

# REUBEN, JUNIUS & ROSE, LLP

**Justin A. Zucker**  
jzucker@reubenlaw.com

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**Delivered Via E-mail:** boardofappeals@sfgov.org

President Darryl Honda and Commissioners  
San Francisco Board of Appeals  
49 South Van Ness, Suite 1475 (14<sup>th</sup> Floor)  
San Francisco, CA 94103

**Re: Status Update Regarding Appeal No. 18-140**  
**Complaint No.: 2018-004446ENF**  
**Property: 1686 Market Street**  
**Our File No.: 8608.50**

Dear President Honda and Commissioners:

Our office is working with SIC-MCM 72 Gough Street LP, owner (“**Owner**”) of the 3-story, mixed-use building at 1686 Market Street, which houses Espetus Churrascaria, Inc. (“**Espetus**”). On May 15, 2019, Espetus’ appeal of a Notice of Violation and Penalty Decision pertaining to smoke and odor emissions was granted with the understanding that a replacement smoke and odor suppression system (“**Pollution Control Unit**”) permit had been submitted and would be installed after permit issuance. In granting the appeal, this Commission imposed penalties to accrue if a Certificate of Final Completion (“**CFC**”) for the Pollution Control Unit is not obtained within twelve weeks of permit issuance. While the permit for the Pollution Control Unit has been issued additional construction permits are required, including a new fire alarm, hood suppression, and sound barrier wall. All of which must be completed to obtain a CFC and were not known at the time of the appeal. We respectfully request an extension of the 12-week timeline.

**San Francisco Office**  
One Bush Street, Suite 600, San Francisco, CA 94104  
tel: 415-567-9000 | fax: 415-399-9480

**Oakland Office**  
492 9<sup>th</sup> Street, Suite 200, Oakland, CA 94607  
tel: 510-527-5589

www.reubenlaw.com

### **Pollution Control Unit Plan Review**

The Pollution Control Unit permit was submitted in May 2019. Processing of the Pollution Control Unit permit, while admittedly delayed some due to preparation of as-built plans in 2019, was stuck in the quagmire of the Department of Building Inspection's ("DBI's") electronic plan review roll out last year. There was a seesawing of the permit being processed in paper at first, then requested to be done electronically, and eventually back to paper. All the while, the Pollution Control Unit was ordered in August 2019, delivered, and is sitting waiting for install. The Pollution Control Unit permit issued on March 24, 2021, and the appeal period for that building permit ran without any challenges.

During processing of the Pollution Control Unit permit, it was determined that additional work and permits were needed to obtain a CFC for the system. The Zoning Administrator imposed a condition of approval on the Pollution Control Unit permit that a sound wall barrier be installed to reduce noise emanating from the rooftop equipment as recommended by the Owner's sound consultant, Charles M. Salter. A permit for the sound barrier wall (BPA No. 2020.10.21.7032) was submitted October 2020 and issued earlier this year. The sound wall barrier has been ordered. However, like many other things there is a much longer lead time for some parts of the sound wall barrier. Some pieces are coming from China and hung up in logistics delays. The sound wall barrier should be delivered for installation in approximately nine weeks.

In addition, the Fire Department's plan check of the Pollution Control Unit permit has required a new fire alarm and hood suppression system. A permit for the new fire alarm (BPA No. 2020.01.30.3114) was submitted January 2020. The fire alarm permit is still being processed. The hood suppression requires a permit from the Fire Department. Pre-Covid, the hood suppression

permit could be obtained over the counter. The Fire Department is anticipating opening for permitting soon and the Owner should be able to get the hood suppression permit over the counter again rather than through the intake process. While the Owner is moving forward with installation of the Pollution Control Unit, it is uncertain when the fire alarm permit will be issued for its installation. Without the fire alarm permit, no CFC can be obtained for the Pollution Control Unit and the Owner sits at the whim of DBI's permit processing, which has been challenging and unpredictable. As a result, Owner requests penalties not accrue until three weeks after issuance of the fire alarm permit to allow time for installation and inspections of the system.

#### **Pollution Control Unit Construction Timeline**

The Pollution Control Unit requires new ducting and hood. The kitchen will have to be disassembled for the installation of the new ducts and hood. Thereafter, the Pollution Control Unit and sound wall barrier will be installed on the roof once the sound wall barrier is delivered. The installation of the ducts and hood is anticipated to take approximately four weeks. Approximately another two weeks is needed for installation of the Pollution Control Unit and the sound barrier wall. The installation of the fire alarm is anticipated to take approximately two to three weeks. What remains unknown, however, is when the fire alarm permit will be issued.

#### **Conclusion**

The permit for the Pollution Control Unit has been issued and work to install the system is underway. However, when DBI will issue a needed fire alarm permit for the system is uncertain. As such, we respectfully request an extension of the previously imposed timeline to three weeks after issuance of the fire alarm permit to allow for installation of the alarm system and inspections to take place to obtain a CFC for the Pollution Control Unit.

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Page 4 of 4

We have given the Home Owner's Association at 55 Page Street attorney an update on where things stand and will continue to keep him apprised. Thank you for your consideration.

Very truly yours,

**REUBEN, JUNIUS & ROSE, LLP**



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**By: Justin A. Zucker**  
**Attorney for SIC-MCM 72 Gough**  
**Street LP**

cc: Ann Lazarus, Commissioner  
Rick Swig, Commissioner  
Tina Chang, Commissioner  
55 Page Street HOA (*via email only* shammond@clarkhill.com)