

New round coming up in hotel vs. housing fight

'Empress,' from page 1

lack of compliance by the Empress owners to submit the mandatory annual usage report of its hotel rooms.

The Patels, through their former attorney, Luen Lam, claimed that the usage reports had been routinely filed, albeit late. Shaw and his supporters never bought that argument and filed a request with Zoning Administrator Lawrence Badiner to offer a determination on the issue based on the evidence they submitted.

Shaw won. Badiner's letter of determination of April 21, 2001, states that there was no proof of continuous use of the 58 tourist rooms in question for the required three years or more. The city called it "abandonment" of use.

The Patels' new attorney, Andrew Zacks, went to the Board of Appeals. However Patel lost the appeal on Jan. 9, 2002, when three members of the board voted against him and in favor of the zoning administrator's determination. Appeals Board President Arnold Chin and member Allam El Qadah, however, voted against the City's findings.

Meanwhile, the West Cork group was continuing to make 30 rooms available for long-term use. The appeals board vote meant, however, that the remaining rooms were also considered residential units, thus putting all 88 rooms on the housing market.

That could be the end of the story, but there's yet another chapter. Attorney Zacks is traveling a new road in this long journey by claiming "discrimination." Zacks charges in his brief to the Board of Appeals dated February 21 that his client was

"unfairly targeted by the Tenderloin Housing Clinic and the Zoning Administrator and is the victim of discriminatory enforcement of the Planning Code."

In a recent phone interview, Zacks claimed that two neighboring hotels—the Metropolis and the Bijou—have checkered pasts similar to the Empress'. Zacks said both were given the go ahead by the city to operate in spite of a history of apparent neglect and abandonment much paralleling the Empress saga.

The Hotel Metropolis is owned by the Personality Hotels on Union Square group (Frank Lembi and daughter Yvonne) and the Hotel Bijou is part of Joie de Vivre, Chip Conley's enterprise. Both operations are high profile and innovative promoters of the concept of "boutique" hotels in the city.

If the appeals board buys Zacks' argument of discrimination, it will have to vote 4 out of 5 in favor of rehearing the case. If, by chance, the vote goes in favor of a new rehearing, all starts fresh again, making it possible that the previous decision by the appeals board could be overturned. This item on rehearing is scheduled to go before the board's regular City Hall meeting at 5 p.m. on June 5.

The West Cork group no longer operates the hotel. In mid-April there was a parting of the ways between the Empress and the West Cork investors, with the Empress group holding the property and a management company is now handling day-to-day operations for the current residents.

Will there be a happy ending? That just depends on who's telling the story. ■

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the San Francisco Study Center, 1095 Market Street, Suite 602, San Francisco, CA 94103.

Phone: (415) 626-1650 Fax: (415) 626-7276

E-mail: centralcityextra@studycenter.org

Editor and Publisher: Geoffrey Link

Senior Writer/Editor: Marjorie Beggs

Reporters: Karen Oberdorfer, Mal Karman, Tom Carter

Design and Graphic Artist: Carl Angel

Photographers: Lenny Limjoco, Carl Angel

Contributors: William Roller, Adrian D. Varnedoe, Diamond Dave, William Crain,

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