

File No. 150638

Committee Item No. _____

Board Item No. 51

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: _____

Date: _____

Board of Supervisors Meeting

Date: July 28, 2015

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Motion |
| <input type="checkbox"/> | <input type="checkbox"/> | Resolution |
| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
| <input type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
| <input type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Introduction Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Information Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Grant Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Subcontract Budget |
| <input type="checkbox"/> | <input type="checkbox"/> | Contract/Agreement |
| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 – Ethics Commission |
| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Application |
| <input type="checkbox"/> | <input type="checkbox"/> | Public Correspondence |

OTHER (Use back side if additional space is needed)

- | | | |
|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Clerk of the Board Letter Forwarding Appellant's Withdrawal of Appeal – July 23, 2015</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Appellant Withdrawal Letter – July 21, 2015</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Appeal Letter – June 15, 2015</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Appellant Letter – July 17, 2015</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Hearing Notice – July 17, 2015</u> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <u>Clerical Documents</u> |

Completed by: John Carroll

Date: July 28, 2015

Completed by: _____

Date: _____

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. 544-5227

July 23, 2015

Rosemarie MacGuinness
Attorney, SirkinLaw APC
On behalf of owner/occupants of 158 Linda Street
388 Market Street, #1300
San Francisco, CA 94111

Subject: Tentative Map Application Incompleteness Appeal - 158-162 Linda Street

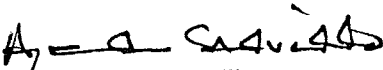
Dear Ms. MacGuinness:

The Office of the Clerk of the Board is in receipt of your letter dated July 21, 2015, (copy attached), withdrawing the Tentative Map Application Incompleteness Appeal for 158-162 Linda Street.

Although appeals may be withdrawn at any time up until and including during the scheduled hearing before the Board of Supervisors, please be advised that your withdrawal was received after the noticing of the hearing and scheduling of the matter. Therefore, this Tentative Map Application Incompleteness Appeal will be agendaized for the Board meeting of July 28, 2015, for Board consideration.

If you have any questions please feel free to contact John Carroll, Legislative Clerk, at (415) 554-4445.

Very truly yours,


Angela Calvillo
Clerk of the Board

c:

Jon Givner, Deputy City Attorney
Kate Stacy, Deputy City Attorney
Marlena Byrne, Deputy City Attorney
Mohammed Nuru, Director, Public Works
Jerry Sanguinetti, Public Works
Fuad Sweiss, City Engineer, Public Works

Bruce Storrs, Public Works
Scott Sanchez, Zoning Administrator, Planning Department
Sarah Jones, Planning Department
AnMarie Rodgers, Planning Department
Aaron Starr, Planning Department

Carroll, John (BOS)

From: Rosemarie MacGuinness <r_macguinness@tclawyers.com>
Sent: Tuesday, July 21, 2015 1:46 PM
To: Carroll, John (BOS)
Cc: D. Andrew Sirkin
Subject: 158 Linda: Withdrawal of Appeal
Attachments: 158_Linda_BOS_lett_7.21.15_DAS.pdf

Categories: 150638

Hi John,

Following up on our discussion earlier, please find enclosed a letter withdrawing our appeal with reference to 158 Linda Street. The hearing is scheduled for next Tuesday, July 28, 2015 at 3:00. Will you advise the Board of Supervisors of our withdrawal?

Thank you.

Sincerely,

Rosemarie MacGuinness
Attorney
SIRKIN LAW, APC
388 Market Street, Suite 1300
San Francisco, CA 94111

Direct phone: 415.839-6406
Main phone: 415.738-8545
Fax: 707.922-8641

www.andysirkin.com

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SIRKINLAW APC

388 Market Street • Suite 1300 • San Francisco • California • 94111 • 415.738.8545(v) • 707.922.8641(f)
dasirkin@earthlink.net • www.andysirkin.com

July 21, 2015

Members of the San Francisco Board of Supervisors
c/o John Carroll
The Clerk of the Board of Supervisors
City Hall, Room 244
1 Dr. Carlton B. Goodlett Place,
San Francisco, CA 94102

RE: Appeal Hearing for Special Order: July 28, 2015 at 3:00 p.m.
158-162 Linda Street; Block 3597, Lot 49; 6-Unit ECP Conversion

Distinguished Board Members:

We refer to the Notice of Appeal dated June 15, 2015 filed on behalf of the owners of the above-property. A hearing on this matter is scheduled for Tuesday, July 28 at 3:00 P.M.

Our office confirmed today that the Department of Public Works has reversed its position and is processing this conversion application. Based on this turn of events, the owners wish to withdraw the appeal.

Thank you for your consideration of this matter.

Sincerely,

Rosemarie MacGuinness
Attorney
SirkinLaw APC

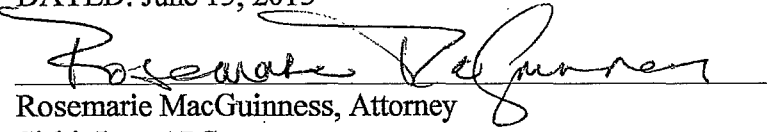
On behalf of the owner/occupants of 158 Linda Street:
Clemens Buehling and Archana Sharma
Ramon Marin Sanchez
John Costello and Laura Evetts
Lindsey Rollin
Christine Floyd
Russell Preston

TENTATIVE SUBDIVISION MAP APPEAL

NOTICE OF APPEAL

Pursuant to San Francisco Subdivision Code Section 1314, the undersigned, on behalf of the subdivider/owner-occupants, hereby appeal the tentative map decision of the San Francisco Department of Public Works disapproving a tentative map. Such decision is dated June 9, 2015 and is attached to this Notice. The subdivider/owner-occupants contend that the disapproval was improper because the subdivider/owner-occupants satisfy the owner-occupancy requirements of San Francisco Subdivision Code Section 1394.4(b)(8)(A).

DATED: June 15, 2015


Rosemarie MacGuinness, Attorney
SirkinLaw APC

On behalf of the owner/occupants of 158 Linda Street:
Clemens Buehling and Archana Sharma
Ramon Marin Sanchez
John Costello and Laura Evetts
Lindsey Rollin
Christine Floyd
Russell Preston

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
JUN 15 PM 3:00

DA SIRKIN @ EARTHlink.net
~~ROSEMARIE~~
R-MACGUINNESS @ THE LAWYERS. COM



Date: June 9, 2015

Cam Perridge c/o Sirkin and Associates
388 Market Street, Suite 1300
San Francisco, CA 94111

Edwin M. Lee
Mayor

Mohammed Nuru
Director

Jerry Sanguinetti
Bureau of Street Use & Mapping
Manager

Bruce R. Storrs P.L.S.
City and County Surveyor

Bureau of Street Use & Mapping
1155 Market St., 3rd floor
San Francisco, CA 94103
tel (415) 554-5827
Subdivision.Mapping@sfdpw.org

sfpublicworks.org
facebook.com/sfpublicworks
twitter.com/sfpublicworks

Project ID:	-		
Project Type:	6 Unit Condominium Conversion - ECP		
Address #	Street Name	Block	Lot
158-162	Linda Street	3597	049

Dear Cam Perridge:

This is to inform you that the application package, which you submitted to this agency, does not meet the owner occupancy requirements to qualify for the Expedited Condominium Conversion – Group 3 Application.

Applicants who wish to convert under ECP Group 3 – Final Map must have had three separate owners of record continuously owner-occupy each unit for six years prior to application submittal. Only one owner-occupant (unit 158A) qualifies under this condition.

The allowance to transfer years from one owner-occupant to the next can only occur for one unit on a one-time basis. Therefore, even with this exception, the property would need an additional owner occupant for one of the units residing for a minimum of six years.

This application is being returned at this time. If you choose to resubmit, please do so once the applicants are eligible for conversion.

Should you have any questions, please do not hesitate to call our office at (415) 554-5827 or email Subdivision.Mapping@sfdpw.org.

Sincerely,

Bruce R. Storrs, PLS
City and County Surveyor
City and County of San Francisco

ROSEMARIE A. MACGUINNESS
60 MOUNTAIN SPRING AVE.
SAN FRANCISCO, CA 94114-2118

90-7118/3211

3730

Date June 15 - 2015

Pay to the order of Public Works \$ 298 -

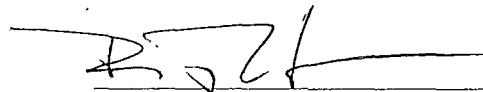
Two Hundred Ninty Eight

Dollars  Security Features
Included.
Details on Back.

citibank

CITIBANK, N.A. BR. #961
444 CASTRO ST
SAN FRANCISCO, CA 94114

Memo 158 LINDA APPEAL



MP

Carroll, John (BOS)

From: BOS Legislation, (BOS)
Sent: Monday, July 20, 2015 11:53 AM
To: 'dasirkin@earthlink.net'; 'r_macguinness@tlawyers.com'; Givner, Jon (CAT); Byrne, Marlana (CAT); Rahaim, John (CPC); Sanchez, Scott (CPC); Jones, Sarah (CPC); Rodgers, AnMarie (CPC); Starr, Aaron (CPC); Tam, Tina (CPC); Ionin, Jonas (CPC); BOS-Supervisors; BOS-Legislative Aides; Malamut, John (CAT)
Cc: Calvillo, Angela (BOS); Caldeira, Rick (BOS); BOS Legislation, (BOS); Carroll, John (BOS)
Subject: Appellant Letter - Tentative Map Application Incompleteness Appeal - July 28, 2015 - 158-162 Linda Street

Categories: 150638

Good morning,

The Office of the Clerk of the Board has received the following supplemental letter (linked below) from D. Andrew Sirkin, representing the Appellant, concerning the Tentative Map Application Incompleteness Appeal scheduled for a Special Order before the Board on **July 28, 2015, at 3:00 p.m.**


[Appellant Letter – July 17, 2015](#)

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below.

[Board of Supervisors File No. 150638](#)

Thank you,

John Carroll
Legislative Clerk
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
(415)554-4445 - Direct | (415)554-5163 - Fax
john.carroll@sfgov.org | bos.legislation@sfgov.org

 Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form.

The [Legislative Research Center](#) provides 24-hour access to Board of Supervisors legislation and archived matters since August 1998.

Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.

SIRKINLAW APC

388 Market Street • Suite 1300 • San Francisco • California • 94111 • 415.738.8545(v) • 707.922.8641 (f)
dasirkin@earthlink.net • www.andysirkin.com

July 17, 2015

Members of the San Francisco Board of Supervisors
c/o The Clerk of the Board of Supervisors
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

RE: 158-162 Linda Street; Block 3597, Lot 49; 6-Unit ECP Conversion

Distinguished Board Members:

The above-referenced property was the subject of a condominium conversion application submitted under the Expedited Conversion Program or "ECP" (SF Subdivision Code §1396.4). The Department of Public Works ("DPW") found the conversion to be incomplete, and the building owners are appealing under Government Code §65943(c).

The property at 158 Linda contains six units, each of which has been owner-occupied continuously since October 2008. Due to various family and work circumstances, only one of the original 2008 owners remains. The other five current owners moved in on various dates between January 2010 and April 2014. There have been no interruptions in occupancy in any of the six units; each time an owner moved out, a replacement owner moved in the same or the following day.

DPW explained its finding that the conversion application was incomplete by stating: "The allowance to transfer years from one owner-occupant to the next can only occur for one unit on a one-time basis". The applicants disagree with this interpretation of the ECP law. They contend that there is no limitation on the transfer of years from one owner to another so long as each owner-occupancy is continuous and uninterrupted, meaning there is no gap between when an owner moves out and when a replacement owner moves in.

Your interpretation of this provision of the ECP law will affect many owners, particularly in 5-6 unit buildings. These buildings must satisfy six-year owner occupancy requirements in at least three units, and will not be eligible to convert when the conversion lottery resumes. If these buildings are disqualified because they have had owner-occupancy changeovers, they will never be eligible for conversion.

Because so many people are affected, the issue of owner-occupants replacing other owner-occupants became the subject of discussion and debate among the "working group" negotiating the ECP law. In early May, 2013, the discussion led to a compromise amendment introduced by Supervisor David Chiu in the Land Use Committee hearing on May 20, 2013. In the notes he submitted with his proposed amendments, he wrote that the proposed owner tacking amendment "allows existing TIC owners waiting to apply for the expedited conversion process to transfer ownership of their units without losing eligibility for conversions."

During the May 20 Land Use Committee hearing, several of the speakers made similar comments and observations:

Supervisor Scott Weiner: "This amendment as I understand it allows transfers of ownership for that pool of years 3 to 6 TIC conversions. In other words the owner occupancy can be comprised of a succession of ownership and I think that's a very positive amendment and I'm appreciative of it."

Supervisor Jane Kim: "It does allow existing TIC owners waiting to apply for the expedited conversion program to transfer ownership of their units without losing eligibility for conversion."

Ben Fujioka, Chinatown Community Development Center: "We think that in particular the idea of allowing transfers of ownership within the context of the six or seven year conversion process makes sense given that these are units that have already been converted, they are now ownership units, and allowing those transfers will not fuel further speculation."

Significantly, none of the legislative notes or hearing testimony mentions allowing only one changeover per building. In fact, such a limitation would undermine the goal that Supervisor Chiu cites in his legislative notes, the goal mentioned as the basis for support of the amendment expressed by the Supervisors and community members.

More importantly, the language of the amendment, which was later included verbatim in the ECP law, does not impose a one-change-per-building limit on owner tacking. The text has two sentences on the issue:

Sentence #1: "For applications for conversion pursuant to Subsections (3)-(7) only, a unit that is "occupied continuously" shall be defined as a unit occupied continuously by an owner of record for the six year period without an interruption of occupancy and so long as the applicant owner(s) occupied the subject unit as his/her principal place of residence for no less than one year prior to the time of application." (Emphasis supplied.)

Sentence #2: "Notwithstanding the occupancy requirements set forth above, each building may have one unit where there is an interruption in occupancy for no more than a three month period that is incident to the sale or transfer to a subsequent owner of record who occupied the same unit." (Emphasis supplied.)

If the intention were to allow only one changeover, there would be no need to distinguish between "an owner" and "the applicant owner" in Sentence #1. That sentence could simply have said that the applicant owner needs to live in the unit for six years. The second sentence could then provide the exception to that general rule, allowing one changeover in the unit.

The most natural and logical interpretation of the distinction between "owner" and "applicant owner" in Sentence #1 is that there is intended to be a difference between changeovers without an interruption in occupancy, and changeovers with an interruption. The former, changeovers without an interruption, are not limited to one per building; the only limitation is that the last owner occupant(s) must be live in the unit(s) for at least one year prior to application. It is only changes with an interruption in owner-occupancy that are subject to the one-per-building limit.

In short, the applicants believe that DPW's interpretation represents an unnatural reading of the ECP law, and one that would undermine the intent of the Supervisors who drafted and approved the owner tacking amendment. Moreover, DPW's interpretation would severely impact a large number of owners, while benefitting no one (since the affected units have already been off of the rental market for many years). We therefore respectfully request that the Board overturn DPW's finding of incompleteness, and find that the application is complete as submitted.

Thank you for your consideration of this matter.

Respectfully,



D. Andrew Sirkin
SirkinLaw APC
Applicant's Attorney

BOARD of SUPERVISORS



City Hall
1 Dr. Car. B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No 554-5184
Fax No. 554-5163
TTD/TTY No. 5545227

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:

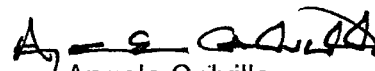
Date: Tuesday, July 28, 2015

Time: 3:00 p.m.

Location: City Hall, 1 Dr. Carlton B. Goodlett Place, Legislative Chamber, Room 250, San Francisco, CA 94102

Subject: File No. 150628. Hearing of persons interested in or objecting to the decision of Public Works dated June 9, 2015, determining that a 6-unit condominium conversion application package submitted for 158-162 Linda Street (Assessor's Block No. 3597, Lot No. 049) is incomplete. (District 8) (Appellant: Rosemarie MacGuinness, on behalf of Clemens Buehling and Archana Sharma, Ramon Marin Sanchez, John Costello and Laura Evetts, Lindsey Rollin, Christine Floyd, and Russell Preston) (Filed June 15, 2015).

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made part of the official public record in this matter, and shall be brought to the attention of the members of the Board. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton Goodlett Place, Room 244, San Francisco, CA 94102. Information relating to this matter is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Friday, July 24, 2015.


Angela Calvillo
Clerk of the Board

MAILED/POSTED: July 17, 2015

Carroll, John (BOS)

From: BOS Legislation, (BOS)
Sent: Thursday, July 02, 2015 11:11 AM
To: dasirkin@earthlink.net; r_macguinness@ticlawyers.com; Givner, Jon (CAT); Byrne, Marlana (CAT); Rahaim, John (CPC); Sanchez, Scott (CPC); Jones, Sarah (CPC); Rodgers, AnMarie (CPC); Starr, Aaron (CPC); Tam, Tina (CPC); Ionin, Jonas (CPC); BOS-Supervisors; BOS-Legislative Aides; Malamut, John (CAT)
Cc: Calvillo, Angela (BOS); Caldeira, Rick (BOS); BOS Legislation, (BOS); Carroll, John (BOS)
Subject: Tentative Map Application Incompleteness Appeal - 158-162 Linda Street - Appeal Hearing Date July 28, 2015

Categories: 150638

Good morning,

The Office of the Clerk of the Board has scheduled an appeal hearing for a Special Order before the Board of Supervisors on **July 28, 2015, at 3:00 p.m.** Please find linked below a letter regarding the Tentative Map Application Incompleteness Appeal for 158-162 Linda Street.

[Clerk of the Board Letter – July 2, 2015](#)

I invite you to review the entire matter on our [Legislative Research Center](#) by following the link below.

[Board of Supervisors File No. 150638](#)

Thank you,

John Carroll
Legislative Clerk
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
(415)554-4445 - Direct | (415)554-5163 - Fax
john.carroll@sfgov.org | bos.legislation@sfgov.org



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RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

1315 JUL 17 PM 2:25



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. 544-5227

PROOF OF MAILING

Legislative File No. 150723

Description of Items: [Public Hearing - Tentative Map Application Incompleteness Appeal - 158-162 Linda Street]
Hearing of persons interested in or objecting to the decision of Public Works dated June 9, 2015, determining that a 6-unit condominium conversion application package submitted for 158-162 Linda Street (Assessor's Block No. 3597, Lot No. 049) is incomplete. (District 8) (Appellant: Rosemarie MacGuinness, on behalf of Clemens Buehling and Archana Sharma, Ramon Marin Sanchez, John Costello and Laura Evetts, Lindsey Rollin, Christine Floyd, and Russell Preston) (Filed June 15, 2015).

{Insert Hearing Title Information}

I, John Carroll, an employee of the City and County of San Francisco, mailed the above described document(s) by depositing the sealed items with the United States Postal Service (USPS) with the postage fully prepaid as follows:

Date: July 17, 2015

Time: 2:25 p.m.

USPS Location: Repro Pick-up Box in the Clerk of the Board's Office (Rm 244)

Mailbox/Mailslot Pick-Up Times (if applicable): N/A

Signature:

Instructions: Upon completion, original must be filed in the above referenced file.

Carroll, John (BOS)


From: Carroll, John (BOS)
Sent: Friday, July 17, 2015 3:43 PM
To: SF Docs (LIB)
Cc: BOS Legislation, (BOS)
Subject: Please Post the Enclosed Linked Hearing Notices
Attachments: Hearing Notice - July 28, 2015 - 645 Texas Street - Tentative Map Appeal; Hearing Notice - July 28, 2015 - 158-162 Linda Street - Tentative Map Application Incompleteness Appeal
Categories: 150723, 150638

Good afternoon,

Please kindly post the hearing notices linked from the accompanying two email messages.

Best to you,

John Carroll
Legislative Clerk
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
(415)554-4445 - Direct | (415)554-5163 - Fax
john.carroll@sfgov.org | bos.legislation@sfgov.org

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Carroll, John (BOS)

From: SF Docs (LIB)
Sent: Friday, July 17, 2015 3:53 PM
To: Carroll, John (BOS)
Subject: Re: Please Post the Enclosed Linked Hearing Notices

Posted/SF Docs/7/17/2015/Laurel Yerkey

From: Carroll, John (BOS)
Sent: Friday, July 17, 2015 3:42 PM
To: SF Docs (LIB)
Cc: BOS Legislation, (BOS)
Subject: Please Post the Enclosed Linked Hearing Notices

Good afternoon,

Please kindly post the hearing notices linked from the accompanying two email messages.

Best to you,

John Carroll
Legislative Clerk
Board of Supervisors
San Francisco City Hall, Room 244
San Francisco, CA 94102
(415)554-4445 - Direct | (415)554-5163 - Fax
john.carroll@sfgov.org | bos.legislation@sfgov.org

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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. 544-5227

July 2, 2015

Rosemarie MacGuinness
Attorney, SirkinLaw APC
On behalf of owner/occupants of 158 Linda Street
388 Market Street, #1300
San Francisco, CA 94111

Subject: Tentative Map Application Incompleteness Appeal - 158-162 Linda Street

Dear Ms. MacGuinness:

This is in reference to the appeal you submitted concerning rejection of the subject Tentative Map Application for property located at:

158-162 Linda Street, Assessor's Block No. 3597, Lot No. 049.

Pursuant to the attached determination from the Office of the City Attorney and California Government Code, Section 65943(c), an appeal hearing has been scheduled on **Tuesday, July 28, 2015, 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 12:00 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.

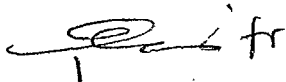
For the above, the Clerk's office requests one electronic file (sent to bos.legislation@sfgov.org) and one hard copy of the documentation for distribution.

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.

Appeals filed pursuant to Government Code, Section 65943(c) are not subject to an appeal filing fee. With a copy of this letter, we are hereby returning the check you made at the time of filing, payable to Public Works for \$298, which has not yet been deposited by the department.

If you have any questions, please feel free to contact John Carroll, Legislative Clerk, at (415) 554-4445.

Sincerely,



Angela Calvillo
Clerk of the Board

c:

Jon Givner, Deputy City Attorney
Kate Stacy, Deputy City Attorney
Marlena Byrne, Deputy City Attorney
John Malamut, Deputy City Attorney
Mohammed Nuru, Director, Public Works
Jerry Sanguinetti, Public Works-Bureau of Street Use and Mapping
Fuad Sweiss, City Engineer, Public Works
Bruce Storrs, Public Works
Scott Sanchez, Zoning Administrator, Planning Department
Sarah Jones, Planning Department
AnMarie Rodgers, Planning Department
Aaron Starr, Planning Department



DENNIS J. HERRERA
City Attorney

JOHN D. MALAMUT
Deputy City Attorney

Direct Dial: (415) 554-4622
Email: john.malamut@sfgov.org

MEMORANDUM

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: John D. Malamut
Deputy City Attorney *JDM*

DATE: July 1, 2015

RE: **Tentative Map Disapproval Appeal (June 15, 2015) for 158-162 Linda Street**

On June 17, 2015, you forwarded the abovementioned appeal to our office to determine if the matter is appealable to the Board of Supervisors. Due to the unique circumstances of the appeal, our determination took longer than anticipated. Our office has concluded that the appeal was timely and appropriately filed with the Board of Supervisors, but the legal framework that the appellant invoked for the appeal is not applicable.

On June 9, 2015, Bruce Storrs, the City and County Surveyor, on behalf of Public Works (PW), determined that the subdivision map application for a 6-unit condominium conversion at 158-162 Linda Street was incomplete. His letter to the applicant states: "[t]his application is being returned at this time. If you choose to resubmit, please do so once the applicants are eligible for conversion." Mr. Storrs decision was not a disapproval of the tentative map itself, but rather a determination that the application was incomplete.

The appellant invoked San Francisco Subdivision Code Section 1314 as the basis for bringing the appeal. However, Section 1314 applies only to PW's determination to approve, conditionally approve, or deny tentative subdivision or tentative parcel maps. As stated above, PW's decision concerned the application's completeness. It was not a tentative subdivision map denial. Therefore, Subdivision Code Section 1314 is inapplicable to this appeal. Nevertheless, the California Permit Streamlining Act (California Government Code Sections 65920 et seq.) does provide for an appeal right to a city's or county's decision that an application for a permit, like a tentative subdivision map, is incomplete.

Government Code Section 65943(c) provides that the determination of permit application incompleteness can be appealed to the city's governing body, here the Board of Supervisors. This Section states that a "final written determination by the agency on the appeal" shall occur no later than 60 calendar days after receipt of the applicant's written appeal. If the written determination is not made within this 60-day time frame, then the application is "deemed complete".

Unlike appeals of tentative subdivision or tentative parcel maps, San Francisco has no adopted rules for an appeal under Government Code Section 65943. There is no deadline to timely file the appeal, there is no appeal fee, and there are no procedures for noticing and conducting the Board's appeal hearing.

MEMORANDUM

TO: Angela Calvillo
Clerk of the Board of Supervisors
DATE: July 1, 2015
PAGE: 2
RE: Tentative Map Disapproval Appeal (June 15, 2015) for 158-162 Linda Street

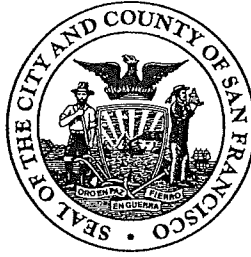
Despite the fact that the appellant invoked the wrong appeal procedure, our office feels that the appeal was properly filed for purposes of Government Code Section 65943 in light of PW's determination that the subdivision map application was incomplete. The appeal should not be rejected simply because the appellant cited to the wrong appeal procedures.

In the absence of San Francisco rules for this appeal, we offer the following recommendations concerning the deadline for filing the appeal, the appeal fee, and hearing procedures. Even though there is no adopted appeal filing deadline, the appeal was filed within 6 days of PW's determination. Such an appeal would have been considered timely under any comparable San Francisco land use appeal process, so this appeal should be considered timely and validly filed. Government Code Section 65943(e) does allow an appeal fee to be charged; yet, it requires that the fee be collected as part of the application fee charged for the subdivision/permit. San Francisco has no such legislatively adopted fee, therefore, the appeal fee should be refunded to the appellant. In regard to the hearing procedure, Government Code Section 65943(c) sets forth a deadline for the Board to hear and decide the appeal within 60 days of the receipt of the appeal, but includes no other information regarding notice or the conduct of the hearing. We recommend that the Clerk calendar an appeal hearing within 60 days of its June 15 receipt of the written appeal and follow the Board's and Clerk's standard procedures for notice and conduct of the hearing that are followed for other land use appeals.

If you have further questions about this memorandum or the appeal, please do not hesitate to contact me.

cc: Jon Givner


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. 544-5227

June 17, 2015

To: Jon Givner
Deputy City Attorney

From:  Angela Calvillo
Clerk of the Board of Supervisors

Subject: Tentative Map Disapproval Appeal - 158-162 Linda Street

An appeal of Public Works decision disapproving the Tentative Map for 158-162 Linda Street was filed with the Office of the Clerk of the Board on June 15, 2015, by Rosemarie MacGuinness, on behalf of the owner/occupants of 158 Linda Street.

I am forwarding this appeal, with the attached documents, to the City Attorney's office to determine if the matter is appealable to the Board of Supervisors. The City Attorney's determination should be made within three (3) working days of receipt of this request.

If you have any questions, please feel free to contact Legislative Clerks, Joy Lamug at (415) 554-7712, or John Carroll at (415) 554-4445.

c: Kate Stacy, Deputy City Attorney
Marlena Byrne, Deputy City Attorney
John Malamut, Deputy City Attorney
Bruce Storrs, Public Works

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):

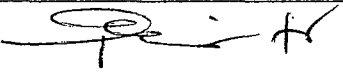
Clerk of the Board

Subject:

Public Hearing - Tentative Map Application Incompleteness Appeal - 158-162 Linda Street

The text is listed below or attached:

Hearing of persons interested in or objecting to the decision of Public Works dated June 9, 2015, determining that a 6-unit condominium conversion application package submitted for 158-162 Linda Street (Assessor's Block No. 3597, Lot No. 049) is incomplete. (District 8) (Appellant: Rosemarie MacGuinness, on behalf of Clemens Buehling and Archana Sharma, Ramon Marin Sanchez, John Costello and Laura Evetts, Lindsey Rollin, Christine Floyd, and Russell Preston) (Filed June 15, 2015).

Signature of Sponsoring Supervisor: 

For Clerk's Use Only:

