



Date Filed: March 16, 2022

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

JURISDICTION REQUEST NO. 22-3

Date of request: **March 16, 2022.**

Conor Johnston hereby seeks a new appeal period for the following departmental action: **ISSUANCE** of **Notice of Violation, Complaint No. 2021-003092ENF** by **Zoning Administrator**, for property at **1685-1687 Haight Street**, that was issued or became effective on **February 9, 2022**, and for which the appeal period ended at close of business on **February 24, 2022.**

Your **Jurisdiction Request** will be considered by the Board of Appeals on Wednesday, **April 13, 2022 at 5:00 p.m. and will be held in Room 416 of SF City Hall.**

Pursuant to Article V, § 10 of the Board Rules, the **RESPONSE** to the written request for jurisdiction must be submitted by the respondent department **on or before March 28, 2022**, 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 delivered to the opposing parties 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: Conor Johnston

Address: 1685 Haight Street, San Francisco, CA 94117

Phone: 415.902.0307

Email: conorj@otterbrands.com

Via Email

Signature of Requestor or Agent

JURISDICTION REQUEST

To: San Francisco Board of Appeals

From: Berner's on Haight, commercial tenant on behalf of property owner

Date: March 14, 2022

Location: 1685 Haight St. ONLY

Owner: Olson Family Trust
Sullivan Family Revoc. Trust
55 W Oak Knoll Drive
San Anselmo, CA
94960

Complaint: 2021-003092ENF, Dated February 9, 2022

Requestor: Conor Johnston
Co-Owner
Berner's on Haight
415.902.0307
ConorJ@otterbrands.com

(At the time a Jurisdiction Request is filed, a statement must be submitted explaining why the appeal was not filed on time and also briefly outlining the merits of the case. This statement can be up to six (6) double-spaced pages in length with unlimited exhibits.)

CITY OFFICIALS VERY CLEARLY, WHETHER INTENTIONALLY OR INADVERTENTLY, CAUSED US TO BELIEVE AN APPEAL WAS UNNECESSARY AND ENFORCEMENT WOULD BE STAYED, THUS MAKING US LATE IN FILING AN APPEAL.

I. For Over a Year the Mayor's Office, Office of Cannabis, and Planning Department Leadership Itself Have Consistently Told Us, and Behaved as If, Enforcement on this Matter Would Be Suspended Pending Legislative Action.

Please note this Notice of Violation combines issues at both 1685 Haight and 1687 Haight. Specifically, two issues are cited at 1687 Haight: "Section 175 for unauthorized exterior alterations, and Section 607.1 for unauthorized installation of a business wall sign." While these commercial spaces are part of the same larger building, Berner's on Haight has no tenancy in or involvement with 1687 Haight. Our business is only affiliated with 1685, which we occupy. As

such, this jurisdiction request relates solely to the Notice of Violation at 1685, for “Section 145.1(c) for lack of compliance with Storefront Transparency requirements.”

The Planning Department first contacted us regarding this issue, as well as their own misunderstanding of our formula retail status, approximately one year ago in March 2021.

Starting approximately six months prior to that, during and after unrest in the summer of 2020, cannabis retailers in San Francisco and around the state became frequent, and increasingly brazen, targets of burglaries, robberies, and vandalism. It certainly did not help that every licensed cannabis business in the City has their business name, type, and address publicly listed on City websites, making them even easier targets. The San Francisco Cannabis Retailers Alliance (SFCRA) estimated that about half of the cannabis stores in San Francisco incurred a break-in, with several facing more than one. Many such incidents, especially in Oakland but in San Francisco as well, involved real or threatened violence against store staff and security.

Our store, Berner’s on Haight, had its front floor-to-ceiling windows smashed on two occasions only a few weeks apart. The vandal used some type of metal bar to smash the windows directly through our closed “scissor-type” security gate. There were also multiple examples of robbers prying open scissor gates and other semi-rigid gates to break into cannabis stores.

During the worst of the unrest, for several consecutive nights, our leadership and security were forced to risk their own safety by standing watch in front of the store all night.

In short, by mid-2020 it became patently clear that: a) the City could not adequately provide protection for small cannabis businesses, and b) semi-rigid gates could not either.

It was in that context that then-Director of the Office of Cannabis, Marisa Rodriguez, SFCRA, and the Mayor's office began discussing legislative options to allow cannabis business certain exemptions from the storefront transparency requirements in Section 145.1(c). Many of these conversations took place by phone and thus are not recorded in writing but attached are several emails from the Mayor's Policy Advisor, Victor Ruiz-Cornejo, indicating that the Mayor's office was developing such legislation and asking for our input. I am also enclosing a contemporaneous email from the head of the SFCRA describing his conversation with then-Director Rodriguez in which she confirmed "the Mayor's office will be directing Planning to stay any enforcement on additional security measures" pending the new legislation.

This is why, as the record clearly shows, Planning took no action on this matter for approximately eight months, from July 2021 to February 2022. That inaction demonstrated clearly to us that Planning would be awaiting further legislative or executive direction. Then, without explanation or warning, they contacted us to inform us they were re-initiating enforcement on the matter. This struck us as highly unexpected and contrary to our understanding of the City's planned course. When we asked Planning staff for an explanation on the apparent change of course, they provided no discernible answer.

So we checked in with the Mayor's office again. Again we were told, this time by the Mayor's Policy Director Andres Power, that legislative ideas were under consideration; the office had not determined the best path; and that the Mayor intended to direct the Planning Department to suspend enforcement on issues unrelated to life-safety due to the ongoing pandemic. Again, much of this was discussed by phone but attached is an email from Mr. Power mentioning their ongoing deliberations and requesting to schedule a call, which occurred on February 4 with another follow-up on February 26, after the issuance of the NOV.

During this time I have also maintained ongoing communication with Planning Director Rich Hillis, with whom I most recently spoke on February 16, after the issuance of the NOV, and Planning Chief of Staff Dan Sider, with whom I spoke on March 1 and March 8.

Our understanding throughout this period from the Mayor's office, the Office of Cannabis, and Planning leadership—not only since the issue first arose in 2021 but since the new NOV landed in early February—has been that Planning would suspend enforcement on the matter pending further action from the Mayor's Office. Only in my last conversation with Mr. Sider a few days ago did a relevant official suggest that may not be the case and that we ought to consider a Jurisdiction Request. Thus, we now make such request.

II. We Have Photographed Over 100 Small Businesses Around the City with Similar Solid Gates, Including Two Other Cannabis Stores, Demonstrating that Planning's Enforcement Is Arbitrary and Capricious.

We are including pictures of each of these gates which are labeled to indicate their address.

It is our view that Planning's pursuit of this matter exposes the City to a very real claim that: a) it is arbitrarily and capriciously taking action against one social equity business, and b) it is both failing to provide basic protection for the staff and customers of small businesses and forbidding them from adequately protecting themselves.

Thank you for your consideration. We are happy to answer any questions.

A handwritten signature in blue ink, appearing to be 'Cory', written in a cursive style.

Conor Johnston
Co-Owner



EXHIBITS

EXHIBIT #1: Emails from Victor Ruiz-Cornejo Referenced in Written Statement.

EXHIBIT #2: Email from the Head of the San Francisco Cannabis Retailers Alliance Describing His Conversation with Marisa Rodriguez, Former Director of the San Francisco Office of Cannabis Referenced in Written Statement.

EXHIBIT #3: Email from Andres Powers Referenced in Written Statement.

EXHIBIT #4: Photos of Over 100 Small Businesses Around the City with Similar Solid Gates, Including Two Other Cannabis Stores Referenced in Written Statement.

**1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #1:
Emails from Victor Ruiz-Cornejo referenced in written statement**

From: Ruiz-Cornejo, Victor (MYR) <victor.ruiz-cornejo@sfgov.org>
Sent: Thursday, June 10, 2021 11:31 AM
To: conorj@otterbrands.com; Rachna, Rachna (CPC); Rodriguez, Marisa (ADM)
Cc: 'Shawn Richard'; johnny@access-sf.org; 'quentin platt'; 'Jesse Heston'; 'Crystal Millican'; 'Parker Berling (President Of Cookies)'; 'Michael Moulton'
Subject: Re: Letter from Cookies President re: 1685 Haight

I have touched base with the planning department and will provide an update soon.

Thank you,

From: conorj@otterbrands.com <conorj@otterbrands.com>
Sent: Tuesday, June 8, 2021 1:42 PM
To: Rachna, Rachna (CPC) <rachna.rachna@sfgov.org>; Ruiz-Cornejo, Victor (MYR) <victor.ruiz-cornejo@sfgov.org>; Rodriguez, Marisa (ADM) <marisa.rodriguez@sfgov.org>
Cc: 'Shawn Richard' <shawn@bernersonhaight.com>; johnny@access-sf.org <johnny@access-sf.org>; 'quentin platt' <q@access-sf.org>; 'Jesse Heston' <jesse@bernersonhaight.com>; 'Crystal Millican' <crystal@cookiescalifornia.com>; 'Parker Berling (President Of Cookies)' <parker@cookiescalifornia.com>; 'Michael Moulton' <mike@moultonmoore.com>
Subject: RE: Letter from Cookies President re: 1685 Haight

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Racha,

I am adding Victor Ruiz-Cornejo from the Mayor's office and Marisa Rodriguez, the ED of the Office of Cannabis. Victor, per our conversation the other day, could you please discuss the Mayor's request re: staying enforcement regarding security measures at cannabis businesses to allow time for development of new legislation?

Thank you.

Conor Johnston
Co-owner
Berners' on Haight
1685 Haight St., SF
415.902.0307



From: Rachna, Rachna (CPC) <rachna.rachna@sfgov.org>
Sent: Tuesday, June 8, 2021 1:02 PM
To: conorj@otterbrands.com
Cc: Shawn Richard <shawn@bernersonhaight.com>; johnny@access-sf.org; quentin platt <q@access-sf.org>; Jesse

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Subject: RE: Letter from Cookies President re: 1685 Haight

Hi Conor,

I have checked with deputy zoning administrator and senior director's office staff on the security measures issues. To our knowledge, at this time, there is no City policy to stay enforcement regarding security measures at cannabis businesses to allow time for development of new legislation.

Thanks,

Rachna, Senior Planner

Zoning and Compliance Division

San Francisco Planning

49 South Van Ness Avenue, Suite 1400, San Francisco, CA 94103

Direct: 628.652.7404 | www.sfplanning.org

[San Francisco Property Information Map](#)

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Sent: Friday, June 04, 2021 7:28 PM

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Cc: Shawn Richard <shawn@bernersonhaight.com>; johnny@access-sf.org; quentin platt <g@access-sf.org>; Jesse Heston <jesse@bernersonhaight.com>; 'Crystal Millican' <crystal@cookiescalifornia.com>; Parker Berling (President Of Cookies) <parker@cookiescalifornia.com>; 'Michael Moulton' <mike@moultonmoore.com>

Subject: FW: Letter from Cookies President re: 1685 Haight

Hi Rachna,

I don't have any involvement with 1687 but I'm looping in my partner Shawn so he can work with the landlord on those issues.

Crystal and team at Cookies are putting together the information re: Cookies stores that may have had land use approval in December 2019.

Regarding the roll up door at 1685, have you spoken with Director Hillis, OoC Director Rodriguez, or staff from the Mayor's office as I earlier suggested? The Mayor's office has request Planning to stay any enforcement regarding security measures at cannabis businesses while they develop new legislation to address the issue. Victor Ruiz-Cornejo in the Mayor's office can elaborate if needed.

Conor Johnston

Co-owner

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Sent: Friday, June 4, 2021 6:20 PM
To: conorj@otterbrands.com
Subject: RE: Letter from Cookies President re: 1685 Haight

Hi Conor,

Please see attached notice. Let me know if you have any questions or want to talk.

Thanks,

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Sent: Wednesday, June 23, 2021 12:06 PM
To: conorj@otterbrands.com; Rachna, Rachna (CPC); Rodriguez, Marisa (ADM)
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Hi Conor,

Can we find a time to connect on this next week? We're working on putting together some ideas that it would be helpful to have your and other cannabis businesses input on. Providing a few times that work for me below, 30 minutes should be enough time:

Tuesday 6/29 9:30AM-10:30AM

Wednesday 6/30 before noon

Thursday 7/1 9:00AM-10:00AM

Thanks,



Victor Ruiz-Cornejo | Policy Advisor
Office of Mayor London N. Breed
City and County of San Francisco
Pronouns: Any

From: conorj@otterbrands.com <conorj@otterbrands.com>
Sent: Friday, June 11, 2021 1:08 PM
To: Ruiz-Cornejo, Victor (MYR) <victor.ruiz-cornejo@sfgov.org>; Rachna, Rachna (CPC) <rachna.rachna@sfgov.org>; Rodriguez, Marisa (ADM) <marisa.rodriguez@sfgov.org>
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Thank you Victor. Rachna, please let us know if you need additional information.

Mike Moulton is aiming to have the details you requested about entitlements today, I believe.

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From: Ruiz-Cornejo, Victor (MYR) <victor.ruiz-cornejo@sfgov.org>
Sent: Wednesday, July 7, 2021 12:21 PM
To: conorj@otterbrands.com; Rachna, Rachna (CPC); Rodriguez, Marisa (ADM)
Cc: 'Shawn Richard'; johnny@access-sf.org
Subject: Re: Letter from Cookies President re: 1685 Haight

Thanks again for taking the time to meet last week. I wanted to circle back to see if you are able to share some thoughts on alternative gates that would provide a level of security you're comfortable with, while not being 100% opaque.

From: conorj@otterbrands.com <conorj@otterbrands.com>
Sent: Tuesday, June 29, 2021 8:34 PM
To: Ruiz-Cornejo, Victor (MYR) <victor.ruiz-cornejo@sfgov.org>; Rachna, Rachna (CPC) <rachna.rachna@sfgov.org>; Rodriguez, Marisa (ADM) <marisa.rodriguez@sfgov.org>
Cc: 'Shawn Richard' <shawn@bernersonhaight.com>; johnny@access-sf.org <johnny@access-sf.org>
Subject: RE: Letter from Cookies President re: 1685 Haight

Cool. Will do.

From: Ruiz-Cornejo, Victor (MYR) <victor.ruiz-cornejo@sfgov.org>
Sent: Tuesday, June 29, 2021 12:15 PM
To: conorj@otterbrands.com; Rachna, Rachna (CPC) <rachna.rachna@sfgov.org>; Rodriguez, Marisa (ADM) <marisa.rodriguez@sfgov.org>
Cc: 'Shawn Richard' <shawn@bernersonhaight.com>; johnny@access-sf.org
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Sure, maybe just a couple would be helpful. Sending the invite out now.

From: conorj@otterbrands.com <conorj@otterbrands.com>
Sent: Wednesday, June 23, 2021 9:30 PM
To: Ruiz-Cornejo, Victor (MYR) <victor.ruiz-cornejo@sfgov.org>; Rachna, Rachna (CPC) <rachna.rachna@sfgov.org>; Rodriguez, Marisa (ADM) <marisa.rodriguez@sfgov.org>
Cc: 'Shawn Richard' <shawn@bernersonhaight.com>; johnny@access-sf.org <johnny@access-sf.org>
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Sure thing, Victor. Let's do Thursday at 9. Want me to invite some other businesses that are interested in the topic?

Thanks.

Conor Johnston
Co-owner
Berner's on Haight
1685 Haight St., SF
415.902.0307



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Victor Ruiz-Cornejo | Policy Advisor
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Cc: 'Shawn Richard' <shawn@bernersonhaight.com>; johnny@access-sf.org; 'quentin platt' <q@access-sf.org>; 'Jesse Heston' <jesse@bernersonhaight.com>; 'Crystal Millican' <crystal@cookiescalifornia.com>; 'Parker Berling (President Of Cookies)' <parker@cookiescalifornia.com>; 'Michael Moulton' <mike@moultonmoore.com>
Subject: Re: Letter from Cookies President re: 1685 Haight

I have touched base with the planning department and will provide an update soon.

Thank you,

From: conorj@otterbrands.com <conorj@otterbrands.com>
Sent: Tuesday, June 8, 2021 1:42 PM
To: Rachna, Rachna (CPC) <rachna.rachna@sfgov.org>; Ruiz-Cornejo, Victor (MYR) <victor.ruiz-cornejo@sfgov.org>; Rodriguez, Marisa (ADM) <marisa.rodriquez@sfgov.org>
Cc: 'Shawn Richard' <shawn@bernersonhaight.com>; johnny@access-sf.org <johnny@access-sf.org>; 'quentin platt' <q@access-sf.org>; 'Jesse Heston' <jesse@bernersonhaight.com>; 'Crystal Millican' <crystal@cookiescalifornia.com>; 'Parker Berling (President Of Cookies)' <parker@cookiescalifornia.com>; 'Michael Moulton' <mike@moultonmoore.com>
Subject: RE: Letter from Cookies President re: 1685 Haight

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Racha,

I am adding Victor Ruiz-Cornejo from the Mayor's office and Marisa Rodriguez, the ED of the Office of Cannabis. Victor, per our conversation the other day, could you please discuss the Mayor's request re: staying enforcement regarding security measures at cannabis businesses to allow time for development of new legislation?

Thank you.

Conor Johnston
Co-owner
Berner's on Haight
1685 Haight St., SF
415.902.0307



1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #1:
Emails from Victor Ruiz-Cornejo referenced in written statement

From: Rachna, Rachna (CPC) <rachna.rachna@sfgov.org>
Sent: Tuesday, June 8, 2021 1:02 PM
To: conorj@otterbrands.com
Cc: Shawn Richard <shawn@bernersonhaight.com>; johnny@access-sf.org; quentin platt <q@access-sf.org>; Jesse Heston <jesse@bernersonhaight.com>; 'Crystal Millican' <crystal@cookiescalifornia.com>; Parker Berling (President Of Cookies) <parker@cookiescalifornia.com>; 'Michael Moulton' <mike@moultonmoore.com>
Subject: RE: Letter from Cookies President re: 1685 Haight

Hi Conor,

I have checked with deputy zoning administrator and senior director's office staff on the security measures issues. To our knowledge, at this time, there is no City policy to stay enforcement regarding security measures at cannabis businesses to allow time for development of new legislation.

Thanks,

Rachna, Senior Planner
Zoning and Compliance Division
San Francisco Planning
49 South Van Ness Avenue, Suite 1400, San Francisco, CA 94103
Direct: 628.652.7404 | www.sfplanning.org
[San Francisco Property Information Map](#)

Due to COVID-19, San Francisco Planning is not providing any in-person services, but we are operating remotely. Our staff are available by e-mail, and the Planning and Historic Preservation Commissions are convening remotely. The public is encouraged to participate. Find more information on our services here.

From: conorj@otterbrands.com <conorj@otterbrands.com>
Sent: Friday, June 04, 2021 7:28 PM
To: Rachna, Rachna (CPC) <rachna.rachna@sfgov.org>
Cc: Shawn Richard <shawn@bernersonhaight.com>; johnny@access-sf.org; quentin platt <q@access-sf.org>; Jesse Heston <jesse@bernersonhaight.com>; 'Crystal Millican' <crystal@cookiescalifornia.com>; Parker Berling (President Of Cookies) <parker@cookiescalifornia.com>; 'Michael Moulton' <mike@moultonmoore.com>
Subject: FW: Letter from Cookies President re: 1685 Haight

Hi Rachna,

I don't have any involvement with 1687 but I'm looping in my partner Shawn so he can work with the landlord on those issues.

Crystal and team at Cookies are putting together the information re: Cookies stores that may have had land use approval in December 2019.

Regarding the roll up door at 1685, have you spoken with Director Hillis, OoC Director Rodriguez, or staff from the Mayor's office as I earlier suggested? The Mayor's office has request Planning to stay any enforcement regarding

**1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #1:
Emails from Victor Ruiz-Cornejo referenced in written statement**

security measures at cannabis businesses while they develop new legislation to address the issue. Victor Ruiz-Cornejo in the Mayor's office can elaborate if needed.

Conor Johnston

Co-owner

Berner's on Haight
1685 Haight St., SF
415.902.0307



From: Rachna, Rachna (CPC) <rachna.rachna@sfgov.org>
Sent: Friday, June 4, 2021 6:20 PM
To: conorj@otterbrands.com
Subject: RE: Letter from Cookies President re: 1685 Haight

Hi Conor,

Please see attached notice. Let me know if you have any questions or want to talk.

Thanks,

Rachna, Senior Planner
Zoning and Compliance Division
San Francisco Planning
49 South Van Ness Avenue, Suite 1400, San Francisco, CA 94103
Direct: 628.652.7404 | www.sfplanning.org
[San Francisco Property Information Map](#)

Due to COVID-19, San Francisco Planning is not providing any in-person services, but we are operating remotely. Our staff are available by e-mail, and the Planning and Historic Preservation Commissions are convening remotely. The public is encouraged to participate. Find more information on our services here.

**1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #2:
Email from Head of the San Francisco Cannabis Retailers Alliance
Describing His Conversation w SF OOC Director Marisa Rodriguez
Referenced in Written Statement**

From: **John Delaplane** <johnny@access-sf.org>
Date: Wed, May 5, 2021 at 3:44 PM
Subject: Re: Seeking Additional Security Measures for Cannabis Retail Dispensaries
To: Sarah S <sarah@trybasa.com>

Hi there! Marisa [Rodriguez] just called me and she confirmed that the Mayor's office will be directing Planning to stay any enforcement on additional security measures.

And that there will be some cannabis related Planning code clean up coming soon, specifically relating to 311 notice for legacy MCDs so they don't have to go back through Planning for DR or CUA...and that we will lob roll down doors and other security features into that clean up.

so all good news!

Thanks for your help here:)

best,

johnny

On Tue, May 4, 2021 at 11:48 AM Sarah S <sarah@trybasa.com> wrote:

Dear Mayor's Office, Office of Cannabis, & SF Planning Department,

San Francisco Cannabis Retailers Alliance (SFCRA) represents over a dozen cannabis retailers in San Francisco. In response to recent vandalism and robberies in which cannabis facilities were targeted, many cannabis business operators would like to implement further security measures including roll down doors. Unfortunately, Planning Code doesn't allow for certain security measures, and the road block at DBI makes permitting these new security features in a timely manner impossible.

We are reaching out to the Mayor's office to ask if they would direct SF Planning to stay any enforcement on roll down doors or additional security measures cannabis businesses have put in place, while stakeholders and city officials work together on a legislative solution. It's critical to the safety of our staff, our businesses, and the communities we serve.

Thank you for your consideration,

Sarah Shrader
BASA
Member, SCFRA.org

**1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #3:
Email from Andres Powers referenced in written statement**

From: Power, Andres (MYR) <andres.power@sfgov.org>
Sent: Wednesday, February 2, 2022 7:06 PM
To: Ben Bleiman; conorj@otterbrands.com
Subject: Re: 1685-1687 Haight Street

Let's talk. I'm not convinced that there is not a solution that properly balances site safety against the legitimate desire not to deaden our commercial corridors after hours.

Andres Power
Policy Director
Office of Mayor London N. Breed

From: Ben Bleiman <benny.bleiman@gmail.com>
Sent: Wednesday, February 2, 2022 6:49 PM
To: Conor Johnston <conorj@otterbrands.com>
Cc: Wong, Kelly (CPC) <kelly.wong@sfgov.org>; Rachna, Rachna (CPC) <rachna.rachna@sfgov.org>; Ruiz-Cornejo, Victor (MYR) <victor.ruiz-cornejo@sfgov.org>; Power, Andres (MYR) <andres.power@sfgov.org>; Hillis, Rich (CPC) <rich.hillis@sfgov.org>; Law, Ray (ADM) <ray.law@sfgov.org>; Office of Cannabis (ADM) <officeofcannabis@sfgov.org>; John Delaplaine <johnny@access-sf.org>; quentin platt <q@access-sf.org>; Jesse Heston <jesse@bernersonhaight.com>; Douglas B. Evans <devans@pragmatalaw.com>; Sider, Dan (CPC) <dan.sider@sfgov.org>; Dorsey, Matt (POL) <matt.dorsey@sfgov.org>; Pierce, John R. (ADM) <john.r.pierce@sfgov.org>; Barnes, Bill (ADM) <bill.barnes@sfgov.org>; shawn richard <shawnmrichard@yahoo.com>
Subject: Re: 1685-1687 Haight Street

Hey Everyone.

While I don't have a roll down door, I can say from experience that operators in the cannabis space feel like we are sitting ducks, and the last two years have shown that feeling to be justified. We have repeatedly seen organized groups gain speedy entry through security doors that met the city's regs and subsequently did not offer adequate protection. Could we possibly offer businesses like Berner's a temporary stay on enforcement of code violations? This could offer us a chance to work collaboratively with the City to find a workable solution that balances the - I would argue unlike the acerbic Johnston - reasonable concerns for community aesthetics with our legitimate desire to protect our livelihoods.

Best,

On Tue, Feb 1, 2022 at 1:43 PM <conorj@otterbrands.com> wrote:

It's good to know that Planning cares more about "visual interest to pedestrians" than the safety of our staff and business.

We had a scissor gate previously, by the way. It was breached twice, as have the ones at many other cannabis businesses.

**1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #3:
Email from Andres Powers referenced in written statement**

This matter will be resolved either by legislation or in court. It will not be resolved by us sacrificing our staff's safety for your aesthetic wishes.

Conor Johnston

Co-owner

Berner's on Haight

1685 Haight St., SF

415.902.0307



From: Wong, Kelly (CPC) <kelly.wong@sfgov.org>

Sent: Tuesday, February 1, 2022 1:28 PM

To: conorj@otterbrands.com; Rachna, Rachna (CPC) <rachna.rachna@sfgov.org>; Ruiz-Cornejo, Victor (MYR) <victor.ruiz-cornejo@sfgov.org>; Power, Andres (MYR) <andres.power@sfgov.org>; Hillis, Rich (CPC) <rich.hillis@sfgov.org>

Cc: Law, Ray (ADM) <ray.law@sfgov.org>; Office of Cannabis (ADM) <officeofcannabis@sfgov.org>; johnny@access-sf.org; 'quentin platt' <q@access-sf.org>; 'Jesse Heston' <jesse@bernersonhaight.com>; 'Douglas B. Evans' <devans@pragmatalaw.com>; 'Ben Bleiman' <benny.bleiman@gmail.com>; Sider, Dan (CPC) <dan.sider@sfgov.org>; Dorsey, Matt (POL) <matt.dorsey@sfgov.org>; Pierce, John R. (ADM) <john.r.pierce@sfgov.org>; Barnes, Bill (ADM) <bill.barnes@sfgov.org>; 'shawn richard' <shawnmrichard@yahoo.com>

Subject: RE: 1685-1687 Haight Street

Dear Conor,

Rachna is required to continue enforcement of Planning Code violations for all enforcement cases, like all other enforcement planners are on the Code Enforcement Team.

**1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #3:
Email from Andres Powers referenced in written statement**

In regards to the currently installed security gate, I see that Rachna has already relayed that this solid gate does not meet [Planning Code Section 145.1\(c\)\(7\)](#) which specifically states:

(7) **Gates, Railings, and Grillwork.** Any decorative railings or grillwork, other than wire mesh placed in front of or behind ground floor windows, shall be at least 75 percent open to perpendicular. Rolling or sliding security gates shall consist of open grillwork rather than solid material, so as to provide visual interest to pedestrians when the gates are closed, and to permit light to pass through mostly unobstructed. Gates, when both open and folded or rolled as well as the gate mechanism, shall be retracted within, or laid flush with, the building facade.

The Planning Department has actually worked on another property with the same violation, where solid roll-up gates were installed at a cannabis business (952 Mission Street, Barbary Coast Cannabis). See below screenshots from Google Street view of BEFORE and AFTER). Additionally, other cannabis businesses such as Moe Greens at 1276 Market Street has installed security gates at the building interior and obtained a permit for this.

We would allow for a scissor gate to be installed at the exterior or within the interior of the storefront, in order to address security concerns. Scissor gates meet the 75% transparency requirements. The current requirement is for you to file a permit for a security gate that meets Planning Code requirements.

952 Mission – BEFORE:



**1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #3:
Email from Andres Powers referenced in written statement**

952 Mission – AFTER:



1276 Market – CURRENT: See security gate installed at interior of storefront windows



Please let us know if you need further guidance on all requirements outlined in Rachna's email below on the requirements to file permits to restore the storefront, for the installation of 75% min. open security gates, any required sign permit applications, and provide requested information for your business use.

Thank you,

Kelly

*Note: Planning Department staff are currently working remotely and as such, **email is the best way to reach me.***

**1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #3:
Email from Andres Powers referenced in written statement**

Kelly H. Wong
Acting Code Enforcement Manager
Preservation Specialist | Current Planning Division

(she/her/hers)

San Francisco Planning

49 South Van Ness Avenue, Suite 1400, San Francisco, CA 94103

Direct: 628.652.7397 | www.sfplanning.org

[San Francisco Property Information Map](#)

From: conorj@otterbrands.com <conorj@otterbrands.com>

Sent: Tuesday, February 1, 2022 12:10 PM

To: Rachna, Rachna (CPC) <rachna.rachna@sfgov.org>; Ruiz-Cornejo, Victor (MYR) <victor.ruiz-cornejo@sfgov.org>; Power, Andres (MYR) <andres.power@sfgov.org>; Hillis, Rich (CPC) <rich.hillis@sfgov.org>

Cc: Law, Ray (ADM) <ray.law@sfgov.org>; Office of Cannabis (ADM) <officeofcannabis@sfgov.org>; johnny@access-sf.org; 'quentin platt' <q@access-sf.org>; 'Jesse Heston' <jesse@bernersonhaight.com>; 'Douglas B. Evans' <devans@pragmatalaw.com>; 'Ben Bleiman' <benny.bleiman@gmail.com>; Sider, Dan (CPC) <dan.sider@sfgov.org>; Dorsey, Matt (POL) <matt.dorsey@sfgov.org>; Pierce, John R. (ADM) <john.r.pierce@sfgov.org>; Barnes, Bill (ADM) <bill.barnes@sfgov.org>; 'shawn richard' <shawnmrichard@yahoo.com>; Wong, Kelly (CPC) <kelly.wong@sfgov.org>

Subject: RE: 1685-1687 Haight Street

Directed by whom?

From: Rachna, Rachna (CPC) <rachna.rachna@sfgov.org>

Sent: Tuesday, February 1, 2022 12:06 PM

To: conorj@otterbrands.com; Ruiz-Cornejo, Victor (MYR) <victor.ruiz-cornejo@sfgov.org>; Power, Andres (MYR) <andres.power@sfgov.org>; Hillis, Rich (CPC) <rich.hillis@sfgov.org>

Cc: Law, Ray (ADM) <ray.law@sfgov.org>; Office of Cannabis (ADM) <officeofcannabis@sfgov.org>; johnny@access-sf.org; quentin platt <q@access-sf.org>; Jesse Heston <jesse@bernersonhaight.com>; Douglas B. Evans <devans@pragmatalaw.com>; Ben Bleiman <benny.bleiman@gmail.com>; Sider, Dan (CPC) <dan.sider@sfgov.org>; Dorsey, Matt (POL) <matt.dorsey@sfgov.org>; Pierce, John R. (ADM) <john.r.pierce@sfgov.org>; Barnes, Bill (ADM) <bill.barnes@sfgov.org>; 'shawn richard' <shawnmrichard@yahoo.com>; Wong, Kelly (CPC) <kelly.wong@sfgov.org>

Subject: RE: 1685-1687 Haight Street

Hi Conor,

**1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #3:
Email from Andres Powers referenced in written statement**

Thank you for your email. I understand your concerns. However, a permit for the gate is still required to be filed as it was installed without benefit of a permit. I have been directed to continue with the enforcement process as it has already been over six months since our last follow up and there has been no further update on the status.

Please let me know if you have any questions and I am happy to set up a phone call.

Thanks,

**Rachna, Senior Planner
Current Planning Division**

San Francisco Planning

49 South Van Ness Avenue, Suite 1400, San Francisco, CA 94103

Direct: 628.652.7404 | www.sfplanning.org

[San Francisco Property Information Map](#)

From: conorj@otterbrands.com <conorj@otterbrands.com>

Sent: Tuesday, February 01, 2022 11:41 AM

To: Rachna, Rachna (CPC) <rachna.rachna@sfgov.org>; Ruiz-Cornejo, Victor (MYR) <victor.ruiz-cornejo@sfgov.org>; Power, Andres (MYR) <andres.power@sfgov.org>; Hillis, Rich (CPC) <rich.hillis@sfgov.org>

Cc: Law, Ray (ADM) <ray.law@sfgov.org>; Office of Cannabis (ADM) <officeofcannabis@sfgov.org>; johnny@access-sf.org; quentin platt <q@access-sf.org>; Jesse Heston <jesse@bernersonhight.com>; Douglas B. Evans <devans@pragmatalaw.com>; Ben Bleiman <benny.bleiman@gmail.com>; Dorsey, Matt (POL) <matt.dorsey@sfgov.org>; Pierce, John R. (ADM) <john.r.pierce@sfgov.org>; Barnes, Bill (ADM) <bill.barnes@sfgov.org>; 'shawn richard' <shawnmrichard@yahoo.com>

Subject: RE: 1685-1687 Haight Street

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**1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #3:
Email from Andres Powers referenced in written statement**

We have zero intention of removing or altering our security gate, which is urgently needed for the safety of our staff and business—safety which the city of San Francisco has been unable to provide for ours and other businesses like ours. What is the status of the discussed legislation on this matter?

My patience on this issue—and that of my industry colleagues—is at its end. The city is failing to protect our businesses and trying to stop us from protecting them ourselves.

1687 Haight has nothing to do with Cole Ashbury Group or Berner's on Haight. Please address those issues separately with Brothers Against Guns.

Conor Johnston

Co-owner

Berner's on Haight

1685 Haight St., SF

415.902.0307



From: Rachna, Rachna (CPC) <rachna.rachna@sfgov.org>

Sent: Tuesday, February 1, 2022 11:27 AM

To: shawn richard <shawnmrichard@yahoo.com>; conorj@otterbrands.com

Subject: RE: 1685-1687 Haight Street

Hi Shawn and Conor,

Hope you are doing well and staying safe.

**1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #3:
Email from Andres Powers referenced in written statement**

I am following up to get resolution on the pending violation at the above property. The following actions are required:

1. File a Building Permit Application to seek legalization, removal, or modification of the solid roll up door at 1685 Haight frontage. As part of this permit review, you may be required to make modifications to allow visibility into the business spaces at the above property to ensure compliance with the Planning Code Section 145.1 and the Planning Department's Standards for Storefront Transparency. Please note that a permit is also required to install a gate at 1687 Haight building frontage.
2. File a Building Permit Application to restore the original façade at 1687 Haight frontage by replacing the entry door with a transparent door and removing the boards covering the original windows.
3. File a Sign Permit Application for the business sign at 1687 Haight. A permit is not required for a sign painted directly on the windows and such sign area shall not exceed one third of the windows space.
4. Provide detailed information on the non-profit organization use operated at 1687 Haight to demonstrate that this use operates as a, *"Social Service or Philanthropic Facility, an Institutional Community Use that provides programs and/or services of a charitable or public service nature, including but not limited to arts, education, financial or housing assistance, training, and advocacy."* This business must have an active presence on the street and must be open to public with the business name and hours posted on the premises.

Please provide me an update on the above and file permits within 15 days if possible. Please also send me current front façade photos for both 1685 and 1687 Haight.

Let me know if you have any questions.

Thanks,

**Rachna, Senior Planner
Current Planning Division**

San Francisco Planning
49 South Van Ness Avenue, Suite 1400, San Francisco, CA 94103
Direct: 628.652.7404 | www.sfplanning.org
[San Francisco Property Information Map](#)

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Ben Bleiman

Managing Partner

Tonic Nightlife Group

Founder

San Francisco Bar Owner Alliance

Chairman

California Music and Culture Association

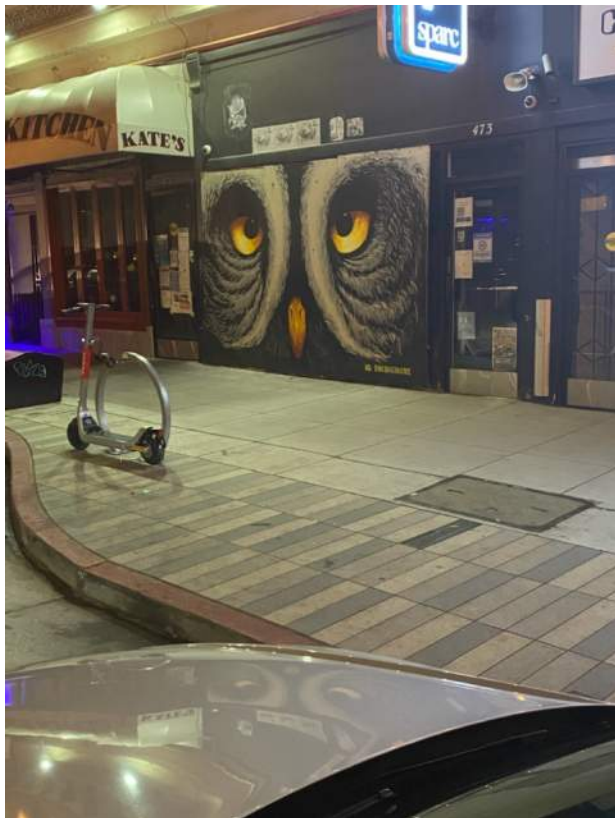
415.999.5053

"I find that a duck's opinion of me is very much influenced by whether or not I have bread."
-Mitch Hedberg

**1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #4:
Photos of Over 100 Small Businesses Around the City with Similar Solid
Gates, Including Two Other Cannabis Stores as Referenced in Written Statement**

- | | | | | |
|--------------------|-----------------|---------------------|--------------|--------------------|
| 15 Kearny | 527 Grant | 950 Grant | 2050 Mission | 2665 Mission |
| 340 Fell | 536 Divis | 960 Grant | 2062 Mission | 2700 Mission |
| 351 Valencia | 540 Grant | 1019 Grant | 2076 Mission | 2840 Mission |
| 400 block Haight 2 | 552 Grant | 1046 Grant | 2169 Mission | 2860 Mission |
| 400 block Haight | 555 + 565 Grant | 1050 Grant | 2171 Mission | 2862 Mission |
| 412 Valencia | 556 Grant | 1055 Grant | 2225 Mission | 2873 Mission |
| 420 Grant | 615 Grant | 1105 Grant | 2250 Mission | 3121 16th |
| 422 Haight | 654 Grant | 1134-1118 Grant | 2255 Mission | 4812 Geary--Urbana |
| 432 Castro | 658 Grant | 1146 Valencia | 2260 Mission | Grant 2 |
| 440 Haight | 673 Broadway | 1262 Stockton | 2272 Mission | Grant 3 |
| 461 Valencia | 734 Grant | 1300 block Haight | 2298 Mission | Grant |
| 475 Haight | 801 Grant | 1355 Fulton | 2300 Mission | Mission unknown |
| 500 block Haight | 807 Grant | 1400 block Haight 2 | 2318 Mission | |
| 501 Grant | 808 Washington | 1400 block Haight 3 | 2330 Mission | |
| 501 Haight | 819 Grant | 1400 block Haight | 2338 Mission | |
| 506 Grant | 909 Grant | 1500 block Haight 2 | 2344 Mission | |
| 515 Grant | 912 Grant | 1500 block Haight 3 | 2352 Mission | |
| 518 Castro | 915 Grant | 1500 block Haight 4 | 2362 Market | |
| 520 Grant | 917 Grant | 1500 block Haight 5 | 2441 Mission | |
| 522 Grant | 921 Grant | 1500 block Haight | 2491 Mission | |
| 523 Grant | 923 Valencia | 1765 Stockton | 2565 Mission | |
| 525 Grant | 924 Grant | 2020 Mission | 2632 Mission | |

1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #4:
Photos of Over 100 Small Businesses Around the City with Similar Solid
Gates, Including Two Other Cannabis Stores as Referenced in Written Statement



1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #4:
Photos of Over 100 Small Businesses Around the City with Similar Solid Gates, Including Two Other Cannabis Stores as Referenced in Written Statement



412 Valencia St, San Francisco, CA 94103



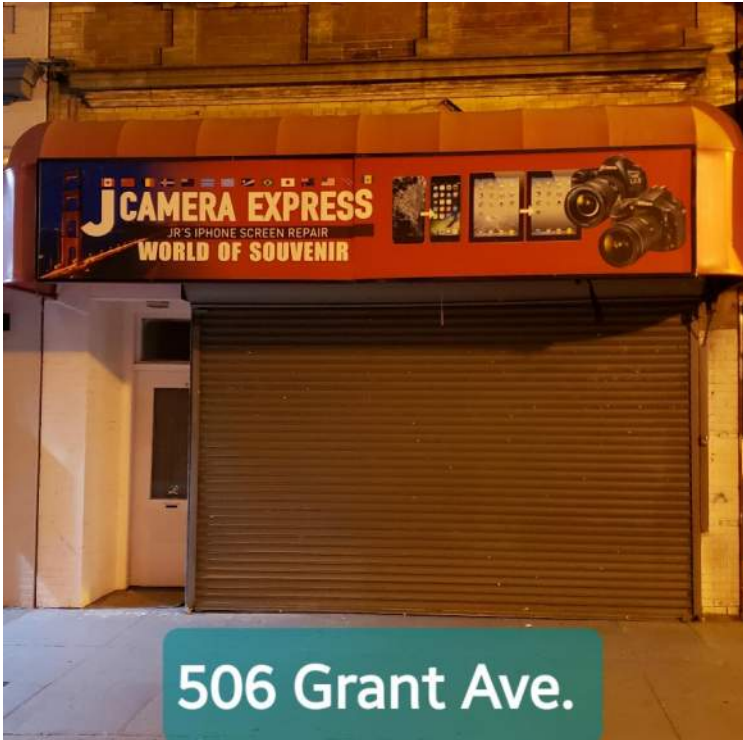
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1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #4:
Photos of Over 100 Small Businesses Around the City
with Similar Solid Gates, Including Two Other Cannabis
Stores as Referenced in Written Statement



1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #4:
Photos of Over 100 Small Businesses Around the City
with Similar Solid Gates, Including Two Other Cannabis
Stores as Referenced in Written Statement





1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #4:
Photos of Over 100 Small Businesses Around the City
with Similar Solid Gates, Including Two Other Cannabis
Stores as Referenced in Written Statement



1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #4:
Photos of Over 100 Small Businesses Around the City
with Similar Solid Gates, Including Two Other Cannabis
Stores as Referenced in Written Statement



540 Grant Ave.



552 Grant Ave.

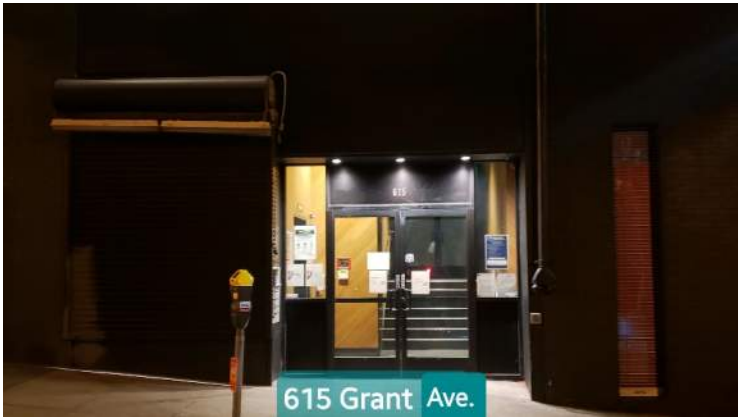


555 Grant Ave.

565 Grant Ave.



556 Grant Ave.



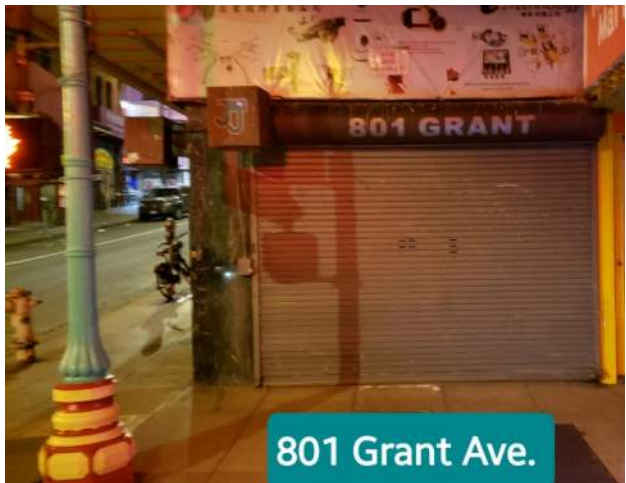
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654 Grant Ave.

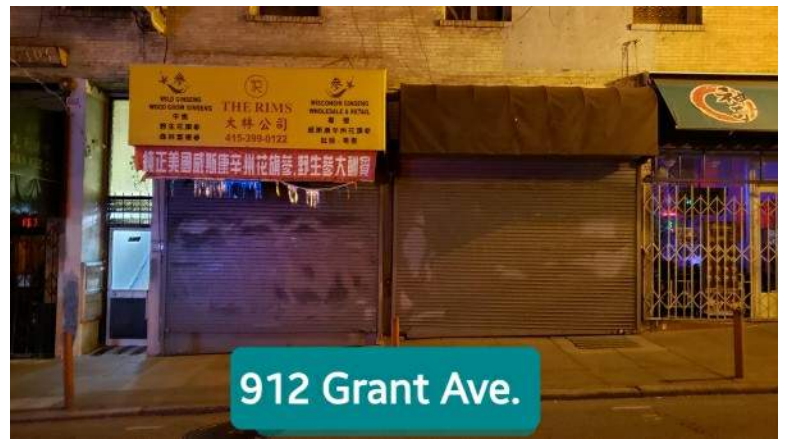


673 Broadway



801 Grant Ave.

1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #4:
Photos of Over 100 Small Businesses Around the City
with Similar Solid Gates, Including Two Other Cannabis
Stores as Referenced in Written Statement



1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #4:
Photos of Over 100 Small Businesses Around the City
with Similar Solid Gates, Including Two Other Cannabis
Stores as Referenced in Written Statement



807 Grant Ave.



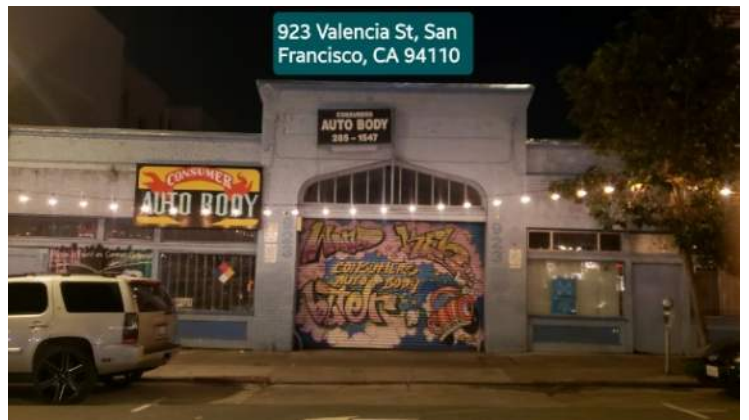
909 Grant Ave.



915 Grant Ave.



921 Grant Ave.

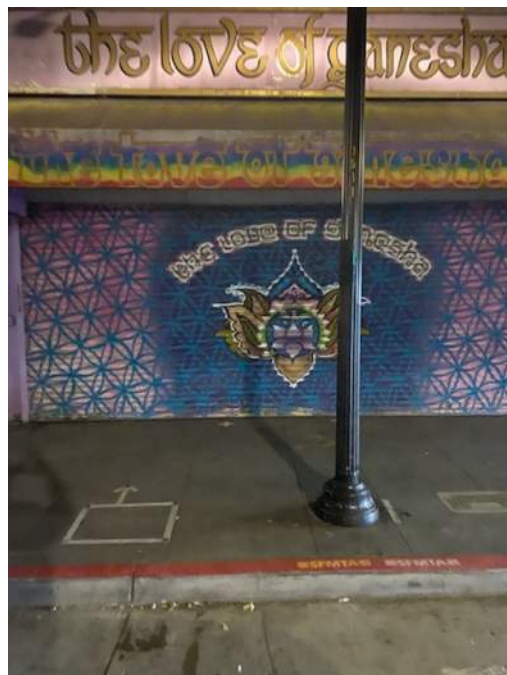
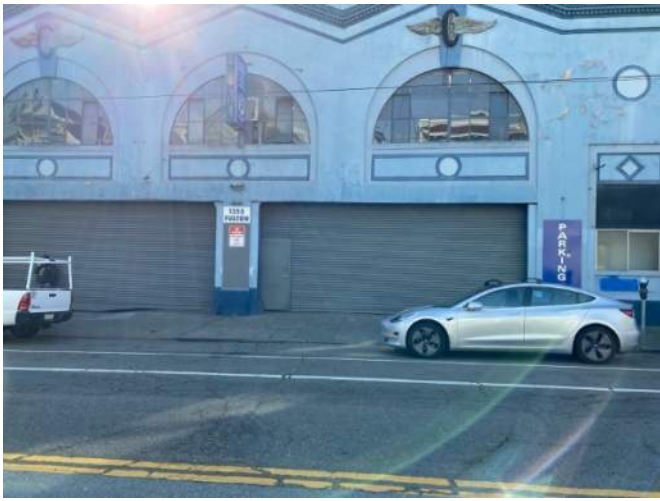


1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #4:
Photos of Over 100 Small Businesses Around the City with Similar Solid Gates, Including
Two Other Cannabis Stores as Referenced in Written Statement



1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #4:
Photos of Over 100 Small Businesses Around the City
with Similar Solid Gates, Including Two Other Cannabis
Stores as Referenced in Written Statement

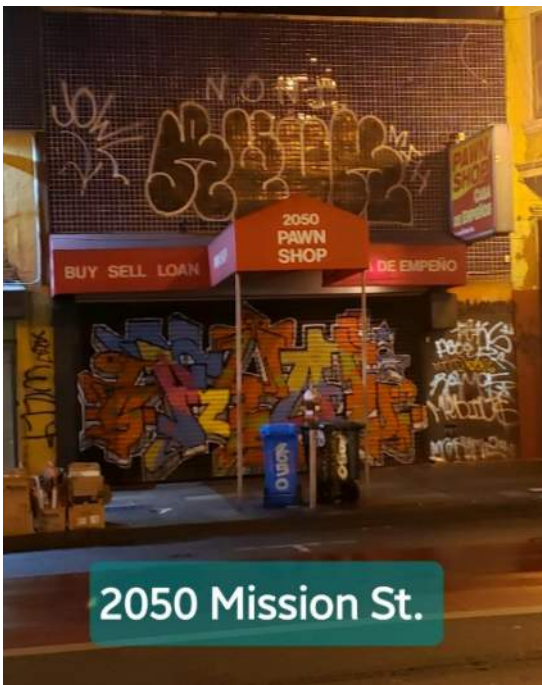
1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #4:
Photos of Over 100 Small Businesses Around the City
with Similar Solid Gates, Including Two Other Cannabis
Stores as Referenced in Written Statement





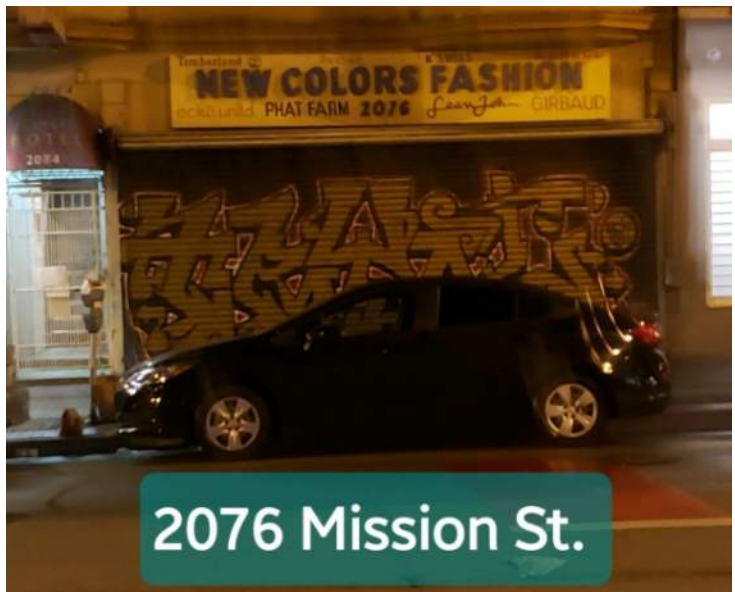
**1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #4:
Photos of Over 100 Small Businesses Around the City
with Similar Solid Gates, Including Two Other Cannabis
Stores as Referenced in Written Statement**

1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #4:
Photos of Over 100 Small Businesses Around the City
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2062 Mission St.



2076 Mission St.



2169 Mission St.



2171 Mission St.
The Tower Smoke Shop

1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #4:
Photos of Over 100 Small Businesses Around the City
with Similar Solid Gates, Including Two Other Cannabis
Stores as Referenced in Written Statement



2225 Mission St.



2250 Mission St.

1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #4:
Photos of Over 100 Small Businesses Around the City
with Similar Solid Gates, Including Two Other Cannabis
Stores as Referenced in Written Statement





2300 Mission St.



2318 Mission St.



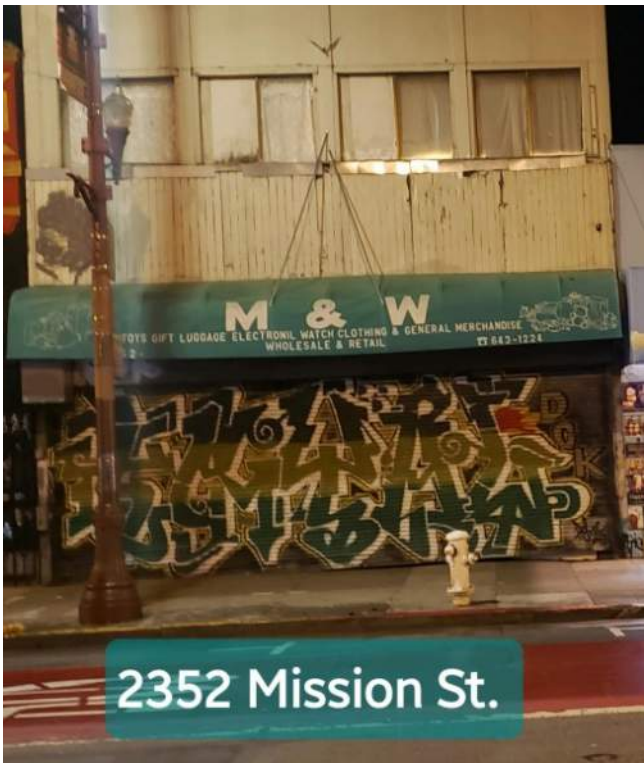
2338 Mission St.



2344 Mission St.

1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #4:
Photos of Over 100 Small Businesses Around the City
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Stores as Referenced in Written Statement



2352 Mission St.



2441 Mission St.



2491 Mission St.



Libreria
2862 Mission St, San
Francisco, CA 94110

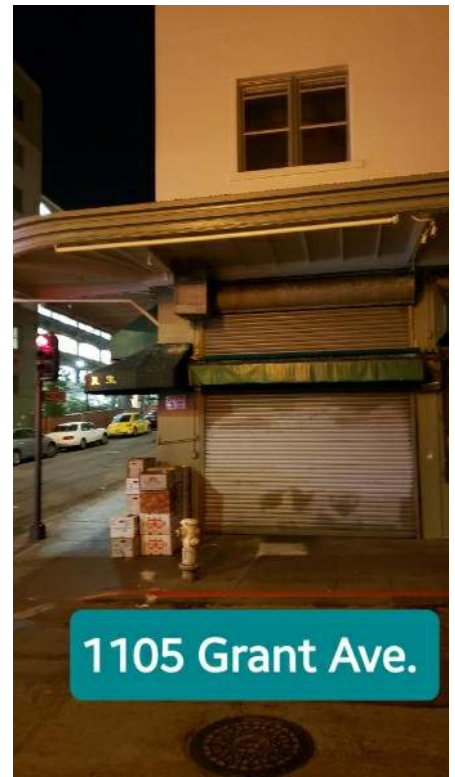


1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #4:
Photos of Over 100 Small Businesses Around the City
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**1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #4:
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1685 HAIGHT STREET JURISDICTION REQUEST EXHIBIT #4:
Photos of Over 100 Small Businesses Around the City
with Similar Solid Gates, Including Two Other Cannabis
Stores as Referenced in Written Statement

Notice of Violation

**(Departmental Action
for Which Jurisdiction Request is Being Filed)**



NOTICE OF VIOLATION

February 9, 2022

Property Owner

Olson Family Trust
Sullivan Family Revoc. Trust
55 W Oak Knoll Drive
San Anselmo, CA 94960

Site Address: 1685-1687 Haight Street
Assessor's Block/Lot: 1247/020
Zoning District: NCD, Haight Street Neighborhood Commercial
Complaint Number: 2021-003092ENF
Code Violation: Section 175, Exterior Alterations without Permit
Section 145.1(c), Storefront Transparency
Section 607.1, Business Sign without Permit
Administrative Penalty: Up to \$250 Each Day of Violation
Enforcement T & M Fee: \$2,890.09 (Current Fee for Confirmed Violation, Additional charges may 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 Violation

Planning Department records indicate the subject property is authorized as a Cannabis Retail Sales use (2018-01421CUA) . A Building Permit Application (BPA) No. 201906274632 authorized the removal of existing exterior front door and frame, paint, and install a new exterior security camera. The violation pertains to additional unpermitted alterations completed at the property without benefit of a building permit or Planning Department review. Specifically, the subject property is deemed to be in violation of the following Planning Code Sections:

- Section 145.1(c) for lack of compliance with Storefront Transparency requirements,
- Section 175 for unauthorized exterior alterations, and
- Section 607.1 for unauthorized installation of a business wall sign.

Unauthorized Alterations

It has come to the Planning Department's attention that a solid roll-up door has been installed at the ground floor of the subject property located at 1685 Haight Street without benefit of a permit. Additionally, at the ground floor of the subject property located at 1687 Haight Street, windows have been covered with solid boards and the pre-existing glass entry door has been replaced with a solid panel door. The unpermitted solid roll-up door at 1685 Haight Street and the solid panel door at 1687 Haight Street are in violation of the Planning Code.

The Planning Code regulates the use, size, design, and siting of buildings that may be constructed on a piece of property. The Planning Code has standards for buildings that govern the building development features. A building permit with approval from San Francisco Planning Department is required for any alterations to the existing structures.

The subject property is considered a historic resource located within the California Register Historic District and within the Eligible Haight Ashbury Historic District. The building at the subject property is age eligible as a Historic Resource for the purposes of CEQA (California Environmental Quality Act) review as it was built in 1906 with architectural character and features. The San Francisco General Plan, the Planning Code's Priority Planning Policies and Urban Design Guidelines call for protecting and enhancing neighborhood architectural character citywide.

Exterior alterations at the subject property require historic preservation review and approval from the Planning Department to ensure compliance with the Planning Department policies. Currently, the subject property does not have approval of a building permit from the Planning Department for the exterior alterations related to the front façade at the above property.

Storefront Transparency

San Francisco Planning Code requires storefronts to maintain transparent windows that allow visibility into the store. A transparent storefront welcomes customers inside with products and services on display, discourages crime with more "eyes on the street," reduces energy consumption by letting in natural light, and enhances the curb appeal and value of the store and the entire neighborhood.

Pursuant to Planning Code Section 145.1(c)(6), "*frontages with active uses must be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level and allow visibility to the inside of the building.*"

Pursuant to Planning Code Section 145.1(c)(7), "*doors, decorative railings, or grillwork placed in front of or behind the storefront windows must also be at least 75 percent open to perpendicular view.*"

To ensure visibility into active spaces, any fenestration of active uses provided at pedestrian eye level must have visibility to the inside of the building. The following definitions apply:

- 1) **Pedestrian Eye Level** includes the space that is between 4 feet and 8 feet in height above the adjacent sidewalk level, following the slope if applicable.
- 2) **Visibility to the Inside of the Building** means that the area inside the building within 4 feet from the surface of the window glass at pedestrian eye level is at least 75 percent open to perpendicular view.

Any fenestration of frontages with active uses must have visibility to the inside of the building with at least 75 percent open to perpendicular view within a 4-foot by 4-foot “visibility zone” at pedestrian eye level. This visibility zone is located between 4 feet and 8 feet in height above sidewalk level and extends 4 feet from the surface of the window glass inside the building.

For more information, please review Standards for Storefront Transparency document available from the Planning Department website at <https://sfplanning.org/resource/standards-storefront-transparency>.

Unpermitted Signage

Pursuant to Planning Code Section 604(a), *“No sign, other than those signs exempted by Section 603 of the Planning Code, shall be erected, placed, replaced, reconstructed or relocated on any property, intensified in illumination or other aspect, or expanded in area or in any dimension except in conformity with Article 6 of the Planning Code. No such erection, placement, replacement, reconstruction, relocation, intensification, or expansion shall be undertaken without a permit having been duly issued therefore, except as specifically provided otherwise in the Code Section 604.”*

A “Brother Against Guns” business sign has been installed on the 1687 Haight Street frontage without a Sign permit or Planning review.

No Formula Retail Use Present

It was also reported that the cannabis store dba as “Berners’s on Height” at 1685 Haight was operating as “Cookies” Formula Retail Use (FRU). Planning Code Section 303.1 requires a Conditional Use Authorization (CUA) from the Planning Department for an FRU.

A Formula Retail use is defined as, “A type of retail sales or service activity or retail sales or service establishment that has eleven or more other retail sales establishments in operation, or with local land use or permit entitlements already approved, located anywhere in the world. In addition to the eleven establishments either in operation or with local land use or permit entitlements approved for operation, the business maintains two or more of the features: a standardized array of merchandise, a standardized facade, a standardized decor and color scheme, uniform apparel, standardized signage, a trademark or a servicemark.”

Our records indicate that the commercial space at 1685 Haight address at the subject property was authorized for a cannabis retail use under CUA Case No. 2018-014721CUA. Alterations to the 1685 Haight commercial space were approved under Building Permit Application (BPA) No. 201906274632. According to “Berners’s on Height” business operator, Mr. Conor Johnston, “Berners’s on Height” was not an FRU when it was established in 2019 at this location. Mr. Johnston confirmed that there were four (4) “Cookies” stores in operation worldwide when “Berners’s on Haight” partnered with “Cookies” Based on the information provided, no FRU violation has been determined.

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.

Timeline of Investigation

On April 12, 2021, the Planning Department sent you a Notice of Complaint to inform you about the complaint.

On April 15, 2021, Mr. Johnston contacted the Planning Department staff, Rachna to inform her that “Berner’s on Haight” began operating at 1685 Haight Street to sell “Cookies” products at 1685 Haight Street in December 2019. Mr. Johnston also stated that there were only four (4) other “Cookies” stores when “Berner’s on Haight” partnered with “Cookies” and as such it was not an FRU at that time.

On May 20, 2021, Rachna discussed the matter with Mr. Johnston. Rachna inquired Mr. Johnston about the use at 1687 Haight Street. Mr. Johnston informed Rachna that the commercial space at 1687 Haight Street was being used for a non-profit organization dba “Brothers Against Guns” by his business partner, Shawn Richard, and it was not associated with the business at 1685 Haight Street. Mr. Johnston also informed Rachna that the roll-up door at 1685 Haight Street was installed for security purposes.

On May 21, 2021, Mr. Johnston provided information to Rachna about four (4) other “Cookies” stores that opened prior to the location at 1685 Haight. Mr. Johnston also provided a letter from the president of “Cookies” which stated that only four (4) other “Cookies” stores existed when “Berner’s on Haight” was established and as such, it is not considered an FRU.

On May 25, 2021, Rachna requested Mr. Johnston to provide land use permits and entitlement information on other “Cookies” stores that opened prior to the location on 1685 Haight Street.

On May 26, 2021, Mr. Johnston informed Rachna that he would confirm and get back to Rachna on Rachna’s May 25th inquiry.

On June 2, 2021, the Planning Department sent you a Notice of Enforcement (NOE) informing you about the violation 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 NOE (attached).

On June 4, 2021, Mr. Johnston informed Rachna that the “Cookies” representatives were putting together the information on “Cookies” stores that might have had land use approval through December 2019. Mr. Johnston informed Rachna that, the Mayor’s Office had requested the Planning Department to stay any enforcement regarding the roll up door and other the security measures at cannabis businesses while they develop new legislation to address this issue.

On June 8, 2021, Rachna informed Mr. Johnston that she had conferred with senior management at the Planning Department and confirmed that there is no policy in effect to stay enforcement regarding security measures at cannabis businesses to allow time for development of new legislation.

On June 11, 2021, the “Cookies” representative, Michael Moulton informed Rachna that other than the stores opened through July 2020, Mr. Moulton was not aware of any other “Cookies” stores for which the land use or permit entitlements had been approved prior to December 2019 when the “Berner’s on Haight” store opened at the above property.

On June 15, 2021, Rachna requested Mr. Moulton and Mr. Johnston to provide confirmation that there were indeed no land use entitlements issued for other Cookies stores prior to December 2019. Mr. Johnston informed Rachna that there were not eleven (11) “Cookies” stores either operating or with land use approvals when “Berner’s on Haight” opened at 1685 Haight in December 2019. Rachna informed Mr. Johnston that the other issues identified in the NOE in regard to the exterior alterations were still required to be addressed.

On June 16, 2021, Shawn Richard, the operator of “Brothers Against Guns” entity at 1687 Haight informed Rachna that he would take down the boards covering the 1687 Haight building frontage windows that week. Mr. Richard also informed Rachna that “Brothers Against Guns” at 1687 Haight will be used as a training facility for the equity applicants in the city. Rachna requested Mr. Richard to send photos after the boards were removed from the 1687 Haight frontage. Rachna also inquired Mr. Richard if “Brothers Against Guns” was open to public and had specific business hours.

On June 24, 2021, Mr. Richard informed Rachna that the boards at 1687 Haight were still up for security purposes to protect the windows until a security gate was installed and would be removed within two weeks. Mr. Richard also provided photos of 1687 Haight’s building frontage to Rachna. The photos showed that the boards covering the windows were painted and included a painted business sign. Mr. Richard further informed Rachna that a new “Brothers Against Guns” business sign will be installed with address and hours of operation.

On June 30, 2021, Mr. Richard provided photos of 1687 Haight building frontage to Rachna. The photos showed a new window sign.

On February 1, 2022, Rachna contacted Mr. Johnston and Mr. Richard via email to get resolution on the pending violation in regard to the exterior alterations, transparency, and business sign at the above property. Mr. Johnston informed Rachna that “Berner’s on Haight” business operators had no intention of removing or altering the security gate at 1685 Haight which he said was urgently needed for the safety of “Berner’s on Haight” staff and business.

On February 1, 2022, Rachna advised Mr. Johnston that a permit for the security gate was still required as it was installed without benefit of a permit. The acting Code Enforcement manager, Kelly Wong, informed Mr. Johnston that, as Rachna had already relayed to Mr. Johnston, the currently installed solid security gate at 1685 Haight did not comply with Planning Code Section 145.1(c)(7). Ms. Wong indicated that the Planning Department would allow for a scissor gate to be installed at the exterior or within the interior of the storefront, in order to address the security concerns. Ms. Wong reiterated Rachna’s direction and advised Mr. Johnston to file a permit for a security gate that met the Planning Code requirements.

To date, the Planning Department has not received any evidence to demonstrate that the above violation has been abated or a corrective action has been taken 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. 1685 Haight Street - File a Building Permit Application to seek legalization, removal, or modification of the solid roll up door at 1685 Haight Street frontage. As part of this permit review, you may be required to make modifications to allow visibility into the business spaces at the above property to ensure compliance with the Planning Code Section 145.1 and the Planning Department's Standards for Storefront Transparency. Please note that a permit is also required to install a gate at 1687 Haight building frontage.
2. 1687 Haight Street - File a Building Permit Application to restore the original façade at 1687 Haight Street frontage by replacing the entry door with a transparent door and removing the boards and business sign covering the original windows.
3. 1687 Haight Street - Provide detailed information on the use operated at 1687 Haight and demonstrate that this use is registered and operated as a "*Social Service or Philanthropic Facility, an Institutional Community Use that provides programs and/or services of a charitable or public service nature, including but not limited to arts, education, financial or housing assistance, training, and advocacy.*" This business must have an active presence on the street and must be open to public with the business hours posted on the premises. Please provide business registration copy and interior and exterior photos to confirm the use and existing conditions.

Please be advised that upon review of above applications and plan submittals, if it is determined that additional planning applications and processes are required, the Planning Department will notify you to make such submittals.

You will need to provide adequate evidence to demonstrate that either no violation exists or that the violation has been abated. A site visit may also be required to verify compliance. You may also need to obtain a building permit for any other alterations done at the property. The work approved under any permits to abate violation must commence promptly and 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: www.sfdbi.org

For questions regarding the planning permit review 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

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

The responsible party has fifteen (15) days from the date of this notice to either;

- 1) Take steps to correct the violation as noted above; or
- 2) Appeal this Notice of Violation as noted below.

The corrective actions shall be taken as early as possible. Any unreasonable delays in abatement of the violation will result in assessment of administrative penalties at \$250 per day.

Please contact the assigned Enforcement Planner noted above with any questions, to submit evidence of correction, and 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.

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 assigned Enforcement Planner. 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 the violation continues unabated. If such penalties are assessed, the Planning Department will issue a Notice of Penalty, 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 **\$2,890.09** 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,



Chaska Berger
Acting Zoning Administrator

Enc.: Notice of Enforcement dated June 2, 2021

cc: Conner Johnston, via email at conorj@otterbrands.com
Shawn Richard, via email at shawnmrichard@yahoo.com
Carl Olson via email via email at cedolson@yahoo.com



IMPORTANT NOTE FOR NOTICE OF ENFORCEMENT

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 issuance of Notice of Violation and the assessment of administrative penalties of **\$250 per day**.

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.

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. In addition, pursuant to Planning Code Section 176, penalties may also be assessed for verified violations as noted in the above. Therefore, your prompt action to resolve the complaint is important. This is outlined in the Notice of Enforcement (attached).

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 ENFORCEMENT

June 2, 2021

Property Owner

Olson Family Trust
Sullivan Family Revoc. Trust
55 W Oak Knoll Drive
San Anselmo, CA 94960

Site Address: 1685-1687 Haight Street
Assessor's Block/Lot: 1247/020
Zoning District: NCD, Haight Street Neighborhood Commercial
Complaint Number: 2021-003092ENF
Code Violation: Section 175: Unauthorized Alterations
Section 317: Unauthorized Formula Retail Use
Administrative Penalty: Up to \$250 Each Day of Violation
Enforcement T & M Fee: \$1,504 (Minimum Fee, for confirmed violation. Additional charges may 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 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

Our records indicate that the commercial space at 1685 Haight address at the subject property was authorized for a cannabis retail use under Conditional Use Authorization (CUA) Case No. 2018-014721CUA. Alterations to the 1685 Haight commercial space were approved under Building Permit Application (BPA) No. 201906274632.

It has been reported that additional alterations beyond the scope of work under BPA No. 201906274632 have been done without benefit of permit and approval from the Planning Department in that a roll-up door has been installed at the 1685 Haight business frontage. Exterior alterations have also been made to the adjacent commercial space on 1687 Haight Street without a permit. The 1687 Haight frontage windows have been covered with solid panels and the entry door has been replaced with a solid panel door. The door and windows

have been painted to match with the color scheme of Cookies related business at 1685 Haight. Additionally, a “Brother Against Guns” business sign has been installed on the 1687 Haight frontage without a Sign permit.

The building at the subject property is age eligible as a Historic Resource for the purposes of CEQA (California Environmental Quality Act) review as it was built in 1906 with architectural character and features. The San Francisco General Plan, the Planning Code’s Priority Planning Policies and Urban Design Guidelines call for protecting and enhancing neighborhood architectural character citywide.

Any exterior alterations at the above property require historic preservation review and approval from the Planning Department to ensure compliance with the Planning Department policies. Currently, the subject property does not have approval of building permit from the Planning Department for the alterations related to the front façade at the above property.

Additionally, San Francisco Planning Code requires that storefronts must maintain transparent windows that allow visibility into the store. A transparent storefront welcomes customers inside with products and services on display, discourages crime with more “eyes on the street,” reduces energy consumption by letting in natural light, and enhances the curb appeal and value of the store and the entire neighborhood.

Pursuant to Planning Code Section 145.1(c)(6), frontages with active uses must be fenestrated with transparent windows and doorways for no less than 60 percent of the street frontage at the ground level and allow visibility to the inside of the building. Planning Code Section 145.1(c)(7) requires that decorative railings or grillwork placed in front of or behind the storefront windows must also be at least 75 percent open to perpendicular view.

To ensure visibility into active spaces, any fenestration of active uses provided at pedestrian eye level must have visibility to the inside of the building. The following definitions apply:

- 1) **Pedestrian Eye Level** includes the space that is between 4 feet and 8 feet in height above the adjacent sidewalk level, following the slope if applicable.
- 2) **Visibility to the Inside of the Building** means that the area inside the building within 4 feet from the surface of the window glass at pedestrian eye level is at least 75 percent open to perpendicular view.

Any fenestration of frontages with active uses must have visibility to the inside of the building with at least 75 percent open to perpendicular view within a 4-foot by 4-foot “visibility zone” at pedestrian eye level. This visibility zone is located between 4 feet and 8 feet in height above sidewalk level and extends 4 feet from the surface of the window glass inside the building.

For more information, please review Standards for Storefront Transparency document available from the Planning Department website at www.sfplanning.org/resource/standards-storefront-transparency.

Further, it has been reported that the cannabis store at 1685 Haight is operating as a “Cookies” Formula Retail Use (FRU). Pursuant to Planning Code Section 303.1, a CUA from the Planning Department is required for FRU.

A Formula Retail use is defined as, “A type of retail sales or service activity or retail sales or service establishment that has eleven or more other retail sales establishments in operation, or with local land use or permit entitlements

already approved, located anywhere in the world. In addition to the eleven establishments either in operation or with local land use or permit entitlements approved for operation, the business maintains two or more of the features: a standardized array of merchandise, a standardized facade, a standardized decor and color scheme, uniform apparel, standardized signage, a trademark or a servicemark.”

On April 12, 2021, the Planning Department sent you a Notice of Complaint to inform you about the complaint.

On April 15, 2021, Conor Johnston, co-owner of business at 1685 Haight contacted the Planning Department staff, Rachna to indicate that the business at 1685 Haight was operating under the business name, “Berner’s on Haight” since December 2019. Mr. Johnston also stated that there were only 4 other “Cookies” stores when “Berner’s on Haight” partnered with “Cookies” to sell “Cookies” products at 1685 Haight.

On May 20, 2021, Rachna discussed the matter with Mr. Johnston. Rachna also inquired Mr. Johnston about the use at 1687 Haight. Mr. Johnston informed Rachna that the commercial space at 1687 Haight was being used for a non-profit organization by his business partner and it was not associated with the business at 1685 Haight. Mr. Johnston also informed Rachna that the roll-up door at 1685 Haight was installed for security purposes.

On May 21, 2021, Mr. Johnston provided information to Rachna about 4 “Cookies” stores that had opened prior to the location at 1685 Haight. Mr. Johnston also provided a letter from the president of “Cookies” to state that only 4 other “Cookies” stores existed when “Berner’s on Haight” was established and as such it was not an FRU.

On May 25, 2021, Rachna requested Mr. Johnston if he would be able to provide land use permits or entitlement information on other “Cookies” stores that opened prior to the location on 1685 Haight.

On May 26, 2021, Mr. Johnston informed Rachna that he would confirm and get back to Rachna on Rachna’s May 25th inquiry.

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:

1. File a BPA to seek legalization of roll up door at 1685 Haight frontage and restore the original façade at 1687 Haight frontage by replacing the entry door with a transparent door and uncovering the original windows. Please note that this permit would be subject to the Planning Department preservation review, Urban Design Guidelines, and Standards for Storefront Transparency. As part of this review, you may be required to make modifications to seek compliance and keep the doors and windows transparent to allow visibility into

the business spaces at the above property. As such, you may be required to remove the solid panels covering the windows at 1687 Haight unless it is a temporary safety measure. Please visit DBI website, <https://sf.gov/apply-building-permit> for information on the permit application process. **This permit must be diligently pursued and completed.**

2. Provide detailed information on the non-profit organization use operated at 1687 Haight. Please note that such use must operate as a, “*Social Service or Philanthropic Facility, an Institutional Community Use that provides programs and/or services of a charitable or public service nature, including but not limited to arts, education, financial or housing assistance, training, and advocacy.*” This business must have an active presence on the street and must be open to public with the business name and hours posted on the premises.
3. Obtain a sign permit for the business sign at 1687 Haight. A permit is not required for a sign painted directly on the windows and such sign area shall not exceed one third of the windows space.
4. Provide land use and other entitlement information on all “Cookies” stores that were established prior to the location at 1685 Haight.

You may also need to obtain a building permit for any other alterations done at the property. Additional planning applications and information may also be required upon review of submitted permit application to seek compliance with the Planning Code. The Planning Department will notify you if additional information is required. Upon such notice, please submit the required documentation within the required timeframe under such notice.

The responsible party will need to provide adequate evidence to demonstrate that either no violation exists or that the violation has been abated. A site visit may also be required to verify compliance. The work approved under any permits to abate violation must commence promptly and 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: www.sfgov.org/dbi

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-Safer-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 May 22, 2020, Stay-Safer-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. This Order was last updated on May 20, 2021.

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

The Department recognizes the challenges of the City's Stay-Safer-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.

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 is subject to an amount of **\$1504** 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.

cc: Conor Johnston via email

THE PLANNING DEPARTMENT DID NOT SUBMIT A RESPONSE TO
THE JURISDICTION REQUEST