



Date Filed: February 17, 2021

**City & County of San Francisco
BOARD OF APPEALS**

JURISDICTION REQUEST

No. 21-1

Date of request: **February 17, 2021.**

Adrian and Anne Dollard hereby seeks a new appeal period for the following departmental action: **ISSUANCE of Notice of Violation, Complaint Nos. 7402.ENF and 2020-005902ENF** by the **Zoning Administrator**, for property at **1812-1816 Green Street**, that was issued or became effective on **January 26, 2021**, and for which the appeal period ended at close of business on **February 10, 2021.**

Your **Jurisdiction Request** will be considered by the Board of Appeals on Wednesday, **March 3, 2021 at 5:00 p.m. and will be held via the Zoom video platform.**

The **RESPONSE** to the written request for jurisdiction must be submitted by the department(s) **by 4:30 pm on or before February 25, 2021**, and must not exceed 6 pages in length (double-spaced), with unlimited exhibits. An electronic copy shall be submitted to the Board office via email to: boardofappeals@sfgov.org with additional copies emailed to the Requestors on the same day.

You or your representative **MUST** be present at the hearing. It is the general practice of the Board that only up to three minutes of testimony from the requestor, the permit holder, and the department(s) will be allowed. Your testimony should focus on the reason(s) you did not file on time, and why the Board should allow a late filing in your situation.

Based upon the evidence submitted and the testimony, the Board will make a decision to either grant or deny your Jurisdiction Request. Four votes are necessary to grant jurisdiction. If your request is denied, an appeal may not be filed and the decision of the department(s) is final. If your request is granted, **a new five (5) day appeal period shall be created which ends on the following Monday**, and an appeal may be filed during this time.

Name: Thomas Tunny, Attorney for Requestors

Reuben, Junius & Rose, LLP

Address: One Bush Street, Suite 600, San Francisco, CA

Phone: 415-567-9000

Email: ttunny@reubenlaw.com

Via Email

Signature of Requestor or Agent

REUBEN, JUNIUS & ROSE, LLP

February 16, 2021

President Ann Lazarus
San Francisco Board of Appeals
49 South Van Ness Avenue, Suite 1475
San Francisco, CA 94103

Re: Jurisdiction Request
Subject Property: 1812 Green Street
Notice of Violation dated January 26, 2021
Brief in Support of Request
Our File No.: 11256.01

Dear President Lazarus and Members of the Board:

This office is working with Anne and Adrian Dollard, the owners of 1812 Green Street (the “Property”). Anne and Adrian and their three children have lived at the Property for almost 20 years.

Summary of Argument: The City Has Restricted the Ability to Meet Enforcement Deadlines with its Shelter-In-Place Rules, Without Reasonably Adjusting the Deadlines

On January 26, 2021, the Planning Department issued a Notice of Violation for the Property concerning the restoration of a second dwelling unit and the legalization of a roof deck (the “NOV”). **(Exhibit A.)** The first page of the NOV states as follows:

****IMPORTANT NOTE**** The Department recognizes the challenges of the City’s Stay-Safe-At-Home Order and its underlying cause. However, corrective actions should be taken as early as reasonably possible. Please contact the assigned Enforcement Planner with questions and/or to submit evidence of correction. Delays in abatement of the violation beyond the timeline outlined in this notice will result in further enforcement action by the Planning Department,

including assessment of administrative penalties of \$250 per day once Notice of Violation becomes Final. The timeline to respond to this Notice of Violation is fifteen (15) days.

The NOV also expressly provides: “Should you need additional time to respond to and/or abate the violation, please discuss this with the assigned Enforcement Planner, who will assist you in developing a reasonable timeline.”

In compliance with the NOV and its advisement, we contacted the enforcement planner within the fifteen-day deadline with a reasonable request for a 30-day extension to submit the required building permit applications and architectural drawings to abate the violation. It is simply not possible to prepare building permit applications and architectural drawings for the restoration of a dwelling unit and the legalization of a roof deck in 15 days given the realities of the pandemic and the City’s Shelter-In-Place orders. One agency of the City (the Planning Department) is demanding that the Dollards and their consultants act immediately, and another agency (the Mayor’s Office) is telling them they cannot act. In blatant disregard of its own notice and the City’s lockdown status, the Planning Department, instead of “recognizing the challenges of the City’s Stay-Safe-At-Home Order and its underlying cause” and “assisting us in developing a reasonable timeline” [its own words], rejected our request and began imposing \$250 per day penalties for a failure to respond adequately to the NOV.

The Department’s stated rationale was that the enforcement case had been open for 15 years (even though the roofdeck enforcement is just a few months old), deceptively implying delay on the part of the Dollards. In reality, the length of time this matter has been open is a great source of frustration to the Dollards and has resulted from the City directing the Dollards to pursue no fewer than five different paths towards resolving the case, each of which the Dollards

pursued diligently to the point of near conclusion only to be told by the City at the last minute that path the City had suggested was the incorrect procedure for handling the case (this happened five times). Further, in contradicting their own offer to arrange a reasonable timeline for compliance, the Staff stated that “[t]he owners had the opportunity to file an appeal on the NOV which would have allowed for additional time but neither ZA nor BOA appeal was filed as of yesterday.” In other words, instead of recognizing the practical difficulties of the ongoing pandemic and the challenges it presents in preparing building permit applications, and allowing the Dollards 30 days to comply, Staff incredulously stated that we should have instead filed an appeal solely to get more time to act. We had not filed an appeal as we reasonably and in good faith believed that the request for 30 additional days was preferable to all involved rather than a series of appeals to the Zoning Administrator and this Board. But apparently, we were wrong to believe the Staff’s own statement about pandemic-related timing, which, alas, is what brings us now to the Board. Given all of the foregoing and the fact that the deadline to file an appeal of the NOV has passed, we respectfully request that the Board find that “the City intentionally or inadvertently caused the requestor to be late in filing the appeal” (Rules of the Board of Appeals, Art. V, Sec. 10(a)), and take jurisdiction over our appeal of the NOV.

Brief Background

This entire matter began almost 20 years ago, when the Dollards purchased the Property with the intention of making it their family home. When they toured the Property, it was being used as two, two-bedroom flats, though the bedrooms and kitchen of the second unit were improvised in nature – the refrigerator was housed inside a walk-in closet, temporary exterior piping supplied water and gas to the kitchen, and the walls demising the bedrooms were particle board nailed to the top of the finished flooring. The seller of the building supplied them with a

3-R Report dated April 24, 2002 and they separately obtained a computer printout from the Planning Department Office of Analysis and Information Systems, each stating that the Property's original and current legal authorized was as a One Family Dwelling. (**Exhibit B.**) Many single-family homes in San Francisco were illegally converted into duplexes or apartments during the two World Wars, including many in the Property's neighborhood, so it was not surprising that the legal use of the building differed from how it was actually being used when they first saw it.

Based on the April 24, 2002 3-R Report and the supporting physical condition of the building, the Dollards purchased the Property with the intention of restoring it to its original and current legal authorized use as a single family dwelling. They began using the building as a single family home and started obtaining permits to revert the building to a single family home. After completing work in the ground floor and basement area, they submitted an application on February 21, 2003 to remove the illegal second floor kitchen. After the permit was issued, a planner in the Planning Department who had not been involved in their submissions requested the permit be routed to her (unbeknownst to the Dollards). Without any discussion with the Dollards, this planner then returned the permit to the Department of Building Inspection ("DBI") with a notation to suspend the permit on the basis that the Property was being used as a duplex. This planner retired on the same day that she took this action on our permit, and the Dollards subsequently learned she was a close, personal friend of a previous tenant in the building, raising questions about the circumstances around and the propriety of her actions on their case.

The Dollards appealed the permit suspension to this Board in 2005, beginning the highly stressful ordeal that continues until this day. In ruling on the permit suspension appeal, the Board relied on the fact that the Dollards still had a reasonable administrative solution available

to them. The Board advised the Dollards to submit an application with Planning to remove the second unit by unit merger and return to the Board if that merger was not granted. At that time, because the unit was illegal, the Planning Code allowed for its removal administratively without a Planning Commission hearing (which is not the case today). The Dollards followed the Board's directive, but before the approval could be granted, the law was changed and a conditional use authorization was required for the removal of an illegal unit.

Given the change in the law, in 2018, the Dollards met with officials from DBI and the Planning Department, including the enforcement planner today, seeking guidance on how to proceed. The Dollards were directed to file a permit application for a Unit Count Verification as a means of resolving this unusual case. They filed that application in November 2018 and requested it include routing to Planning Staff even though such permits normally are not routed that way. When separate Planning Staff reviewed the Unit Count application, they directed the Dollards to file a Conditional Use Authorization application based on the new law. The Unit Count Verification permit was never acted upon and the Planning Commission considered the Conditional Use Authorization at a public hearing on November 12, 2020. The Planning Commission denied the Authorization by a 4-3 vote, but did so in large part based on erroneous legal advice from Planning Department Staff. Commissioners discussed whether this Board should hear the Dollard's contention about the Property's legal use and their removal of the illegal unit prior to any Planning Commission action on a Conditional Use Application. Staff advised the Commission that a mandatory discretionary review hearing was required for the removal of an illegal dwelling unit when the Dollards originally attempted to do so (and therefore it would not matter what this Board determined about the status of the second unit). But this was incorrect. No hearing was required and the removal could be approved

administratively (a fact also noted correctly by this Board at the time of its prior hearing). This was an important error that the Commissioners relied on in making their decision and resulted in a manifest injustice in this case.

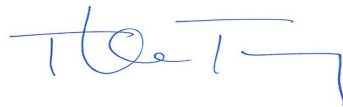
Based on this error, the Dollards filed an appeal to the Board of Supervisors of the Conditional Use decision. The appeal was not accepted on the grounds that it did not have sufficient signatures, but the Dollards' mapping consultant found discrepancies in the City's calculations. The Dollards have spent the last three weeks attempting to resolve these discrepancies with the City Surveyor. At the same time, they have been working with their design and engineering professionals to work out a resolution for the second unit and the roof deck. Both of these projects present significant engineering and design complexities in achieving legalization.

Conclusion

Based on all of the foregoing, we respectfully request that the Board take jurisdiction of this matter and allow the Dollards to appeal the NOV. It was not physically possible for them to prepare architectural drawings and submit permit applications within the 15 days being required by Planning Department Staff given the realities of the pandemic and the City's Shelter-In-Place Order. They reasonably requested 30 days to meet these deadlines and Staff said no, and that they should have filed an appeal. We ask that the Board allow us to follow that guidance.

Very truly yours,

REUBEN, JUNIUS & ROSE, LLP



Thomas Tunny

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February 16, 2021
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Enclosures

cc: Julie Rosenberg, Board of Appeals Executive Director
Corey Teague, Zoning Administrator
Tina Tam, Enforcement Planner
Rachna Rachna, Enforcement Planner

Exhibit A



****IMPORTANT NOTE****

The Department recognizes the challenges of the City's Stay-Safe-At-Home Order and its underlying cause. However, corrective actions should be taken as early as reasonably possible. Please contact the assigned Enforcement Planner with questions and/or to submit evidence of correction. Delays in abatement of the violation beyond the timeline outlined in this notice will result in further enforcement action by the Planning Department, including assessment of administrative penalties of **\$250 per day once Notice of Violation becomes Final.**

The timeline to respond to this Notice of Violation is fifteen (15) days. Starting on the 16th day of this notice, penalties of \$250 per day will begin. As such, we highly encourage you to immediately reach out to the assigned Enforcement Planner to discuss the corrective steps to abate the violation. Should you need additional time to respond to and/or abate the violation, please discuss this with the assigned Enforcement Planner, who will assist you in developing a reasonable timeline.

Pursuant to Planning Code Section 350(g)(1), the Planning Department shall charge for 'Time and Materials' to recover the cost of correcting Planning Code violations. The base amount for Enforcement T&M Fee is \$1,504 and is different from the administrative penalty of \$250/day. Additional fees may apply if more time is needed to review and monitor the enforcement case and assist you with abating the violation.

Please note there is NO in-person consultation available at 49 South Van Ness at this time due to COVID-19. Please do not visit 49 South Van Ness without an appointment. For questions about this enforcement case, please email the assigned enforcement planner as noted in the attached notice. For questions about the Building Code or building permit process, please email DBI at the email address noted in the attached notice.



NOTICE OF VIOLATION

January 26, 2021

Property Owner

Adrian E & Anne L Dollard
1812 Green Street
San Francisco, CA 94123

Site Address: 1812-1816 Green Street
Assessor's Block/Lot: 0543/007
Zoning District: RH-2, Residential, House, Two-Family
Complaint Numbers: 7402_ENF and 2020-005902ENF
Code Violation: Sections 171, 174, and 317, Unauthorized Dwelling Unit Merger (Illegal Conversion of a Two-Family Dwelling to a Single-Family Use);
Sections 172 and 175, Unauthorized Alterations, Work without Permit (including Building Modifications and Illegal Construction of a Roof Deck)
Administrative Penalty: \$250 Each Day of Violation for Each Violation
Enforcement T & M Fee: \$14,070.79 (Current fee, for confirmed violation. Additional charges will apply)
Response Due: Within 15 days from the date of this Notice
Staff Contact: Rachna, (628) 652-7404, Rachna.Rachna@sfgov.org

The Planning Department finds the above referenced property to be in violation of the Planning Code. As the owner of the subject property, you are a responsible party to bring the above property into compliance with the Planning Code. Details of the violation are discussed below:

Description of Violations

Our records indicate that the subject property is authorized as a two-family dwelling. The violations pertain to the illegal merger and/or conversion to a single-family use, unauthorized building alterations and the illegal construction of a roof deck at the subject property. These violations are described in the two active enforcement cases below:

Dwelling Unit Removal (Complaint No.: 7402_ENF)

Two legal dwelling units at the above property have been merged for use as a single-family dwelling. Prior to the merger, the subject property contained two separate dwelling units including one dwelling unit on the first floor and another dwelling unit on the second floor. The kitchen from the second floor dwelling unit has been illegally removed and this dwelling unit has been combined with the dwelling unit on the first floor through an illegal connection or opening between the units without the benefit of a permit and approval from the Planning

Department. This was confirmed through a site visit to the property. Removal of a dwelling unit in such manner is deemed to be a Residential Merger.

Pursuant to Planning Code Section 317(b)(7), "*Residential Merger shall mean the combining of two or more Residential or Unauthorized Units, resulting in a decrease in the number of Residential Units and Unauthorized Units within a building, or the enlargement of one or more existing units while substantially reducing the size of others by more than 25% of their original floor area, even if the number of units is not reduced.*"

Pursuant to Planning Code Section 317(c)(1), a Conditional Use Authorization (CUA) is required for the removal of a dwelling unit. The CUA (Case No.: 2019-017837CUA) to seek legalization of the merger of two dwelling units at the above property was denied by the Planning Commission in a public hearing on November 12, 2020. An appeal was filed on the denial of 2019-017837CUA to the Board of Supervisors (BOS) on December 14, 2020, however this appeal was deemed inadequate on December 23, 2020 as the appeal request did not contain signatures of owners of at least 20% of the land area. Consequently, the subject property is deemed to be in violation for the illegal dwelling merger. Accordingly, you are required to reinstate the above property to its last authorized use as a two-family dwelling with a building permit in order to bring the above property into compliance with the Planning Code.

Roof Deck (2020-005902ENF)

A roof deck has been constructed at the above property without the benefit of a permit and approval from the Planning Department. The access to the roof deck has been created through an interior staircase installed in the livable space on the second floor at the above property. The subject roof deck is required to meet the Planning and Building Code regulations and requires approval from the Planning Department and the Department of Building Inspection (DBI).

Pursuant to Planning Department Standards and Procedures on Decks, all decks greater than 30 inches above grade, including roof decks require submittal of building permits. Roof decks accessed by internalized staircases or roof hatches are required to meet the following parameters:

- Are less than 500 square feet (measured cumulatively including all other decks, balconies or terraces 10 feet above grade or higher); and
- Inclusive of minimum-height railings and means of access, are set back at least 5 feet from all shared lot lines, light wells, and front building walls.

Roof decks exceeding the above parameters require design review by the Planning Department staff and may be required to be modified to ensure:

- Adequate separation of uses, privacy screens, and parapets to buffer roof decks from adjacent windows and outdoor spaces;
- The existing pattern, size, location and prevalence of open space is respected; and
- Parapets and windscreens are designed to be minimally visible from the street and compatible with neighborhood character while minimizing the effects of additional building mass on adjacent properties.

If a proposed roof deck or access to it is on a portion of the structure that encroaches into a required yard or setback, or a 'non-complying' structure under the Planning Code, then all railings must be of an open design and

are limited to 42 inches in height. In these cases, the Planning Department will notify owners and occupants of all properties which border the subject property, who will be given a 10-day period to raise any concerns they might have regarding the project.

For further information, please review Standards and Procedures for Decks available from the Planning Department website at <https://sfplanning.org/resource/decks-and-roof-decks>.

A building permit is required to seek legalization or modification of the roof deck in conformance with the above roof deck standards. Please submit accurate pre-existing and proposed floor plans (of all levels); a dimensioned site plan and a roof plan showing distance from all four property lines to the roof deck and required rear setback line; before and after roof photos; and interior photos showing access to the roof deck. If the roof deck does not meet the Planning Code and Building Code requirements and cannot be legalized, it will be required to be modified or removed.

Pursuant to Planning Code Section 172, no structure shall be constructed, reconstructed, enlarged, altered, or relocated in a manner that is not permissible under the limitations set forth in the Planning Code for the district in which such structure is located.

Pursuant to Planning Code Section 175, a Building Permit is required for the construction, reconstruction, enlargement, alteration, relocation, or occupancy of any structure in compliance with the Planning Code.

Pursuant to Planning Code Section 171, structures and land in any zoning district shall be used only for the purposes listed in the Planning Code as permitted in that district, and in accordance with the regulations established for that district. Further, pursuant to Planning Code Section 174, every condition, stipulation, special restriction, and other limitation under the Planning Code shall be complied with in the development and use of land and structures. Failure to comply with any of these provisions constitutes a violation of the Planning Code and is subject to an enforcement process under Planning Code Section 176.

Timeline of Investigation

On March 26, 2003, Building Permit Application (BPA) No.: 2003.01.28.6145 was suspended by DBI as this permit application erroneously stated the existing and proposed number of units at the above property as one (1). The permit application misrepresented the existing kitchen in the first floor dwelling unit as only having a wet bar and stated the permit scope as, "*Relocate existing proposed staircase. Revision to PA 200209116208. Delete wetbar @ 1st floor to regular cabinet.*" This permit was not routed to the Planning Department for review and was suspended at the request of the Planning Department.

On June 4, 2003, the Board of Appeals (BOA) held an appeal hearing on the suspension action and upheld the suspension of BPA No.: 2003.01.28.6145. At your request for a rehearing on this appeal, BOA continued the matter to the call of chair so that you can go forward with the Planning Department's then discretionary review process to seek removal of one dwelling unit at the above property.

On August 12, 2003, BPA No.: 2003.02.21.8004 was disapproved by the Planning Department as this permit application stated the existing and proposed use of the above property as a single-family and misrepresented an existing kitchen on the second floor as an illegal kitchen and proposed to remove it. While the permit application

did not specify which floor's kitchen was proposed for removal, the removal of an existing legal kitchen nonetheless in this manner was deemed to be a Dwelling Unit Merger (DUM) which required a mandatory Discretionary Review process subject to a Planning Commission hearing and decision.

On August 20, 2003, BPA No.: 2003.08.20.2548 was approved for interior layout changes in the second floor unit. This permit application stated the correct legal and proposed use of above property as a two-family dwelling. The plans submitted with this application showed restoration of two legal dwelling units and stated the permit scope as, "*Revision to BPA 2002.09.11.6208 and to maintain the above property as two-units.*" While this permit did not acknowledge the previous illegal kitchen removal, it did state the proposed use is a two-family dwelling. However, this permit expired on April 12, 2005.

On July 19, 2005, DBI sent you a Notice of Violation (NOV) for the illegal merger of a two-family dwelling into a single-family dwelling at the above property without approval from DBI and the Planning Department.

On July 21, 2005, the Planning Department sent you a NOV for the same violation - illegal merger of a two-family dwelling into a single-family dwelling at the above property. The NOV required you to abate the violation by either filing a new building permit application to reinstate the second dwelling unit or seek legalization for the residential merger within fifteen (15) days from the date of that notice.

On August 1, 2005, your legal representative, Alice Barkley at Luce, Forward, Hamilton, and Scripps, LLP requested a 30-days extension to respond to the July 21st NOV and submit a proposal to abate the violation.

On August 17, 2005, the Planning Department staff, Rachna met with Ms. Barkley to discuss the DUM violation and abatement options.

On October 19, 2005, another legal representative, Kenneth Tze at Luce, Forward, Hamilton, and Scripps, LLP sent a letter to Rachna to indicate that the above property was being used as a single-family as the kitchen from the second floor had already been removed. To comply with the NOV, Mr. Tze submitted a proposal to create a second unit on the basement floor in-lieu of the dwelling unit lost on the second floor.

On November 30, 2005, Rachna conducted the site visit to verify the existing conditions and confirmed the illegal removal of the kitchen on the second floor at the above property.

On January 10, 2006, you submitted a revised proposal to create a second unit on the basement floor. Rachna informed you that the proposal as submitted would trigger a Discretionary Review Application (DRA) since it would still result in a dwelling unit merger of the upper two floors.

On April 13, 2006, Ms. Barkley withdrew your request for rehearing on suspension of BPA No.: 2003.01.28.6145. The withdrawal letter indicated that Ms. Barkley had advised you to proceed with an application for unit merger with the Planning Commission.

On April 14, 2006, BOA upheld the suspension of BPA No. 2003.01.28.6145. Accordingly, you were required to go through the DRA to seek legalization of the merger.

On June 19, 2006, the Planning Department staff, David Lindsay and Rachna reviewed your preliminary proposal to create a second dwelling unit and advised you to file a DRA as the proposal resulted in a dwelling unit merger for the units on the upper two floors.

On August 23, 2006, Rachna provided you further information on the DUM process and directed you to file a DRA accordingly.

On January 5, 2007, DBI sent you a second NOV requiring you to abate the violation by filing a corrective permit to reinstate the second unit on the second floor or a DRA to seek legalization of the merger.

On May 4, 2007, Rachna contacted Mr. Tze to find out the status of the corrective action. Mr. Tze informed Rachna that you were working on the DRA.

On October 4, 2007, the Planning Department sent you a Notice to Cease Violation requiring you to submit the DR application by October 31, 2007.

On December 3, 2007, you filed BPA No. 2007.12.03.9456 to seek legalization of the merger at the above property. The required DRA was not filed.

On April 16, 2008, you filed the accompanying DRA (Case No.: 2008.0442D) to seek legalization of the merger at the above property.

On January 2, 2009, BPA No. 2007.12.03.9456 was disapproved by the Planning Department due to your failure to response to the Planning Staff and comply with the five criteria established by the Planning Commission needed to process your unit merger application. However, at your request, DBI did not cancel you permit, and instead gave you a one-year extension to work with the Planning Department and seek their approval.

On January 22, 2010, BPA No. 2007.12.03.9456 was cancelled as you again failed to respond to the Planning Department and provide the required and necessary information for review.

On January 1, 2011, the accompanying DRA No.: 2008.0442D was cancelled as you failed to respond to the Planning Department and provide the required and necessary information for review.

On August 4, 2011, DBI conducted a Director' Hearing on DBI's NOV. DBI's complaint case regarding the illegal dwelling unit merger remains active and open.

On April 25, 2012, seeing there was no action taken since the corrective permit and DR application were cancelled the Planning Department sent you an Enforcement Notification (EN) requiring you to abate the violation by filing a permit to either reinstate the second dwelling unit or legalize the merger within fifteen (15) days from the date of that notice.

On June 8, 2012, Rachna had a meeting with you at the Planning Department. You informed Rachna that you intend to request for a Letter of Determination (LOD) to seek determination that the authorized use of the above property is single-family. You stated that you have information showing that the subject property was originally constructed and occupied as a single-family residence and that there was no permit to convert the single family to a two-family dwelling at the above property. You stated that if you did not get the determination on the

authorized use as a single-family dwelling, you would then submit a new building permit and DRA to address the merger violation.

On August 2, 2012, you informed Rachna that you had received permit records from DBI and will submit a LOD request soon with supportive documentation to demonstrate that the original use of the above property as single-family.

On November 21, 2014, you submitted documents about the use history of the above property to Rachna.

On October 14, 2015, Rachna advised you to coordinate with DBI as they are the appropriate agency to verify the legal use of property.

On November 19, 2015, you had a meeting with Rachna to discuss your supportive documents and options for seeking written determination on the legal use of the property. Again, Rachna advised you to reach out to DBI.

On July 25, 2016, Rachna followed up with you to check the status of your coordination with DBI and advised that if there was no resolution on this matter soon, the Planning Department would issue a Notice of Penalty to seek compliance and assess penalties.

On August 15, 2016, you informed Rachna that you would like to seek a written determination from the Planning Department instead of DBI on the authorized number of dwelling units at the above property.

On August 16, 2016, Rachna advised you to file a LOD request along with a current Residential Record Report (3R) from DBI as well as any new information available on the property and permit history.

On September 11, 2016, you informed Rachna that you are gathering information for submittal of a LOD request.

On November 7, 2016, you informed Rachna that you would submit a LOD request that week.

On November 8, 2016, seeing no LOD submittal was made, Rachna advised you again to submit your LOD request or coordinate with DBI.

On December 27, 2016, Rachna contacted you to follow up on the status of your coordination with DBI.

On January 8, 2017, you informed Rachna that you had reached out to DBI staff, Thomas Fessler and Robert Power to discuss this matter.

On May 14, 2018, seeing no action taken, Rachna again contacted you to follow up with DBI.

On May 15, 2018, you informed Rachna that you were still waiting to hear back from Mr. Power to set up a meeting to review the property documents and discuss the next steps.

On May 29, 2018, Rachna informed you that the Planning Department will need to issue a new NOV as this matter had already long been delayed. You informed Rachna that you still hadn't heard back from DBI on how to resolve this matter.

On May 30, 2018, Rachna informed you to submit a Unit Count Verification to DBI as previously directed on Nov. 21, 2014, Nov. 8, 2016, and May 14, 2018 and advised you to discuss this matter with Kevin McHugh, Senior Inspector at DBI.

On June 11, 2018, you informed Rachna that you had a meeting with Mr. McHugh on June 8, 2018 and a site visit was scheduled in the following week.

On August 13, 2018, you informed Rachna that you had a meeting that day with Mr. McHugh and Patrick O'Riordan at DBI and discussed a few potential paths to resolve the outstanding NOVs. You also indicated that you were going to submit a Unit Count Verification to DBI.

On August 18, 2018, Mr. McHugh informed Rachna that this matter was to be further discussed with Joseph Duffy at DBI and a meeting is scheduled after the first week of September. Mr. McHugh also stated that he advised you to submit historical Sanborn maps, assessor and water records and submit a Unit Count Verification to DBI.

On September 27, 2018, Rachna contacted you to check the status of your submittal to DBI.

On September 30, 2018, you informed Rachna that you were going to make a submittal and schedule a meeting with DBI soon about this matter.

On October 16, 2018, you informed Rachna that you had a meeting with Mr. McHugh at DBI that day and accordingly, you were going to submit a Unit Count Verification to DBI.

On October 30, 2018, Rachna contacted you requesting status of your Unit Count Verification submittal.

On November 6, 2018, Mr. Duffy, Mr. McHugh, and Rachna had a meeting with you at DBI to discuss how to verify the legal use of the above property. You were directed again to file a Unit Count Verification with DBI accordingly.

On November 11, 2018, you informed Rachna that you were again gathering additional information to submit with the Unit Count Verification to DBI.

On November 16, 2018, seeing no Unit Count Verification submittal to DBI, Rachna informed you that there is a 15-day deadline to submit otherwise further enforcement action will be taken.

On December 6, 2018, you submitted BPA No.: 2018.12.06.7615 for a Unit Count Verification to DBI.

On February 20, 2019, Rachna contacted Mr. McHugh to find out which documents were required for the Unit Count Verification and informed you to submit accurate previously existing and current floor plans and the discussed historical Sanborn maps, assessors, water, tax, utilities, and real estate records; prior sales history; title reports; and any other records to show information about the number of dwelling units at the above property. On February 28, 2019, Rachna informed you that the legalization of the merger now triggered a CUA application and provided you with information on how to file the required Project and CUA applications with the Planning Department.

On March 7, 2019, you informed Rachna that you were still waiting for DBI's determination on the Unit Count Verification and insisted if the property is legally a single-family dwelling, no CUA would be required.

On March 15, 2019, the Planning Department sent you a Plan check Letter requiring you to file a CUA application within 90-days to address the illegal merger and notified you that further enforcement action will be taken if there is no response.

On March 19, 2019, Rachna informed you that the time and materials costs to enforce and monitor this enforcement case were accruing and would need to be paid.

On April 3, 2019, you informed Rachna that you would get started on the CUA application and would retain experts to assist you on the application process and will get revised plans prepared for submittal. You also indicated that you would like to get a DBI response for the Unit Count Verification and continued to believe the CUA will be unnecessary.

On October 1, 2019, Rachna requested you to submit the CUA application within a week.

On October 4, 2019, you informed Rachna that you had already hired professionals who were assisting you with the CUA application. You indicated that you intend to submit CUA application by the next Tuesday.

On October 7, 2019, your legal representative, Thomas Tunny at Reuben, Junius & Rose LLP informed Rachna that the CUA application was submitted online.

On October 11, 2019, Mr. Tunny and you contacted Rachna to discuss BPA No.: 2018.12.06.7615 and requested this permit be disapproved in order to appeal the disapproval to BOA. Rachna indicated that she would relay your request to the assigned permit planner.

On January 28, 2020, the CUA planner, Katherine Wilborn informed you that Case No.: 2019-017837CUA to seek legalization of DUM was scheduled for Planning Commission hearing on March 5, 2020.

On February 11, 2020, 2019-017837CUA was rescheduled for Planning Commission hearing on March 12, 2020.

On February 13, 2020, Ms. Wilborn and Rachna conducted a site visit at the above property to verify the existing conditions at the above property and confirmed the illegal merger and discovered additional unauthorized building alterations.

On February 27, 2020, Ms. Wilborn informed Mr. Tunny that at your request, 2019-017837CUA will be rescheduled yet again for Planning Commission hearing in July 2020 to allow you the opportunity to seek Unit Count Verification determination at DBI.

On June 17, 2020, Mr. Duffy informed Rachna that the subject property owner was advised twice in 2019 that the property is legally two units and to go through the proper review process with the Planning Department to merge it to single-family. Mr. Duffy further informed Rachna that he would notify Mr. Tunny about DBI's final determination.

On July 2, 2020, the Planning Department sent you a Notice of Complaint to inform you about the roof deck Complaint No.: 2020-005902ENF. You did not contact the Planning Department to respond to this notice.

On July 21, 2020, Mr. Duffy reiterated to Rachna that DBI had already advised the property owner multiple times in 2019 that DBI could not process a Unit Count Verification for the above property. The Unit Count Verification process could only be used if the legal use status was unknown and if there was no Certificate of Final Completion.

Since the two-unit use is known to DBI through clear permit history records and CFC issued for the above property, it was not necessary for DBI to process a Unit Count Verification. The property had been identified as two units on many City records including building permits, assessor's records, and water department records. The current property owner had also obtained building permit with approved plans showing two units on BPA No.: 2002.09.11.6208. More importantly, in 1918, Building Permit No.: 81413 was issued and completed to authorize the legal conversion of the property from one to two units. As such, Mr. Duffy stated that DBI considered the above property to be a legal two-unit dwelling and a Unit Count Verification from DBI is not needed.

On August 24, 2020, Mr. Duffy informed Mr. Tunny via email of DBI's findings that the property is legally two units.

On August 24, 2020, the Planning Department Code Enforcement Manager, Tina Tam contacted Mr. Tunny to inform him that the Planning Department will be scheduling 2019-017837CUA for a Planning Commission hearing. Ms. Tam did not receive a response back from Mr. Tunny.

On September 4, 2020, Ms. Wilborn informed Mr. Tunny that ample opportunity had been afforded to you over the past decade to rectify the unpermitted work and dwelling unit merger at the subject property and will schedule 2019-017837CUA for a November 12, 2020 hearing.

On September 22, 2020, the Planning Department sent you a Notice of Enforcement (NOE) informing you about the roof deck violation (Complaint No.: 2020-005902ENF) and the abatement process. In that notice, you were advised to take corrective actions and provide evidence of compliance to the Planning Department within fifteen (15) days from the date of notice. You did not respond to this notice.

On November 12, 2020, the Planning Commission disapproved the merger under 2019-017837CUA.

On November 16, 2020, Rachna contacted you to find out your next steps to resolve the pending violations at the above property and if you intended to appeal the merger disapproval (2019-017837CUA) to the Board of Supervisors.

On November 19, 2020, you informed Rachna that you would consult with your counsel on your appeal options.

On December 2, 2020, Planning Commission Motion No.: 20808 documenting the disapproval of 2019-017837CUA was sent to Mr. Tunny.

On December 8, 2020, Rachna contacted you to seek an update on the next steps. Rachna advised you that once the deadline to appeal 2019-017837CUA decision had passed, the enforcement process would resume if the permit to restore the above property as a two units was not immediately filed. You did not respond to Rachna.

On December 14, 2020 you filed an appeal with BOS on the Planning Commission's disapproval of 2019-017837CUA.

On December 23, 2020, the BOS informed Mr. Tunny that the appeal for 2019-017837CUA was not valid as it did not meet the appeal filing requirements under the Planning Code Section 308.1. Accordingly, the Planning Commission's decision to disapprove the legalization of the merger under 2019-017837CUA is deemed final. As such, you are required to restore the above property to its last authorized two-unit use.

To date, the Planning Department has not received any evidence from you to demonstrate that the corrective actions have been taken to abate the above violations in order to bring the subject property into compliance with the Planning Code.

How to Correct the Violation

The Planning Department requires that you immediately proceed to abate the violation as follows:

1. File a BPA with accurate pre-existing, current, and proposed plans to reinstate the subject property to its last authorized two-family dwelling use. The scope of work under this permit shall include, "to restore the second dwelling unit on the second floor and seek exterior and interior modifications to create two separate and independent dwelling units.

As part of this permit, please include the legalization, modification, or removal of the roof deck. Be sure to include accurate pre-existing and proposed plans along with a dimensioned site plan and a roof plan showing distance from all four property lines to the roof deck and required rear setback line, as well as before and after deck area exterior and interior photos. If the roof deck does not meet the Planning Code and Building Code, it will be required to be modified or removed.

Include legalization of all completed alterations or modification made to the property under all previously expired permit in this one new permit. **The above permit applications must be diligently pursued and completed.** Please visit DBI website at <https://sf.gov/apply-building-permit> for information on the permit application process.

To submit revisions under any previously submitted permits, please visit DBI website at <https://sfdbi.org/revisionsaddenda>. The Planning Department will review the revised submittals and may require additional applications and information as deemed necessary.

The responsible party will need to provide adequate evidence to demonstrate that either no violation exists or that the violation has been abated. **The work approved under any valid permits must be continued diligently to completion with a final inspection and/or issuance of certificate of final completion.**

For questions regarding the building permit process, please contact the Department of Building Inspection (DBI) at:

49 South Van Ness Avenue, 2nd/5th Floor
San Francisco, CA 94103
Phone: 628.652.3200
Email: dbicustomerservice@sfgov.org
Website: <https://sfdbi.org>

For questions regarding the planning permit review process, please contact the Planning Department at:

49 South Van Ness Avenue, 2nd Floor (By Appointment only to submit permits)
San Francisco, CA 94103
Phone: 628.652.7300
Email: pic@sfgov.org
Website: www.sfplanning.org

Please note there is NO in-person consultation available at 49 South Van Ness at this time due to COVID-19. Please do not visit 49 South Van Ness without an appointment. For questions about this enforcement case, please email the assigned enforcement planner as noted above. For questions about the Building Code or building permit process, please email DBI at the email address noted above.

Timeline to Respond

A Shelter in Place order was issued for San Francisco due to the COVID-19 pandemic on March 16, 2020, which was set to expire on April 7, 2020. On March 31, 2020, Order of the Health Officer No. C19-07b extended the previously issued Shelter in Place from April 7, 2020 to May 3, 2020. On April 29, 2020, Order of the Health Officer No. C19-07c further extended the previously issued Shelter in Place to May 31, 2020. On May 22, 2020, Stay-Safe-At-Home Order of the Health Officer No. C19-07e was issued to amend, clarify, and continue certain terms of the prior Shelter in Place orders. On June 1 and June 11, 2020, Stay-Safe-At-Home Order was updated and replaced previous Shelter in Place, C19-07 orders: C19-07d (May 18), C19-07c (April 29), C19-07b (March 31) and C19-07 (March 16). This Order was last updated on December 9, 2020(C19-07q).

The timeline to respond to this Notice of Violation is fifteen (15) days. As such, we highly encourage you to immediately reach out to the assigned Enforcement Planner to discuss the corrective steps to abate the violation. Should you need additional time to respond to and/or abate the violation, please discuss this with the assigned Enforcement Planner, who will assist you in developing a reasonable timeline.

While many City agencies (including the Department of Building Inspection - DBI) are open, we understand there may be challenges and delays related to the processing of necessary applications to abate violations during the Stay-Safe-At-Home Order. You can find more information regarding the Planning Department procedures during the Stay-Safe-At-Home Order here: <https://sfplanning.org/covid-19>.

The Department recognizes the challenges of the City's Stay-Safe-At-Home Order and its underlying cause. However, corrective actions should be taken as early as reasonably possible. Please contact the assigned Enforcement Planner with questions and/or to submit evidence of correction. Any unreasonable delays in

abatement of the violation beyond the timeline outlined above will result in further enforcement action by the Planning Department, including assessment of administrative penalties at \$250 per day.

Appeal Processes

If the responsible party believes that this Notice of Violation of the Planning Code is an abuse of discretion by the Zoning Administrator, the following appeal processes are available **within fifteen (15) days from the date of this notice**:

1. The responsible party may request a Zoning Administrator Hearing under Planning Code Section 176 to show cause why this Notice of Violation is issued in error and should be rescinded by submitting the Request for Zoning Administrator Hearing Form and supporting evidence to the Planning Department. This form is available from the Planning Department's website at <https://sfplanning.org/resources>. The Zoning Administrator shall render a decision on the Notice of Violation within 30 days of such hearing. The responsible party may appeal the Zoning Administrator's decision to the Board of Appeals within 15 days from the date of the decision.
2. The responsible or any interested party may waive the right to a Zoning Administrator Hearing and proceed directly to appeal the Notice of Violation to the **Board of Appeals** located at:

49 South Van Ness Avenue, Suite 1475
San Francisco, CA 94103
Phone: 628.652.1150
Email: boardofappeals@sfgov.org
Website: www.sfgov.org/bdappeal

If Board of Appeals upholds the Notice of Violation, it may not reduce the amount of penalty below \$100 per day for each day the violation continues unabated, excluding the period of time the matter was pending either before the Zoning Administrator or before the Board of Appeals.

Administrative Penalties

If a responsible party does not request any appeal process and does not take corrective action to abate the violation **within 15 days**, this Notice of Violation will become final. However, **administrative penalties will not begin to accrue until the 15-day period to respond expires**, as detailed above. Beginning on the following day, administrative penalties of up to **\$250 per day** to the responsible party will start to accrue for each day each violation continues unabated. If such penalties are assessed, the Planning Department will issue a Notice of Penalty for each violation, and the penalty amount shall be paid **within 30 days** from the issuance date of that notice. Please be advised that payment of penalty does not excuse failure to correct the violation or bar further enforcement action. Additional penalties will continue to accrue until a corrective action is taken to abate the violation.

Enforcement Time and Materials Fee

Pursuant to Planning Code Section 350(g)(1), the Planning Department shall charge for 'Time and Materials' to recover the cost of correcting the Planning Code violations. Accordingly, the responsible party is currently subject to a fee of **\$14,070.79** for "Time and Materials" cost associated with the Code Enforcement investigation. **Please submit a check payable to "Planning Department Code Enforcement Fund" within 15 days from the date of this notice.** Additional fees will continue to accrue until the violation is abated. This fee is separate from the administrative penalties described above and is not appealable.

Failure to Pay Penalties and Fees

Any Administrative Penalties and Enforcement Fees not paid within the specified time period noted above may be forwarded to the Bureau of Delinquent Revenue (BDR) for collection pursuant to Article V, Section 10.39 of the San Francisco Administrative Code. The BDR may apply a 25% surcharge for their collection services. Please note that such surcharge will be considered part of the cost of correcting the violation, and you (the responsible party) will be responsible for such charges.

Other Applications Under Consideration

The Planning Department requires that any pending violations be resolved prior to the approval and issuance of any separate applications for work proposed on the same property. Therefore, any applications not related to abatement of the violation on the subject property will be placed on hold until a corrective action is taken to abate the violation. We want to assist you to bring the subject property into full compliance with the Planning Code. You may contact the enforcement planner noted above for any questions on the enforcement and appeal process.

Sincerely,



Tina Tam
Acting Zoning Administrator

Enc.: Notice of Violation dated July 21, 2005 on Complaint No.: 7402_ENF
Notice to Cease Violation dated October 4, 2007 on Complaint No.: 7402_ENF
Enforcement Notification dated April 25, 2012 on Complaint No.: 7402_ENF
Notice of Enforcement dated September 22, 2020 on Complaint No.: 2020-005902ENF
BOS Letter dated December 23, 2020 on 2019-017837CUA appeal



PLANNING DEPARTMENT

City and County of San Francisco • 1660 Mission Street, Suite 500 • San Francisco, California • 94103-2414

MAIN NUMBER (415) 558-6378	DIRECTOR'S OFFICE PHONE: 558-6411 4TH FLOOR FAX: 558-6426	ZONING ADMINISTRATOR PHONE: 558-6350 5TH FLOOR FAX: 558-6409	PLANNING INFORMATION PHONE: 558-6377 MAJOR ENVIRONMENTAL FAX: 558-5991	COMMISSION CALENDAR INFO: 558-6422 INTERNET WEB SITE WWW.SFGOV.ORG/PLANNING
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NOTICE OF VIOLATION

July 21, 2005

Anne L. & Adrian E. Dollard
1812-1816 Green Street
San Francisco, CA 94123

RE: Violation of Planning Code Article 2, Use Districts
Illegal Merger of two-family dwelling units into a single-family dwelling unit
Site Address: 1812-1816 Green Street, San Francisco, CA 94123
Assessor's Block: 0543; Lot: 007
Zoning District: RH-2, Residential, House Districts, Two-Family

Dear property owner:

The Planning Department has received a code violation complaint on your above referenced property. According to the complaint, the above property has illegally been converted into a single-family dwelling unit and is being offered for sale as a single-family dwelling unit. Our research on the Internet confirms that the property is listed as a single-family dwelling unit with Paragon Real Estate Group. The purpose of this notice is to inform you about the code issues involved so that you can take appropriate action to bring your property in compliance with the Planning Code.

The above property is located in RH-2 Zoning District and is authorized for two-family dwelling units. The permit records on this property also indicate that the property always contained two-family dwelling units. It seems that the property has now been converted into a single-family dwelling unit without any authorization. As you are aware, merger of dwelling units requires a mandatory Discretionary Review hearing at the Planning Commission. In 2003, a Building Permit Application no. 200302218004 to remove the kitchen from the first floor unit of your property was disapproved by the Planning Department. A Building Permit Application no. 200301286145 incorrectly showing the legal use of your property as a single-family dwelling was also suspended by the Planning Department in 2003. Upon appeal of suspension of this permit, the Board of Appeals upheld the suspension. At a request for rehearing, the Board continued the matter to the call of chair so that you can go forward with the discretionary review hearing at the Planning Commission. To date, you have not filed for such application with the Planning Department. Non-compliance with this requirement and illegal merger of dwelling units into a single-family dwelling unit is a violation of the Planning Code.

The Planning Department recommends that you apply for a building permit to reinstate the property to its authorized two-family use **within 15 days** from the date of this notice. Alternatively, you may apply for a Dwelling Unit Merger Process at the Planning Department to merge two-family dwelling units at your property into a single-family dwelling unit. If you believe that your property is in compliance with the Planning Code, you should provide such evidence to the Planning Department. If you do not provide evidence of code compliance or steps taken to abate the violation by **August 05, 2005**, further steps will be taken for the violation. After an appeal process and referral to the City Attorney, the Planning Code Section 176 (c)1 sets forth **civil penalties for violations of provisions of the Planning Code, not to exceed \$500 for each day such violation is committed or permitted to continue**. The pending violation would prevent the approval of any new building permits and other applications that you may wish to pursue in the future. The Planning Code Section 307(c) also sets forth standards for the inspection of premises to verify the use of a property. Please contact us to arrange for a site visit when the violation is abated.

Should you have any questions about the contents of this notice, please contact the code enforcement Planner, Rachna by phone at (415) 575-6806 or e-mail at Rachna.Rachna@sfgov.org.

If any interested party believes that this order to remove a violation of the Planning Code is an abuse of discretion by the Zoning Administrator, an appeal may be filed with the Board of Appeals within fifteen (15) days of the date of this letter. For information regarding the appeals process, please contact the Board of Appeals at (415) 575-6880 located at Room 3036, 1660 Mission Street, San Francisco.

Sincerely,



Lawrence B. Badiner
Zoning Administrator

CC: Carla Johnson, Chief Building Inspector, DBI
Ernie Llorente, City Attorney's Office
Board of Appeals
Michela Alioto-Pier, Supervisor District 2
Paragon Real Estate Group



SAN FRANCISCO PLANNING DEPARTMENT

FINAL NOTICE TO CEASE VIOLATION

October 4, 2007

Anne L. & Adrian E. Dollard
1812 Green Street
San Francisco, Ca 94123

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

RE: Violation of Planning Code Section 174 and Planning Commission Policy No. 17264
Illegal Dwelling Unit Merger of two separate dwelling units into a single-family dwelling unit
Site Address: 1812-1816 Green Street, San Francisco, CA 94123
Assessor's Block: 0543; Lot: 007
Zoning District: RH-2, Residential, House Districts, Two-Family
Complaint No.: 5349

Dear Anne and Adrian Dollard:

As you are aware, a Planning Code violation on your above referenced property is still pending and needs to be resolved. The above property is in violation of Planning Code in that it has been converted from two separate dwelling units into a single-family dwelling unit without authorization from the Planning Commission. The Planning Commission Policy No. 17264 requires a Mandatory Discretionary Review (DR) process for the removal of a legal dwelling unit. This notice summarizes our previous actions and communications on the violation and reiterates the requirements to bring the above property in compliance with Planning Code.

On March 26, 2003, a Building Permit Application (BPA) # 200301286145 was suspended as it misrepresented the legal use of above property as a single-family dwelling unit. This application was used as a basis to seek a permit under another BPA # 200302218004 to remove the second kitchen from the property, which constituted a Dwelling Unit Merger (DUM) and required a mandatory Discretionary Review process. You appealed the suspension of BPA # 200301286145 to the Board of Permit Appeals. On July 9, 2003, the Board of Appeals upheld the suspension and required you to go through the mandatory Discretionary Review process. However, no such application was filed with Planning Department.

On July 14, 2005, it was brought to the Planning Department's attention that the above property was put on the market as a single-family dwelling unit. On July 21, 2005, we sent you a Notice of Violation requiring you to either reinstate the above property to its authorized use as two units or file a Discretionary Review Application for the merger of two dwellings units into a single-family dwelling unit. On August 17, 2005, I met with your attorneys Alice Barkley and Kenneth Tze at Luce, Forward, Hamilton, & Scripps LLP to discuss the options to abate the violation. On October 19, 2005, I received a letter from Mr. Tze. In this letter, Mr. Tze, proposed to comply with the Notice of Violation by creating a second unit on the ground floor and submitted the conceptual plans and background history on the property. Upon review of this proposal, I requested a site visit, which was conducted on November 30, 2005. After the site visit, I requested additional information on the proposal to ensure if the proposal would meet the

Planning and Building code requirements. On January 10, 2006, I received additional details on the proposal. After another review of the proposal, I informed Mr. Tze that the proposal would not meet the Planning Code requirements. Subsequently on April 13, 2006, you withdrew your appeal for a rehearing on the suspended BPA # 200301286145 and decided to proceed with the DR process for the merger of two dwelling units into a single-family dwelling unit.

In August 2006, Mr. Tze discussed the DR application process with us and obtained the Planning Commission DUM Policy. In October 2006, Mr. Tze informed us that you were working on the DR application. In May 2007, I contacted Mr. Tze to check the status of the DR application. Mr. Tze indicated that he would confer with you and inform us on the status. To date, we have not received any further information or a DR Application.

The Planning Code Section 174 requires compliance with conditions prescribed by the Zoning Administrator, City Planning Commission, and Board of Permit Appeals in actions on appeals on Building Permits and other actions. Accordingly, the Planning Department requires that you file a mandatory DR Application for the Dwelling Unit Merger latest by **October 31, 2007**. Please submit the DR Application and a new Building Permit Application at the Planning Information Counter of Planning Department located at 1660 Mission Street. The DR application and the Planning Department fee schedule are available from the Planning Department website http://www.sfgov.org/site/planning_index.asp?id=25143.

Please note that the case will be referred to City Attorney on **November 1, 2007** for further enforcement action and imposition of penalties, if the DR and the Building Permit Applications are **NOT** submitted to the Planning Department by the above date. The Planning Code Section 176(c)1 sets forth **civil penalties for violations of the provisions of Planning Code, no less than \$200 for each day such violation is committed or permitted to continue**. The pending violation would also prevent the approval of any new building permits and other applications that you may wish to pursue in the future.

Should you have any questions, please contact me by phone at (415) 575-6806 or e-mail at Rachna.Rachna@sfgov.org.

Sincerely,



Rachna
Code Enforcement Planner

CC: Edward Sweeney, Chief Building Inspector, Department of Building Inspection
Alex Tse, City Attorney's Office
Michela Alioto-Pier, Supervisor District 2
Alice Barkley, Luce, Forward, Hamilton, & Scripps LLP
Kenneth Tze, Luce, Forward, Hamilton, & Scripps LLP
Board of Appeals, Case NO. 03-053
David Lindsay, Planning Department



SAN FRANCISCO PLANNING DEPARTMENT

ENFORCEMENT NOTIFICATION

April 25, 2012

Property Owner

Anne L & Adrian E Dollard
1812 Green Street
San Francisco, CA 94123

Site Address: 1812 Green Street
Assessor's Block/Lot: 0543/007
Zoning District: RH-2, House Districts, Two-Family
Complaint Number: 5349 & 7402
Code Violation: Section 317, Dwelling Unit Merger without Authorization
Administrative Penalty: \$250 Each Day of Violation
Respond By: Within 15 days from April 25, 2012
Staff Contact: Rachna, (415) 575-6806 or rachna.rachna@sfgov.org

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

The Planning Department's records show that a Planning Code violation exists on the above referenced property that needs to be resolved. As the owner and leaseholder of the subject property, you are a responsible party. The purpose of this notice to inform you about the Planning Code Enforcement process so you can take appropriate action to bring your property into compliance with the Planning Code. Details of the violation are discussed below:

DESCRIPTION OF VIOLATION

The subject property is authorized for two-family dwelling use. The violation pertains to the use of the property as a single-family dwelling use without a Dwelling Unit Removal authorization pursuant to Planning Code Section 317. Previously, the Planning Department sent you a Notice of Violation on July 21, 2005 and a Notice to Cease Violation on October 4, 2007 to abate this violation. On December 3, 2007, you filed a Building Permit Application (BPA) No. 200712039456 and on April 16, 2008, you filed a Discretionary Review Application (DRA) No. 2008.0442 to legalize the merger of two dwelling units into a single-family unit. On January 9, 2009, the BPA No. 200712039456 was cancelled as you failed to submit documents required to process this application. This application was extended upon your request till January 22, 2010. However, you did not complete this application during the extension period and consequently; the Planning Department also cancelled the DRA application on January 10, 2011.

Pursuant to Planning Code Section 174, every condition, stipulation, special restriction, and other limitation shall be complied with in the use of land and structures to the effect that the existing lawful use or proposed use of a structure or land conforms to the provisions of the Planning Code. Such conditions, stipulations, special restrictions and other limitations include conditions prescribed by the Planning Commission and by the Board of Permit Appeals on appeals and in actions on permits. Failure to comply with any of these provisions constitutes a violation of Planning Code and is subject to enforcement process under Code Section 176.

HOW TO CORRECT THE VIOLATION

The Planning Department requires that you immediately proceed to abate the violation as following.

1. **File a Dwelling Unit Removal Application for merger of the two-family dwelling into a single-family dwelling at the above property; or,**
2. **If you do not intend to seek the Dwelling Unit Removal process, file a Building Permit Application to reinstate the subject property to its authorized use as two separate and independent dwelling units with two separate kitchens.**

You may download a Dwelling Unit Removal Application from the Planning Department's website at <http://www.sf-planning.org> and get information on the application process. You may also visit the Planning Department's Public Information Counter located at 1660 Mission Street, telephone: (415) 558-6377 for any questions regarding the planning process. Please contact the Department of Building Inspection located at 1660 Mission Street, telephone: (415) 558-6088, website: www.sfgov.org/dbi, regarding the Building Permit Application process.

To prevent further enforcement action and avoid accrual of penalties, the responsible party will need to provide adequate evidence to demonstrate that either no violation exists or that the violation has been abated.

TIMELINE TO RESPOND

The responsible party has **fifteen (15) days from the date of this notice** to contact the staff planner noted above and submit evidence to demonstrate that the corrective actions have been taken to bring the subject property into compliance with the Planning Code. The corrective actions shall be taken as early as possible. Any unreasonable delays in abatement of the violation may result in further enforcement action by the Planning Department.

PENALTIES AND APPEAL RIGHTS

Failure to respond to this notice by abating the violation or demonstrating compliance with the Planning Code **within fifteen (15) days from the date of this notice** will result in issuance of a **Notice of Violation and Penalty (Notice of Violation)** by the Zoning Administrator. Administrative penalties of up to **\$250 per day** will also be assessed to the responsible party for each day the violation continues thereafter. The Notice of Violation provides appeal processes noted below.

- 1) Request for Zoning Administrator Hearing. The Zoning Administrator's decision is appealable to the Board of Appeals.
- 2) Appeal of the Notice of Violation and Penalty to the Board of Appeals. The Board of Appeals may not reduce the amount of penalty below \$100 per day for each day the violation exists, excluding the period of time the matter has been pending either before the Zoning Administrator or before the Board of Appeals.
- 3) Request for alternative review by the Planning Director under the process set forth in Planning Code Section 176.1.

ENFORCEMENT TIME AND MATERIALS FEE

Pursuant to Planning Code Section 350(c)(1), the Planning Department shall charge for 'Time and Materials' to recover the cost of correcting Planning Code violations and violations of Planning Commission and Planning Department's Conditions of Approval. Accordingly, the responsible party is currently subject to a fee of **\$1153** for 'Time and Materials' cost associated with the Code Enforcement investigation. **Please submit a check payable to 'San Francisco Planning Department' for Code Enforcement Fund' within 15 days from the date of this notice.** Additional fees will continue to accrue until the violation is abated. This fee is separate from the administrative penalties as noted above and is not appealable.

OTHER APPLICATIONS UNDER CONSIDERATION

The Planning Department requires that any pending violations be resolved prior to the approval and issuance of any new applications that you may wish to pursue in the future. Therefore, any applications not related to abatement of the violation on the subject property will be placed on hold until the violation is corrected. We want to assist you in ensuring that the subject property is in full compliance with the Planning Code. You may contact the enforcement planner as noted above for any questions.

cc: Edward Sweeney, Deputy Director, Department of Building Inspection

中文詢問請電: **558.6378**

Para información en Español llamar al: **558.6378**



NOTICE OF ENFORCEMENT

September 22, 2020

Property Owner

Adrian E & Anne L Dollard
1812 Green Street
San Francisco, CA 94123

Site Address: 1812-1816 Green Street
Assessor's Block/Lot: 0543/007
Zoning District: RH-2, Residential- House, Two Family
Complaint Number: 2020-005902ENF
Code Violation: Section 172 and 175, Unauthorized Roof Deck
Administrative Penalty: Up to \$250 Each Day of Violation
Response Due: Within 15 days from the date of this Notice
Staff Contact: Rachna, (628) 652-7404, Rachna.Rachna@sfgov.org

The Planning Department received a complaint that a Planning Code violation exists on the above referenced property that must be resolved. As the owner of the subject property, you are a responsible party. The purpose of this notice is to inform you about the Planning Code Enforcement process so you can take appropriate action to bring your property into compliance with the Planning Code. Details of the violation are discussed below:

Description of Violation

The violation pertains to an unauthorized roof deck on the subject property. It has been reported that a roof deck has been constructed at the above property without benefit of permit. The subject roof deck is required to meet the Planning and Building Code regulations and requires approval from the Planning Department and the Department of Building Inspection (DBI).

Pursuant to Planning Department Standards and Procedures on Decks:

All decks greater than 30 inches above grade, including roof decks require building permits. Roof decks accessed by internalized staircases or roof hatches that meet the following parameters may be approved over the counter:

- Are less than 500 square feet (measured cumulatively including all other decks, balconies or terraces 10 feet above grade or higher); and
- Inclusive of minimum-height railings and means of access, are set back at least 5 feet from all shared lot lines, light wells, and front building walls.

Building Permit applications for roof decks exceeding the above parameters require submittal of permit for review by the Planning Department staff for design review and may be required to be modified to ensure:

- Adequate separation of uses, privacy screens and parapets to buffer roof decks from adjacent windows and outdoor spaces;
- The existing pattern, size, location and prevalence of open space is respected; and
- Parapets and windscreens are designed to be minimally visible from the street and compatible with neighborhood character while minimizing the effects of additional building mass on adjacent properties.

If a proposed roof deck or access to it is on a portion of the structure that encroaches into a required yard or setback, or a 'non-complying' structure under the Planning Code, then all railings must be of an open design and are limited to 42 inches in height. In these cases, the Planning Department will notify owners and occupants of all properties which border the subject property, who will be given a 10-day period to raise any concerns they might have regarding the project.

For further information, please review Standards and Procedures for Decks (attached). This document is also available from the Planning Department website at <https://sfplanning.org/resource/decks-and-roof-decks>.

On July 2, 2020, the Planning Department sent you a Notice of Complaint to inform you about the complaint. You did not contact the Planning Department to respond to this notice.

Pursuant to Planning Code Section 172, no structure shall be constructed, reconstructed, enlarged, altered, or relocated in a manner that is not permissible under the limitations set forth in the Planning Code for the district in which such structure is located.

Pursuant to Planning Code Section 175, a Building Permit is required for the construction, reconstruction, enlargement, alteration, relocation, or occupancy of any structure in compliance with the Planning Code.

Pursuant to Planning Code Section 171 structures and land in any zoning district shall be used only for the purposes listed in the Planning Code as permitted in that district, and in accordance with the regulations established for that district. Failure to comply with any of these provisions constitutes a violation of the Planning Code and is subject to an enforcement process under Planning Code Section 176.

How to Correct the Violation

The Planning Department requires that you immediately proceed to abate the violation as follows:

File a Building Permit Application to remove the unauthorized roof deck or seek legalization with accurate pre-existing, currently existing/As built, and proposed plans and before and after photos. Please visit DBI website, <https://sf.gov/apply-building-permit> for information on the permit application process.

The responsible party will need to provide adequate evidence to demonstrate that either no violation exists or that the violation has been abated. Please provide a dimensioned site plan and a roof plan showing distance from all four property lines to the roof deck and required rear setback from the rear property line to the rear

building wall and roof deck. The Planning Department will review the submittal and may require additional applications and information as deemed necessary. If the deck does not meet the Planning or Building Code requirements, it will be required to be removed.

You are also required to obtain building permits and approval from the Planning Department for the other unauthorized alterations done at the property over the years. Our records show that there are several permits issued since 1996 that are either incomplete, expired, or cancelled.

The work approved under any valid permits must be continued diligently to completion with a final inspection and/or issuance of certificate of final completion.

For questions regarding the building permit process, please contact the **Department of Building Inspection (DBI)** at:

49 South Van Ness Avenue
San Francisco, CA 94103
Phone: 628.652.3200
Email: dbicustomerservice@sfgov.org
Website: www.sfdbi.org

For questions regarding the planning process, please contact the **Planning Department** at:

49 South Van Ness Avenue, 2nd Floor
San Francisco, CA 94103
Phone: 628.652.7300
Email: pic@sfgov.org
Website: www.sfplanning.org

Timeline to Respond

A Shelter in Place Order was issued for San Francisco due to the COVID-19 pandemic on March 16, 2020, which was set to expire on April 7, 2020. On March 31, 2020, Order of the Health Officer No. C19-07b extended the previously issued Shelter in Place from April 7, 2020 to May 3, 2020. On April 29, 2020, Order of the Health Officer No. C19-07c further extended the previously issued Shelter in Place to May 31, 2020. On May 22, 2020, Stay-Safe-At-Home Order of the Health Officer No. C19-07e was issued to amend, clarify, and continue certain terms of the prior Shelter in Place orders. On June 1 and June 11, 2020, Stay-Safe-At-Home Order was updated and replaced previous C19-07 orders: C19-07d (May 18), C19-07c (April 29), C19-07b (March 31) and C19-07 (March 16).

The timeline to respond to this Notice of Enforcement is fifteen (15) days. As such, we highly encourage you to immediately reach out to the assigned Enforcement Planner to discuss the corrective steps to abate the violation. Should you need additional time to respond to and/or abate the violation, please discuss this with the assigned Enforcement Planner, who will assist you in developing a reasonable timeline. While many City agencies (including the Department of Building Inspection - DBI) are open, we understand there may be challenges and delays related to the processing of necessary applications to abate violations during the Stay-

Safe-At-Home Order. You can find more information regarding Planning Department procedures during the Stay-Safe-At-Home Order here: <https://sfplanning.org/covid-19>.

The Department recognizes the challenges of the City's Stay-Safe-At-Home Order and its underlying cause. However, corrective actions should be taken as early as reasonably possible. Please contact the assigned Enforcement Planner with questions and/or to submit evidence of correction. Delays in abatement of the violation beyond the timeline outlined above will result in further enforcement action by the Planning Department, including issuance of Notice of Violation and assessment of administrative penalties at \$250 per day.

Penalties and Appeal Rights

Failure to respond to this notice by abating the violation or demonstrating compliance with the Planning Code **within fifteen (15) days from the date of this notice** will result in issuance of a **Notice of Violation** by the Zoning Administrator. Administrative penalties of up to **\$250 per day** will also be assessed to the responsible party for each day beyond the timeline to respond provided for the Notice of Violation if the violation is not abated. The Notice of Violation provides the following appeal options.

1. Request for Zoning Administrator Hearing. The Zoning Administrator's final decision is then appealable to the Board of Appeals.
2. Appeal of the Notice of Violation to the Board of Appeals. The Board of Appeals may not reduce the amount of penalty below \$100 per day for each day the violation exists, excluding the period of time the matter was pending either before the Zoning Administrator or before the Board of Appeals.

Enforcement Time and Materials Fee

Pursuant to Planning Code Section 350(g)(1), the Planning Department shall charge for 'Time and Materials' to recover the cost of correcting Planning Code violations and violations of Planning Commission and Planning Department's Conditions of Approval. Accordingly, the responsible party may be subject to an amount of **\$1,504** or more for "Time and Materials" cost associated with the Code Enforcement investigation. This fee is separate from the administrative penalties described above and is not appealable.

Other Applications Under Consideration

The Planning Department requires that any pending violations be resolved prior to the approval and issuance of any separate applications for work proposed on the same property. Therefore, any applications not related to abatement of the violation on the subject property will be placed on hold until a corrective action is taken to abate the violation. We want to assist you to bring the subject property into full compliance with the Planning Code. You may contact the enforcement planner noted above for any questions on the enforcement and appeal process.

Enc.: Standards and Procedures for Decks

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

December 23, 2020

Thomas Tunny
Reuben Junius & Rose LLP
One Bush Street, Suite 600
San Francisco, CA 94104

Subject: File No. 201417 - Appeal of Conditional Use Authorization - Proposed Project at 1812-1816 Green Street

Dear Mr. Tunny:

The Office of the Clerk of the Board is in receipt of a memorandum dated December 23, 2020, from the City and County Surveyor regarding their determination on the sufficiency of signatures with respect to the above-referenced appeal.

Pursuant to the appeal filing guidelines of Planning Code, Section 308.1(b), the notice of appeal shall be subscribed by either the owners of at least 20% of the property affected by the proposed conditional use or five members of the Board of Supervisors. The City and County Surveyor has determined that the appeal signatures represent 14.12% of the area within 300 feet of the project seeking conditional use authorization.

The appeal filing period closed at the end of the business day on Monday, December 14, 2020, and we are unable to accept any additional signatures for consideration in this filing. Therefore, the Board of Supervisors is not empowered to hear this appeal, as it does not meet the filing requirements of Planning Code, Section 308.1.

If you have any questions, please feel free to contact Legislative Clerks, Lisa Lew at (415) 554-7718, Jocelyn Wong at (415) 554-7702, or Brent Jalipa at (415) 554-7712.

Sincerely,


Angela Calvillo
Clerk of the Board

jw:ll:ams

c: James Ryan, Public Works
Adrian VerHagen, Public Works
Bernie Tse, Public Works
Vanessa Duran, Public Works
Jason Wong, Public Works
Anne Pearson, Deputy City Attorney
Kate Stacy, Deputy City Attorney
Kristen Jensen, Deputy City Attorney
Lisa Gibson, Planning Department
Devyani Jain, Planning Department
Adam Varat, Planning Department
Joy Navarette, Planning Department
Laura Lynch, Planning Department
Corey Teague, Planning Department
Scott Sanchez, Planning Department
Dan Sider, Planning Department
Aaron Starr, Planning Department
Jonas Ionin, Planning Commission
Katie Wilborn, Planning Department
Julie Rosenberg, Board of Appeals
Katy Sullivan, Board of Appeals
Alec Longaway, Board of Appeals

Exhibit B



**CITY AND COUNTY OF SAN FRANCISCO
DEPARTMENT OF BUILDING INSPECTION**

1660 Mission Street, San Francisco CA 94103

Report of Residential Building Record
(Article 3.5 Housing Code Ordinance No. 96-69)
Residential Requirement Report Division
(415) 558-6081

BEWARE: This report describes the current legal use of this property as compiled from records of City Departments. There has been no physical examination of the property itself. This record contains no history of any plumbing or electrical permits. The report makes no representation that the property is in compliance with the law. Any occupancy or use of the property other than that listed as authorized in this report may be illegal and subject to removal or abatement, and should be reviewed with the Department of Planning and the Department of Building Inspection.

Address of Building **1812 1816 GREEN ST 0**

Block **0543**

Lot **007**

Other Addresses

1. A. Present authorized Occupancy or use: **ONE FAMILY DWELLING**

B. Is this building classified as a condominium? Yes No ☒

C. Does this building contain any Residential Hotel Guest Rooms as defined in Chap. 41, S.F. Admin. Code? Yes No ☒

2. Zoning district in which located: RH-2

3. Building Code Occupancy Classification: R3

4. Do Department of City Planning Records show an expiration date for any non-conforming use of this property? Yes No ☒
If Yes, what date? The zoning for this property may have changed. Call City Planning, (415) 558-6377, for the current status.

5. Building Construction Date: 1900

6. Original Occupancy or Use: **ONE FAMILY DWELLING**

7. Construction, conversion or alternation permits issued, if any:

Application #	Permit #	Issue Date	Type of Work Done	Status
23880	24091	02-DEC-36	ADD NEW PORCH	N
68619	65866	10-MAR-42	ASBESTOS SIDING	N
961366	799684	29-JUL-86	REROOFING	X
9613666	799684	29-JUL-96	RE-ROOFING	X

8. A. Is this property within a project area for which a redevelopment plan has been approved by the Board of Supervisors? Yes No ☒

B. Is this property within a or does it abut upon the right-of-way of a freeway route which has been adopted by the California State Highway Commission and approved by the Board of Supervisors? Yes No ☒

C. Does the property abut upon a street to be widened pursuant to action of the Board of Supervisors? Yes No ☒

D. Is this property a conservation area? Yes No ☒

9. A. Is there an active Franchise Tax Board Referral on file? Yes No ☒

B. Is this property currently under abatement proceedings for code violations? Yes No ☒

10. Number of structures on property? 1 11. Is Building in Fire Zones? Yes No ☒

12. A. Has energy inspection been completed? Yes No ☒ B. If yes, has a proof of compliance been issued? Yes No ☒

Patty Herrera, Manager, Public Services Division

Date of Issuance: 24 APR 2002

Date of Expiration 24 APR 2003

By: MICHAEL RODMAN

Report No: 200204225013

Frank Y. Chiu, Director,
Dept of Building Inspection

THIS REPORT IS VALID FOR ONE YEAR ONLY.

The law requires that, prior to the consummation of the sale or exchange of this property, the seller must deliver this report to the buyer and the buyer must sign it.

(For Explanation of terminology, see attached)

*San Francisco Planning Department
Office of Analysis and Information Systems*

PROPERTY INFORMATION REPORT

Block 0543 Lot 007 Census Tract 130 Census Block 203

Site Address: 1812 - 1816 GREEN ST

Site Zip Code: 94123

OWNER

DOLLARD ADRIAN E & ANNE L
1812 GREEN ST
SAN FRANCISCO CA

94123

PROPERTY VALUES

Land	\$63,956.00	Sales Date	05/31/2002
Structure	\$38,302.00	Price	\$1,140,000.00
Fixture	\$0.00		
Other	\$0.00		

PHYSICAL CHARACTERISTICS

Lot Frontage		Year Built	1900
Lot Depth		Stories	2
Lot Area	2,495.00	Assessor Units	2
Lot Shape		Bedrooms	0
Building Sq.Ft.	2,540.00	Rooms	11
Basement Sq.Ft.		Assessor Use	FLATS AND DUPLEX
Authorized Use	ONE FAMILY DWELLING		
Original Use	ONE FAMILY DWELLING		

PLANNING INFORMATION

Zoning	RH-2	Planning District	2
Height Limit	40-X	SUD	
Quadrant	NORTHWEST	SSD	
Leg. Setback		Redevelopment Area	NOT IN RDA PROJECT AREA

Notices of Special Restrictions:

Non-Conforming Uses:

Comments:

ACTIVE BLOCK BOOK NOTATIONS

First Name	Last Name	Organization	Phone
Diane	Doron	Homlin School	567-2689