Sent: Monday, July 22, 2013 6:41 PM

To: 'Jean Rainer'; Terry Kwik; Chris Lomuto

Cc: Janelle Allen; Mark Lewis; Richard Lam; Bryan Trybus; Colin Alley;

(WMoss@cmgsite.com<mailto:WMoss@cmgsite.com>); Jennifer Low; Darren Barboza; Tom Tessier; KerryE@csfst2.com<mailto:KerryE@csfst2.com>;

PHUI@mbcse.com<mailto:PHUI@mbcse.com>; PAUL SARGENT

(psargent@mbcse.com<mailto:psargent@mbcse.com>)

Subject: RE: Commons Permit Filing Fees

Jeanie,

I was able to clarify with John Updike, the SF Director of Real Estate, that the portion of Stevenson Street is Block 3508/Lot 055.

The Ground floor counter did not recognize Stevenson Street as a legal property when I tried to file for submittal last week.

Don't know why but apparently the City Real Estate Division has not updated this info to make it available to other city departments.

I will plan to go back into file first thing tomorrow to get the filing fee for the Stevenson street permit, which will be the third of the three Commons Permit.

Joe Pirrone

RMW architecture & interiors

160 Pine Street

San Francisco, CA 94111

Tel 415.781.9800 x693 Fax 415.788.5216

jpironne@rmw.com<<mailto:jpironne@rmw.com>><<mailto:jpironne@rmw.com>> www.rmw.com
<<http://www.rmw.com>><<http://www.rmw.com>>

From: Jean Rainer [<mailto:JRainer@Shorenstein.com>]

Sent: Monday, July 22, 2013 5:54 PM

To: Terry Kwik; Joe Pirrone; Chris Lomuto

Cc: Janelle Allen; Mark Lewis; Richard Lam; Bryan Trybus; Colin Alley;

(WMoss@cmgsite.com<<mailto:WMoss@cmgsite.com>><<mailto:WMoss@cmgsite.com>>);

Jennifer Low; Darren Barboza; Tom Tessier;

KerryE@csfst2.com<<mailto:KerryE@csfst2.com>><<mailto:KerryE@csfst2.com>>;

PHUI@mbcse.com<<mailto:PHUI@mbcse.com>><<mailto:PHUI@mbcse.com>>; PAUL

SARGENT

(psargent@mbcse.com<<mailto:psargent@mbcse.com>><<mailto:psargent@mbcse.com>>)

Subject: RE: Commons Permit Filing Fees

OK I will bring them tomorrow.

Thank you,

Jeanie

From: Terry Kwik [<mailto:tkwik@rmw.com>]

Sent: Monday, July 22, 2013 8:47 AM

To: Jean Rainer; Joe Pirrone; Chris Lomuto

Cc: Janelle Allen; Mark Lewis; Richard Lam; Bryan Trybus; Colin Alley;

(WMoss@cmgsite.com<<mailto:WMoss@cmgsite.com>><<mailto:WMoss@cmgsite.com>>);

Jennifer Low; Darren Barboza; Tom Tessier;

KerryE@csfst2.com<<mailto:KerryE@csfst2.com>><<mailto:KerryE@csfst2.com>>;

PHUI@mbcse.com<<mailto:PHUI@mbcse.com>><<mailto:PHUI@mbcse.com>>; PAUL

SARGENT

(psargent@mbcse.com<<mailto:psargent@mbcse.com>><<mailto:psargent@mbcse.com>>)

Subject: RE: Commons Permit Filing Fees

Jeanie,

I think you should give us the checks for those permits. The issue is that the commons scope of work occurs on all three properties so the city will require us to have three permits.

The current issue w/ the commons permit is that DBI does not have a separate block & lot number for Stevenson Alley. There should have been a block and lot number assigned once the city vacated Stevenson Alley. Joe is going to contact the city's Real Estate Division today to see if he can get a block and lot number for the Alley so DBI can take in the commons drawings for permit.

Thanks.

From: Jean Rainer [<mailto:JRainer@Shorenstein.com>]
Sent: Friday, July 19, 2013 1:15 PM
To: Joe Pirrone; Chris Lomuto
Cc: Terry Kwik; Janelle Allen; Mark Lewis; Richard Lam; Bryan Trybus; Colin Alley; (WMoss@cmgsite.com<<mailto:WMoss@cmgsite.com>><<mailto:WMoss@cmgsite.com>>); Jennifer Low; Darren Barboza; Tom Tessier; KerryE@csfst2.com<<mailto:KerryE@csfst2.com>><<mailto:KerryE@csfst2.com>>; PHUI@mbcse.com<<mailto:PHUI@mbcse.com>><<mailto:PHUI@mbcse.com>>; PAUL SARGENT (psargent@mbcse.com<<mailto:psargent@mbcse.com>><<mailto:psargent@mbcse.com>>)
Subject: RE: Commons Permit Filing Fees

Terry/Joe

I have these checks what is the status of the filing situation for the commons?

Thank you,
Jeanie

From: Joe Pirrone [<mailto:jpirrone@rmw.com>]<[mailto:\[mailto:jpirrone@rmw.com\]](mailto:[mailto:jpirrone@rmw.com])>
Sent: Monday, July 15, 2013 11:39 AM
To: Jean Rainer; Chris Lomuto
Cc: Terry Kwik; Janelle Allen; Mark Lewis; Richard Lam; Bryan Trybus; Colin Alley; (WMoss@cmgsite.com<<mailto:WMoss@cmgsite.com>><<mailto:WMoss@cmgsite.com>>); Jennifer Low; Darren Barboza; Tom Tessier; KerryE@csfst2.com<<mailto:KerryE@csfst2.com>><<mailto:KerryE@csfst2.com>>; PHUI@mbcse.com<<mailto:PHUI@mbcse.com>><<mailto:PHUI@mbcse.com>>; PAUL SARGENT (psargent@mbcse.com<<mailto:psargent@mbcse.com>><<mailto:psargent@mbcse.com>>)
Subject: Commons Permit Filing Fees

Jeanie and Chris,

Attached are the FILING FEES for the Commons scope of work.

The Commons scope was broken out into two separate Permits, based upon Property, with one Commons permit linked with 1355 Market Street address and the other permit linked with 875 Stevenson Street, as follows:

DBI Permit Filing Fee_875 Stevenson_Commons_Permit# 2013-07-12-1771: FILING FEE DUE = \$6,755.31

DBI Permit Filing Fee_1355 Market_Commons_Permit# 2013-07-12-1775: FILING FEE
DUE = \$18,498.12

Please provide two separate checks as noted, made out to "San Francisco DBI", to either myself or Terry to pay the permit review Filing fee.

Don't hesitate to contact me should you have any questions.

Joe Pirrone

RMW architecture & interiors

160 Pine Street

San Francisco, CA 94111

Tel 415.781.9800 x693 Fax 415.788.5216

jpironne@rmw.com<<mailto:jpironne@rmw.com>><<mailto:jpironne@rmw.com>> www.rmww.com
<<http://www.rmww.com>><<http://www.rmww.com>>