

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

AGENDA FOR REGULAR MEETING - WEDNESDAY, FEBRUARY 26, 2014

5:00 P.M., CITY HALL, ROOM 416, ONE DR. CARLTON B. GOODLETT PLACE

(1) **PUBLIC COMMENT:**

At this time, members of the public may address the Board on items of interest to the public that are within the subject matter jurisdiction of the Board except agenda items. With respect to agenda items, your opportunity to address the Board will be afforded when the item is reached in the meeting with one exception. When the agenda item has already been reviewed in a public hearing at which members of the public were allowed to testify and the Board has closed the public hearing, your opportunity to address the Board must be exercised during the Public Comment portion of the calendar. Each member of the public may address the Board for up to three minutes. If it is demonstrated that comments by the public will exceed 15 minutes, the President may continue Public Comment to another time during the meeting.

(2) **ELECTION OF OFFICERS:**

(3) **COMMISSIONER COMMENTS & QUESTIONS:**

(4) **ADOPTION OF MINUTES:**

Discussion and possible adoption of the February 19, 2014 minutes.

(5) **CLOSED SESSION:**

a. Public Comment on all matters related to Closed Session.

b. Vote on whether to hold Closed Session.

A Closed Session has been calendared to discuss the following matter:

Conference with legal counsel regarding anticipated litigation pursuant to California Government Code Section 54956.9(d)(2) and San Francisco Administrative Code Section 67.10(d):

 X As defendant _____ As plaintiff

The following appeals have been filed with the Board of Appeals: The Marsh v. Department of Building Inspection, Planning Department Approval (Appeal No. 13-095), The Marsh v. Department of Building Inspection, Planning Department Approval (Appeal No. 13-096), Alicia Gamez v. Department of Building Inspection, Planning Department Approval (Appeal No. 13-097), Alicia Gamez v. Department of Building Inspection, Planning Department Approval (Appeal No. 13-098). The Project sponsor has argued that the Housing Accountability Act prevents the removal of the fifth floor of the proposed project, which is a condition to a permit tentatively approved by the Board at is December 11, 2013 for the aforementioned appeals. The Board will confer with legal counsel on this matter.

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(5) CLOSED SESSION (CONTINUED):

c. Reconvene in Open Session.

i. Possible report on actions taken in closed session pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.

ii. Vote in open session on whether to disclose any or all executive session discussions pursuant to Government Code Section 54957.1 and San Francisco Administrative Code Section 67.12.

(6) APPEAL NO. 14-009

CURTIS SPECK, Appellant(s) vs. DEPT. OF PUBLIC WORKS BUREAU OF URBAN FORESTRY, Respondent	2701 Turk Street. Protesting the ISSUANCE on January 06, 2014, to Kiki Theodorides, Tree Removal Permit (approval to remove three trees with three replacement trees, and denial of removal of one tree). ORDER NO. 182076. FOR HEARING TODAY.
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ITEMS (7A), (7B), (7C), & (7D) SHALL BE HEARD TOGETHER:

(7A) APPEAL NO. 13-095

THE MARSH, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1050 Valencia Street. Protesting the ISSUANCE on July 17, 2013, to M. Rutherford Trust / Shizuo Holdings, Demolition Permit (demolish one-story restaurant building with 2,000sf of ground floor area). APPLICATION NO. 2010/12/27/7436. PUBLIC HEARING HELD DEC. 11, 2013. FOR FURTHER CONSIDERATION TODAY AND FOR THE ADOPTION OF TENTATIVE FINDINGS AND CONDITIONS.
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(7B) APPEAL NO. 13-096

THE MARSH, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	1050-1058 Valencia Street. Protesting the ISSUANCE on July 17, 2013, to M. Rutherford Trust / Shizuo Holdings, Permit to Erect a Building (erect a five-story, 12-unit apartment/retail/parking building with 3000sf of ground floor area) APPLICATION NO. 2010/12/27/7437"S". PUBLIC HEARING HELD DEC. 11, 2013. FOR FURTHER CONSIDERATION TODAY AND FOR THE ADOPTION OF TENTATIVE FINDINGS AND CONDITIONS.
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(7C) APPEAL NO. 13-097

<p>ALICIA GAMEZ, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL</p>	<p>1050 Valencia Street. Protesting the ISSUANCE on July 17, 2013, to M. Rutherford Trust / Shizuo Holdings, Demolition Permit (demolish one-story restaurant building with 2,000sf of ground floor area). APPLICATION NO. 2010/12/27/7436. PUBLIC HEARING HELD DEC. 11, 2013. FOR FURTHER CONSIDERATION TODAY AND FOR THE ADOPTION OF TENTATIVE FINDINGS AND CONDITIONS.</p>
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(7D) APPEAL NO. 13-098

<p>ALICIA GAMEZ, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL</p>	<p>1050-1058 Valencia Street. Protesting the ISSUANCE on July 17, 2013, to M. Rutherford Trust / Shizuo Holdings, Permit to Erect a Building (erect a five-story, 12-unit apartment/retail/parking building with 3000sf of ground floor area) APPLICATION NO. 2010/12/27/7437"S". PUBLIC HEARING HELD DEC. 11, 2013. FOR FURTHER CONSIDERATION TODAY AND FOR THE ADOPTION OF TENTATIVE FINDINGS AND CONDITIONS.</p>
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(8) APPEAL NO. 13-175

<p>FRANKLIN BOWLES, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL</p>	<p>30 Edith Street. Protesting the ISSUANCE on December 09, 2013, to Telegraph Hill Housing, LLC, Alteration Permit (alter/remodel existing building; add one new story; make a single-family dwelling; add new stair and elevator connecting 1st to 3rd floor; provide light well at 3rd floor to match existing light well at adjacent building; roof deck at 3rd floor). APPLICATION NO. 200812319407S. FOR HEARING TODAY.</p>
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(9) APPEAL NO. 14-008

<p>TY BASH, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL</p>	<p>1100 Ashbury Street. Protesting the ISSUANCE on December 31, 2013, to Michelle Meyer, Alteration Permit (replace windows; work done in 2000; found out permit not issued at time; rectifying situation; in response to Notice of Violation #201342841). APPLICATION NO. 2013/12/31/5419. FOR HEARING TODAY.</p>
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(10) APPEAL NO. V14-010

<p>HENRY KARNILOWICZ, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent</p>	<p>2001 - 17th Street. Appealing the DENIAL on January 16, 2014, of Rear Yard, Open Space & Parking Variances (to legalize five existing group housing rooms on 2nd floor of existing structure and legalize a separate building in the required rear yard). CASE NO. 2013.0674V. FOR HEARING TODAY.</p>
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ADJOURNMENT.

Note A: Each item on this agenda may include the following documents: 1) Preliminary Statement of Appeal and Appellant's Brief; 2) Permit Holder's, Respondent's or Other Parties' Brief; 3) Departmental decision, order, permit, determination, resolution, or notice of violation; 4) submittals by members of the public; and 5) correspondence. These items are available for public inspection at the Board's office during normal office hours (Monday to Friday, 8am to 5pm, 1650 Mission Street, Room 304) and in the hearing room on the date the matter is scheduled to be heard. **Note B:** If any materials related to an item on this agenda have been distributed to the Board members after distribution of the agenda packet, those materials are available for public inspection at the Board's office during normal office hours (Monday to Friday, 8am to 5pm, 1650 Mission Street, Room 304) and in the hearing room on the date the matter is scheduled to be heard. Please call 415-575-6880 if you have any questions concerning this agenda.

Date posted: **February 21, 2014**

MEMBERS OF THE BOARD OF APPEALS

CHRIS HWANG	PRESIDENT
ANN LAZARUS	VICE PRESIDENT
FRANK FUNG	COMMISSIONER
DARRYL HONDA	COMMISSIONER
ARCELIA HURTADO	COMMISSIONER

PROCEDURE AT HEARINGS

Except when the Presiding Officer finds good cause to order the presentations otherwise, the order of presentation of an appeal shall be as follows: (a) the appellant shall speak first and shall be allowed seven (7) minutes to present relevant testimony and evidence. Then the permit holder, representatives of the department, board, commission or person from whose order the appeal is taken, and/or other parties, shall be allowed seven (7) minutes for presentation of relevant testimony and evidence. Three minutes for rebuttal shall be provided to all parties in this same order; (b) the Board may request a departmental response at its own discretion. For rehearing requests and jurisdiction requests, each party shall be allowed three (3) minutes to present testimony and evidence, with no rebuttal.

Other persons desiring to speak before the Board on an appeal may speak once for up to three minutes, unless the presiding officer further limits time uniformly.

Those members of the public who intend to testify about a particular appeal and wish to have the Board give their testimony evidentiary weight for purposes of deciding the appeal are asked to take an oath. Please note that any member of the public may speak without being sworn-in pursuant to their rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code).

SPECIAL NOTES

If the Board continues a matter to a specific date that is announced to the parties in the hearing room, no additional mailed notice will be sent. Please call the Board office at 415-575-6880 for scheduling or other information during regular business hours, or visit our website at www.sfgov.org/boa.

The complete Rules of the Board are available for review at the Board office, and on our website.

Material submitted by the public for Board review prior to a scheduled hearing before the Board, should be addressed to the Board President, and be received at the Board office, 1650 Mission Street, Room 304, no later than 4:30 p.m. one (1) Thursday prior to the scheduled public hearing. Persons unable to attend the scheduled public hearing may submit written comments regarding a calendared item to the Board office. Comments received before noon on the day of the hearing will be made a part of the official record and will be brought to the attention of the Board at the public hearing. For complete distribution to all Commissioners of the Board, necessary staff and case files, submit an original and

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ten copies. Please note that names and addresses included in these submittals will become part of the public record. Submittals may be made anonymously.

Pursuant to Government Code § 65009, if you challenge, in court, the approval of a variance or development permit, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Board of Appeals at, or prior to, the public hearing.

Calendared items are sometimes withdrawn or rescheduled the day of hearing, or are taken out of order to accommodate special needs. The Board urges all parties to be present in the hearing room from 5:00 p.m. so that everyone has an opportunity to participate in the relevant public hearing when it is called.

PROHIBITION OF SOUND-PRODUCING ELECTRONIC DEVICES

The ringing of and use of cell phones, pagers and similar sound-producing electronic devices are prohibited at this meeting. Please be advised that the Chair may order the removal from the meeting room of any person(s) responsible for the ringing or use of a cell phone, pager, or other similar sound-producing electronic devices.

ACCESSIBILITY INFORMATION

American sign language interpreters and/or sound enhancement system will be available upon request by contacting Board staff at 575-6880 at least 48 hours prior to the hearing. Individuals with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities should call the accessibility hotline at 554-8925 to discuss meeting accessibility. In order to assist the City's efforts to accommodate such people, attendees at public meetings are reminded that other attendees may be sensitive to various chemical-based products. Please help the City to accommodate these individuals. The closest accessible BART station is the Civic Center station located at the intersection of Market, Hyde and Grove Streets. Accessible curbside parking has been designated at points along McAllister Street. Accessible MUNI lines serving City Hall are the 42 Downtown Loop, 9 San Bruno and 71 Haight/Noriega and the F line. Accessible MUNI Metro lines are the J, K, L, M, and N. For more information regarding MUNI accessible services, call (415) 923-6142.

KNOW YOUR RIGHTS UNDER THE SUNSHINE ORDINANCE

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, contact the Sunshine Ordinance Task Force: by mail to Administrator, Sunshine Ordinance Task Force, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4689; by phone at (415) 554-7724; by fax at (415) 554-7854; or by e-mail at soft@sfgov.org. Citizens interested in obtaining a free copy of the Sunshine Ordinance

may request a copy from the Sunshine Ordinance Task Force Administrator or by printing Chapter 67 of the San Francisco Administrative Code on the internet at www.sfgov.org/sunshine.

LOBBYING ACTIVITY

Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance [SF Campaign and Governmental Conduct Code § 2.100] to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the San Francisco Ethics Commission at 30 Van Ness Avenue, Suite 3900, San Francisco, CA 94102; telephone (415) 581-2300; fax (415) 581-2317; web site www.sfgov.org/ethics.

SUGGESTIONS TO IMPROVE EFFICIENCY

The Board welcomes suggestions from the public regarding improvement of the efficiency of its operations. Please direct your comments and suggestions to Board staff, at 415-575-6880 or fax 415-575-6885. A customer satisfaction survey form is available at the meetings, the Board office, and on the Board's web site, www.sfgov.org/boa.

DVD'S OF MEETINGS

DVD's of meetings may be obtained from SFGOVTV, Channels 26 & 78. Please telephone 415-554-4188 for information.

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CITY & COUNTY OF SAN FRANCISCO**
1650 Mission Street, Room 304
San Francisco, California 94103