

BOARD OF APPEALS

CITY & COUNTY OF SAN FRANCISCO

MEETING MINUTES - WEDNESDAY, JULY 14, 2010

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

PRESENT: President Tanya Peterson, Vice President Kendall Goh, Commissioner Frank Fung, Commissioner Michael Garcia and Commissioner Chris Hwang.

Francesca Gessner, Deputy City Attorney, Office of the City Attorney (OCA); Laurence Kornfield, Deputy Director, Department of Building Inspection (DBI); Scott Sanchez, Acting Zoning Administrator, (ZA); Christiane Hayashi, Deputy Director, Municipal Transportation Authority, Division of Taxis and Accessible Services (MTA, DTAS); Jarvis Murray, Enforcement Manager, (MTA, DTAS); Dr. Johnson Ojo, Department of Public Health, Environmental Health Section (DPH); Cynthia Goldstein, Executive Director; Victor Pacheco, Legal Assistant.

(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.

SPEAKERS: Dan Hinds, Hansu Kim, Tariq Mehmood and Carl Macmurdo spoke regarding requirements for taxi drivers and the City's new Taxi Medallion Sales Pilot Program; Ray Hartz spoke regarding speaking at public meetings and public records.

(2) COMMISSIONER COMMENTS & QUESTIONS:

SPEAKERS: Vice President Kendall Goh announced that she will be absent on August 11, 2010.

(3) ADOPTION OF MINUTES:

Discussion and possible adoption of the June 30, 2010 minutes.

ACTION: Upon motion by President Peterson, the Board voted 5-0 to adopt the June 30, 2010 minutes.

SPEAKERS: None.

PUBLIC COMMENT: None.

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(4) **ADDENDUM ITEMS:**

(4a) **REHEARING REQUEST:**

Subject property at 350 Divisadero Street. Letter from Terence Hallinan & Brendan Hallinan, attorney for Joseph Hunt, appellant, requesting rehearing of Appeal No. 10-030, Hunt vs. ZA, decided June 09, 2010. At that time, upon motion by President Peterson, the Board voted 3-1-1 (Commissioner Hwang dissented, Vice President Goh absent) to uphold the Letter of Determination (LOD) on the basis that the ZA did not err or abuse his discretion. LOD: regarding the use of the subject property as a Medical Cannabis Dispensary (MCD). Determination Holders: Jarie Bolander, Ben Allison and Sommer Peterson.

ACTION: Upon motion by President Peterson, the Board voted 4-1 (Commissioner Hwang dissented) to deny the Rehearing Request.

SPEAKERS: Brendan Hallinan, attorney for requestor; Gregg Miller, attorney for determination holders; Scott Sanchez, ZA.

PUBLIC COMMENT: None.

(5) **APPEAL NO. 10-007**

<p>SALEM KAILEH dba "QUICK STAR MARKET", Appellant(s) vs. DEPT. OF PUBLIC HEALTH, Respondent</p>	<p>1072A Market Street. Appealing a twenty-five (25) - day suspension of a Tobacco Product Sales Establishment Permit, imposed on Jan. 13, 2010. Reason(s) for suspension: selling tobacco products to minors. DIRECTOR'S CASE NO. FD-10-06. PUBLIC HEARING HELD AND CLOSED ON MAY 12, 2010. FOR FURTHER CONSIDERATION TODAY. Note: no additional briefing is allowed; matter continued to allow President Peterson to participate in the final vote.</p>
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ACTION: Upon motion by Commissioner Garcia, the Board voted 4-1 (Vice President Goh dissented) to grant the appeal and reduce the suspension to 20 days.

SPEAKERS: None.

PUBLIC COMMENT: None.

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(6) APPEAL NO. 10-015

CHONG KWANG CHUNG dba "MARTELL'S LIQUOR", Appellant(s) vs. DEPT. OF PUBLIC HEALTH, Respondent	5615 Geary Boulevard. Appealing a twenty-five (25) - day suspension of a Tobacco Product Sales Establishment Permit, imposed on Feb. 10, 2010. Reason(s) for suspension: selling tobacco products to minors. DIRECTOR'S CASE NO. FD-10-11. PUBLIC HEARING HELD AND CLOSED ON MAY 12, 2010. FOR FURTHER CONSIDERATION TODAY. Note: no additional briefing is allowed; matter continued to allow President Peterson to participate in the final vote.
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ACTION: Upon motion by Commissioner Fung, the Board voted 4-1 (Vice President Goh dissented) to grant the appeal and reduce the suspension to 20 days.

SPEAKERS: None.

PUBLIC COMMENT: None.

(7) APPEAL NO. 09-144

WESLEY HOLLIS, Appellant(s) vs. MUNICIPAL TRANSPORTATION AGENCY, DIVISION OF TAXIS AND ACCESSIBLE SERVICES, Respondent	Appealing the revocation on Nov. 23, 2009, of Taxicab Medallion No. 1022 and Color Scheme Permit No. 3032. PUBLIC HEARING HELD AND CLOSED ON MAY 19, 2010. FOR FURTHER CONSIDERATION TODAY. Note: additional briefing is allowed; matter continued to allow both parties to submit additional information pursuant to the Board's comments.
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ACTION: Upon motion by Vice President Goh, the Board voted 4-1 (Commissioner Hwang dissented) to uphold the revocation of the color scheme permit, and overrule the revocation of the medallion on the condition that the medallion be suspended for one year, with the adoption of findings at a later time.

SPEAKERS: Jarvis Murray, SFMTA, DTAS; Heidi Machen, attorney for appellant; Christiane Hayashi, SFMTA, DTAS.

PUBLIC COMMENT: Richard Hybels, Richard Wiener, Dan Hinds, Neil Harts, Barry Taranto and Mary Maguire spoke in support of SFMTA, DTAS.

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(8) APPEAL NO. 10-043

ARZA TRUST, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2642-2644 Hyde Street. Protesting the issuance on April 09, 2010, to Billie Cayot Trustee, Permit to Alter a Building (legalize existing balcony on 2 nd floor at rear of building per NOV No. 200451624). APPLICATION NO. 2004/11/02/8353S. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Fung, the Board voted 5-0 to deny the appeal and uphold the permit on the basis that the permit conforms to the variance.

SPEAKERS: Ellen Tsang, agent for appellant; Kristina Vogel, agent for permit holder; Scott Sanchez, ZA; Laurence Kornfield, DBI.

PUBLIC COMMENT: Male speaker and Ray Hartz spoke in support of the appellant.

(9) APPEAL NO. 10-048

FRED HERRERA, Appellant(s) vs. ZONING ADMINISTRATOR, Respondent	763 University Street. Appealing a Notice of Violation & Penalty, dated April 19, 2010, addressed to Sandra and Fred Herrera, regarding construction beyond the scope of BPA No. 2007/04/13/8788, in violation of the Planning Code. FOR HEARING TODAY.
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ACTION: Upon motion by Commissioner Hwang, the Board voted 5-0 to uphold the Notice of Violation and Penalty on the basis that the Zoning Administrator did not err or abuse his discretion.

SPEAKERS: Frederick Remer, attorney for appellant; Scott Sanchez, ZA; Laurence Kornfield, DBI; Randy Jones, agent for appellant.

PUBLIC COMMENT: Regina Anderson, Norman Kenney and Joan Anderson spoke in support of appellant; Lisa Wong, David Bratt, Loris Lipski, Joel Lipski and William Fiore spoke in support of the Zoning Administrator.

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(10) APPEAL NO. 10-049

WILLIAM & LAURA OLIVO, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	708 Vermont Street. Protesting the issuance on April 22, 2010, to Angela Kang, Permit to Alter a Building (2 nd floor addition including master suite with deck, living area with deck and access stair from 1 st floor; work on 1 st floor includes enclosing existing light well and new deck at rear yard; replace windows). APPLICATION NO. 2009/03/23/4661S. FOR HEARING TODAY.
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ACTION: Upon motion by President Peterson, the Board voted 4-1 (Vice President Goh dissented) to deny the appeal and uphold the permit on the basis that it complies with the Residential Design Guidelines and City Codes.

SPEAKERS: Laura Olivo, appellant; William Olivo, appellant; Ilene Dick, attorney for permit holders; Angela Kang, permit holder; Scott Sanchez, ZA; Laurence Kornfield, DBI; John Lum, agent for permit holders.

PUBLIC COMMENT: Anne Collins and Kevin O'Scanlon spoke in support of the appellants. Justin Hughes, Michelle Hughes, Ron Harrison, David Britt, Scott Pitkethly, Harold Salmon and Devin Swisher spoke in support of the permit holders.

(11) APPEAL NO. 10-051

RICHARD ALPERT, Appellant(s) vs. DEPT. OF BUILDING INSPECTION, Respondent PLANNING DEPT. APPROVAL	2119 Castro Street. Protesting the issuance on May 04, 2010, to Al Sandoval, Permit to Alter a Building (replace backyard wood deck; less than 36" above grade; comply with NOV No. 201044243). APPLICATION NO. 2010/04/30/1475. FOR HEARING TODAY.
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ACTION: Withdrawn by appellant.

SPEAKERS: None.

PUBLIC COMMENT: None.

ADJOURNMENT.

There being no further business, President Peterson adjourned the meeting at 10:35 p.m.