

File No. 170889

Committee Item No. _____

Board Item No. 24

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____

Date: _____

Board of Supervisors Meeting

Date: September 26, 2017

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
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| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
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| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
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| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
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OTHER

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| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Appeal Letter - July 5, 2017</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Director's Order No. 186054</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Appeal Supplemental Letter - July 19, 2017</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Hearing Notice - September 26, 2017</u> |
| <input type="checkbox"/> | <input type="checkbox"/> | _____ |
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| <input type="checkbox"/> | <input type="checkbox"/> | _____ |

Prepared by: Lisa Lew

Date: September 22, 2017

Prepared by: _____

Date: _____

HOOGASIAN FLOWERS
615 Seventh Street
San Francisco, California 94103-5691
415-229-2732 / fax 415-229-2700 / tollfree 1-800-BAY-AREA

RECEIVED
BOARD OF SUPERVISORS
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2017 JUL -5 PM 2:34

June 28, 2017

Board of Supervisors
Office of the Clerk
1 Dr. Carlton B Goodlett Place
San Francisco City Hall Room 244
San Francisco, California 94102-4689

Regarding Public Works order no: 186054

To Whom It May Concern:

We are in receipt of the above mentioned order and wish to formally file to Appeal this order. Please advise regarding process and procedures.

Cordially, 

Harold M. Hoogasian, President
Hoogasian Flowers, Inc.

Harold M. Hoogasian
705 MONTICELLO 615 Seventh Street
SAN FRANCISCO, CALIFORNIA 94103-5691



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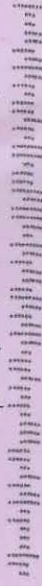


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Board of Supervisors
Office of the Clerk
1 Dr. Carlton B. Goodlett
City Hall Room 244

San Francisco, CA 94102-4689

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Edwin M. Lee, Mayor
Mohammed Nuru, Director



Jerry Sanguinetti, Bureau Manager

Public Works Order No: 186054

DIRECTOR'S DETERMINATION REGARDING RECOMMENDATION OF REVOCATION FOR THE FLOWER-VENDING STAND PERMIT ALLOWING FOR THE PLACEMENT AND OPERATION OF A FLOWER-VENDING STAND ON THE SIDEWALK AT 250 POST STREET

A Public Hearing to consider the revocation of the flower-vending stand permit allowing for the placement and operation of a flower-vending stand on the sidewalk at 250 Post Street was held on Wednesday, June 7, 2017 at San Francisco City Hall, 1 Dr. Carlton B. Goodlett Place, Room 400 at 9:00 a.m. and presided over by Hearing Officer Tony Esterbrooks.

BACKGROUND:

1. On September 1, 2016, in response to complaints about the condition of the flower-vending stand at 250 Post Street, a Public Works Inspector issued a Notice to Repair (No. 1074841) after finding graffiti, peeling, and a broken window.
2. At the request of the proprietor of the flower-vending stand, Mr. Harold Hoogasian, the Notice to Repair was sent to him via email on September 2, 2016.
3. The Notice to Repair stated identified deficiencies needed to be remedied within 30-days.
4. The deficiencies stated in the Notice of Violation were not addressed within 30-days, which is a violation of Director's Order No. 175,880 Section II, A.
5. Public Works is in possession of photographic evidence showing the flower-vending stand to have been non-operational since at least July 7, 2016, which is a violation of Director's Order No. 175,880 Section II, G.
6. Based on violations of the maintenance and operational requirements set forth in Director's Order 175,880 Sections II, A and G, the Director of Public Works notified Mr. Harold Hoogasian that Public Works would be making a recommendation to the Board of Supervisors that the flower-vending stand permit be revoked and structure removed from the public right-of-way in a letter dated March 13, 2017.
7. Despite having been notified that Public Works would be making a recommendation to the Board of Supervisors for the revocation of the flower-vending stand permit on March 13, 2017, no efforts were made to address the maintenance and operational deficiencies upon which the recommendation of revocation was based, and a letter dated May 25, 2017 was sent to Mr. Harold Hoogasian informing him that a public administrative hearing considering the recommendation of revocation would be held Wednesday, June 7, 2017.



HEARING OFFICER’S FINDINGS:

The proprietor of the flower-vending stand has been notified repeatedly that they were in violation of Director’s Order No. 175,880 Sections II, A and G, which provide:

- The permittee shall be responsible for operating and keeping said flower-vending stand in a clean and well maintained manner; including but not limited to refurbishing the stand and its materials; i.e., replacing dry-rot, removing graffiti, slap tags, advertising, mini billboards, peeling, damaged and/or faded paint and replacing with graffiti resistant paint, etc. All of the above markings, signs, etc. shall be removed from said flower-vending stand within forty-eight (48) hours of notice by DPW; whereas, replacement or refurbishment of the stand or portions thereof shall be completed within thirty (30) days of notice by DPW.
- The permittee shall maintain a minimum of thirty-five (35) operating hours per week and forty-six (46) weeks per calendar year. If the operation of the flower-vending stand does not comply with the above minimum operating times, unless prior approval from the Department of Public Works (DPW) has been obtained, it shall be considered abandoned by DPW and the permit to operate said flower-vending stand shall be recommended to the Board of Supervisors for revocation.

Support for revoking the permit was also heard at the hearing by members of Union Square BID. The proprietor of the flower-vending stand also spoke at the hearing and is protesting revocation of the permit based on flower-vending stands being part of San Francisco history and the fact that there is not enough foot traffic in the area to justify compliance with stated operational requirements. However, the protestor’s comments did not address the issues or violations cited as grounds for revocation.

HEARING OFFICER’S RECOMMENDATION:

Upon consideration of the facts and testimony presented at the hearing, the recommendation to the Director of Public Works is to REVOKE the flower-vending stand permit as no compelling evidence was presented showing that the permit holder has or will address the ongoing maintenance and operational issues.

DETERMINATION:

The Director of Public Works accepts the recommendation of the Hearing Officer to revoke the flower-vending stand permit allowing for the placement and operation of a flower-vending stand at 250 Post Street.

APPEAL PROCESS:

Within fifteen (15) calendar days from the issuance of the Director’s Order, an appeal may be submitted in writing to the Clerk of the Board of Supervisors at:

1 Dr. Carlton B. Goodlett Place
San Francisco City Hall, Room 244
San Francisco, CA 94102-4689



6/21/2017

X 

Sanguinetti, Jerry
Bureau Manager
Signed by: Sanguinetti, Jerry

6/22/2017

X Mohammed Nuru

Nuru, Mohammed
Director, DPW
Signed by: Nuru, Mohammed

6/21/2017

X 

Thomas, John
Deputy Director and City Engineer



Hand Delivered

*Log Clerk
c-pages*

HOOGASIAN FLOWERS

615 Seventh Street
San Francisco, California 94103-5691
415-229-2732 / fax 415-229-2700 / tollfree 1-800-BAY-AREA

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2017 JUL 19 PM 2:15

AK

Appeal of Public Works Order No. 186054

July 19, 2017

Board of Supervisors – Clerk's Office
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, California 94102

Dear Board of Supervisors:

Although there needs to be a larger conversation regarding the viability of flower stands and the difficulties they face in the changing market place, it is important to understand the nature of the hostile relationship the Hoogasian family has been subject to following the change in management of the 250 Post Street building. After outlining the particulars of the Hoogasian family at 250 Post Street, I will touch on the subject of flower stands in general and the consistent practice by DPW of ignoring necessary consideration of the future of flower stands in San Francisco's downtown.

Hoogasian Flowers 250 Background

The Hoogasian family has a long history of flower stand sales in San Francisco. Missak Hoogasian emigrated in the 1920's and Hoogasian family members have been selling flowers on the street ever since. The flower stand at 250 Post was opened in February 1953 by invitation from Richard Gump. The flower stand in front of Gump's was a landmark. For the first 40 years of operations, it was consistently operated.

In the 1990's, Edward Plant introduced the Hoogasian family to the current manager of the building. It became clear in very short order that they wanted to get rid of our operations. At one point the manager sent a letter to the DPW which purported that we had been operating in the wrong place for the past 40 years! The Department demanded that we move. We pointed out that the management of 250 Post Street intentionally proffered a letter which added wording to the citation to mislead the department (which did not fact check). That demand to move was subsequently rescinded by DPW.

Next the management claimed that the removal of an underground storage tank required our stand to move. They department approved it and our stand was moved. The ground was never broken for the tank and the stand was never returned to the spot. We replaced it ourselves and returned to operation. The management cut off historic access to water and power in hopes of turning us away. We persevered on trucked in water and a generator.

Our flower stand was removed, again without our permission, this time to the alley behind the building. Shortly thereafter, the management sued us in Superior Court with 23 causes of action. All 23 causes were dismissed before trial. Three causes of action for counter suit were filed. Those counter charges were maintained and a three week jury trial followed after three years of pretrial maneuvering. Trial preparation included artful dodging of service by the aforementioned Mr. Plant. Even without Mr. Plant's testimony, the trial served as a forum for the intentional acts of the management to do everything within (and outside) their power to force us to quit.

The resulting jury verdict found economic damages of over \$250,000 AND punitive damages of \$500,000 for the acts committed against us. As a result of mediated arbitration, we were accorded the right to access telephonic, water and power for our operations from within the building. Although the malice embodied in the removal of all power and water access from the vicinity of the stand (necessitating a run of water from the rear of the building at a cost of over \$10,000!), it was clear that the management seeks to make our operations untenable. Every tenant of the building has maintained an adversarial stance towards us and our operations. For over 40 years, our staff had access to bathroom facilities in the 250 Post building.

Now we must close and walk to nearby hotels for such access. Further, if we wish to access our power and water hookups, we must contact the management's attorneys to arrange such access!

Changes in the conditions in downtown San Francisco over the last 60 years has made flower stand operation a significant challenge in the 21st Century.

Background on Flower Stand Legislation

From the turn from the early 20th century, flower stand proliferated into the hundreds. Traditional flower shops found the Sidewalk Flower Market (as flower stands were legally referred to in the city charter) "place" an irksome and inconvenient form of competition. In the 1940's there were over a dozen traditional flower shops within two blocks of Union Square.

There was an organized effort to rid the streets of flower stands. From just before the Second World War until the end of the 1940's, the number of stands was reduced to less than 20. An uproar (not quite on the level of the Freeway or Cable Car revolutions) about the loss the City would suffer to its image and cachet. The number of flower stands was fixed (at that time) at 12. Subsequently, other flower stands have been permitted taking the number up to as many as two dozen. The original 12 in the Union Square area are the ones given my attention at this time.

Of the original 12 flower stand, only five (including 250 Post Street) still exist. Why, might one ask? There are reasons and theories, but we must look at the legislation that governs flower stand operations. First, the flower stand can only be 10 by 3 feet and operations must be confined to an area no greater than 5 by 20 feet. Imagine operating a business, displaying product AND finding shelter from the elements! Further, the products that are within the bounds of traditional flowers are proscribed by defining (in the legislation) what can be sold: fresh flowers, greens, and corsages. Notably absent are: vase, plants, balloons, cards, delivery service and stuffed animals. All those absent items can be found in traditional flowers shops. Oh, and about traditional flower shops.

There are, currently, ZERO flower traditional shops within THREE blocks of Union Square. There are, however, floral operators who operate on private property that LOOK like flower stands, but can sell all the items flower stands can not by law. I have (for decades) sought the DPW's assistance in legalizing the sales of items that our competitors sell. We have been told by DPW staff to just "go ahead" and sell those items and services. Nod, nod, wink, wink. You know. That is NOT how to operate a business! We need help beyond saving the Hoogasian Flower stand. We need to help save ALL THE FLOWER STANDS.

The Department of Public Works has an adversarial position regarding Hoogasian Flowers in favor of the "establishment" that is organized to see that we are removed from the street. The Union Square Business Improvement District is a pivot point for this. The terms of the formation of the District preclude a non property owner from being a "constituent" of the BID and, consequently, we have NO voice and they do not serve as the voice for flower stand operators. We have every intention of operating the flower stand at 250 Post as conditions allow. We look forward to working with the Board of Supervisors to make a better future for flowers on the street.

Cordially,



Harold M Hoogasian, President

Hoogasian Flowers, Inc.

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 415-554-5184
Fax No. 415-554-5163
TDD/TTY No. 415-554-5227

August 1, 2017

Harold Hoogasian
Hoogasian Flowers
615-7th Street
San Francisco, California 94103

Subject: File No. 170889 - Appeal of Determination of Revocation for a Flower-Vending Stand Permit at 250 Post Street

Dear Mr. Hoogasian:

The Office of the Clerk of the Board is in receipt of your appeal of Public Works Order No. 186054 regarding the recommendation of revocation for the flower-vending stand permit of the flower-vending stand on the sidewalk at 250 Post Street.

A hearing date has been scheduled for **Tuesday, September 26, 2017, at 3:00 p.m.**, at the Board of Supervisors meeting to be held in City Hall, 1 Dr. Carlton B. Goodlett Place, Legislative Chamber, Room 250, San Francisco, CA 94102.

Please provide to the Clerk's Office by noon:

20 days prior to the hearing: names and addresses of interested parties to be notified of the hearing, in spreadsheet format; and


11 days prior to the hearing: any documentation which you may want available to the Board members prior to the hearing.

For the above, the Clerk's office requests one electronic file (sent to bos.legislation@sfgov.org) and two copies of the documentation for distribution.

NOTE: If electronic versions of the documentation are not available, please submit 18 hard copies of the materials to the Clerk's Office for distribution. If you are unable to make the deadlines prescribed above, it is your responsibility to ensure that all parties receive copies of the materials.

If you have any questions, please feel free to contact Legislative Clerks Brent Jalipa at (415) 554-7712, or Lisa Lew at (415) 554-7718.

Very truly yours,


Angela Calvillo
Clerk of the Board

- c: Mohammed Nuru, Director of Public Works
- David Stenberg, Public Works
- Jennifer Blot, Deputy Director of Communications and Public Affairs, Public Works
- John Thomas, Deputy Director of Infrastructure and City Engineer, Public Works
- Lena Liu, Public Works
- Bruce Storrs, City Surveyor, Public Works
- Jerry Sanguinetti, Public Works-Bureau of Street Use and Mapping
- Javier Rivera, Public Works
- Steve Bergin, Public Works
- Jon Givner, Deputy City Attorney
- Kate Stacy, Deputy City Attorney
- Marlena Byrne, Deputy City Attorney
- John Malamut, Deputy City Attorney

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

NOTICE OF PUBLIC HEARING

BOARD OF SUPERVISORS OF THE CITY AND COUNTY OF SAN FRANCISCO

NOTICE IS HEREBY GIVEN THAT the Board of Supervisors of the City and County of San Francisco will hold a public hearing to consider the following appeal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

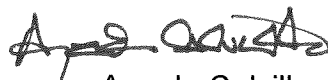
Date: Tuesday, September 26, 2017

Time: 3:00 p.m.

Location: Legislative Chamber, City Hall, Room 250
1 Dr. Carlton B. Goodlett, Place, San Francisco, CA

Subject: File No. 170889. Hearing of persons interested in or objecting to the determination of Public Works dated June 22, 2017, regarding the recommendation of revocation for the flower-vending stand permit allowing for the placement and operation of a flower-vending stand on the sidewalk at 250 Post Street. (District 3) (Appellant: Harold Hoogasian) (Filed July 3, 2017)

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments prior to the time the hearing begins. These comments will be made as part of the official public record in this matter and shall be brought to the attention of the Board of Supervisors. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA, 94102. Information relating to this matter is available in the Office of the Clerk of the Board and agenda information relating to this matter will be available for public review on Friday, September 22, 2017.


Angela Calvillo
Clerk of the Board

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. []
- 9. Reactivate File No. []
- 10. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.

Sponsor(s):

Clerk of the Board

Subject:

Hearing - Appeal of Determination of Revocation for a Flower-Vending Stand Permit - 250 Post Street

The text is listed below or attached:

Hearing of persons interested in or objecting to the determination of Public Works dated June 22, 2017, regarding the recommendation of revocation for the flower-vending stand permit allowing for the placement and operation of a flower-vending stand on the sidewalk at 250 Post Street. (District 3) (Appellant: Harold Hoogasian) (Filed July 3, 2017)

Signature of Sponsoring Supervisor: Aluc Bonera

For Clerk's Use Only:

170989