



City & County of San Francisco

## **REHEARING REQUEST**

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**Robert Korman, Appellant(s)** seeks a rehearing of **Appeal No. 21-010** which was decided on **May 5, 2021**. This request for rehearing will be considered by the Board of Appeals on Wednesday, **June 2, 2021**, at 5:00 p.m. **and will be held via Zoom video platform.**

Pursuant to Article V, § 9 of the Rules of the Board of Appeals, the **response** to the written request for rehearing must be submitted by the opposing party and/or Department no later than **10 days from the date of filing, on or before 4:30 pm on May 27, 2021** and must not exceed six (6) double-spaced pages in length, with unlimited exhibits. The brief shall be double-spaced with a minimum 12-point font size. An electronic copy should be e-mailed to: [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org) [julie.rosenberg@sfgov.org](mailto:julie.rosenberg@sfgov.org) [matt@sugarmanandcannon.com](mailto:matt@sugarmanandcannon.com) and [chris@sugarmanandcannon.com](mailto:chris@sugarmanandcannon.com) .

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 each side will be allowed. Except in extraordinary cases, and to prevent manifest injustice, the Board may grant a Rehearing Request only upon a showing that new or different material facts or circumstances have arisen, where such facts or circumstances, if known at the time, could have affected the outcome of the original hearing.

Based on the evidence and testimony submitted, the Board will make a decision to either grant or deny your request. Four votes are necessary to grant a rehearing. If your request is denied, a rehearing will not be scheduled and the decision of the Board will become final. If your request is granted, a rehearing will be scheduled, the original decision of the Board will be set aside, and after the rehearing, a second decision will be made. Only one request for rehearing and one rehearing are permitted under the Rules of the Board.

**Requestor or Agent (Circle One)**

**Signature:** Via Email

**Print Name:** Matthew Laws. Attorney for Appellant

May 17, 2021

San Francisco Board of Appeals  
49 South Van Ness Ave, Suite 1475  
San Francisco, CA 94103

Re: Request for Rehearing, Appeal No. 21-010

## **I. INTRODUCTION**

On February 8, 2021, Korman filed a notice of appeal in case No. 21-010 with the San Francisco Board of Appeals ("BOA"). On April 1, 2021, Korman filed his opening brief ("AOB"). On April 29, 2021, the Planning Department filed its brief in response to Korman's AOB. Exhibit A to Planning's Brief contained 16 unauthenticated photographs, and Exhibit B contained a list of 31 permit numbers associated with 2455 Jackson Street.<sup>1</sup> Planning had never previously produced the photos.

Appellant Korman requests the BOA rehear his appeal because the BOA relied on hearsay representations from Scott Sanchez and material that was not part of the administrative record and not introduced in the original Planning Department Zoning Administrator ("ZA") hearing on October 13, 2020. Moreover, the ZA hearing was held prematurely, and there is no evidence that the ZA, or one of the Appeals Commissioners have filed their Form 700 Statements of Economic Interests, Sunshine Ordinance Declarations, and Certificates of Ethics Training disclosures required by Sections 3.1-101, 3.1-102, and 3.1-103 of the Campaign and Governmental Conduct Code.<sup>2</sup>

At the May 5, 2021 BOA hearing, Sanchez introduced, and the BOA relied upon, the new and unauthenticated photographs that were not part of the record of the original October 13, 2020 Planning Department ZA hearing. Mr. Korman and his legal counsel were given insufficient notice of the new and unauthenticated photographs, the Planning Department had failed to disclose the photographs earlier, despite Planning's repeated representations that they had provided all discovery.<sup>3</sup>

The day of the hearing on the appeal, Korman submitted approximately 50 pages of materials to the

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<sup>1</sup> During the hearing, Planning Department representative Scott Sanchez represented that Exhibit B to the Planning Brief does not contain ALL permits associated with 2455 Jackson Street. Rather, Exhibit B contains only the permits that "show in the system currently."

<sup>2</sup> To the credit of the Appeals Commission, all of the panel members, except Ann Lazarus, apparently have filed their ethics disclosures. Unfortunately, none of the members of the Planning Commission have filed their ethics disclosures. (See: <https://public.netfile.com/pub/?aid=SFO>, accessed May 5, 2021.)

<sup>3</sup> ZA Teague referred in the VPD to "aerial photography, permit records, and DBI site inspections" as evidence of unspecified violations. Despite multiple prior requests from Korman for the evidence upon which the Planning Department intended to rely, and Planning's written response that "there are no additional responsive records;" (Exhibit 14 to AOB - Planning Dept. Letter); neither Korman nor counsel were provided with the items Teague referenced in the VPD and no such items were presented at the hearing

BOA. Korman's materials did not raise any new arguments, but rather responded to Planning's April 29, 2021 Exhibits which had not previously been disclosed. In contravention of Section 4(b)(v) of the BOA Rules which states that "Parties may offer arguments and exhibits as part of their oral presentations to the Board which are not part of their written brief," the BOA refused to accept the materials submitted by Korman to rebut Planning's new and unauthenticated photographs.

At the Appeals hearing, the BOA failed to address Planning's failure to produce the evidence supporting its allegations of violation, the ZA's reliance on conclusory hearsay testimony, and the burden shifting that led to Planning and the ZA's erroneous decisions. Instead, the BOA relied upon Sanchez's discussion of hearsay in the City's files, which continued to shift the burden to the property owners and assumed the existence of the unproven and insufficiently specified violations.

Finally, the BOA panel should have halted the rush to judgment in this matter because the clear language of the Notice of Violation providing a timeline to respond states "the timeline to respond to this Notice of Violation **will not begin until** both 1) the Shelter in Place ends, and 2) all relevant City agencies are operating at a level necessary to abate the violation." That time has not yet arrived.

The BOA should grant a rehearing to prevent the manifest injustice caused by a procedure that violated Due Process and led to an arbitrary and capricious decision unsupported by competent evidence.

## **II. THE BOA CONTINUED TO RELY UPON HEARSAY AND DID NOT IDENTIFY COMPETENT EVIDENCE SUPPORTING THE DECISION**

While Planning alleged that Korman performed work beyond the scope of his permits, during the ZA hearing, Richard Tam admitted that he had not even reviewed permits or plans to determine how Korman's building was originally built and did not specify what work was beyond the scope of which permit. (Exhibit 13 to AOB - VPD at 6.)

As noted in the AOB, the Violation and Penalty Decision ("VPD") contains a section titled "Evidence Presented at the Zoning Administrator Hearing." Among other things, that "Evidence Presented" section states:

Mr. Tam stated that the unpermitted construction has already been done at the above property. His next step was to review the previously issued permits and plans and find out how the building was originally built and compare with the submitted plans to identify the differences.<sup>4</sup>

Mr. Cannon objected to Mr. Tam's statement and stated that Mr. Tam has not inspected the property himself and as such, his testimony was based on hearsay not evidence and as such, his statement was not sufficient to support the decision on the matter.

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<sup>4</sup> Apparently, Tam never carried out this planned next step.

Mr. Teague then inquired [sic] Mr. Tam if he had any information on the DBI enforcement case since issuance of NOV and Order of Abatement in December 2019. Mr. Tam stated that due to COVID-19, it is likely that further action may have been postponed.

(Exhibit 13 to AOB - VPD at 6.)

There was no competent, non-hearsay evidence introduced at the ZA hearing or during the appeal. Planning did not cite any specific evidence presented to the ZA and part of the administrative record that could support the decision. During the Appeal hearing, Sanchez simply summed up and drew conclusions from the files. Sanchez never inspected the property. "Even if admissible, hearsay evidence alone is insufficient to satisfy the requirement of due process of law, and mere uncorroborated hearsay does not constitute substantial evidence." (Gregory v. State Bd. of Control (1999) 73 Cal.App.4th 584, 597 [internal quotes omitted].)

In Consolidated Edison Co. of New York v. N.L.R.B. (1938) 305 U.S. 197, the Supreme Court discussed the evidentiary standards for administrative hearings and stated that while those standards may be flexible, "this assurance of a desirable flexibility in administrative procedure does not go so far as to justify orders without a basis in evidence having rational probative force. *Mere uncorroborated hearsay or rumor does not constitute substantial evidence.*" (305 U.S. at 229-230.) (Emphasis added.) In Walker v. City of San Gabriel (1942) 20 Cal.2d 879, without objection, hearsay charges were received by a city council and constituted the sole evidence against a licensee. In holding that the petitioner's license should not have been revoked, the California Supreme Court held "there must be substantial evidence to support such a board's ruling, and hearsay, unless specially permitted by statute, is not competent evidence to that end." (20 Cal.2d at 881.)

Planning never established a violation with non-hearsay evidence. Planning simply argued conclusions, both at the ZA hearing and during the appeal. During the BOA hearing, Sanchez represented that

The department of building inspection issued an initial notice of violation in which response to that, the property owner submitted a building permit application number 201810314687 to address the notice of violation. On that permit, there was some potentially issues with the unit count but the main issue was trying to deal and address the work on the building. The department of building inspection performed a site visit or a building inspector visited the site and observed that work had been done at the top floor roof including the extensive reframing of roof structure, top floor living space and light well.

By his use of the term "or," Sanchez's representations demonstrate not only that Sanchez did not have first-hand knowledge of the situation, but that Sanchez did not even know how the City got its information.

Sanchez' unsourced and uncorroborated representations are not substantial evidence.

Moreover, DBI and Planning correspondence contradict the claim that Korman did not have permits to cover the work. After Kevin Birmingham from DBI actually went out to inspect the building, he wrote the complaining neighbor that "he [Korman] does have a permit for work already begun under different permits." (Ex. A – Birmingham Oct. 16, 2018 Email.) Again, on December 10, 2018, Birmingham wrote:

I went by the site on Friday afternoon and meet with Mr Korman and the work he was doing was to put bracing in place for the weather proofing. He has done no more building to the structure.

(Ex. B – Birmingham Dec. 10, 2018 Email.) When Planning tried to discover whether there were actually violations, rather than just allegations of violations by the neighbors, Rachna from the Planning Department admitted she had not personally visited the site and stated: "I am unable to verify the violations myself."

(Ex. C – Rachna April 1, 2020 Email.) Indeed, Planning admits in the Violation and Penalty Decision that it never verified any violations, but instead put the burden on Korman to demonstrate there were no violations.<sup>5</sup>

Because the ZA had nothing but hearsay before it, and that hearsay is contradicted by the City's own records, there is no substantial evidence to support the ZA's decision and the ZA's decision was an abuse of discretion; (Cal. Code Civ. P. § 1094.5.) and the BOA should overturn the decision.

### **III. THE PHOTOGRAPHS SUBMITTED TO BOA ON APPEAL DID NOT CURE THE ERROR BELOW**

As we argued in the AOB, Planning failed to provide adequate notice of the alleged violations and refused to supplement that notice by providing the relevant supporting evidence. Fair notice is an essential element of Due Process. (Horn v. County of Ventura (1979) 24 Cal.3d 605, 610 [Where the activity of an administrative body is "adjudicatory," the elements of due process are (i) reasonable notice, and (ii) an opportunity to be heard].)

At the BOA hearing, Mr. Sanchez compounded the notice problems by representing that proof of the roof violations were "further confirmed by aerial photography which we provided to the board as an attachment to our brief," referring to the pictures contained in Exhibit A in Planning's Brief. These unauthenticated photos had not been produced earlier or presented to the Planning Commission during the ZA hearing.<sup>6</sup>

Accordingly, and without sufficient notice to the property owners, the BOA considered

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<sup>5</sup> "You did not provide the site photos and granted site visit to the Planning Department staff to verify the existing conditions." (Ex. 13 to AOB – VPD at 8.)

<sup>6</sup> During the BOA hearing, Vice President Swig confirmed that the photos "were provided to [the BOA] in the brief by Planning" and NOT an exhibit that the BOA received from the ZA as part of the administrative record.

unauthenticated material from outside the administrative record in an attempt to shore up the faulty process below.

**IV. THE PLANNING DEPARTMENT CONTINUED TO SHIFT THE BURDEN OF PROOF AND THE BOA FAILED TO ACKNOWLEDGE THAT DBI AND PLANNING HAVE MADE COMPLIANCE IMPOSSIBLE**

One great example of the inversion of the burden of proof is the claim that work was done beyond the scope of permits. Over the course of ownership, Korman has received approximately 96 check number permits on the property.<sup>7</sup> Those permits include permits to: "renew pa# 201508315739, to comply with voluntary as built seismic retrofit property line shear walls, east'ly & west'ly ground to roof, cover adj property non conforming p/l window, refer to completed pa#201403039733;" (See Permit No. 201706199673 in Ex. B to Planning Brief); and "to Comply W/NOV #201888993 Per Arch/Engineer Plans + Calculations for Property Line Infills on All Floor Levels; Replace + Reinforce Damaged Portions of Sloped Roof Rafters and Wall Studs and Floor Joists; To Modify and Update PA 201508315739 Voluntary Building Retrofit (Seismic)." (See Permit No. 201810314687 in Ex. B to Planning Brief).

Moreover, the city has made it impossible to comply with its requests. The city routinely issues NOVs that declare:

**~~✓ OBTAIN PERMIT WITHIN 20 DAYS AND COMPLETE ALL WORK WITHIN 60 DAYS, INCLUDING FINAL INSPECTION SIGNOFF.~~**

Here, the record is undisputed that Korman actually obtained Permit No. 201809281715, which issued on September 28, 2018. The application for Permit No. 201809281715 was also an attempt "TO COMPLY WITH COMPLAINT #20188893." Permit No. 201809281715 was active at the times Planning and DBI were accusing Korman of building without permits, since Permit No. 201809281715 did not expire until December 6, 2019. (Ex. 8 to AOB – Permit 201809281715.)<sup>8</sup>

Mr. Korman filed another permit application, No. 201810314687, on October 31, 2018 to again attempt to address the allegations in the Notice of Violation 201888993. However, Korman can not obtain a final, issued permit until the City signs off. City has not yet acted upon it; and the City has put a do not issue message in the permit tracking notes. (Ex. D – Database Screenshot "Do Not Issue") This permit is still in triage and has yet to be issued. Accordingly, the city has made it impossible for Korman to comply with its requests.

<sup>7</sup> During hearing, Sanchez admitted that Exhibit B to Planning Brief does not contain ALL permits, only the ones that "show in the system currently."

<sup>8</sup> The Planning Department's Notice of Violation 2018-015640ENF is entirely based upon DBI's Notice of Violation originally issued October 4, 2018 and amended November 27, 2018.

The arbitrary and capricious nature of the permit process is demonstrated by the history of permit 4687. In the VPD, Planning acknowledges that

On October 31, 2018, [Korman] filed another BPA No. 2018.10.31.4687 to resolve DBI Complaint No.: 20188993. BPA No.: 2018.10.31.4687 stated the scope of work as, "To Comply W/NOV #201888993 Per Arch/Engineer Plans + Calculations for Property Line Infills on All Floor Levels; Replace + Reinforce Damaged Portions of Sloped Roof Rafters and Wall Studs and Floor Joists; To Modify and Update PA 201508315739 Voluntary Building Retrofit (Seismic)."

(Ex. 13 to AOB - VPD at 2.) Planning admits that: "On September 20, 2019, BPA No.: 2018.10.31.4687 was approved by a Planner at the Planning Information Counter." (Ex. 13 to AOB - VPD at 3.) Despite this approval, upon which Korman was entitled to rely; (See Avco Community Developers, Inc. v. South Coast Regional Com. (1976) 17 Cal.3d 785, 791); Rachna, unilaterally withdrew this permit and "Rachna requested DBI to re-route BP No. 2018.10.31.4687 back to the Planning Department for further review." (Id.)

## V. CONCLUSION

The BOA erroneously upheld the ZA's decision to issue the VPD because the BOA did not identify substantial evidence to support the decision. The BOA considered unauthenticated photos that were not part of the administrative record and that had never before been disclosed to Korman.

The Planning Commission hearing was prematurely convened and at that hearing the Commission placed the burden on the owners to prove there was no violation, the NOV failed to clearly describe the violations alleged, failed to provide notice of or copies of the evidence to be considered and simply relied upon the allegation of the NOV to show there was a violation. The Commission did not present substantial evidence to show there were any violations; and finally, the planning commissioners, and one of the BOA commissioners have failed to comply with the Government Conduct Code. Accordingly, we request the San Francisco Board of Appeals overturn the Planning Department's January 27, 2021 Violation and Penalty Decision in Complaint No. 2018-015640ENF.

Sincerely,

/s/

Christopher J. Cannon

Matthew A. Laws

Enc. Exhibits A through D  
cc Bob Korman

# EXHIBIT A

>>> On Oct 16, 2018, at 2:54 PM, Birmingham, Kevin (DBI) <[kevin.birmingham@sfgov.org](mailto:kevin.birmingham@sfgov.org)> wrote:

>>>

>>> Hi Marian

>>> He does not have any revision permits, he does have a permit for work already begun under different permits. Reviewing this scope of work will be part of the set of drawings he will have to submit to comply with the NOV. He has been given until the 1st of November to file for a permit with plans to comply with the NOV, if he does not comply the case will be sent to code enforcement. If those plans have a height increase then it will require a posting and public notification. I would hold off involving Catherine Stefani until after the 1st to see if he does comply. If you have any other questions or concerns please feel free to contact me. Kevin

>>>

>>> -----Original Message-----

>>> From: Marian Keeler

>>> [<mailto:> [REDACTED]

>>> Sent: Tuesday, October 16, 2018 11:45 AM

>>> To: Maryann Shinta [REDACTED]; Birmingham, Kevin (DBI) <[kevin.birmingham@sfgov.org](mailto:kevin.birmingham@sfgov.org)>; Karen Grellas [REDACTED]; Frank Dreher [REDACTED]

>>> Cc: Peter Coyle [REDACTED]

>>> Subject: Party time at 2455 Jackson

>>>

>>>

>>> This message is from outside the City email system. Do not open links or attachments from untrusted sources.

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>>>

>>>

>>> Hi Kevin—

>>>

>>> We just looked at the status of complaint # 201888993 and Bob Korman.

>>>

>>> Could you please clarify how he was able to pull a revision permit when he doesn't even have any drawings? He has never had drawings.

>>>

>>> Second question, we'd like a neighborhood notification/design review to be issued before any more permits are granted. Isn't this standard for any increase in building height?

>>>

>>> Third, has code enforcement been involved yet? It sounds like he needs to have fines and liens imposed now as he continues to flagrantly violate and circumvent the life safety laws of this city.

# EXHIBIT B

**From:** [Marian Keeler](#)  
**To:** [Birmingham, Kevin \(DBI\)](#)  
**Cc:** [Frank Dreher](#); [John Hilton](#); [Maryann Shinta](#)  
**Subject:** Re: Tarps or membranes at 2455 Jackson?  
**Date:** Monday, December 10, 2018 8:18:30 AM

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Thank you Kevin. Much appreciated. Should we continue to contact you if there are issues, or is there someone in code enforcement you'd prefer us to call?

HealthWise  
Green Building Consulting  
415.602.2093

Author  
Fundamentals of Integrated Design for Sustainable Buildings  
Wiley & Sons  
Second Edition  
Spring 2016

On Dec 10, 2018, at 7:59 AM, Birmingham, Kevin (DBI) <[kevin.birmingham@sfgov.org](mailto:kevin.birmingham@sfgov.org)> wrote:

Hi Marian

I went by the site on Friday afternoon and meet with Mr Korman and the work he was doing was to put bracing in place for the weather proofing. He has done no more building to the structure. Kevin

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**From:** Marian Keeler [<mailto:>   
**Sent:** Thursday, December 06, 2018 4:45 PM  
**To:** Birmingham, Kevin (DBI) <[kevin.birmingham@sfgov.org](mailto:kevin.birmingham@sfgov.org)>  
**Subject:** Re: Tarps or membranes at 2455 Jackson?

Thanks Kevin—

Please let us know what you learn.

Best,  
Marian

HealthWise  
Green Building Consulting  
415.602.2093

Author  
Fundamentals of Integrated Design for Sustainable Buildings  
Wiley & Sons

# EXHIBIT C

**From:** Reyes, Melissa (DB)  
**To:** Rachna, Rachna (CPC); Tam, Tina (CPC)  
**Cc:** Hernandez, Mauricio (DB)  
**Subject:** RE: 2455 Jackson 201888993  
**Date:** Thursday, April 2, 2020 4:01:00 PM  
**Attachments:** 2455 Jackson St. # 201888993.pdf

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Rachna,

I've attached the CES file for 2455 Jackson St.

*Melissa O. Reyes*

**Coda Enforcement**  
**City & County of San Francisco**  
**Department of Building Inspection**  
1660 Mission Street, 6th Floor  
San Francisco CA 94103  
Phone 415-658-6449 Email: [Melissa.O.Reyes@sfgov.org](mailto:Melissa.O.Reyes@sfgov.org)

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**From:** Hinchion, John (DB) <[john.hinchion@sfgov.org](mailto:john.hinchion@sfgov.org)>  
**Sent:** Wednesday, April 01, 2020 1:57 PM  
**To:** Rachna, Rachna (CPC) <[rachna.rachna@sfgov.org](mailto:rachna.rachna@sfgov.org)>; Birmingham, Kevin (DB) <[kevin.birmingham@sfgov.org](mailto:kevin.birmingham@sfgov.org)>; Schroeder, Chris (DB) <[chris.schroeder@sfgov.org](mailto:chris.schroeder@sfgov.org)>; Hernandez, Mauricio (DB) <[mauricio.hernandez@sfgov.org](mailto:mauricio.hernandez@sfgov.org)>; Byrd, Catherine (DB) <[catherine.byrd@sfgov.org](mailto:catherine.byrd@sfgov.org)>  
**Cc:** McHugh, Kevin (DB) <[kevin.mchugh@sfgov.org](mailto:kevin.mchugh@sfgov.org)>; Tam, Tina (CPC) <[tina.tam@sfgov.org](mailto:tina.tam@sfgov.org)>  
**Subject:** RE: 2455 Jackson 201888993

Catherine. See request. Thanks!

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**From:** Rachna, Rachna (CPC) <[rachna.rachna@sfgov.org](mailto:rachna.rachna@sfgov.org)>  
**Sent:** Wednesday, April 01, 2020 1:12 PM  
**To:** Birmingham, Kevin (DB) <[kevin.birmingham@sfgov.org](mailto:kevin.birmingham@sfgov.org)>; Schroeder, Chris (DB) <[chris.schroeder@sfgov.org](mailto:chris.schroeder@sfgov.org)>; Hernandez, Mauricio (DB) <[mauricio.hernandez@sfgov.org](mailto:mauricio.hernandez@sfgov.org)>  
**Cc:** McHugh, Kevin (DB) <[kevin.mchugh@sfgov.org](mailto:kevin.mchugh@sfgov.org)>; Hinchion, John (DB) <[john.hinchion@sfgov.org](mailto:john.hinchion@sfgov.org)>; Tam, Tina (CPC) <[tina.tam@sfgov.org](mailto:tina.tam@sfgov.org)>  
**Subject:** RE: 2455 Jackson 201888993

Hello all,

Hope you are doing well during these challenging times.

I am following up on my earlier request below. I will appreciate if you can share any site photographs and notices issued after November 2018. I specifically need photographs documenting any exterior changes, new rear story addition, and infill of lightwells as stated in your 2018 NOVs.

I also request information on what actions does DBI require the owner to take to abate the violations? Does this property contain 5 dwelling units as authorized or is any unit removed? How many units were observed during your site inspection?

We opened this case as it was referred to us from DBI. Since I have not received site access, I am unable to verify the violations myself. I would like to do what I can based on any information you can provide and follow up with the owner with appropriate notice and require corrective actions.

A courtesy of response would be appreciated. I am also happy to call. Please let me know whom I should call and provide your number. I can also call via Microsoft teams if you are using it.

Thanks,

Rachna, Senior Planner  
Zoning and Compliance Division  
San Francisco Planning Department  
1650 Mission Street, Suite 400, San Francisco, CA 94103  
Direct: 415.675.6805 | [www.sfpplanning.org](http://www.sfpplanning.org)  
[San Francisco Property Information Map](#)

**REDUCED CAPACITY DURING THE SHELTER IN PLACE ORDER** -- The Planning Department is open for business. Most of our staff are working from home and we're [available by e-mail](#). Our [Public Portal](#), where you can file new applications, and our award-winning [Property Information Map](#) are available 24/7. Similarly, the [Board of Appeals](#) and [Board of Supervisors](#) are accepting appeals via e-mail despite office closures. To protect everyone's health, all of our in-person services at 1650 and 1660 Mission Street are suspended, and the Planning and Historic Preservation Commissions are cancelled until April 9, at the earliest. [Click here for more information.](#)

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**From:** Rachna, Rachna (CPC)  
**Sent:** Thursday, March 19, 2020 6:13 PM  
**To:** Hinchion, John (DB) <[john.hinchion@sfgov.org](mailto:john.hinchion@sfgov.org)>; Birmingham, Kevin (DB) <[kevin.birmingham@sfgov.org](mailto:kevin.birmingham@sfgov.org)>; Schroeder, Chris (DB) <[chris.schroeder@sfgov.org](mailto:chris.schroeder@sfgov.org)>  
**Cc:** McHugh, Kevin (DB) <[kevin.mchugh@sfgov.org](mailto:kevin.mchugh@sfgov.org)>; Hernandez, Mauricio (DB) <[mauricio.hernandez@sfgov.org](mailto:mauricio.hernandez@sfgov.org)>  
**Subject:** RE: 2455 Jackson 201888993

Hi everyone. Hope you all are staying safe.

Just wanted to check if you are able to send me any records from your files including photos and additional notices after NOV via email.

Thanks much,

Rachna, Senior Planner  
Zoning and Compliance Division  
San Francisco Planning Department  
1650 Mission Street, Suite 400, San Francisco, CA 94103  
Direct: 415.675.6805 | [www.sfpplanning.org](http://www.sfpplanning.org)  
[San Francisco Property Information Map](#)

Due to the Shelter in Place order, the Planning Department will be operating under reduced capacity with most of our staff working remotely. Our offices at 1650 Mission Street will be closed; the Planning Information Center (PIC) at 1660 Mission Street will be closed; the Planning and Historic Preservation Commissions will be cancelled until Thursday April 9, at the earliest; and the March 25 Zoning Variance hearing will be cancelled. [Click here for more information about our services and how to contact Planning staff during the office closure.](#)

# EXHIBIT D

Dbi-Permit Tracking System

File Edit View Tools Reports Help Window

Permit Tracking System

Projects Stage Characteristics Routing/Addenda Fees Payments Owner/Contractor/Agents Planning Dev Impact Fee

LOCATION: [ ]

Form: [ ] Proj: [ ] Stage: [ ] Desc History

Meter & Bounds:

Side of: [ ] Feet: [ ] of: [ ]

Block/Lot & Addresses:

Block	Lot	Stu	Address	Street	Unit	C	Res	H	DCP	Dist			
						Map	tric	z	Imp	B	E	H	P
							tion		Fee	D	D	S	D
			2455	JACKSON									

Floor Number: [ ]

Site Location: [ ]

Remarks: [ ]

PREMIUM PLANCHECK

Department of Building Inspection

**i** Do not issue the permit because of Do not issue any permits without BID review by Kevin McHugh or Patrick O'Riordan. Contact PATRICK O'RIORDAN of BID division in DEPARTMENT OF BUILDING INSPECTION dep

OK

01/15/2019 SF DBI 5th FLOOR ENGINEERING

# DOCUMENTS SUBMITTED FOR THE MAY 5, 2021 HEARING

**BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO**

Appeal of  
ROBERT KORMAN, )  
Appellant(s) )  
vs. )  
ZONING ADMINISTRATOR, )  
Respondent )

Appeal No. **21-010**

**NOTICE OF APPEAL**

**NOTICE IS HEREBY GIVEN THAT** on February 8, 2021, the above named appellant(s) filed an appeal with the Board of Appeals of the City and County of San Francisco from the decision or order of the above named department(s), commission, or officer.

The substance or effect of the decision or order appealed from is the ISSUANCE on January 27, 2021, of a Notice of Violation & Penalty (the property is in violation of the Planning Code due to non-compliance with Planning Code Sections 171, 172, 175, and 317; the subject property is authorized as five dwelling units and the violation pertains to the unauthorized construction and possible removal of a dwelling unit; extensive work at roof level has taken place and a new story has been built at the back of the property without benefit of permits; DBI has also confirmed that the work done has been done on the top floor/roof including extensive reframing of roof structure; in-fill of west light well on east 2nd, 3rd, and 4th floors; additon of skylights; and creation of a roof deck and living space.) at 2455 Jackson Street.

**APPLICATION NO. 2018-015640ENF**

**FOR HEARING ON May 5, 2021**

Address of Appellant(s):

Address of Other Parties:

<p>Robert Korman, Appellant(s) c/o Chris Cannon, Attorney for Appellant(s) Sugarman and Cannon 737 Tehama Street, Suite 3 San Francisco, CA 94103</p>	<p>N/A</p>
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Date Filed: February 8, 2021

**CITY & COUNTY OF SAN FRANCISCO  
BOARD OF APPEALS**

**PRELIMINARY STATEMENT FOR APPEAL NO. 21-010**

I / We, **Robert Korman**, hereby appeal the following departmental action: **ISSUANCE of Notice of Violation & Penalty No. 2018-015640ENF** by the **Zoning Administrator** which was issued or became effective on: **January 27, 2021**, for the property located at: **2455 Jackson Street**.

**BRIEFING SCHEDULE:**

The Appellant may, but is not required to, submit a one page (double-spaced) supplementary statement with this Preliminary Statement of Appeal. No exhibits or other submissions are allowed at this time.

Appellant's Brief is due on or before: 4:30 p.m. on **March 4, 2021, (no later than three Thursdays prior to the hearing date)**. The brief may be up to 12 pages in length with unlimited exhibits. It shall be double-spaced with a minimum 12-point font. An electronic copy should be emailed to: [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org), [julie.rosenberg@sfgov.org](mailto:julie.rosenberg@sfgov.org) and [scott.sanchez@sfgov.org](mailto:scott.sanchez@sfgov.org).

Respondent's and Other Parties' Briefs are due on or before: 4:30 p.m. on **March 18, 2021, (no later than one Thursday prior to hearing date)**. The brief may be up to 12 pages in length with unlimited exhibits. It shall be double-spaced with a minimum 12-point font. An electronic copy should be emailed to: [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org), [julie.rosenberg@sfgov.org](mailto:julie.rosenberg@sfgov.org) and [chris@sugarmanandcannon.com](mailto:chris@sugarmanandcannon.com).

The Board's physical office is closed to the public and hard copies of the brief do NOT need to be submitted.

**Only photographs and drawings may be submitted by the parties at the hearing.**

Hearing Date: **Wednesday, March 24, 2021, 5:00 p.m.**, via Zoom. Information for access to the hearing will be provided before the hearing date.

All parties to this appeal must adhere to the briefing schedule above, however if the hearing date is changed, the briefing schedule MAY also be changed. Written notice will be provided of any change to the briefing schedule.

In order to have their documents sent to the Board members prior to hearing, **members of the public** should email all documents of support/opposition no later than one Thursday prior to hearing date by 4:30 p.m. to [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org). Please note that names and contact information included in submittals from members of the public will become part of the public record. Submittals from members of the public may be made anonymously.

**Please note** that in addition to the parties' briefs, any materials that the Board receives relevant to this appeal, including letters of support/opposition from members of the public, are distributed to Board members prior to hearing. All such materials are available for inspection on the Board's website at [www.sfgov.org/boa](http://www.sfgov.org/boa). You may also request a copy of the packet of materials that are provided to Board members at a cost of 10 cents per page, per S.F. Admin. Code Ch. 67.28.

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**The reasons for this appeal are as follows:**

See attachment to the preliminary Statement of Appeal.

**Appellant or Agent (Circle One):**

Signature: Via Email

Print Name: Matt Laws, Attorney for Appellant

CHRISTOPHER J. CANNON  
SCOTT A. SUGARMAN  
MATTHEW A. LAWS

**SUGARMAN & CANNON**  
ATTORNEYS AT LAW  
737 TEHAMA STREET, No. 3  
SAN FRANCISCO, CALIFORNIA 94103  

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(415) 362-6252

February 8, 2021

San Francisco Board of Appeals  
49 South Van Ness Ave, Suite 1475  
San Francisco, CA 94103

VIA email at [boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org), [julie.rosenberg@sfgov.org](mailto:julie.rosenberg@sfgov.org)

Re: **Preliminary Statement of Appeal** - January 27, 2021 Violation and Penalty Decision of the San Francisco Planning Department, Zoning Administrator, Complaint Number: 2018-015640ENF  
Site Address: 2455 Jackson Street ,

Board of Appeals,

We represent Robert Korman, Nancy Ryti, and the Korman Family Irrevocable Trust, the owner of the property located at 2455 Jackson Street. On January 27, 2021, the Zoning Administrator ("ZA") of the San Francisco Planning Department issued a Violation and Penalty Decision ("VPD") with respect to Complaint No. 2018-015640ENF. That VPD is enclosed and includes a May 29, 2020 Notice of Violation.

Mr. Korman appeals the January 27, 2021 VPD on the grounds that the ZA erred and abused his discretion in issuing the decision and conducting an October 13, 2020 hearing. The ZA held the hearing prematurely, in violation of due process, because the May 29, 2020 Notice of Violation had not become effective yet. On page 5, the May 29, 2020 Notice of Violation clearly states that "the timeline to respond to this Notice of Violation **will not begin until** both 1) the Shelter in Place ends, and 2) all relevant City agencies are operating at a level necessary to abate the violation." (emphasis in original). On the date of the October 13, 2020 hearing, the Shelter in Place was still in effect. The ZA denied a request to continue the hearing, despite Korman not receiving requested discovery and documents required to understand the issues and alleged violations. The ZA relied upon inadmissible hearsay, in violation of California Government Code § 11513, and allowed a witness to testify without personal knowledge of the facts. All of the evidence was inadmissible hearsay, or based on hearsay, and therefore the evidence was insufficient to support the decision.

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## **VIOLATION AND PENALTY DECISION**

January 27, 2021

**Property Owner**

Robert Korman  
Korman Family Irrevoc Trust  
3450 Sacramento St # 124  
San Francisco, CA 94118

**Site Address:** 2455 Jackson Street  
**Assessor's Block/Lot:** 0606/024  
**Zoning District:** RH-2, Residential- House, Two-Family  
**Complaint Number:** 2018-015640ENF  
**Code Violation:** Sections 171, 172, & 175, Construction without Permits  
**Administrative Penalty:** \$250 Each Day of Violation  
**Enforcement T & M Fee:** \$7,619.91 (Current Fee, 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:

### **Background**

On May 29, 2020, the Planning Department issued you a Notice of Violation (NOV) finding the subject property in violation of the Planning Code. The NOV outlined the violation, how to correct the violation, administrative penalties, and the available appeal processes.

On June 11, 2020, the Planning Department received a request for a Zoning Administrator Hearing from you to appeal the May 29<sup>th</sup> NOV.

On October 13, 2020, the Zoning Administrator held a public hearing on the matter at the Planning Department. The hearing was attended by the Zoning Administrator, Corey A. Teague; Enforcement staff, Tina Tam and Rachna; the Department of Building Inspection (DBI) staff, Richard Tam; the property owner, Robert Korman; and the property owner's legal representative, Christopher J. Cannon. Details of the violation and hearing are discussed below.

## Description of Violation

The Zoning Administrator has determined that the above referenced property is in violation of the Planning Code due to non-compliance with Planning Code Sections 171, 172, 175, and 317. The details of violation are discussed below.

The subject property is authorized as five dwelling units. The violation pertains to the unauthorized construction and possible removal of a dwelling unit at the subject property.

Pursuant to DBI Complaint No. 20188993, extensive work at roof level has taken place and a new story has been built at the back of the property without the benefit of permits. DBI also confirmed that the work has been done on the top floor/roof including extensive reframing of roof structure; in-fill of west light well on east 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> floors; addition of skylights; and creation of a roof deck and living space.

On September 28, 2018, you filed a Building Permit (BP) No. 2018.09.28.1715 to respond to DBI Complaint No. 20188993. On December 6, 2019, this permit expired due to failure to correct and complete this permit.

On October 31, 2018, you filed another BP No. 2018.10.31.4687 to resolve DBI Complaint No. 20188993. BP No. 2018.10.31.4687 stated the scope of work as, *“To Comply W/NOV #201888993 Per Arch/Engineer Plans + Calculations for Property Line Infills on All Floor Levels; Replace + Reinforce Damaged Portions of Sloped Roof Rafters and Wall Studs and Floor Joists; To Modify and Update PA 201508315739 Voluntary Building Retrofit (Seismic).”* However, this permit is still in triage and has yet to be fully reviewed and issued as it needs to be corrected and routed to the Planning Department for additional review.

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 317(c)(1), a Conditional Use Authorization (CUA) is required for the removal or merger of the residential units.

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 October 4, 2018, DBI issued a Notice of Violation requiring you to obtain a permit with plans within ten (10) days for work done without permit.

On November 27, 2018, DBI issued an amended NOV after verifying the outstanding violations in a DBI inspection of the above property on November 26, 2018. The NOV required you to submit architectural and structural drawings showing the extent of work done without permit and obtain approval of such work from the Planning Department.

On December 21, 2018, the Planning Department sent you a Notice of Complaint (NOC) to inform you about the complaint and required you to file a permit to either remove or seek legalization of construction work as permitted under the Planning Code.

On December 27, 2018, you contacted the Planning Department to respond to the NOC.

On March 9, 2019, you met with the Planning Department staff, Rachna to discuss the planning violation issues. Rachna informed you that BP No. 2018.10.31.4687 would need to be reviewed by the Planning Department to ensure compliance and as such, the existing and proposed plans shall be submitted with the permit and routed to the Planning Department. Rachna advised you to follow through on BP No. 2018.10.31.4687 to seek this permit issuance and completion.

On July 22, 2019, the Planning Department sent you a Notice of Enforcement (NOE). In that notice, you were required to 1) Submit the pre-existing and proposed (as built) floor plans, elevations, sections, and “before” and “after” interior and exterior photographs of building at the above property with BP No. 2018.10.31.4687 to the Planning Department, and 2) File a Project Application with the Planning Department by August 6, 2019.

On August 6, 2019, your legal representative, Melissa Palozola at Clark Hill contacted Rachna to seek a brief extension of time to respond to the July 22<sup>nd</sup> NOE. Rachna granted extension until August 21, 2019.

On August 20, 2019, Ms. Palozola requested an additional extension of time until September 15, 2019 to resolve the violation issues raised in the July 22<sup>nd</sup> NOE. Ms. Palozola also informed Rachna that during a site inspection by Clark Hill staff, five (5) dwelling units were observed at this property.

On August 21, 2019, Rachna requested Ms. Palozola to submit lease copies, floor plans, and photographs showing the existence of five (5) units at the above property and requested a site visit.

On August 21, 2019, your other legal representative, Steven Hammond at Clark Hill informed Rachna that there were no leases as the above property was unoccupied for some time. Mr. Hammond also informed Rachna that you were having a knee surgery soon and as such a site visit could not be scheduled at that time.

On September 11, 2019, Mr. Hammond submitted a letter and documentation to indicate that the subject property was authorized for five (5) units. He stated that no dwelling unit merger had occurred at the above property.

On September 20, 2019, BP No. 2018.10.31.4687 was approved in error at the Planning Information Center. The planner who reviewed and approved this permit believed that the scope of work was simply to legalize work already done to the interior of the existing building and wasn't aware that you also expanded the footprint and envelop of your existing building. As such, Rachna requested DBI to re-route BP No. 2018.10.31.4687 back to the Planning Department for further review.

On October 24, 2019, Ms. Palozola informed Rachna that you have submitted updated structural and architectural drawings to DBI.

On October 25, 2019, Rachna reiterated to Ms. Palozola that the plans and documentation required pursuant to the July 22<sup>nd</sup> NOE must be submitted along with BP No. 2018.10.31.4687 and routed to the Planning Department for its review. Rachna also reiterated her request to schedule a site visit to allow her to verify the existing conditions at the above property. Rachna did not hear back from Ms. Palozola.

On January 7, 2020, Rachna contacted Mr. Tam to inquire about the status of BP No. 2018.10.31.4687 under his review and informed him that this permit should be sent back to the Planning Department to ensure that it addressed the planning issues.

On March 10, 2020 Rachna contacted DBI to find out if BP No. 2018.10.31.4687 addressed all outstanding violation issues identified in DBI violation notices.

On March 11, 2020, DBI staff, Kevin McHugh informed Rachna that the scope of work under the permit application filed under BP No. 2018.10.31.4687 was altered by the permit applicant when it was submitted to DBI two days after initial triage at the time of submittal and required corrections.

On March 11, 2020, Rachna met with you at the Planning Department to discuss the outstanding violations and requested you to provide plans showing previously existing, current, and proposed conditions; and “before and after” photos including photos of kitchen in each dwelling unit. Rachna once again requested a site visit to the above property. You did submit the information required by Rachna.

On March 19, 2020, Mr. Hammond informed Rachna that his firm Clark Hill no longer represented you on this matter.

On May 29, 2020, the Planning Department sent you a NOV to allow you additional fifteen (15) days to abate the violation. That notice also advised you about the appeal process and accrual of penalty for failure to comply by the deadline. The NOV required you to 1) Submit a Project Application to the Planning Department with the pre-existing and proposed (as built) floor plans, elevations, and cross sections; as well as “before” and “after” interior and exterior photographs of the building at the above property. The NOV also required that the Project Application shall clearly and accurately specify the scope of work for which the approval was sought under BPA No. 2018.10.31.4687. Under this permit, you were required to seek legalization and/or removal of work done without permits, and 2) File a Conditional Use Authorization Application in order to reduce the number of dwelling units from five (5) to four (4) dwelling units at the above property.

On June 11, 2020, you filed a Request for Zoning Administrator Hearing to appeal the NOV.

On August 11, 2020, the Planning Department sent a Notice of Hearing to inform you that the above matter was scheduled for a virtual Zoning Administrator hearing on September 09, 2020.

On August 31, 2020, the Planning Department received a letter dated August 28, 2020 from your legal representative, Christopher J. Cannon requesting to postpone the Sept. 9<sup>th</sup> hearing due to Shelter in Place (SIP). Mr. Cannon stated that the according to NOV, the timeline to respond to NOV will not begin until both 1) the

Shelter in Place ends, and 2) all relevant City agencies are operating at a level necessary to abate the violation. Mr. Cannon stated that the Shelter in Place has not ended. As such, the hearing is prematurely scheduled. Mr. Cannon also stated that if the hearing proceeded virtually over Zoom platform as proposed, Mr. Korman would be very disadvantaged due to his inability to share documents and evidence remotely in an unfamiliar format. Mr. Cannon also requested additional time to allow him to visit the premises himself, review the case documents, and provide proof that the allegations in the NOV were unfounded. At Mr. Cannon's request, the hearing was postponed as a one-time extension.

In his August 28<sup>th</sup> letter, Mr. Cannon stated that according to his understanding, there were three issues, 1) Whether there is an intent to remove one of the dwelling units by merging two units. Mr. Cannon stated that there has been no attempt to eliminate a unit; 2) It was alleged that the building footprint was expanded. Mr. Cannon stated that there has been no unpermitted expansion of the building footprint at the above property; and 3) A permit was issued to correct any discrepancies but that permit was deemed invalid by DBI. Mr. Cannon stated that another permit was submitted in October 2018 and once that permit is granted, the property owner may cure the problems that led to that permit application. Mr. Cannon further stated that the property owner recently submitted a new application and a full set of drawings to DBI in an effort to resolve this matter.

On September 3, 2020, Rachna discussed the matter with Mr. Cannon and advised him about the outstanding issues, Zoning Administrator hearing, and the appeal process. Rachna also requested Mr. Cannon to facilitate submittal of the previously requested documents and arrange a site visit to allow Rachna to inspect the property. Mr. Cannon informed Rachna that he would get back to Rachna after discussing with Mr. Korman.

On September 17, 2020, the Abatement Appeals Board (AAB) conducted a hearing on DBI's Order of Abatement (OAA). Mr. Korman did not attend this hearing.

On October 13, 2020, the Zoning Administrator held a remote public hearing on the matter through the Microsoft Teams platform.

On October 21, 2020, the AAB conducted another abatement hearing on the matter and upheld the OOA after having heard oral testimony and reviewing documentary evidence provided by DBI staff, appellant, and other interested parties.

On January 12, 2021, Mr. Tam contacted Aurelio T. Alegria, your representative for BP No. 2018.10.31.4687 to request a meeting with you and the project architect to discuss the outstanding violation issues and explain how to bring the unpermitted construction work done at the above property into compliance with the Building Code and make such corrections in the submitted plans.

On January 12, 2021, Rachna sent an email to you and Mr. Alegria requiring you to submit a Project Application along with the "existing" and "proposed" plans and "before" and "after" photos to the Planning Department pursuant to the May 29<sup>th</sup> NOV.

On January 13, 2021, Mr. Alegria informed Rachna that the scope of work detailed in the May 29<sup>th</sup> NOV was beyond his expertise as a licensed professional Engineer and required the services of a licensed Architect. Mr. Alegria further informed Rachna that in his submittal of drawings to DBI, his understanding of the scope of work was a "simple roof replacement at the top floor level for conversion of sections of the roof to a roof deck." Mr.

Alegria indicated that he would discuss the next strategy on the expanded scope of work with you and reiterated that the scope of work definitely would require the services of a licensed Architect who would have a direct hand in the document submittals and NOV discussions with the City staff.

On January 13, 2021, Rachna sent an email to you and Mr. Alegria requesting you submit site photos and arrange a site visit with her to verify the site conditions. Rachna did not receive a response back from you or Mr. Alegria.

## **Evidence Presented at the Zoning Administrator Hearing**

Details of the hearing are discussed below.

At the hearing, Mr. Korman stated that he has permits for five (5) dwelling units at the above property and that he has no intention to reduce the number of units. Mr. Korman further stated that a permit application mistakenly indicated the number of units at the above property as four (4) units. Mr. Korman then inquired what was the violation and if there was any evidence of violation.

At the hearing, Mr. Cannon reiterated his concerns raised in his August 28<sup>th</sup> letter regarding the premature scheduling of hearing and Mr. Korman's technological inability to participate and present documents in a remote hearing. Mr. Cannon stated that to better understand the issues, he needed the documents that are yet to be provided by the City in response to Mr. Korman's multiple requests. Mr. Cannon also stated that it was a violation of the due process to hold a hearing prematurely and requested continuance of this matter.

Mr. Cannon further stated that a permit has already been submitted to cure any issues. Additionally, the property owner recently submitted a new application and a full set of drawings in an effort to resolve this matter.

Mr. Korman stated that he had not received the documents he requested from the City to understand the issues raised by the City and that he already has obtained all the required permits.

Mr. Teague then requested Mr. Tam to give an update on the status of case at DBI. Mr. Tam stated that the unpermitted construction has already been done at the above property. His next step was to review the previously issued permits and plans and find out how the building was originally built and compare with the submitted plans to identify the differences.

Mr. Cannon objected to Mr. Tam's statement and stated that Mr. Tam has not inspected the property himself and as such, his testimony was based on hearsay not evidence and as such, his statement was not sufficient to support the decision on the matter.

Mr. Teague then inquired Mr. Tam if he had any information on the DBI enforcement case since issuance of NOV and Order of Abatement in December 2019. Mr. Tam stated that due to COVID-19, it is likely that further action may have been postponed.

Mr. Teague then stated that there was a distinction between whether there was a violation and the timeline to abate the violation. Mr. Teague explained that the reason why he was not supportive of postponing the Zoning

Administrator hearing was because the purpose of this hearing was just to determine if there was a violation. The purpose of hearing was not to determine the timeline to abate the violation.

Mr. Teague then stated that the issues stated in the NOV were straightforward as these related to work done without benefit of permit and it seemed that in last couple years permits were filed to address that to some degree but such permits were found to be inadequate as these did not include the full scope of work. Additionally, the NOV does not state it definitively that one unit has been removed, it only stated that as a possibility due to the impact of work that has been done and had to be verified in person.

Mr. Teague then responded to the concern regarding the record requests that Mr. Korman alleged were not fulfilled. Mr. Teague stated that the Planning Department only has records related to the Planning enforcement case. The Planning Department cannot provide records such as building permits or permit appeals, which were kept by other agencies such as DBI or Board of Appeals (BOA), and such record requests should be submitted to the agencies who were keepers of these records.

Mr. Teague then stated that the Planning Department will issue a new letter after this hearing that can be appealed to the Board of Appeals. The letter will state whether or not there was a violation and would allow additional substantial due process for further determination on the violation.

Mr. Teague then stated that once the violation has been formally upheld, the Planning Department would require that the responsible parties begin to engage with the city to start the abatement process within 15 days. Mr. Teague added that the Planning Department was trying to adapt to the SIP order to the best of its ability and understood that a permit to abate violation may not be issued in 15 days. However, it was important that the responsible parties continue to engage sincerely to fulfill the abatement process requirements. Additionally, the 15-day timeline would not apply until this hearing decision letter has been issued. And if that decision is further appealed to BOA, the 15-day timeline would not start until after the BOA decision was issued as well.

Mr. Cannon inquired what evidence did the Planning Department have that there was a violation at the above property. Mr. Cannon then stated that he believed that no city staff attendees at the hearing have inspected the above property and the NOV was likely based on the information obtained from the third parties.

Mr. Teague stated that from the aerial photography, permit records, and DBI site inspections, it was evident that there was a violation. However, the full scope of work cannot be perfectly known if the property owner would not grant the planning staff permission to inspect the property. There were permit records and photos to show that the work was indeed done without permit.

Mr. Cannon stated that he believed that the information the staff had was not sufficient to show in fact that there was a violation at the above property. Mr. Cannon further stated that Mr. Korman has been trying to address the issues and would like to comply and have such permits and plans submitted to DBI and would like to have the permits reinstated to fix the violations.

Mr. Teague stated that what has been submitted so far was not sufficient for what the City needed to make sure all the work that has been done was adequately permitted and that the Planning Department was happy to continue to work with the responsible parties to make sure that the abatement was occurring.

Mr. Teague then stated that the purpose of this hearing process was to reaffirm the violation and the Planning Department would issue a letter to that effect and if any parties disagreed, the Zoning Administrator's decision could be appealed to BOA. Mr. Teague added that if there was no violation, there was no abatement, these are two separate things and one predicates the other.

Mr. Korman stated that he had emails from DBI staff to indicate that there were several permits issued for the work done and that there was no violation and that he complied with all the regulations and yet was issued OOA by DBI.

Mr. Teague stated that he could not speak to the DBI process and any notices issued by DBI. However, from the DBI Director's hearing, it was clear that it triggered the need for a permit to abate the violation.

Mr. Cannon stated that there really was no evidence of violation and it should be laid out in the decision letter.

Mr. Korman again expressed his concerns about DBI's OOA. Mr. Teague stated that any concerns with DBI process shall be brought to DBI's attention as it was not within the Planning Department's purview.

The Zoning Administrator then took the matter under advisement after hearing from all concerned parties.

## Submittals and Consideration After the Hearing

To date, no new information has been submitted. The Zoning Administrator has reviewed all submittals to date and considered statements made at the October 13<sup>th</sup> hearing.

Planning Code Section 171 requires that the above property shall be used only as authorized. Planning Code Section 172 requires that 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. Planning Code Section 175 requires a Building Permit for the construction, reconstruction, enlargement, alteration, relocation, or occupancy of any structure in compliance with the Planning Code. Planning Code Section 317(c)(1) requires a Conditional Use Authorization (CUA) for the removal or merger of residential units.

As stated in the NOV, you added a story to the rear of your property. Expanding your building's footprint and envelop requires a building permit and neighborhood notification per Planning Code Section 311. Depending on the location of this building addition, a rear yard variance may also be required. You did not provide the site photos and granted site visit to the Planning Department staff to verify the existing conditions. Additionally, you did not file the Project Application with accurate existing, as built, and proposed plans, and before and after photos to allow the Planning Department to guide you further on the required planning and permit processes. Moreover, you also did not provide any evidence to demonstrate that there was no violation.

## Decision

**NOTICE OF VIOLATION UPHELD.** Pursuant to Planning Code Section 176, the Zoning Administrator has a duty in administration and enforcement of the Planning Code. Accordingly, the Zoning Administrator upholds the

Notice of Violation issued on May 29, 2020 as the property owner has failed to demonstrate compliance with the Planning Code as described above.

The subject property owner shall abate the violation as follows:

- File a Project Application with the Planning Department in association with BPA No. 2018.10.31.4687. This application can be filled out online or submitted via email at [cpc.intake@sfgov.org](mailto:cpc.intake@sfgov.org). The Project Application is available from the Planning Department's website at <https://sfplanning.org/resources>. Project Application is also attached for your convenience.

Please note that pre-existing and proposed (as built) floor plans, elevations, and cross sections, as well as "before" and "after" interior and exterior photographs of the building at the above property are also required to be submitted with the Project Application. The Project Application shall clearly and accurately specify the scope of work for which the approval is sought under BP No. 2018.10.31.4687. As such, you are required to seek legalization and/or removal of work done without permits and obtain such approval from the Planning Department. **This application must be diligently pursued and completed.**

Please be advised that upon review of above Project Application, BP, 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.

The responsible party will need to provide adequate evidence to demonstrate that the violation has been abated. 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.

Please visit DBI website, <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 revisions and information as deemed necessary.

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

49 South Van Ness Avenue, 2nd/5th Floor (To submit permits only)  
San Francisco, CA 94103  
Phone: 628.652.3200  
Email: [dbicustomerservice@sfgov.org](mailto:dbicustomerservice@sfgov.org)  
Website: [www.sfgov.org/dbi](http://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](mailto:pic@sfgov.org)  
Website: [www.sfplanning.org](http://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 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 Violation and Penalty Decision 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. 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.

## Administrative Penalties

If any responsible party does not appeal this notice to the Board of Appeals **within 15-days from the date of this notice**, this Violation and Penalty Decision notice will become final. However, **administrative penalties will not begin to accrue until the 15-day period to respond expires.** 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 Notice of Penalty. Additional penalties will

continue to accrue until a corrective action is taken to abate the violation. Please be advised that payment of the penalty does not excuse failure to correct the violation or bar further enforcement action.

### **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. Accordingly, a fee of **\$7,619.91** for “Time and Materials” cost associated with the Code Enforcement investigation is now due to the Planning Department. **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 as 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.

### **Appeal**

This Violation and Penalty Decision notice and any assessed penalties may be appealed to the **Board of Appeals within the 15-day time limit** from the date of this Violation and Penalty Decision notice at:

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

The Board of Appeals may not reduce the amount of penalty below \$100 per day for each day that the violation exists, excluding the period of time that the matter has been pending either before the Zoning Administrator or before the Board of Appeals.

Sincerely,



Corey A. Teague, AICP  
Zoning Administrator

Enc.: Notice of Violation dated May 29, 2020

cc: Christopher J. Cannon via email  
John Hinchion, DBI, Code Enforcement Division via email



# SAN FRANCISCO PLANNING DEPARTMENT

## NOTICE OF VIOLATION

May 29, 2020

### Property Owner

Robert Korman  
Korman Family Irrevoc Trust  
3450 Sacramento St # 124  
San Francisco, CA 94118

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

**Site Address:** 2455 Jackson Street  
**Assessor's Block/Lot:** 0606/024  
**Zoning District:** RH-2, Residential, House, Two-Family  
**Complaint Number:** 2018-015640ENF  
**Code Violation:** Sections 171 & 172, 175, Construction without Permits  
**Administrative Penalty:** Up to \$250 Each Day of Violation  
**Response Due:** Within 15 days from the date of this Notice  
**Staff Contact:** Rachna, (415) 575-6806, 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 the responsible party to bring the above property into compliance with the Planning Code. Details of the violation are discussed below:

### DESCRIPTION OF VIOLATION

Our records indicate that the subject property is currently authorized as a five-family dwelling. The violation pertains to the unauthorized construction and possible removal of a dwelling unit at the subject property.

Pursuant to Department of Building Inspection (DBI) Complaint No.: 20188993, extensive work at roof level has taken place and a new story has been built at the back of the property without the benefit of permits. DBI also confirmed that the work has been done on the top floor/roof including extensive reframing of roof structure; in-fill of west light well on east 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> floors; addition of skylights; and creation of a roof deck and living space.

On September 28, 2018, you filed a Building Permit Application (BPA) No.: 2018.09.28.1715 to respond to DBI Complaint No.: 20188993. On December 6, 2019, this permit expired due to failure to correct and complete this permit.

On October 31, 2018, you filed another BPA No. 2018.10.31.4687 to resolve DBI Complaint No.: 20188993. BPA No.: 2018.10.31.4687 stated the scope of work as, "To Comply W/NOV #201888993 Per Arch/Engineer Plans + Calculations for Property Line Infills on All Floor Levels; Replace + Reinforce Damaged Portions of Sloped Roof Rafters and Wall Studs and Floor Joists; To Modify and Update PA 201508315739 Voluntary Building Retrofit (Seismic)." However, this permit is still in triage and has yet to be issued. In order to abate the violation,

[www.sfplanning.org](http://www.sfplanning.org)

not only do you need to file a corrective permit, but that permit needs to be issued and completed within a reasonable period of time.

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.

## **TIMELINE OF INVESTIGATION**

On October 4, 2018, DBI issued a Notice of Violation (NOV) requiring you to obtain a permit with plans within ten (10) days for work done without permit.

On November 27, 2018, DBI issued an amended NOV requiring you to submit architectural and structural drawings showing the extent of work done without permit and obtain approval from the Planning Department.

On December 21, 2018, the Planning Department sent you a Notice of Complaint (NOC) to inform you about the complaint and required you to file a permit to either remove or seek legalization of construction work as permitted under the Planning Code.

On December 27, 2018, you contacted the Planning Department to respond to NOC.

On March 9, 2019, you met with the Planning Department staff, Rachna to discuss the planning violation issues. Rachna advised you to follow through with getting BPA No.: 2018.10.31.4687 reviewed, issued and completed.

On July 22, 2019, the Planning Department sent you a Notice of Enforcement (NOE). In that notice, you were required to submit additional information about the currently existing and proposed conditions.

On August 6, 2019, your legal representative, Melissa Palozola at Clark Hill contacted Rachna to seek an extension of time to respond to NOE.

On August 20, 2019, Ms. Palozola again requested an additional extension of time until September 15, 2019 to resolve the violation issues raised in the NOE. Ms. Palozola also informed Rachna that during a site inspection by Clark Hill staff, five dwelling units were observed at this property.

On August 21, 2019, Rachna requested Ms. Palozola to submit lease copies, floor plans, and photographs showing existence of five units at the above property and requested to schedule a site visit.

On August 21, 2019, another legal representative, Steven Hammond at Clark Hill informed Rachna that there were no leases as the above property had been unoccupied for some time. Mr. Hammond also informed Rachna that you were having a knee surgery soon and as such a site visit could not be scheduled at that time.

On September 11, 2019, Mr. Hammond submitted a letter along with documentation to indicate that the subject property was authorized for five units. He stated that no dwelling unit merger had occurred at the above property.

On September 20, 2019, BPA No.: 2018.10.31.4687 was approved by a Planner at the Planning Information Counter in error. The planner who reviewed and approved this permit thought the scope of work was simply to legalize work already done to the interior of the existing building and wasn't aware that you also expanded the footprint and envelop of your existing building. As such, Rachna has asked DBI to re-route the permit and plans back to the Planning Department for further review. In order for Planning to properly complete their review of this permit, plans showing 1) previously existing, 2) currently existing (or as-built), and 3) proposed conditions are required.

On October 25, 2019, Rachna contacted Ms. Palozola to reiterate that the plans and documents required pursuant to NOE must be submitted for BPA No.: 2018.10.31.4687 and routed to the Planning Department for its review. Rachna again requested to schedule a site visit.

On March 11, 2020, Rachna met with you in the office to discuss the outstanding violations and requested you to provide plans of previously existing, current, and proposed conditions; and 'before and after' photos including photos of kitchen in each dwelling unit. Rachna again requested a site visit to the property.

On March 19, 2020, Mr. Hammond informed Rachna that his firm Clark Hill no longer represented you on this matter.

To date, you have not submitted the required plans and documentation to the Planning Department to abate the violation, nor have you provided adequate evidence to demonstrate that the subject property is in compliance with the Planning Code.

## **HOW TO CORRECT THE VIOLATION**

As stated in DBI's NOV, you added a story to the rear of your property. Expanding your building's footprint and envelop requires neighborhood notification. Depending on the location of this building addition, a rear yard variance may also be required.

If there is evidence that you removed a dwelling unit, you must submit a Conditional Use Authorization application to legalize the unit or submit a building permit application to restore the unit.

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

1. File a Project Application with the Planning Department in association with BPA No.: 2018.10.31.4687. It can be filled out online or submitted via email at [cpc.intake@sfgov.org](mailto:cpc.intake@sfgov.org). Should you wish to submit this application in person, please make an appointment by filling out the Intake Request Form. The intake Request Form can be submitted via email at [cpc.intake@sfgov.org](mailto:cpc.intake@sfgov.org) or faxed at 415-5586409. The Project Application and Intake Request Form are available from the Planning Department's website at

<https://sfplanning.org/resource>. Project Application and Intake Request Form are also attached herewith for your convenience.

Please note that pre-existing and proposed (as built) floor plans, elevations, and cross sections; as well as 'before' and 'after' interior and exterior photographs of the building at the above property are also required to be submitted with the Project Application. The Project Application shall clearly and accurately specify the scope of work for which the approval is sought under BPA No.: 2018.10.31.4687 to seek legalization and/or removal of work done without permits and approval from the Planning Department.

Please be advised that upon review of above Project Application, BPA, 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.

2. If you intend to use the above property as four (4) dwelling units, please file a CUA Supplemental Application to seek removal of a dwelling unit or merger of two units into a single dwelling unit. This application is available from the Planning Department's website at <https://sfplanning.org/resource>. Please contact the enforcement staff noted above to schedule a site visit to verify current conditions at the subject property.

Once a permit has been issued to abate violation, the work approved under such permit must commence promptly and be continued diligently to completion with a final inspection and/or issuance of certificate of final completion.

The responsible party will need to provide adequate evidence to demonstrate that either no violation exists or that the violation has been abated.

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

1660 Mission Street  
San Francisco, CA 94103  
telephone: (415) 558-6088  
website: [www.sfgov.org/dbi](http://www.sfgov.org/dbi)

For questions regarding Planning Department process, please contact the Planning Information Center (PIC) at:

1660 Mission Street (5th floor)  
San Francisco, CA 94103  
telephone: (415) 558-6377  
email: [pic@sfgov.org](mailto:pic@sfgov.org)

## **TIMELINE TO RESPOND**

A Shelter in Place order was issued for San Francisco due to the COVID-19 virus on March 16, 2020, which was set to expire on April 7, 2020. Order of the Health Officer No. C19-07b was issued for San Francisco on March 31, 2020, and it 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. Additionally, City agencies may not be able to process necessary applications to abate violations during the Shelter in Place (for example, the Department of Building Inspection). You can find more information from the City regarding the Shelter in Place here: [www.sf.gov/topics/coronavirus-covid-19](http://www.sf.gov/topics/coronavirus-covid-19).

Given this information, the timeline to respond to this Notice of Violation **will not begin until** both 1) the Shelter in Place ends, and 2) all relevant City agencies are operating at a level necessary to abate the violation. Once the timeline to respond to this Notice of Violation begins, the responsible party **has fifteen (15) days from that date** to correct the violation as noted above. If you plan to appeal this Notice of Violation, you must do so **within 15 days of this notice** (see below).

The Department recognizes the challenges of the City's Shelter in Place order and its underlying cause. However, corrective actions should be taken as early as reasonably possible. Please contact the enforcement staff noted above 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.

## APPEAL PROCESSES

If the responsible party believes that this order to remove 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:

1650 Mission Street, Room 304  
San Francisco, CA 94103  
telephone: (415) 575-6880  
website: [www.sfgov.org/bdappeal](http://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 **\$3783.75** for 'Time and Materials' costs 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.

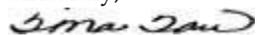
## FAILURE TO PAY PENALTIES AND FEES

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 Enforcement dated July 22, 2019

**cc:** John Hinchion, DBI, Code Enforcement Division via email



# SAN FRANCISCO PLANNING DEPARTMENT

## NOTICE OF ENFORCEMENT

July 22, 2019

### Property Owner

Bob Korman  
Korman Family Irrevoc Trust  
Nancy E Ryti Spousal Irrevoc Trust  
3450 Sacramento St # 124  
San Francisco, CA 94118

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

**Site Address:** 2455 Jackson Street  
**Assessor's Block/Lot:** 0606/024  
**Zoning District:** RH-2, Residential- House, Two Family  
**Complaint Number:** 2018-015640ENF  
**Code Violation:** Sections 171 & 172, Construction without Authorization  
Section 317, Possible Residential Merger without Authorization  
**Administrative Penalty:** Up to \$250 Each Day of Violation  
**Response Due:** Within 15 days from the date of this Notice  
**Staff Contact:** Rachna, (415) 575-6806, Rachna.Rachna@sfgov.org

The Planning Department has received a complaint that a Planning Code violation exists on the above referenced property that needs to be resolved. As the owner and/or leaseholder 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 subject property is currently authorized as a five-family dwelling. The violation pertains to the unauthorized construction and removal of a dwelling at the subject property. Pursuant to Planning Code Section 317, a Conditional Use Authorization is required for the merger of two residential units. Pursuant to Department of Building Inspection (DBI) Complaint No. 20188993, extensive work at roof level has taken place and a new story has been built at the back of the property without benefit of permits.

On October 4, 2018, DBI issued a Notice of Violation (NOV) requiring you to obtain a permit with plans for work being performed within ten (10) days.

On September 28, 2018, you filed a Building Permit Application (BPA) No. 201809281715 to respond to DBI Complaint No. 20188993. DBI requires correction of this permit.

On October 23, 2018, DBI inspected the above property and observed that extensive work has been performed on the top floor/roof including extensive reframing of roof structure; in-fill of west light well on east 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> floors; addition of skylights; creation of roof deck and living space.

[www.sfplanning.org](http://www.sfplanning.org)

On October 31, 2018, you filed another BPA No. 201810314687 to comply with DBI NOV No. 20188993. DBI required you to submit architectural and structural plans for lightwell infill by November 5, 2018. This BPA stated the existing and proposed number of units as 4 whereas the above property is authorized for five dwelling units.

On November 27, 2018, DBI issued an amended NOV requiring you to obtain a permit with planning approval and submit architectural and structural drawings showing the extent of work being performed.

On December 21, 2018, the Planning Department sent you a Notice of Complaint (NOC) to inform you about the complaint and required you to file a permit to either remove or seek legalization of construction work as permitted under the Planning Code.

On December 27, 2018, you contacted the Planning Department to respond to NOC.

On March 9, 2019, you met with the Planning Department staff, Rachna to discuss the planning enforcement case. Rachna advised you to follow through on BPA No. 201810314687 and submit plans as required by DBI.

To date you have not submitted the required plans to DBI.

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 Planning Code provision constitutes a violation of Planning Code and is subject to an enforcement process under Code Section 176.

## **HOW TO CORRECT THE VIOLATION**

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

1. Submit the pre-existing and proposed (as built) floor plans, elevations, sections, and 'before' and 'after' interior and exterior photographs of building at the above property with BPA 201810314687 to the Planning Department through DBI.
2. File a Project Application with the Planning Department. This application is available from the Planning Department's website at <https://sfplanning.org/resource/prj-application>. The Planning Department will inform you to file additional applications if so necessary upon review of this application and revised submittal of documents as noted above.

3. File a BPA to reinstate the above property to its last authorized five-family dwelling use or file a Conditional Use Authorization to seek removal of a dwelling unit if any units are removed or two units are merged into a single unit. Alternatively, if the above property contains five dwelling units, provide such evidence including lease copies, floor plans, and photographs showing the existing number of dwelling units at the above property.

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.

Please contact the Department of Building Inspection (DBI), 1660 Mission Street, San Francisco, CA 94103, telephone: (415) 558-6088, website: [www.sfgov.org/dbi](http://www.sfgov.org/dbi), regarding the Building Permit Application process. Please visit the Planning Information Counter located at the first floor of 1660 Mission Street, telephone: (415) 558-6377, or website: [www.sf-planning.org](http://www.sf-planning.org) for any questions regarding the planning process.

## **TIMELINE TO RESPOND**

The responsible party has **fifteen (15) days from the date of this notice** to contact the staff planner noted at the top of this notice 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** 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 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.

## **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 **\$1485.20** plus any additional accrued time and materials cost for Code Enforcement investigation and abatement of violation. This fee is separate from the administrative penalties as noted above and is not appealable. The Planning Department will notify you when this fee is payable.

## **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:** John Hinchion and Kevin Birmingham, DBI

# **BRIEF(S) SUBMITTED BY APPELLANT(S)**

1 CHRISTOPHER J. CANNON, State Bar No. 88034  
MATTHEW A. LAWS, State Bar No. 273697  
2 Sugarman & Cannon  
737 Tehama Street, No. 3  
3 San Francisco, CA 94103  
Telephone: 415-362-6252  
4 Facsimile: 415-362-6431  
[chris@sugarmanandcannon.com](mailto:chris@sugarmanandcannon.com)

5 Attorneys for Appellant ROBERT KORMAN

6 SAN FRANCISCO CITY AND COUNTY BOARD OF APPEALS  
7

8 ROBERT KORMAN AND THE KORMAN  
FAMILY IRREVOCABLE TRUST,

9 Appellant,

10 vs.

11 SAN FRANCISCO PLANNING DEPARTMENT  
12 AND ZONING ADMINISTRATOR,

13 Appellee.

Case No. 21-010

**APPELLANT ROBERT KORMAN'S  
OPENING BRIEF**

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1 **I. INTRODUCTION**

2 The January 27, 2021 Violation and Penalty Decision ("VPD") must be overturned because the  
3 hearing was premature under the plain terms of the Notice of Complaint, ("NOC"); the NOC did not  
4 adequately describe the alleged violations; there was not substantial evidence introduced to support the  
5 Department's "findings" and the City's procedures improperly shifted the burden of proof on to the  
6 property owners.

7 **II. PROCEDURAL HISTORY AND STATEMENT OF FACTS**

8 On December 21, 2018, the Planning Department sent a Notice of Complaint ("NOC") under  
9 Complaint Number 2018-015640 ENF. This NOC stated "the Planning Department has received a  
10 complaint alleging that one or more violations of the Planning Code exist on the above-referenced  
11 property." The NOC did not describe the alleged violations other than vaguely stating "there is  
12 unpermitted construction, alteration, and/or addition work at the subject property." The NOC directs  
13 Korman to contact Tina Tam " for information on the alleged violation and assistance on how to resolve  
14 the complaint." (Exhibit 1 – Dec. 21, 2018 NOC.)

15 On January 8, 2019, March 8, 2019, and March 21, 2019 Korman hand delivered letters  
16 addressed to Tina Tam in the Planning Department, attempting to coordinate meeting times and to  
17 resolve the December 21, 2018 NOC. (Exhibit 2 – Jan. 8, 2019 Tina Tam Letter; Exhibit 3 – Mar. 8,  
18 2019 Tina Tam Letter; Exhibit 4 – Mar. 21, 2019 Tina Tam Letter.)

19 That meeting was held on March, 6, 2019, and summarized in a letter Korman delivered to the  
20 Planning Department describing the meeting and requesting further guidance about how he should  
21 address the NOC. (Exhibit 5 - June 17, 2019 Letter to Rachna.)

22 On July 22, 2019, the Planning Department sent a Notice of Enforcement ("NOE"). That NOE,  
23 under "Description of Violation," refers to Department of Building Inspection (DBI) Complaint No.  
24 20188993 and a DBI Notice of Violation (NOV). The NOE references several building permit  
25 applications filed by Korman, No. 201809281715 and No. 201810314687. (Exhibit 6 - July 22, 2019  
26 NOE.) The NOE refers to multiple alleged violations and concludes that:

27 //

28 //

1 On December 27, 2018, you contacted the Planning Department to respond to NOC.  
2 On March 9, 2019, you met with the Planning Department staff, Rachna to discuss  
3 the planning enforcement case. Rachna advised you to follow through on BPA No.  
4 201810314687 and submit plans as required by DBI.

5 To date you have not submitted the required plans to DBI.

6 (Id. at p. 2.) The July 22, 2019 NOE also refers to Planning Code Sections 171, 172, 174, 175, and 176,  
7 but the NOE does not contain any facts or description explaining how those Planning Code sections were  
8 allegedly violated.

9 The July 22, 2019 NOE claims that DBI requires correction of Permit Application (BPA) No.  
10 201809281715, however DBI approved and issued BPA 201809281715 on September 28, 2018, and at  
11 the time of the July 22, 2019 NOE, BPA 201809281715 was still valid. (Exhibit 7 – BPA  
12 201809281715.)

13 On May 29, 2020, the Planning Department issued a NOV under Complaint Number 2018-  
14 015640ENF. The NOV Description of Violation section states:

15 On September 28, 2018, you filed a Building Permit Application (BPA) No.:  
16 2018.09.28.1715 to respond to DBI Complaint No.: 20188993. On December 6, 2019,  
17 this permit expired due to failure to correct and complete this permit.

18 On October 31, 2018, you filed another BPA No. 2018.10.31.4687 to resolve DBI  
19 Complaint No.: 20188993. BPA No.: 2018.10.31.4687 stated the scope of work as,  
20 “To Comply W/NOV #201888993 Per Arch/Engineer Plans + Calculations for  
21 Property Line Infills on All Floor Levels; Replace + Reinforce Damaged Portions of  
22 Sloped Roof Rafters and Wall Studs and Floor Joists; To Modify and Update PA  
23 201508315739 Voluntary Building Retrofit (Seismic).” However, this permit is still  
24 in triage and has yet to be issued. In order to abate the violation, not only do you need  
25 to file a corrective permit, but that permit needs to be issued and completed within a  
26 reasonable period of time.

27 (Exhibit 8 - May 29, 2020 NOV.)<sup>1</sup>

28 As the May 29, 2020 NOV admits, on September 20, 2019, Korman submitted additional  
requested plans and specifications related to BPA 201810314687 and received a permit. The Planning  
Department claims, however, that BPA 201810314687 was approved in error, and alleges that Korman  
"expanded the footprint and envelop [sic] of [his] existing building." However, the Planning Department

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<sup>1</sup> The unfairness of this entire process is demonstrated by the final sentence of this NOV. Planning says the violation may be abated by a permit issued and completed in a reasonable period of time, but Planning controls the issuance process and has sat on its hands and failed to issue the permit.

1 has yet to provide proof or even describe how Korman expanded either the footprint or envelope of 2455  
2 Jackson Street. The May 29, 2020 NOV states that Planning employee Rachna "asked DBI to re-route  
3 the permit and plans back to the Planning Department for further review." (Exhibit 8 NOV.)

4 BPA 201810314687 remains in limbo between DBI and the Planning Department to this day and  
5 has not been reissued. (Exhibit 9 - BPA 201810314687.)

6 The May 29, 2020 NOV provided a timeline to respond, stating:

7 the timeline to respond to this Notice of Violation **will not begin until** both 1) the  
8 Shelter in Place ends, and 2) all relevant City agencies are operating at a level  
9 necessary to abate the violation. Once the timeline to respond to this Notice of  
10 Violation begins, the responsible party **has fifteen (15) days from that date** to  
11 correct the violation as noted above. If you plan to appeal this Notice of Violation,  
12 you must do so **within 15 days of this notice** (see below).

13 The Department recognizes the challenges of the City's Shelter in Place order and its  
14 underlying cause. However, corrective actions should be taken as early as reasonably  
15 possible. Please contact the enforcement staff noted above with questions and/or to  
16 submit evidence of correction. Delays in abatement of the violation beyond the  
17 timeline outlined above will result in further enforcement action by the Planning  
18 Department.

19 (Exhibit 8 NOV at p. 5 [emphasis in original].)

20 On August 28, 2020, counsel for Korman sent a letter to the Planning Department, requesting to  
21 postpone the September 9, 2020 Zoning Administrator hearing pointing out that according to the May 29,  
22 2020 NOV, the timeline to respond to the NOV had not yet begun because the Shelter in Place had not  
23 yet ended, and all relevant City agencies were not yet operating at a level necessary to abate the alleged  
24 violation(s). (Exhibit 10 - Aug 28, 2020 Letter to Rachna.)

25 On October 1, 2020, Korman requested from the Planning Department and DBI the evidence  
26 upon which the Planning Department intended to rely to prove the alleged violations at the upcoming  
27 Zoning Administrator hearing. (Exhibit 11 - Oct. 1, 2020 Sunshine Request.)

28 On October 9, 2020, Korman notified the Planning Department and DBI that he still had not  
received items responsive to his October 1, 2020 request for discovery. Korman requested a continuance  
of the October 13, 2020 Zoning Administrator hearing due to not receiving any documents responsive to  
his discovery request. (Exhibit 12 - Oct. 9, 2020 Notice & Continuance Request.)

A Shelter in Place order was issued for San Francisco due to the COVID-19 pandemic on March  
16, 2020, that Order had been extended and modified on multiple occasions and was still in effect at the

1 time the VPD issued. The same day the VPD issued, a January 27, 2021, Order of the Health Officer No.  
2 C19-07s extended previous Shelter in Place Orders, and incorporated State and Local Emergency  
3 Proclamations, State Health Orders, and Federal Executive Orders.<sup>2</sup>

4 On January 27, 2021, the Planning Department issued a Violation and Penalty Decision ("VPD"),  
5 which is the subject of this Appeal. (Exhibit 13 - Jan. 27, 2021 VPD.) Significantly Zoning  
6 Administrator Teague indicated that the "purpose of this hearing process was to reaffirm the violation,"  
7 not to determine whether there was a violation; and that the burden was on the property owner to  
8 demonstrate there was no violation. ("the property owner has failed to demonstrate compliance with the  
9 Planning Code as described above.")

10 That VPD contains a section titled "Evidence Presented at the Zoning Administrator Hearing."  
11 Among other things, that "Evidence Presented" section states:

12 Mr. Tam stated that the unpermitted construction has already been done at the above  
13 property. His next step was to review the previously issued permits and plans and find  
14 out how the building was originally built and compare with the submitted plans to  
identify the differences.

15 Mr. Cannon objected to Mr. Tam's statement and stated that Mr. Tam has not  
16 inspected the property himself and as such, his testimony was based on hearsay not  
evidence and as such, his statement was not sufficient to support the decision on the  
matter.

17 Mr. Teague then inquired [sic] Mr. Tam if he had any information on the DBI  
18 enforcement case since issuance of NOV and Order of Abatement in December 2019.  
19 Mr. Tam stated that due to COVID-19, it is likely that further action may have been  
postponed.

20 (Exhibit 13 VPD at p. 6.)

21 The VPD does not indicate that Planning Department or DBI employees submitted any other  
22 evidence. However, the in the VPD, Zoning Administrator Teague refers to "aerial photography, permit  
23 records, and DBI site inspections" as evidence of unspecified violations. Despite multiple prior requests  
24 from Korman for the evidence upon which the Planning Department intended to rely, and Planning's  
25 written response that "there are no additional responsive records;" (Exhibit 14 - Planning Dept. Letter);  
26 neither Korman nor counsel were provided with the items Teague referenced in the VPD and no such

27 \_\_\_\_\_  
28 <sup>2</sup> January 27, 2021 City and County of San Francisco Order of the Health Officer No. C19-07s at page 26. (available at  
<https://sfbos.org/sites/default/files/1%202021.01.27%20FINAL%20Signed%20Order%20No.%20C19-07s%20-%20Stay%20Safer%20at%20Home%20Order.pdf> )

1 items were presented at the hearing.

2 From the VPD, it is unclear how Teague could have reviewed any records that would support a  
3 finding of a violation, moreover, in response to Korman's concerns regarding his requests for the  
4 evidence upon which the Planning Department intended to rely, Teague stated the Planning Department  
5 did not have records such as "building permits or permit appeals, which were kept by other agencies such  
6 as DBI or Board of Appeals (BOA)" and that "the Planning Department only has records related to the  
7 Planning enforcement case." (Exhibit 13 VPD at p. 7.) This statement is consistent with Planning's  
8 Earlier response that there were no other responsive records.

9 At the hearing, Korman testified that he has permits for five dwelling units at the property and  
10 that he has no intention to reduce the number of units. Mr. Korman testified that he had not received  
11 documents requested from the City to understand the issues raised by the City and that he already  
12 obtained all the required permits. (Exhibit 13 VPD at p. 6.)

13 Counsel for Korman noted the conditions required to trigger the timeline set forth in the NOV,  
14 that the timeline would "not begin until both 1) the Shelter in Place ends, and 2) all relevant City  
15 agencies are operating at a level necessary to abate the violation" had not yet occurred. Counsel  
16 explained that holding the hearing prior to satisfaction of the triggering conditions and timeline set forth  
17 in the NOV was premature, and a violation of due process. (Exhibit 13 VPD at p. 6.)

18 Under the section "Decision," the VPD states that "the Zoning Administrator upholds the Notice  
19 of Violation issued on May 29, 2020 as the property owner has failed to demonstrate compliance with the  
20 Planning Code as described above." (Exhibit 13 VPD at pp. 8-9.)

21 On February 8, 2021, Korman filed a timely notice of appeal with the San Francisco Board of  
22 Appeals.

23  
24 **III. THE PLANNING DEPARTMENT'S PROCEDURES AND STATUTORY SCHEME  
VIOLATE DUE PROCESS AND DO NOT PROVIDE FOR A FAIR HEARING**

25 **A. Federal and State Due Process protections apply to the Zoning Administrator's hearings.**

26 "Procedural due process imposes constraints on governmental decisions which deprive  
27 individuals of 'liberty' or 'property' interests within the meaning of the Due Process Clause of the Fifth  
28 and Fourteenth Amendments." (Mathews v. Eldridge (1976) 424 U.S. 319, 331.) "The essence of due

1 process is the requirement that 'a person in jeopardy of serious loss [be given] notice of the case against  
2 him and opportunity to meet it.' [Citation.]" (Id. at 348.) These requirements of procedural due process  
3 apply to deprivations of interests encompassed by the Fourteenth Amendment's protection of life, liberty,  
4 and property. (Board of Regents of State Colleges v. Roth (1972) 408 U.S. 564, 569.)

5 Before taking an action which will affect a property interest protected by the due process clause  
6 of the Fourteenth Amendment, a state must provide "notice reasonably calculated, under all the  
7 circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity  
8 to present their objections." (Mullane v. Central Hanover Tr. Co. (1950) 339 U.S. 306, 314.)

9 Federal due process protections apply when the government takes action to abate a nuisance and  
10 thereby impacts private property rights. (See Leppo v. City of Petaluma (1971) 20 Cal.App.3d 711, 717.)  
11 "Although it is elementary that an owner of property has no constitutional right to maintain it as a public  
12 nuisance, it is equally elementary that he has a clear constitutional right to have it determined by due  
13 process whether in fact and law it is such a nuisance." (Id. at 717.)

14 Procedural due process, guaranteed by the Fifth and Fourteenth Amendments to the United States  
15 Constitution and by article I, section 7 of the California Constitution, exists "to provide affected parties  
16 with the right to be heard at a meaningful time and in a meaningful manner." (Ryan v. California  
17 Interscholastic Federation-San Diego Section (2001) 94 Cal.App.4th 1048, 1072; see United States v.  
18 James Daniel Good Real Property (1993) 510 U.S. 43, 49-52.) "The right to prior notice and a hearing is  
19 central to the Constitution's command of due process. 'The purpose of this requirement is not only to  
20 ensure abstract fair play to the individual. Its purpose, more particularly, is to protect his use and  
21 possession of property from arbitrary encroachment—to minimize substantively unfair or mistaken  
22 deprivations of property[.]' " (United States v. James Daniel Good Real Property, 510 U.S. at 53.)

23 Due process, as required by the California Constitution, is more expansive than its federal  
24 counterpart:

25 Our state due process constitutional analysis differs from that conducted pursuant to  
26 the federal due process clause in that the claimant need not establish a property or  
27 liberty interest as a prerequisite to invoking due process protection. [Citations.]  
28 Focused rather on an individual's due process liberty interest to be free from arbitrary  
adjudicative procedures [citation], procedural due process under the California  
Constitution is 'much more inclusive' and protects a broader range of interests than  
under the federal Constitution [citations]. According to our Supreme Court, it 'has

1 expanded upon the federal analytical base by focusing on the administrative process  
2 itself.' [Citation.]”

3 (Ryan, supra, 94 Cal.App.4th. at 1069.) The California Supreme Court has held that the California  
4 Constitution’s due process safeguards in Article 1 § 7 include a liberty interest in "freedom from arbitrary  
5 adjudicative procedures," regardless of the precise nature of the interest at stake. (People v. Ramirez  
6 (1979) 25 Cal.3d 260, 267-69; Ryan at 1070; Saleeby v. State Bar of California, (1985) 39 Cal.3d 547,  
7 563-64.) Therefore, when weighing private and governmental interests to determine what process is due,  
8 courts should focus on procedural protections designed to promote accurate and reliable administrative  
9 decisions. (Ramirez at 267; Ryan at 1069-1070.)

10 The Accardi doctrine holds that administrative agencies are bound to follow their rules and  
11 guidelines. (United States ex rel. Accardi v. Shaughnessy (1954) 347 U.S. 260; see also Morton v. Ruiz  
12 (1974) 415 U.S. 199, 235.) The Accardi doctrine applies to an agency's procedures, however they might  
13 be denominated. (See, e.g., Church of Scientology of Cal. v. United States (9th Cir. 1990) 920 F.2d 1481,  
14 1487 ["Pursuant to the Accardi doctrine, an administrative agency is required to adhere to its own  
15 internal operating procedures."].)

16 Code of Civil Procedure § 1094.5's requirement of a "fair trial means that there must have been a  
17 fair administrative hearing." (Gonzalez v. Santa Clara County Dept. of Social Services (2014) 223  
18 Cal.App.4th 72, 96 [internal quotes omitted].) Generally, a fair procedure requires "notice reasonably  
19 calculated to apprise interested parties of the pendency of the action ... and an opportunity to present  
20 their objections." (Bergeron v. Department of Health Services (1999) 71 Cal.App.4th 17, 24; see also  
21 Rosenblit v. Superior Court (1991) 231 Cal.App.3d 1434, 1445 ["Notice of the charges sufficient to  
22 provide a reasonable opportunity to respond is basic to the constitutional right to due process and the  
23 common law right to a fair procedure."].)

24 **B. The Zoning Administrator held the hearing prematurely.**

25 The ZA held the hearing prematurely, in violation of its own rules and due process, because the  
26 May 29, 2020 Notice of Violation had not yet become effective. The May 29, 2020 NOV clearly states  
27 that "the timeline to respond to this Notice of Violation **will not begin until both** 1) the Shelter in Place  
28 ends, and 2) all relevant City agencies are operating at a level necessary to abate the violation."

1 (Exhibit 8 at p. 5 [emphasis in original].) On the date of the October 13, 2020 hearing, the Shelter in  
2 Place was still in effect.

3 Accordingly, holding the hearing prior to the time indicated in the NOV was a violation of due  
4 process.

5 **C. Inadequate notice and failure to provide supporting evidence violated Due Process.**

6 Procedural due process requires "the right to be informed not only of the nature of the charges but  
7 also of the substance of the relevant supporting evidence." (Brock v. Roadway Express (1987) 481 U.S.  
8 252, 264-65.) "The purpose of notice under the Due Process Clause is to apprise the affected individual  
9 of, and permit adequate preparation for, an impending 'hearing.'" (Memphis Light, Gas and Water  
10 Division v. Craft (1978) 436 U.S. 1, 14 fn. omitted.)

11 "Notice of the charges sufficient to provide a reasonable opportunity to respond is basic to the  
12 constitutional right to due process and the common law right to a fair procedure." (Rosenblit v. Superior  
13 Court (1991) 231 Cal.App.3d 1434, 1445.) In Rosenblit, a physician had been provided with a notice  
14 which charged him with poor clinical judgment in 30 cases. The notice was generated by the hospital,  
15 not the physician, and the cases were listed numerically in the notice, without any indication as to the  
16 alleged deficiencies. In an attempt to determine the basis for the charges, the physician requested  
17 permission to copy the medical charts of the assertedly problem cases. That request was denied. (*Id.* at  
18 1445-46.) The Court held that being denied copies of the documentary evidence made available to the  
19 adjudicatory body or that formed the basis of the charges "would make it difficult to respond to the  
20 charges and present evidence to refute the evidence presented against him. Fair procedure would require  
21 disclosure of evidence forming the basis of the charges. It would also require that any evidence made  
22 available to the members of the panel also be made available to the petitioner." (*Id.* at 1447.) See Also  
23 Smith v. State Bd. of Pharmacy (1995) 37 Cal.App.4th 229,242 (Smith was deprived of procedural due  
24 process because he was insufficiently informed of the charges." (*Id.* at 242).

25 Here, the May 29, 2020 Notice of Violation ("NOV") under the heading "Description of  
26 Violation," depends entirely upon Department of Building Inspection Complaint No. 20188993. The  
27 NOV states that "Our records indicate that the subject property is currently authorized as a five-family  
28 dwelling. The violation pertains to the unauthorized construction and possible removal of a dwelling unit

1 at the subject property." (Exhibit 8 at p. 1.) The NOV further states

2 Pursuant to Department of Building Inspection (DBI) Complaint No.:  
3 20188993, extensive work at roof level has taken place and a new story has  
4 been built at the back of the property without the benefit of permits. DBI also  
5 confirmed that the work has been done on the top floor/roof including  
6 extensive reframing of roof structure; in-fill of west light well on east 2nd, 3rd,  
7 and 4th floors; addition of skylights; and creation of a roof deck and living  
8 space.

9 ...

10 On October 31, 2018, you filed another BPA No. 2018.10.31.4687 to resolve  
11 DBI Complaint No.: 20188993. BPA No.: 2018.10.31.4687 stated the scope of  
12 work as, "To Comply W/NOV #201888993 Per Arch/Engineer Plans +  
13 Calculations for Property Line Infills on All Floor Levels; Replace + Reinforce  
14 Damaged Portions of Sloped Roof Rafters and Wall Studs and Floor Joists; To  
15 Modify and Update PA 201508315739 Voluntary Building Retrofit (Seismic)."  
16 However, this permit is still in triage and has yet to be issued. In order to abate  
17 the violation, not only do you need to file a corrective permit, but that permit  
18 needs to be issued and completed within a reasonable period of time.

19 (Id.)

20 From this description of the alleged violation, it appears Korman had done everything required to  
21 correct the alleged violation(s). Planning states the permit had been filed and remained in "triage."  
22 There is nothing further that Korman is instructed to do in order for the permit to issue and the NOV does  
23 not describe any problems with the permit application or issuance procedure.

24 As reflected in the VPD's record of the ZA hearing, Korman had requested further information  
25 from Planning and DBI to understand the nature of the problems. (Exhibit 13 VPD at p. 6.) On October  
26 1, 2020, Korman requested from the Planning Department and DBI the evidence upon which the  
27 Planning Department intended to rely to prove the alleged violations at the upcoming Zoning  
28 Administrator hearing. (Exhibit 11.) On October 9, 2020, Korman notified the Planning Department and  
DBI that he still had not received items responsive to his October 1, 2020 request for discovery. (Exhibit  
12.)

The May 29, 2020 NOV did not provide Korman sufficient notice for him to intelligently address  
Planning's allegations and provided no information regarding any supporting evidence. When Korman  
attempted to obtain further information from Planning and DBI so that he could be prepared to address  
the issues at the hearing, Planning either refused or simply failed to provide the information.

1 Planning's failure to provide adequate notice and refusal to supplement that notice by providing  
2 the relevant supporting evidence violated Due Process and denied Korman a fair administrative hearing,  
3 to make matters worse, the VPD states that "Mr. Teague stated that from the aerial photography, permit  
4 records, and DBI site inspections, it was evident that there was a violation;" but no aerial photographs,  
5 permit records or DBI site inspection records were ever given to Korman or presented at the hearing.

6  
7 **D. The ZA relied entirely on hearsay evidence and witnesses without personal knowledge and  
therefore no substantial evidence supports the ZA's findings or decision**

8 "The admissibility and substantiality of hearsay evidence are different issues." (Gregory v. State  
9 Bd. of Control (1999) 73 Cal.App.4th 584, 597.) As the California Supreme Court has long recognized,  
10 "[m]ere uncorroborated hearsay or rumor does not constitute substantial evidence.' There must be  
11 substantial evidence to support such a . . . ruling, and hearsay, unless specially permitted by statute, is not  
12 competent evidence to that end." (Walker v. City of San Gabriel (1942) 20 Cal.2d 879, 881, overruled on  
13 other grounds in Strumsky v. San Diego County Employees Retirement Assn. (1974) 11 Cal. 3d 28, 37,  
14 44; see also Daniels v. Department of Motor Vehicles (1983) 33 Cal.3d 532, 537.) Except in those  
15 instances recognized by statute where the reliability of hearsay is established, "hearsay evidence alone is  
16 insufficient to satisfy the requirement of due process of law, and mere uncorroborated hearsay does not  
17 constitute substantial evidence." (Gregory, 73 Cal.App.4th at 597 [internal quotes omitted]; see also  
18 Armistead v. City of Los Angeles (1957) 152 Cal.App.2d 319, 324; see also Cal. Gov. Code § 11513(d)  
19 ["Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but over  
20 timely objection shall not be sufficient in itself to support a finding unless it would be admissible over  
21 objection in civil actions."])

22 Walker v. City of San Gabriel (1942) 20 Cal.2d 879, involved the revocation of a license to  
23 operate an autowrecking business on the grounds of alleged misconduct in violation of city ordinances.  
24 (20 Cal.2d at 880.) A police officer representing the city read a letter addressed to the board and "signed  
25 by the chief of police of the city." The letter recited several charges against the petitioner to which no  
26 defense was offered. Counsel for Walker objected to the letter and stated there was no evidence before  
27 the city council and nothing for Walker to refute. (Id.) On appeal Walker argued that revoking the  
28 license, since the decisions was based on "hearsay evidence only," amounted to an arbitrary decision and

1 therefore constituted an abuse of the council's discretion. (Id. at 882.) The Court held that hearsay  
2 evidence was insufficient to support the board's revocation of the license. (Id. at 881-82.) The Court held  
3 that "[t]he letter was competent only as a statement of the charges against the petitioner, but was not  
4 competent evidence of the truth of the charges stated therein." (Id. at 882.)

5 In Ashford v. Culver City Unified School District, supra, 130 Cal.App.4th 344, a school board  
6 relied upon unauthenticated videotapes that purportedly showed a school district employee working on a  
7 job on a day he took sick leave. (130 Cal.App.4th 344, 349-50.) Despite the fact the videotapes would  
8 have supported the board's findings and decision if a proper foundation for them had been laid, the Court  
9 of Appeal held that absent a proper authenticating foundation for the videotapes, the videotapes were  
10 irrelevant to the administrative proceeding. The Court further held that the videotapes were hearsay  
11 evidence because the videotapes constituted out-of-court statements by the person making the videotapes  
12 and were offered to prove the truth of the assertion that the employee was actively working on three  
13 specific days when he had claimed to be ill. (Id. at 350.) Because the school board's findings and  
14 decision were based upon the videotapes, the Court of Appeal affirmed the trial court's order setting aside  
15 the board's decision. (Id.)

16 Here, there was no evidence presented by anyone with first-hand knowledge of the facts. Richard  
17 Tam admitted that he had not even reviewed permits and plans to determine how Korman's building was  
18 originally built and had not identified the differences. (Exhibit 13 VPD at p. 6.).

19 There was no competent, non-hearsay evidence introduced at the ZA hearing. Counsel for  
20 Korman objected to the hearsay evidence. (Exhibit 13 VPD at pp. 6-7.). Therefore, no substantial  
21 evidence supports the ZA's decision, and the ZA's findings and decision constituted both an abuse of  
22 discretion and a violation of Korman's right to Due Process, both of which violated Korman's right to a  
23 fair hearing under Code of Civil Procedure § 1094.5.

24  
25 **E. The Zoning Administrator inverted the burden of proof requiring Korman to prove he had  
not violated the building code.**

26 As the party claiming the owners had violated the Building Code, the Planning Department had  
27 the Burden of Proof. (See e.g. Parker v. City of Fountain Valley (1981) 127 Cal.App.3d 99, 111;  
28 Delgado v. Dep't of Motor Vehicles (2020) 50 Cal.App.5th 572, 572.)

1 At the hearing, as the language of the VPD makes clear, the burden was placed on the property  
2 owners to show there was no violation. This was not a fair hearing to determine whether there was a  
3 violation, “Mr. Teague then stated that the purpose of this hearing process was to reaffirm the violation;”  
4 and ruled that “Moreover, you also did not provide any evidence to demonstrate that there was no  
5 violation.” (Exhibit 13 VPD at p. 8.) This inversion of the burden of proof was an additional violation of  
6 Korman’s right to Due Process and a fair hearing.

7 **IV. CONCLUSION**

8 The Planning Commission failed to grant the owners a fair hearing. The Commission  
9 prematurely convened the hearing and at that hearing placed the burden on the owners to prove there was  
10 no violation, failed to clearly describe the violations alleged, failed to provide notice of or copies of the  
11 evidence to be considered and simply relied upon the allegation of the NOV to show there was a  
12 violation. The Commission did not present any evidence and failed to show there were any violations.  
13 Accordingly, we request the San Francisco Board of Appeals overturn the Planning Department's January  
14 27, 2021 Violation and Penalty Decision in Complaint No. 2018-015640ENF.

15  
16 Dated: April 1, 2021

Respectfully submitted,

17 \_\_\_\_\_  
/s/

18 Christopher J. Cannon  
19 Matthew A. Laws  
Attorneys for ROBERT KORMAN

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DECLARATION OF SERVICE

I declare that I am over eighteen years of age and not a party to this action; that my business address is 737 Tehama Street #3, San Francisco, CA 94103; and that I am employed in the City and County of San Francisco.

On APRIL 1, 2021, I served true copies of  
APPELLANT ROBERT KORMAN'S OPENING BRIEF and EXHIBITS 1 - 14

- VIA MAIL by placing a copy of the document(s) listed above in a sealed envelope with appropriate postage in the United States Mail at San Francisco, California and addressed as shown below. I am familiar with this firm's business practice for collection and processing written correspondence to be mailed with the United States Postal Service. I placed the sealed and stamped envelope in the United States mail the same day as this declaration at San Francisco, California, in the ordinary course of business.
- VIA ELECTRONIC TRANSMISSION by emailing a PDF version of the document(s) listed above to the parties identified below using the email addresses indicated.
- VIA FACSIMILE by transmitting a copy of the document(s) listed above to the fax number(s) set forth below.
- VIA HAND DELIVERY by delivering a copy of the document(s) listed above as addressed below.

Scott F. Sanchez  
Deputy Zoning Administrator  
San Francisco Planning Department  
49 South Van Ness Avenue, Suite 1400  
San Francisco, CA 94103  
[scott.sanchez@sfgov.org](mailto:scott.sanchez@sfgov.org)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on APRIL 1, 2021 at San Francisco, California.

\_\_\_\_\_  
/s/  
Pooja Mithani

# EXHIBIT 1



# SAN FRANCISCO PLANNING DEPARTMENT

## NOTICE OF COMPLAINT

December 21, 2018

**Property Owner**  
Korman Family Irrevoc Trust  
Nancy E Ryti Spousal Irrevoc Tr  
3450 Sacramento St # 124  
San Francisco, CA 94118

**Site Address:** 2455 Jackson St  
**Block/Lot:** 0606/ 024  
**Zoning District:** RH-2, Residential- House, Two Family  
**Complaint Number:** 2018-015640ENF  
**Staff Contact:** Tina Tam, [tina.tam@sfgov.org](mailto:tina.tam@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

You are receiving this courtesy notice because the Planning Department has received a complaint alleging that one or more violations of the Planning Code exist on the above-referenced property. As the property owner, you are a responsible party.

It has been reported to us there is unpermitted construction, alteration, and/or addition work at the subject property. As such, you have the option to:

1. File a permit to remove and restore the work back to its last authorized condition; or
2. File a permit to legalize the work, if permissible by the Planning Code. Please note additional application may also be required.

Please submit your permit within 30 days of this notice.

The Planning Department requires compliance with the Planning Code in the development and use of land and structures. Any new building permits or other applications are not issued until a violation is corrected. Penalties may also be assessed for verified violations. Therefore, your prompt action to resolve the complaint is important.

Please contact the staff planner shown above for information on the alleged violation and assistance on how to resolve the complaint.

[www.sfplanning.org](http://www.sfplanning.org)

# EXHIBIT 2

**RECEIVED**

JAN 08 2019

**CITY & COUNTY OF S.F.**  
PLANNING DEPARTMENT

PIC CBC Colin Clarke

San Francisco City Planning Department  
1650 Mission St - 4th Floor  
San Francisco CA 94103 2479  
Attention - Tina Tam Direct 415 558 6325 - Dept 415 558 6377

Bob Korman + Nancy Ryti  
3450 Sacramento 124  
San Francisco CA 94118  
January 08 2019

HAND DELIVERED

Job Site 2455 Jackson SF CA 94115 - Block 0606 - Lot 024  
Planning Dept Complaint N° 2018-015640ENF

Hello Tina Tam and Staff

We are in receipt of your December 21 2018 Notice of Complaint and respond below

We telephoned your office last week and your staff called us back requesting "additional information"

Accordingly - I called again yesterday asking that you please call us to set up a meeting to discuss issues raised in your letter and to suggest to us when you might be available for more than five minutes

Because you have not yet provided any potential meeting times and because you are likely pre-occupied with other Planning matters - we request to meet either toward the end of ~~next~~ <sup>NEXT</sup> week [before January 21 2019] - or alternatively grant us a written Extension of Time to respond to the "alternative demands" set forth in your letter

We await your reply

Respectfully submitted

//s//

Bob Korman and Nancy Ryti

Copy - J Michael Anthony Esq

# EXHIBIT 3

RECEIVED

MAR 21 2019

CITY & COUNTY OF S.F.  
PLANNING DEPARTMENT  
RECEPTION DESK

Bob Korman + Nancy Rytli  
3450 Sacramento 124  
San Francisco CA 94118  
March 07 2019

HAND DELIVERED

San Francisco City Planning Department  
1650 Mission St - 4th Floor  
San Francisco CA 94103 2479  
Attention - Tina Tam Direct 415 558 6325 - Dept 415 558 6377

Job Site 2455 Jackson SF CA 94115 - Block 0606 - Lot 024  
Planning Dept Complaint N<sup>o</sup> 2018-015640ENF

Hello Tina Tam

Please arrange for me to have the meeting with you that I originally requested on January 08 2019

To date - you have not responded

We await your reply

Respectfully submitted

//s//

Bob Korman and Nancy Rytli

TEL # 415 3464364 (MSG)

Copy - J Michael Anthony Esq

RECEIVED

MAR 08 2019 *m<sup>2</sup> Keller*

CITY & COUNTY OF S.F.  
PLANNING DEPARTMENT  
RECEPTION DESK

# EXHIBIT 4

RECEIVED

MAR 21 2019

CITY & COUNTY OF S.F.  
PLANNING DEPARTMENT  
RECEPTION DESK

Bob Korman + Nancy Rytli  
3450 Sacramento 124  
San Francisco CA 94118  
March 07 2019

HAND DELIVERED

San Francisco City Planning Department  
1650 Mission St - 4th Floor  
San Francisco CA 94103 2479  
Attention - Tina Tam Direct 415 558 6325 - Dept 415 558 6377

Job Site 2455 Jackson SF CA 94115 - Block 0606 - Lot 024  
Planning Dept Complaint N<sup>o</sup> 2018-015640ENF

Hello Tina Tam

Please arrange for me to have the meeting with you that I originally requested on January 08 2019

To date - you have not responded

We await your reply

Respectfully submitted

//s//

Bob Korman and Nancy Rytli

TEL # 415 3464364 (MSG)

Copy - J Michael Anthony Esq

RECEIVED

MAR 08 2019 *m<sup>2</sup> Keller*

CITY & COUNTY OF S.F.  
PLANNING DEPARTMENT  
RECEPTION DESK

# EXHIBIT 5

RECEIVED

JUN 17 2019

Bob Korman + Nancy Ryti  
3450 Sacramento 124  
San Francisco CA 94118  
June 17 2019

CITY & COUNTY OF S.F.  
PLANNING DEPARTMENT  
RECEPTION DESK

HAND DELIVERED

14:55  
7-5

San Francisco City Planning Department  
1650 Mission St - 4th Floor  
San Francisco CA 94103 2479  
Attention - Rachna - Planner - Code Enforcement

Direct 415 575 6806 - Dept 415 558 6377

Property Location  
Planning Department Complaint N<sup>o</sup>  
Issue

2455 Jackson SF CA 94115 - Block 0606 - Lot 024  
2018-015640ENF  
Reply Requested

Hello Rachna

Thank you for arranging our March 6 2019 meeting to discuss the above-captioned Planning Dept Complaint

Please note below a summary focusing solely on principal highlights of our March 6 2019 conversation

1. I started by inquiring [to justify my meeting request] "What is required for us to comply with the Complaint?"
2. You said "Because you already have a building permit - just submit plans to this Department for review"
3. I then asked "What else is needed concerning the Complaint?" - you said "You need to do nothing else"
4. I asked "What is Planning going to do with the Complaint?" - you said "Nothing - we are abandoning it"
5. I asked "Do you possess knowledge of any written response to the Complaint?" - you responded "No!"
6. I asked "Do you know who referred Case?" - you said "Not specifically - but most certainly DBI Permit Staff"
7. I asked "What do you know about T Tam saying Olive Huang in Code Enforcement referred it to Planning?"
8. Your response was "I don't know - I have no information - but it did not originate from the general public" <sup>1</sup>
9. You stated "Planning will assess you for total time discussing Policies & Procedures with all our personnel" <sup>2</sup>
10. You said that "Planning Dept will assess you an Enforcement Fine-Fee of \$1,395.00 with permit issuance" <sup>3</sup>
11. I inquired "What are my rights if I want to protest Planning Enforcement Fees & Fines and wish to appeal?"
12. You said "You cannot appeal - you must file a lawsuit against us!"
13. I ended our meeting with "Thank you for accommodating my request to discuss these matters with you"
14. We ask for a written response to this letter within ten [10] calendar days - not later than Friday June 28, 2019 <sup>4</sup>

Respectfully submitted

//s//

Bob Korman and Nancy Ryti

<sup>1</sup> I told you that "Olive Huang works on 3<sup>rd</sup> Floor in Permit Division - not on 6<sup>th</sup> Floor in Code Enforcement"

<sup>2</sup> Upon inquiring if "fees include all meetings with David Winslow; Heidi Kline; others; and yourself" - you said "Yes"

<sup>3</sup> "SF Planning-Fee Schedule-[Updated 10-25-2018] Pg.6 Interagency Referrals [i.e. from DBI to Planning] = \$1,395"

<sup>4</sup> Reply requested to our 01 18 19 2-page fact & evidence based letter ~~attached~~ also due by Friday June 28, 2019

# EXHIBIT 6



# SAN FRANCISCO PLANNING DEPARTMENT

## NOTICE OF ENFORCEMENT

July 22, 2019

### Property Owner

Bob Korman  
Korman Family Irrevoc Trust  
Nancy E Ryti Spousal Irrevoc Trust  
3450 Sacramento St # 124  
San Francisco, CA 94118

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

**Site Address:** 2455 Jackson Street  
**Assessor's Block/Lot:** 0606/024  
**Zoning District:** RH-2, Residential- House, Two Family  
**Complaint Number:** 2018-015640ENF  
**Code Violation:** Sections 171 & 172, Construction without Authorization  
Section 317, Possible Residential Merger without Authorization  
**Administrative Penalty:** Up to \$250 Each Day of Violation  
**Response Due:** Within 15 days from the date of this Notice  
**Staff Contact:** Rachna, (415) 575-6806, Rachna.Rachna@sfgov.org

The Planning Department has received a complaint that a Planning Code violation exists on the above referenced property that needs to be resolved. As the owner and/or leaseholder 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 subject property is currently authorized as a five-family dwelling. The violation pertains to the unauthorized construction and removal of a dwelling at the subject property. Pursuant to Planning Code Section 317, a Conditional Use Authorization is required for the merger of two residential units. Pursuant to Department of Building Inspection (DBI) Complaint No. 20188993, extensive work at roof level has taken place and a new story has been built at the back of the property without benefit of permits.

On October 4, 2018, DBI issued a Notice of Violation (NOV) requiring you to obtain a permit with plans for work being performed within ten (10) days.

On September 28, 2018, you filed a Building Permit Application (BPA) No. 201809281715 to respond to DBI Complaint No. 20188993. DBI requires correction of this permit.

On October 23, 2018, DBI inspected the above property and observed that extensive work has been performed on the top floor/roof including extensive reframing of roof structure; in-fill of west light well on east 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> floors; addition of skylights; creation of roof deck and living space.

[www.sfplanning.org](http://www.sfplanning.org)

On October 31, 2018, you filed another BPA No. 201810314687 to comply with DBI NOV No. 20188993. DBI required you to submit architectural and structural plans for lightwell infill by November 5, 2018. This BPA stated the existing and proposed number of units as 4 whereas the above property is authorized for five dwelling units.

On November 27, 2018, DBI issued an amended NOV requiring you to obtain a permit with planning approval and submit architectural and structural drawings showing the extent of work being performed.

On December 21, 2018, the Planning Department sent you a Notice of Complaint (NOC) to inform you about the complaint and required you to file a permit to either remove or seek legalization of construction work as permitted under the Planning Code.

On December 27, 2018, you contacted the Planning Department to respond to NOC.

On March 9, 2019, you met with the Planning Department staff, Rachna to discuss the planning enforcement case. Rachna advised you to follow through on BPA No. 201810314687 and submit plans as required by DBI.

To date you have not submitted the required plans to DBI.

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 Planning Code provision constitutes a violation of Planning Code and is subject to an enforcement process under Code Section 176.

## **HOW TO CORRECT THE VIOLATION**

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

1. Submit the pre-existing and proposed (as built) floor plans, elevations, sections, and 'before' and 'after' interior and exterior photographs of building at the above property with BPA 201810314687 to the Planning Department through DBI.
2. File a Project Application with the Planning Department. This application is available from the Planning Department's website at <https://sfplanning.org/resource/prj-application>. The Planning Department will inform you to file additional applications if so necessary upon review of this application and revised submittal of documents as noted above.

3. File a BPA to reinstate the above property to its last authorized five-family dwelling use or file a Conditional Use Authorization to seek removal of a dwelling unit if any units are removed or two units are merged into a single unit. Alternatively, if the above property contains five dwelling units, provide such evidence including lease copies, floor plans, and photographs showing the existing number of dwelling units at the above property.

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.

Please contact the Department of Building Inspection (DBI), 1660 Mission Street, San Francisco, CA 94103, telephone: (415) 558-6088, website: [www.sfgov.org/dbi](http://www.sfgov.org/dbi), regarding the Building Permit Application process. Please visit the Planning Information Counter located at the first floor of 1660 Mission Street, telephone: (415) 558-6377, or website: [www.sf-planning.org](http://www.sf-planning.org) for any questions regarding the planning process.

## **TIMELINE TO RESPOND**

The responsible party has **fifteen (15) days from the date of this notice** to contact the staff planner noted at the top of this notice 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** 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 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.

## **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 **\$1485.20** plus any additional accrued time and materials cost for Code Enforcement investigation and abatement of violation. This fee is separate from the administrative penalties as noted above and is not appealable. The Planning Department will notify you when this fee is payable.

## **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:** John Hinchion and Kevin Birmingham, DBI

# EXHIBIT 7

**Permit Details Report****Report Date:** 2/10/2021 8:54:11 AM

Application Number: 201809281715  
 Form Number: 8  
 Address(es): 0606 / 024 / 12455 JACKSON ST  
 Description: TO COMPLY WITH COMPLAINT #20188893 (9/26/2018) P/A 201712079370;  
 201106218559, 201111148788, CHANGE VALUATION TO \$60,000  
 Cost: \$60,000.00  
 Occupancy Code: R-2  
 Building Use: 24 - APARTMENTS

**Disposition / Stage:**

Action Date	Stage	Comments
9/28/2018	TRIAGE	
9/28/2018	FILING	
9/28/2018	FILED	
9/28/2018	APPROVED	
9/28/2018	ISSUED	
12/6/2019	EXPIRED	5255776 Stage updated from inspection

**Contact Details:****Contractor Details:**

License Number: 449260  
 Name: ROBERT KORMAN  
 Company Name: AAA CONCRETE CONST & PLUMB  
 Address: 3450 SACRAMENTO ST \* SAN FRANCISCO CA  
 94118  
 Phone:

**Addenda Details:****Description:**

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold Description
1	BID- INSP	9/28/18	9/28/18			9/28/18		J. BARNES
2	BID- INSP	9/28/18	9/28/18			9/28/18	BROWN SHARAE	
3	CPB	9/28/18	9/28/18			9/28/18	BROWN SHARAE	

This permit has been issued. For information pertaining to this permit, please call 628-652-3450.

**Appointments:**

Appointment Date	Appointment AM/PM	Appointment Code	Appointment Type	Description	Time Slots
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**Inspections:**

Activity Date	Inspector	Inspection Description	Inspection Status
12/6/2019	Kevin Birmingham	SITE VERIFICATION	EXPIRE
10/23/2018	Kevin Birmingham	SITE VERIFICATION	SITE VERIFICATION

**Special Inspections:**

Addenda No.	Completed Date	Inspected By	Inspection Code	Description	Remarks
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For information, or to schedule an inspection, call 628-652-3400 between 8:30 am and 3:00 pm.

[Station Code Descriptions and Phone Numbers](#)

[Online Permit and Complaint Tracking home page.](#)

**Technical Support for Online Services**

If you need help or have a question about this service, please visit our FAQ area.



# EXHIBIT 8



# SAN FRANCISCO PLANNING DEPARTMENT

## NOTICE OF VIOLATION

May 29, 2020

### Property Owner

Robert Korman  
Korman Family Irrevoc Trust  
3450 Sacramento St # 124  
San Francisco, CA 94118

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

**Site Address:** 2455 Jackson Street  
**Assessor's Block/Lot:** 0606/024  
**Zoning District:** RH-2, Residential, House, Two-Family  
**Complaint Number:** 2018-015640ENF  
**Code Violation:** Sections 171 & 172, 175, Construction without Permits  
**Administrative Penalty:** Up to \$250 Each Day of Violation  
**Response Due:** Within 15 days from the date of this Notice  
**Staff Contact:** Rachna, (415) 575-6806, 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 the responsible party to bring the above property into compliance with the Planning Code. Details of the violation are discussed below:

### DESCRIPTION OF VIOLATION

Our records indicate that the subject property is currently authorized as a five-family dwelling. The violation pertains to the unauthorized construction and possible removal of a dwelling unit at the subject property.

Pursuant to Department of Building Inspection (DBI) Complaint No.: 20188993, extensive work at roof level has taken place and a new story has been built at the back of the property without the benefit of permits. DBI also confirmed that the work has been done on the top floor/roof including extensive reframing of roof structure; in-fill of west light well on east 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> floors; addition of skylights; and creation of a roof deck and living space.

On September 28, 2018, you filed a Building Permit Application (BPA) No.: 2018.09.28.1715 to respond to DBI Complaint No.: 20188993. On December 6, 2019, this permit expired due to failure to correct and complete this permit.

On October 31, 2018, you filed another BPA No. 2018.10.31.4687 to resolve DBI Complaint No.: 20188993. BPA No.: 2018.10.31.4687 stated the scope of work as, "To Comply W/NOV #201888993 Per Arch/Engineer Plans + Calculations for Property Line Infills on All Floor Levels; Replace + Reinforce Damaged Portions of Sloped Roof Rafters and Wall Studs and Floor Joists; To Modify and Update PA 201508315739 Voluntary Building Retrofit (Seismic)." However, this permit is still in triage and has yet to be issued. In order to abate the violation,

[www.sfplanning.org](http://www.sfplanning.org)

not only do you need to file a corrective permit, but that permit needs to be issued and completed within a reasonable period of time.

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.

## **TIMELINE OF INVESTIGATION**

On October 4, 2018, DBI issued a Notice of Violation (NOV) requiring you to obtain a permit with plans within ten (10) days for work done without permit.

On November 27, 2018, DBI issued an amended NOV requiring you to submit architectural and structural drawings showing the extent of work done without permit and obtain approval from the Planning Department.

On December 21, 2018, the Planning Department sent you a Notice of Complaint (NOC) to inform you about the complaint and required you to file a permit to either remove or seek legalization of construction work as permitted under the Planning Code.

On December 27, 2018, you contacted the Planning Department to respond to NOC.

On March 9, 2019, you met with the Planning Department staff, Rachna to discuss the planning violation issues. Rachna advised you to follow through with getting BPA No.: 2018.10.31.4687 reviewed, issued and completed.

On July 22, 2019, the Planning Department sent you a Notice of Enforcement (NOE). In that notice, you were required to submit additional information about the currently existing and proposed conditions.

On August 6, 2019, your legal representative, Melissa Palozola at Clark Hill contacted Rachna to seek an extension of time to respond to NOE.

On August 20, 2019, Ms. Palozola again requested an additional extension of time until September 15, 2019 to resolve the violation issues raised in the NOE. Ms. Palozola also informed Rachna that during a site inspection by Clark Hill staff, five dwelling units were observed at this property.

On August 21, 2019, Rachna requested Ms. Palozola to submit lease copies, floor plans, and photographs showing existence of five units at the above property and requested to schedule a site visit.

On August 21, 2019, another legal representative, Steven Hammond at Clark Hill informed Rachna that there were no leases as the above property had been unoccupied for some time. Mr. Hammond also informed Rachna that you were having a knee surgery soon and as such a site visit could not be scheduled at that time.

On September 11, 2019, Mr. Hammond submitted a letter along with documentation to indicate that the subject property was authorized for five units. He stated that no dwelling unit merger had occurred at the above property.

On September 20, 2019, BPA No.: 2018.10.31.4687 was approved by a Planner at the Planning Information Counter in error. The planner who reviewed and approved this permit thought the scope of work was simply to legalize work already done to the interior of the existing building and wasn't aware that you also expanded the footprint and envelop of your existing building. As such, Rachna has asked DBI to re-route the permit and plans back to the Planning Department for further review. In order for Planning to properly complete their review of this permit, plans showing 1) previously existing, 2) currently existing (or as-built), and 3) proposed conditions are required.

On October 25, 2019, Rachna contacted Ms. Palozola to reiterate that the plans and documents required pursuant to NOE must be submitted for BPA No.: 2018.10.31.4687 and routed to the Planning Department for its review. Rachna again requested to schedule a site visit.

On March 11, 2020, Rachna met with you in the office to discuss the outstanding violations and requested you to provide plans of previously existing, current, and proposed conditions; and 'before and after' photos including photos of kitchen in each dwelling unit. Rachna again requested a site visit to the property.

On March 19, 2020, Mr. Hammond informed Rachna that his firm Clark Hill no longer represented you on this matter.

To date, you have not submitted the required plans and documentation to the Planning Department to abate the violation, nor have you provided adequate evidence to demonstrate that the subject property is in compliance with the Planning Code.

## **HOW TO CORRECT THE VIOLATION**

As stated in DBI's NOV, you added a story to the rear of your property. Expanding your building's footprint and envelop requires neighborhood notification. Depending on the location of this building addition, a rear yard variance may also be required.

If there is evidence that you removed a dwelling unit, you must submit a Conditional Use Authorization application to legalize the unit or submit a building permit application to restore the unit.

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

1. File a Project Application with the Planning Department in association with BPA No.: 2018.10.31.4687. It can be filled out online or submitted via email at [cpc.intake@sfgov.org](mailto:cpc.intake@sfgov.org). Should you wish to submit this application in person, please make an appointment by filling out the Intake Request Form. The intake Request Form can be submitted via email at [cpc.intake@sfgov.org](mailto:cpc.intake@sfgov.org) or faxed at 415-5586409. The Project Application and Intake Request Form are available from the Planning Department's website at

<https://sfplanning.org/resource>. Project Application and Intake Request Form are also attached herewith for your convenience.

Please note that pre-existing and proposed (as built) floor plans, elevations, and cross sections; as well as 'before' and 'after' interior and exterior photographs of the building at the above property are also required to be submitted with the Project Application. The Project Application shall clearly and accurately specify the scope of work for which the approval is sought under BPA No.: 2018.10.31.4687 to seek legalization and/or removal of work done without permits and approval from the Planning Department.

Please be advised that upon review of above Project Application, BPA, 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.

2. If you intend to use the above property as four (4) dwelling units, please file a CUA Supplemental Application to seek removal of a dwelling unit or merger of two units into a single dwelling unit. This application is available from the Planning Department's website at <https://sfplanning.org/resource>. Please contact the enforcement staff noted above to schedule a site visit to verify current conditions at the subject property.

Once a permit has been issued to abate violation, the work approved under such permit must commence promptly and be continued diligently to completion with a final inspection and/or issuance of certificate of final completion.

The responsible party will need to provide adequate evidence to demonstrate that either no violation exists or that the violation has been abated.

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

1660 Mission Street  
San Francisco, CA 94103  
telephone: (415) 558-6088  
website: [www.sfgov.org/dbi](http://www.sfgov.org/dbi)

For questions regarding Planning Department process, please contact the Planning Information Center (PIC) at:

1660 Mission Street (5th floor)  
San Francisco, CA 94103  
telephone: (415) 558-6377  
email: [pic@sfgov.org](mailto:pic@sfgov.org)

## **TIMELINE TO RESPOND**

A Shelter in Place order was issued for San Francisco due to the COVID-19 virus on March 16, 2020, which was set to expire on April 7, 2020. Order of the Health Officer No. C19-07b was issued for San Francisco on March 31, 2020, and it 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. Additionally, City agencies may not be able to process necessary applications to abate violations during the Shelter in Place (for example, the Department of Building Inspection). You can find more information from the City regarding the Shelter in Place here: [www.sf.gov/topics/coronavirus-covid-19](http://www.sf.gov/topics/coronavirus-covid-19).

Given this information, the timeline to respond to this Notice of Violation **will not begin until** both 1) the Shelter in Place ends, and 2) all relevant City agencies are operating at a level necessary to abate the violation. Once the timeline to respond to this Notice of Violation begins, the responsible party **has fifteen (15) days from that date** to correct the violation as noted above. If you plan to appeal this Notice of Violation, you must do so **within 15 days of this notice** (see below).

The Department recognizes the challenges of the City's Shelter in Place order and its underlying cause. However, corrective actions should be taken as early as reasonably possible. Please contact the enforcement staff noted above 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.

## APPEAL PROCESSES

If the responsible party believes that this order to remove 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:

1650 Mission Street, Room 304  
San Francisco, CA 94103  
telephone: (415) 575-6880  
website: [www.sfgov.org/bdappeal](http://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 **\$3783.75** for 'Time and Materials' costs 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.

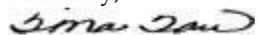
## FAILURE TO PAY PENALTIES AND FEES

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 Enforcement dated July 22, 2019

**cc:** John Hinchion, DBI, Code Enforcement Division via email

# EXHIBIT 9

**Permit Details Report****Report Date:** 2/9/2021 4:45:18 PM

Application Number: 201810314687

Form Number: 3

Address(es): 0606 / 024 / 12455 JACKSON ST

Description: TO COMPLY W/ NOV #201888993 PER ARCH/ENGINEER PLANS + CALCULATIONS FOR PROPERTY LINE INFILLS ON ALL FLOOR LEVELS; REPLACE + REINFORCE DAMAGED PORTIONS OF SLOPED ROOF RAFTERS AND WALL STUDS AND FLOOR JOISTS; TO MODIFY AND UPDATE PA 201508315739 VOLUNTARY BLDG RETROFIT (SEISMIC)

Cost: \$2,000.00

Occupancy Code: R-2

Building Use: 24 - APARTMENTS

**Disposition / Stage:**

Action Date	Stage	Comments
10/31/2018	TRIAGE	
10/31/2018	FILING	
10/31/2018	FILED	

**Contact Details:****Contractor Details:**

License Number: 449260

Name: ROBERT KORMAN

Company Name: AAA CONCRETE CONST &amp; PLUMB

Address: 3450 SACRAMENTO ST \* SAN FRANCISCO CA 94118

Phone:

**Addenda Details:****Description:**

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Phone	Hold Description
1	CES	11/13/18	11/13/18			11/13/18	HINCHION JOHN	628-652-3430	
2	BID-INSP	10/31/18	10/31/18			10/31/18	LEI ALAN	415-558-6096	
3	HIS	10/31/18	10/31/18			10/31/18	SANBONMATSU JAMES	628-652-3700	
4	INTAKE	10/31/18	10/31/18			10/31/18	PANGELINAN MARIANNE	415-999-9999	
5	SFFD	11/1/18	11/1/18			11/1/18	GILBRAITH KATHLEEN	628-652-3472	OTC-APPROVED-REVII NO INSPECTION
6	CP-ZOC	9/20/19	9/20/19				ALEXANDER CHRISTY	628-652-7300	Route to Planning Dept NW Quadrant. Approve OTC in error by Christy Alexander.
7	CP-ZOC						RACHNA RACHNA	628-652-7300	
8	CPB	9/20/19	9/20/19			9/20/19	SECONDEZ GRACE	628-652-3240	
9	BLDG	9/20/19	12/16/19			12/16/19	YU CYRIL	628-652-3780	12/16/2019: RE-ASSIGNED TO RICHAR TAM
10	BLDG	9/20/19	12/16/19	2/20/20			TAM RICHARD	628-652-3780	
11	CP-ZOC							628-652-7300	
11	PPC						USER GSA	628-652-3780	9/20/19: To BLDG; HP

12	CPB							628-652-3240
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**Appointments:**

Appointment Date	Appointment AM/PM	Appointment Code	Appointment Type	Description	Time Slots
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**Inspections:**

Activity Date	Inspector	Inspection Description	Inspection Status
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**Special Inspections:**

Addenda No.	Completed Date	Inspected By	Inspection Code	Description	Remarks
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For information, or to schedule an inspection, call 628-652-3400 between 8:30 am and 3:00 pm.

[Station Code Descriptions and Phone Numbers](#)

[Online Permit and Complaint Tracking](#) home page.

**Technical Support for Online Services**

If you need help or have a question about this service, please visit our FAQ area.

Contact  
SFGov

Accessibility Policies

City and County of San Francisco © 2021

# EXHIBIT 10

CHRISTOPHER J. CANNON  
SCOTT A. SUGARMAN  
MATTHEW A. LAWS

**SUGARMAN & CANNON**  
ATTORNEYS AT LAW  
737 TEHAMA STREET, No. 3  
SAN FRANCISCO, CALIFORNIA 94103

(415) 362-6252

August 28, 2020

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

Via Certified mail and email [Rachna.Rachna@sfgov.org](mailto:Rachna.Rachna@sfgov.org)

Dear Ms. Rachna:

I have represented Bob Korman and Nancy Ryti in the past, and they have requested that I assist them in this matter. Before I can agree to plunge in, however, I would like to have a discussion with you to see what you believe is the best way to resolve this matter.

Obviously I have not had time to review the volume of material connected to this matter and have an in depth discussion with Bob and Nancy, but I would like to understand what is really driving this case and whether there is the potential to work out a reasonable resolution.

From what I have seen, Bob has been diligent in corresponding with you, but he can be his own worst enemy and may have unnecessarily increased the level of confrontation in this matter, when the goal for both the City, and for Bob and Nancy is to get this matter resolved.

Accordingly, I would request the opportunity to have a frank discussion with you about how this matter can be resolved, and a delay of the currently scheduled hearing, which may have been prematurely scheduled because your Notice of Violation states: “the timeline to respond to this Notice of Violation will not begin until both 1) the Shelter in Place ends, and 2) all relevant City agencies are operating at a level necessary to abate the violation.” It is my understanding that the Shelter in Place has not ended. To the contrary, San Francisco is still on the State watch list, and I am unsure of how DBI is functioning during these times. Accordingly, the hearing appears to have been prematurely scheduled.

Moreover, Bob is very concerned that if the hearing proceeds over Zoom, as you have proposed, he would be very disadvantaged by his inability to share documents and evidence remotely in an unfamiliar format.

To prepare for our conversation, I would like to make sure I understand the issues. As I understand them, I think there are three main areas of dispute.

I think one of the issues relates to whether there is an intent to remove one of the dwelling units by merging two units. As I understand things, there has been no attempt to eliminate a unit.



# EXHIBIT 11

**SAN FRANCISCO SUNSHINE ORDINANCE §67.1(f)  
IMMEDIATE TWENTY-FOUR [24] HOUR DISCLOSURE REQUEST**

1. Paper-formatted-only records to be USPS-mailed to Letterhead Appellants
  2. Digitally-formatted-only records to be emailed to <[chris@sugarmanandcannon.com](mailto:chris@sugarmanandcannon.com)>
- Demanded Documents Shall Be Delivered to and Received by All Recipients Not Later than Ten [10] Days Prior to Any Respectively-Scheduled Various Hearings**

Nancy Ryti + Bob Korman  
3450 Sacramento 124  
San Francisco CA 94118  
September 30 2020

**CONTINUED & ONGOING APPEAL WITH FURTHER RESERVATION OF PROTECTED DUE PROCESS RIGHTS**

**DBI-CE-AAB-Director's Office - USPS Certified Mail - Restricted Delivery.....# 7012-0470-0000-4800-8609**  
Attn - Edward Sweeney - Patrick O'Riordan - Director's Office  
49 South Van Ness Ave  
San Francisco CA 94103-1226

**City Planning [CP] - USPS Certified Mail - Restricted Delivery.....# 7020-1290-0000-6801-8369**  
Attn - Tina Tam - Rachna.Rachna - Code Enforcement Division  
49 South Van Ness Ave  
San Francisco CA 94103-1226

**City Attorney [CA] - USPS Certified Mail - Restricted Delivery.....# 7012-0470-0000-4800-8316**  
Attn - Bradley Russi Esq - "Counsel of Record"  
City Hall - Room 325 - One Dr. Carlton B Goodlett Jr Place  
San Francisco CA 94102-4630

**Subject Property.....2455 Jackson SF CA**

**Block/Lot.....0606/024**

**CONDITIONALLY-PREDICATE LEGAL ISSUES**

- Issue** - Appellants require prompt "DUE PROCESS" compliance with this "Immediate [24 Hour] Disclosure Request"  
**Issue** - All records are Mandatory for Administrative & Judicial Hearings to be held by DBI-CE-AAB-CP-CA Officials  
**Issue** - All demanded records are to be produced and delivered **not later than ten [10] days prior to any Hearing/s**  
**Issue** - Failure to provide a complete and timely response shall trigger "All Due Process Rights on Appeal"  
**Issue** - This Immediate Disclosure Request specifically & only relates to That Certain Property 2455 Jackson SF CA

**DBI-CED-AAB-CP CASES**

1. NOV.....2018 88993
2. CE-ENF..... 2018 88993-A
3. AAB..... 6875
4. CP NOV.....2018-015640ENF
5. CA....."T.B.D."

**Appellants Require "24 Hour" Production and Receipt of All Below-listed CCSF Information and Records**

**IDENTITIES OF ALL HEARING WITNESSES**

A. Identities of any/all ["expert"] witnesses - whether now or subsequently-to-be-ordered - who may or shall appear at any/all "Properly-Scheduled Timely-Advance-Noticed Public Hearings" by and on behalf of duly-designated CCSF Government Agencies and/or Administrative Boards and/or Other Interested Government Entities or Bodies

**CREDENTIALS OF ALL HEARING WITNESSES**

B. Certified credentials - CCSF Identification Badge Numbers - qualifications - resumes - testimony histories - of all "Item A" Listed Individuals

**GOVERNMENT HEARING EXHIBITS TO BE PRODUCED**

C. Any and all "documentary exhibits" to be used and relied-upon - as "evidence" - by "Item A" Listed Individuals at Properly-Scheduled "Item A" Hearings

**DOCUMENT DISCREPANCIES EXPLAINED**

D. Define - describe - explain if - how - why - in what manner - any "Item C" "**documentary exhibits**" are materially-at-variance with or different from DBI-CE-AAB "**documentary exhibits**" provided-previously on 02 05 2020; 02 10 2020; 08 05 2020

**EMAIL COMMUNICATIONS DEMANDED**

E. True and correct copies of date-time-stamped - chronologically-sequenced - emails from July 01 2018 through September 30 2020, whether transmitted; sent; received; relayed; passed-on; or forwarded between any and/or all of the following individuals - concerning 2455 Jackson SF CA

1. Any/all DBI-CE-AAB-DO-CP-CA Staff or Executive members or Department Heads - or "otherwise designated"
2. Any/all or other CCSF or California State Staff Employees Other or Interested Government Entities or Bodies
3. Any/all personnel - including Members of Board of Supervisors; Mayor London Breed's staff; City Attorney; District Attorney and/or Other Interested Government Entities or Bodies
3. Any/all members of General Public - including Adjacent Complainant Neighbors - Neighborhood Associations

**ETHICS and IMPLICIT BIAS CERTIFICATIONS REQUIRED**

F. Certified Compliance Records of any - all CCSF Administrative Codes §67.33 [Ethics Commission and §16.9-28 [Implicit Bias Training] as-required of ALL Item "A" Individuals shall be produced

**MANDATORY STIPULATION and AGREEMENT**

G. Signed stipulation to recuse any Government Staff-Person/s refusing to provide Validated Certification of Compliance with Rules listed in "F" above shall be provided to Appellants and Christopher Cannon Esq

**MANDATORY VALIDATION AND CERTIFICATION**

H. Certification - duly signed, dated, witnessed, executed, and in which State and City and County - it is declared, sworn-to, averred and/or affirmed by [named] Government Official "Under Penalty of Perjury that all demanded , documentary exhibits provided to Appellants and Christopher Cannon Esq - are accurate, true and complete"

**TIMELY COMPLIANCE WITH PRODUCTION-DEADLINE REQUIREMENT**

I. All requested documents **shall be delivered** to Appellants and Christopher Cannon Esq not later than ten [10] days prior to all scheduled hearings - or alternatively - Appellants Reserve All Due Process Rights on Appeal

Respectfully submitted

//s//

Nancy Ryti and Bob Korman - Appellants

Copy - Christopher Cannon Esq

10/01/2020

TO DBI/CE/AA3



GOLDEN GATE  
3245 GEARY BLVD  
SAN FRANCISCO, CA 94118-9992  
(800)275-8777

10/01/2020 05:42 PM

Duplicate

Product	Qty	Unit Price	Price
First-Class Mail® Letter	1		\$0.55
Certified Mail®			\$3.00

First-Class Mail® Letter

San Francisco, CA 94103  
Weight: 0 lb 0.60 oz  
Estimated Delivery Date  
Mon 10/05/2020  
Certified Mail®  
Tracking #:  
70120470000048008609

7012 0470 0000 4800 8609

U.S. Postal Service™  
CERTIFIED MAIL™ RECEIPT  
(Domestic Mail Only; No Insurance Coverage Provided)  
For delivery information visit our website at www.usps.com®

**OFFICIAL USE**

SAFETY OFFICIAL USE 143

Postage	\$3.15
Certified Fee	\$0.00
Return Receipt Fee (Endorsement Required)	\$0.00
Restricted Delivery Fee (Endorsement Required)	\$0.00
Total Postage & Fees	\$6.95

Sent to: DBI-CE-AAA  
Street, Apt. No., or PO Box No.: 4950 VANNESS AVE  
City, State, ZIP+4: SAN FRANCISCO CA 94103-1226

Postmark Here: GOLDEN GATE STATION OCT - 1 2020

PS Form 3800, August 2005 See Reverse for Instructions

TO  
DBI-CE-AAA  
ORD 67.1 (P)  
REQUESTS

09/30/2020  
RETURN TO SENDER

7012 0470 0000  
4800 8609

ARTICLE TRACKING #  
NO U.S.P.S. FORM 3811  
RETURN CARD

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U.S.P.S. VALUE DATED  
DELIVERY DATE  
10/05/2020 @ 1 02 pm

10/01/2020  
 TO  
 CITY  
 PLANNING  
 CDD (7.1P)  
 RAVUSR

**TO CITY PLANNING**  
**UNITED STATES POSTAL SERVICE.**

GOLDEN GATE  
 3245 GEARY BLVD  
 SAN FRANCISCO, CA 94118-9992  
 (800)275-8777

10/01/2020 05:44 PM

Duplicate

Product	Qty	Unit Price	Price
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First-Class Mail® Letter	1		\$0.55
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San Francisco, CA 94103

Weight: 0 lb 0.60 oz

Estimated Delivery Date

Mon 10/05/2020

Certified Mail® \$3.55

Tracking #:

7020129000068018369

7020 1290 0000 6801 8369

**U.S. Postal Service™**  
**CERTIFIED MAIL® RECEIPT**  
 Domestic Mail Only

For delivery information, visit our website at [www.usps.com](http://www.usps.com).

**SAN FRANCISCO CA 94118**  
**GOLDEN GATE STATION**

Certified Mail Fee \$3.55

Extra Services & Fees (check box, add charge per package)

<input type="checkbox"/> Return Receipt (hardcopy)	\$1.00
<input type="checkbox"/> Return Receipt (electronic)	\$1.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$1.00
<input type="checkbox"/> Adult Signature Required	\$1.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$1.00

Postage \$0.55

Total Postage and Fees \$6.95

Sent to **CCSF CITY PLANNING**  
**TINA TAM**  
**29 SO VAN NOSS**  
**SAN FRANCISCO CA 94103-1226**

City, State, ZIP+4®  
**SAN FRANCISCO CA 94103-1226**

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

**OCT - 1 2020**  
**10/01/2020**  
 Postmark Here

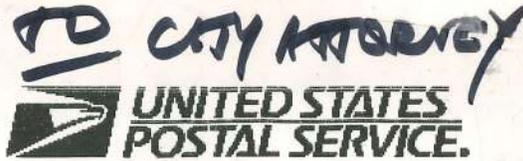
09/30/2020  
 DATE OF LETTER

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY												
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, front if space permits.</li> </ul>	<p>A. Signature  <input checked="" type="checkbox"/> <i>M. Wong</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name)  <i>M Wong</i></p> <p>C. Date of Delivery  <i>10/7/20</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes          If YES, enter delivery address below: <input type="checkbox"/> No</p>												
<p>Sent to:  <b>CCSF CITY PLANNING</b>  <b>TINA TAM</b>  <b>29 SO VAN NOSS</b>  <b>SAN FRANCISCO CA 94103</b></p> <p>9590 9402 3756 8032 9157 13</p>	<p>3. Service Type</p> <table border="1"> <tbody> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input checked="" type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> </tbody> </table>	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input checked="" type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery
<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®												
<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™												
<input type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery												
<input checked="" type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Return Receipt for Merchandise												
<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™												
<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery												
<p>2. Article Number (Transfer from service label)  <b>7020 1290 0000 6801 8369</b></p>													

10/01/2020

**TO**  
**CITY ATTORNEY**  
**ORD 67.1 (P)**  
**REQUEST**

**ORDER TO SEND**  
**02/02/03/20**



GOLDEN GATE  
3245 GEARY BLVD  
SAN FRANCISCO, CA 94118-9992  
(800)275-8777

10/01/2020 05:46 PM

Duplicate

Product	Qty	Unit Price	Price
First-Class Mail® Letter	1		\$0.55
Certified Mail®			\$3.51

San Francisco, CA 94102  
Weight: 0 lb 0.60 oz  
Estimated Delivery Date  
Mon 10/05/2020  
Tracking #:  
7012047000048008616

7012 0470 0000 4800 8616

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Postage	\$4.40
Certified Fee	\$2.20
Return Receipt Fee (Endorsement Required)	\$0.00
Restricted Delivery Fee (Endorsement Required)	\$0.00
Total Postage & Fees	\$6.95

Sent To: **CCSF CITY ATTORNEY**  
Street, Apt. No., or PO Box No.: **3245 GEARY BLVD RM 325**  
City, State, ZIP+4: **SAN FRANCISCO CA 94102-4630**

PS Form 3800, August 2006 See Reverse for Instructions

**GOLDEN GATE STATION**  
**OCT 1 - 1 2020**  
10/01/2020

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>	<p>A. Signature <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <b>Tule Deng</b></p> <p>C. Date of Delivery <b>10/5/20</b></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to:</p> <p><b>CCSF CITY ATTORNEY</b> <b>CITY MAIL RM 325</b> <b>1 C MELTON GOODLIFE PLACE</b> <b>SAN FRANCISCO CA</b> <b>94102</b></p> <p>9590 9402 3756 8032 9157 20</p>	<p>3. Service Type</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Adult Signature Restricted Delivery <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery</p> <p><input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Signature Confirmation Restricted Delivery</p>
<p>2. Article Number (Transfer from service label)</p> <p><b>7012 0470 0000 4800 8616</b></p>	

10 06119194000

# EXHIBIT 12

**SAN FRANCISCO SUNSHINE ORDINANCE §67.1(f)  
IMMEDIATE TWENTY-FOUR [24] HOUR DISCLOSURE REQUEST**

- 1. Paper-formatted-only records to be USPS-mailed to Letterhead Appellants**
  - 2. Digitally-formatted-only records to be emailed to <chris@sugarmanandcannon.com>**
- Demanded Documents Shall Be Delivered to and Received by All Recipients**  
**NOT LATER THAN ONE [01] Day Prior to Any Respectively-Scheduled Various Hearings**

Nancy Ryti + Bob Korman  
3450 Sacramento 124  
San Francisco CA 94118  
415 346 4364

Christopher Cannon Attorney at Law  
737 Tehama St  
San Francisco CA 94103  
415 362 6252

OCTOBER 09 2020

**THIS REQUEST IS TRANSMITTED TO ALL BELOW RECIPIENTS VIA EMAIL AND USPS CERTIFIED MAIL**  
**CONTINUED & ONGOING APPEAL WITH FURTHER RESERVATION OF PROTECTED DUE PROCESS RIGHTS**

**DBI-CE-AAB-Director's Office <sup>1</sup> - USPS Certified Mail - Restricted Delivery ..... # 7020 1290 0000 6797 7636**  
Attn - Edward Sweeney - Patrick O'Riordan - Director's Office  
49 South Van Ness Ave  
San Francisco CA 94103-1226  
Mauricio.Hernandez@sfgov.org - <Patrick.Oriordan@sfgov.org> - <Edward.Sweeney@sfgov.org> <Teresita.Sulit@sfgov.org>

7636

**City Planning [CP] - USPS Certified Mail - Restricted Delivery ..... # 7020 1290 0000 6797 7612**  
Attn - Tina Tam - Rachna.Rachna - Code Enforcement Division  
49 South Van Ness Ave  
San Francisco CA 94103-1226  
<rachna.rachna@sfgov.org> - <tinatam@sfgov.org> <chan.son@sfgov.org>

7629

**City Attorney [CA] - USPS Certified Mail - Restricted Delivery ..... # 7020 1290 0000 6797 7629**  
Attn - Bradley Russi Esq - "Counsel of Record"  
City Hall - Room 325 - One Dr. Carlton B Goodlett Jr Place  
San Francisco CA 94102-4630  
<Brad.Russi@sfcityatty.org>

7612

**Subject Property ..... 2455 Jackson SF CA**  
**Block/Lot ..... 0606/024**

**CONDITIONALLY-PREDICATE LEGAL ISSUES**

- Issue** - Appellants require prompt "**DUE PROCESS**" compliance with this "**Immediate [24 Hour] Disclosure Request**"
- Issue** - All records are Mandatory for Administrative & Judicial Hearings to be held by DBI-CE-AAB-DO-CP-CA Officials
- Issue** - All demanded records are to be produced and delivered **not later than one [01] day prior to any Hearing/s**
- Issue** - Failure to provide a **complete and timely response shall trigger "All Due Process Rights on Appeal"**
- Issue** - This Immediate Disclosure Request specifically & only relates to **That Certain Property sited at 2455 Jackson SF CA**

**DBI-CED-AAB-CP CASES**

NOV.....2018 88993 ..... CE-ENF-DO..... 2018 88993A  
AAB..... 6875 ..... CP NOV.....2018-015640ENF  
CA....."T.B.D."

**CONTINUANCE REQUESTED DUE TO NON-RECEIPT OF REQUESTED INFORMATION & SUNSHINE DOCUMENTS**

1. On June 10 2020 Appellants mailed to Planning a "Notice Requesting Sufficient Time to Obtain Legal Counsel"
2. Our September 09 2020 letter explained that Chris Cannon began "interim negotiations" with Planning and DBI-CE-AAB
3. On September 25, 2020 we submitted a Sunshine Ord §67.1 Request to DBI for "Prior Oral & Written Hearing Records"
4. On September 30 2020 we submitted Ord §67.1 Request to DBI-CE-AAB-DO-CP-CA asking for "Hearing Information"
5. To date we have **NOT YET** received a reply to our letter to you - or to our two "Immediate [24 Hour] Disclosure Requests"
6. Mr Cannon - faced with unfamiliar, complex & nuanced details of DBI's + Planning's cases - needs additional review time
7. He requires more time to review more than 1,250 paper documents coupled with more data stored on DBI CD-ROM disks
8. In the **Twin Interests of Justice, Fair Play and Due Process** - we request additional time requiring a Continued Hearing

<sup>1</sup> Hereinafter known as "DO"

**Appellants Demand Immediate "24 Hour" Production & Receipt of All Below-listed CCSF Information and Records**  
**ALL COMMUNICATIONS - INCLUDING BUT NOT LIMITED TO EMAIL - USPS MAIL - COURIER/PERSONAL DELIVERY**  
**WITH SPECIFIC-REFERENCE TO THE CERTAIN DBI-CE NOV-2018-88993 & CITY PLANNING 2018-015640ENF delineated below**

- §1. Definition of "Communications" - shall include but not be limited to - singular - plural - active - passive - past - present - digital - electronic - paper - email - holographic - CD-ROM - virtual - or any other document format - of any description - nature - content - described and elaborated-upon in further-detail - §§ 2, 3, 4 - *infra*
- §2. All DBI-CE-AAB-CP-CA office records - material - data - packets - folders - files - minutes - archives - logs - charts - tables - information - intelligence - writings - warrants - referrals - correspondence - spread-sheets - lists - bulletins - knowledge - reports - advice - statements - monitorings - pamphlets - summaries - maintained - that are held - kept - stored - preserved during any/all usual - routine - regular - special - normal - emergency - or any other description - type - course - manner of CCSF Government Business that memorialize/s in-person - remote - off-site staff meetings - conversations - ZOOM-type meetings - conferences - forensics - analyses - seminars - discussions - surveillances - informants - surveys - inspections - otherwise created - formulated - established - recorded - memorialized
- §3. DBI-Code-Enforcement-AAB "Packet" described in March 05, 2020 email<sup>2</sup> FROM Teresita Sulit SENT TO Brad Russi which "Packet" was HAND-or-OTHERWISE DELIVERED TO Bradley Russi - City Attorney
- §4. DBI-Code-Enforcement-AAB "Packet" described in March 05, 2020 email FROM Teresita Sulit - which "Packet" was HAND-or-OTHERWISE RECEIVED BY Bradley Russi - City Attorney
- §5. Any/all inquiries within ALL EMAILS FROM Tina Tam +/-or Rachna and RECEIVED by DBI-CE-AAB-DO - requesting help & information concerning NOV 2018 88993 & P/A 201810314687 starting on 06/20/2019 @ 11:49 AM - ending 09/30/2020<sup>3</sup>
- §6. Any/all data or material sent FROM DBI-CE-AAB-DO and RECEIVED by Tina Tam +/-or Rachna - containing any/all information concerning NOV 2018 88993 and P/A 2018 1031 4687
- §7. Any/all material RECEIVED by Tina Tam +/-or Rachna - sent from DBI-CE-AAB personnel/staff to Tina Tam +/-or Rachna - in response to Rachna's March 10, 2020 - 03:41 PM - email requesting information concerning NOV 2018 88993 and P/A 2018 1031 4687 - which data Planning's Tina Tam +/-or Rachna then considered in addressing all relevant issues
- §8. Emails from DBI-CE-DO to Tina Tam +/-or Rachna portraying a response to Rachna's request "What other actions, the owner needs to take?"
- §9. Any/all subsequent use by T Tam +/-or Rachna of "actions" [§8 supra] recommended by DBI-CE-DO resulting in any outcome/s
- §10. Site photographs - videographics - depictions - drawings - plans - portrayals of subject-property that are maintained in custody - care - control of DBI-CE-DO-AAB-CP-CA - or elsewhere - whether or not otherwise filmed - shot- taken - produced - duplicated - disseminated - intended to depict the entirety of interiors and exteriors of subject property
- §11. All outstanding details now existing - pending - likely-to-arise - that impact favorably or disparagingly on 2455 Jackson
- §12. All CCSF Departmental Notices created - published - archived - posted - mailed - describing allegations of Code Violations - served-upon Appellants - starting on June 01 2018 and ending September 30 2020

Respectfully submitted  
Copy - Christopher Cannon - Attorney at Law

Nancy Ryti and Bob Korman

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<sup>2</sup> Thursday, March 05, 2020 9:50 AM - Sulit, Teresita to Russi, Brad; Sweeney, E; Hernandez, M; Hinchion, J; Harris, S; Byrd, C; Wong, A Subject AAB Agenda DRAFT for March 18, 2020 Notice of Violations, Order of Abatements for ...2455 Jackson St "...attached please find copy of the AAB Notice of meeting for March 18, 2020, Notices of Violations and Order of Abatement for ...2455 Jackson Street. Please note that the packet for 2455 Jackson Street will be hand delivered to you..."

<sup>3</sup> Mar 10, 2020 at 3:41 PM - Rachna.Rachna "...I wanted to check the status of above complaint at DBI. The owner file [sic] a permit 201810314687 to abate violation. Does this permit capture all outstanding violations? What other actions, the owner needs to take?" "I will appreciate if can provide me any details on outstanding items and site photos of this property if you have any. I will also appreciate getting a copy of any notices issued since November 2018..."

TO DBI/CE/AAB  
PLANNING  
CITY ATTORNEY

SUNSHINE ON 67.1 (R)  
REVISE PER INTERVIEW 10/09/2020

**DBI/CE/AAB**  
**PLANNING**  
**CITY ATTORNEY**

**TO CITY ATTORNEY**

**UNITED STATES POSTAL SERVICE.**

GOLDEN GATE  
3245 GEARY BLVD  
SAN FRANCISCO, CA 94118-9992  
(800)275-8777

10/09/2020 05:10 PM

Duplicate

Product	Qty	Unit Price	Price
First-Class Mail® Letter	1	\$0.55	\$0.55

San Francisco, CA 94102  
Weight: 0 lb 0.60 oz  
Estimated Delivery Date  
Tue 10/13/2020  
Certified Mail®  
Tracking #: 70201290000067977612

**U.S. Postal Service™**  
**CERTIFIED MAIL® RECEIPT**  
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For delivery information, visit our website at [www.usps.com](http://www.usps.com)®

San Francisco, CA 94118

**OFFICIAL USE**

Certified Mail Fee \$3.55

Extra Services & Fees (check box, add fee as appropriate)

<input type="checkbox"/> Return Receipt (hardcopy)	\$2.85
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00

Postage \$0.55

Total Postage and Fees \$6.95

CCSF CITY ATTORNEY

Sent To  
CCSF CITY ATTORNEY  
200M 325  
1 CARLTON & GOOD LET PL CITY UNIC  
City, State, ZIP+4®  
SAN FRANCISCO CA 94102

Postmark Here  
SAN FRANCISCO CA 94118  
OCT 9 2020  
GOLDEN GATE STATION

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

**TO CITY PLANNING**

**UNITED STATES POSTAL SERVICE.**

GOLDEN GATE  
3245 GEARY BLVD  
SAN FRANCISCO, CA 94118-9992  
(800)275-8777

10/09/2020 05:13 PM

Duplicate

Product	Qty	Unit Price	Price
First-Class Mail® Letter	1	\$0.55	\$0.55

San Francisco, CA 94103  
Weight: 0 lb 0.60 oz  
Estimated Delivery Date  
Tue 10/13/2020  
Certified Mail®  
Tracking #: 70201290000067977629

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San Francisco, CA 94103

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Certified Mail Fee \$3.55

Extra Services & Fees (check box, add fee as appropriate)

<input type="checkbox"/> Return Receipt (hardcopy)	\$2.85
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00

Postage \$0.55

Total Postage and Fees \$6.95

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Sent To  
CCSF CITY PLANNING ATTORNEY  
200M 325  
29 SOUTH VAN NESS AVE  
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SAN FRANCISCO CA 94103

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SAN FRANCISCO CA 94118  
OCT 9 2020  
GOLDEN GATE STATION

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

**TO DBI/CE/AAB**

**UNITED STATES POSTAL SERVICE.**

GOLDEN GATE  
3245 GEARY BLVD  
SAN FRANCISCO, CA 94118-9992  
(800)275-8777

10/09/2020 05:08 PM

Duplicate

Product	Qty	Unit Price	Price
First-Class Mail® Letter	1	\$0.55	\$0.55

San Francisco, CA 94103  
Weight: 0 lb 0.60 oz  
Estimated Delivery Date  
Tue 10/13/2020  
Certified Mail®  
Tracking #: 70201290000067977636

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Certified Mail Fee \$3.55

Extra Services & Fees (check box, add fee as appropriate)

<input type="checkbox"/> Return Receipt (hardcopy)	\$2.85
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00

Postage \$0.55

Total Postage and Fees \$6.95

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200M 325  
29 SOUTH VAN NESS  
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SAN FRANCISCO CA 94103

Postmark Here  
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OCT 9 2020  
GOLDEN GATE STATION

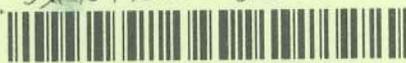
PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions

10/09/2020

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
 BRADLEY  
 CCSF RUSSI ESQ  
 CITY ATTORNEY  
 1 CARLTON BGOODLETTL  
 CITY HALL RM 325  
 SAN FRANCISCO CA 94102



9590 9402 5251 9154 6029 50

2. Article Number (Transfer from service label)  
 7020 1290 0000 6797 7612

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
 X *[Signature]*  Agent  
 Addressee

B. Received by (Printed Name)  
*[Signature]*  
 Kate Deng

C. Date of Delivery  
 10/14/20

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Adult Signature  
 Adult Signature Restricted Delivery  
 Certified Mail®  
 Certified Mail Restricted Delivery  
 Collect on Delivery  
 Collect on Delivery Restricted Delivery  
 Insured Mail  
 Mail Restricted Delivery

Priority Mail Express®  
 Registered Mail™  
 Registered Mail Restricted Delivery  
 Return Receipt for Merchandise  
 Signature Confirmation™  
 Signature Confirmation Restricted Delivery



PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
 CCSF CITY PLANNING  
 ENFORCEMENT DIV'N  
 ATTN: RALWA (T. TAM)  
 4950 VAN NESS AVE #1400  
 SAN FRANCISCO CA 94103



9590 9402 5251 9154 6029 05

2. Article Number (Transfer from service label)  
 7020 1290 0000 6797 7629

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
 X *[Signature]*  Agent  
 Addressee

B. Received by (Printed Name)  
 M. Wong

C. Date of Delivery  
 11/15/2020

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Adult Signature  
 Adult Signature Restricted Delivery  
 Certified Mail®  
 Certified Mail Restricted Delivery  
 Collect on Delivery  
 Collect on Delivery Restricted Delivery  
 Insured Mail  
 Mail Restricted Delivery

Priority Mail Express®  
 Registered Mail™  
 Registered Mail Restricted Delivery  
 Return Receipt for Merchandise  
 Signature Confirmation™  
 Signature Confirmation Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:  
 M. HERNANDEZ  
 P. SPICORDAN  
 E. SWARVEY  
 DBICE LAB  
 49 SOUTH VAN NESS AVE  
 SAN FRANCISCO CA 94103



9590 9402 5251 9154 6029 12

2. Article Number (Transfer from service label)  
 7020 1290 0000 6797 7636

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature  
 X *[Signature]*  Agent  
 Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type  
 Adult Signature  
 Adult Signature Restricted Delivery  
 Certified Mail®  
 Certified Mail Restricted Delivery  
 Collect on Delivery  
 Collect on Delivery Restricted Delivery  
 Insured Mail  
 Mail Restricted Delivery

Priority Mail Express®  
 Registered Mail™  
 Registered Mail Restricted Delivery  
 Return Receipt for Merchandise  
 Signature Confirmation™  
 Signature Confirmation Restricted Delivery



PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt

# EXHIBIT 13



## **VIOLATION AND PENALTY DECISION**

January 27, 2021

**Property Owner**

Robert Korman  
Korman Family Irrevoc Trust  
3450 Sacramento St # 124  
San Francisco, CA 94118

**Site Address:** 2455 Jackson Street  
**Assessor's Block/Lot:** 0606/024  
**Zoning District:** RH-2, Residential- House, Two-Family  
**Complaint Number:** 2018-015640ENF  
**Code Violation:** Sections 171, 172, & 175, Construction without Permits  
**Administrative Penalty:** \$250 Each Day of Violation  
**Enforcement T & M Fee:** \$7,619.91 (Current Fee, 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:

### **Background**

On May 29, 2020, the Planning Department issued you a Notice of Violation (NOV) finding the subject property in violation of the Planning Code. The NOV outlined the violation, how to correct the violation, administrative penalties, and the available appeal processes.

On June 11, 2020, the Planning Department received a request for a Zoning Administrator Hearing from you to appeal the May 29<sup>th</sup> NOV.

On October 13, 2020, the Zoning Administrator held a public hearing on the matter at the Planning Department. The hearing was attended by the Zoning Administrator, Corey A. Teague; Enforcement staff, Tina Tam and Rachna; the Department of Building Inspection (DBI) staff, Richard Tam; the property owner, Robert Korman; and the property owner’s legal representative, Christopher J. Cannon. Details of the violation and hearing are discussed below.

## Description of Violation

The Zoning Administrator has determined that the above referenced property is in violation of the Planning Code due to non-compliance with Planning Code Sections 171, 172, 175, and 317. The details of violation are discussed below.

The subject property is authorized as five dwelling units. The violation pertains to the unauthorized construction and possible removal of a dwelling unit at the subject property.

Pursuant to DBI Complaint No. 20188993, extensive work at roof level has taken place and a new story has been built at the back of the property without the benefit of permits. DBI also confirmed that the work has been done on the top floor/roof including extensive reframing of roof structure; in-fill of west light well on east 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> floors; addition of skylights; and creation of a roof deck and living space.

On September 28, 2018, you filed a Building Permit (BP) No. 2018.09.28.1715 to respond to DBI Complaint No. 20188993. On December 6, 2019, this permit expired due to failure to correct and complete this permit.

On October 31, 2018, you filed another BP No. 2018.10.31.4687 to resolve DBI Complaint No. 20188993. BP No. 2018.10.31.4687 stated the scope of work as, *"To Comply W/NOV #201888993 Per Arch/Engineer Plans + Calculations for Property Line Infills on All Floor Levels; Replace + Reinforce Damaged Portions of Sloped Roof Rafters and Wall Studs and Floor Joists; To Modify and Update PA 201508315739 Voluntary Building Retrofit (Seismic)."* However, this permit is still in triage and has yet to be fully reviewed and issued as it needs to be corrected and routed to the Planning Department for additional review.

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 317(c)(1), a Conditional Use Authorization (CUA) is required for the removal or merger of the residential units.

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 October 4, 2018, DBI issued a Notice of Violation requiring you to obtain a permit with plans within ten (10) days for work done without permit.

On November 27, 2018, DBI issued an amended NOV after verifying the outstanding violations in a DBI inspection of the above property on November 26, 2018. The NOV required you to submit architectural and structural drawings showing the extent of work done without permit and obtain approval of such work from the Planning Department.

On December 21, 2018, the Planning Department sent you a Notice of Complaint (NOC) to inform you about the complaint and required you to file a permit to either remove or seek legalization of construction work as permitted under the Planning Code.

On December 27, 2018, you contacted the Planning Department to respond to the NOC.

On March 9, 2019, you met with the Planning Department staff, Rachna to discuss the planning violation issues. Rachna informed you that BP No. 2018.10.31.4687 would need to be reviewed by the Planning Department to ensure compliance and as such, the existing and proposed plans shall be submitted with the permit and routed to the Planning Department. Rachna advised you to follow through on BP No. 2018.10.31.4687 to seek this permit issuance and completion.

On July 22, 2019, the Planning Department sent you a Notice of Enforcement (NOE). In that notice, you were required to 1) Submit the pre-existing and proposed (as built) floor plans, elevations, sections, and “before” and “after” interior and exterior photographs of building at the above property with BP No. 2018.10.31.4687 to the Planning Department, and 2) File a Project Application with the Planning Department by August 6, 2019.

On August 6, 2019, your legal representative, Melissa Palozola at Clark Hill contacted Rachna to seek a brief extension of time to respond to the July 22<sup>nd</sup> NOE. Rachna granted extension until August 21, 2019.

On August 20, 2019, Ms. Palozola requested an additional extension of time until September 15, 2019 to resolve the violation issues raised in the July 22<sup>nd</sup> NOE. Ms. Palozola also informed Rachna that during a site inspection by Clark Hill staff, five (5) dwelling units were observed at this property.

On August 21, 2019, Rachna requested Ms. Palozola to submit lease copies, floor plans, and photographs showing the existence of five (5) units at the above property and requested a site visit.

On August 21, 2019, your other legal representative, Steven Hammond at Clark Hill informed Rachna that there were no leases as the above property was unoccupied for some time. Mr. Hammond also informed Rachna that you were having a knee surgery soon and as such a site visit could not be scheduled at that time.

On September 11, 2019, Mr. Hammond submitted a letter and documentation to indicate that the subject property was authorized for five (5) units. He stated that no dwelling unit merger had occurred at the above property.

On September 20, 2019, BP No. 2018.10.31.4687 was approved in error at the Planning Information Center. The planner who reviewed and approved this permit believed that the scope of work was simply to legalize work already done to the interior of the existing building and wasn't aware that you also expanded the footprint and envelop of your existing building. As such, Rachna requested DBI to re-route BP No. 2018.10.31.4687 back to the Planning Department for further review.

On October 24, 2019, Ms. Palozola informed Rachna that you have submitted updated structural and architectural drawings to DBI.

On October 25, 2019, Rachna reiterated to Ms. Palozola that the plans and documentation required pursuant to the July 22<sup>nd</sup> NOE must be submitted along with BP No. 2018.10.31.4687 and routed to the Planning Department for its review. Rachna also reiterated her request to schedule a site visit to allow her to verify the existing conditions at the above property. Rachna did not hear back from Ms. Palozola.

On January 7, 2020, Rachna contacted Mr. Tam to inquire about the status of BP No. 2018.10.31.4687 under his review and informed him that this permit should be sent back to the Planning Department to ensure that it addressed the planning issues.

On March 10, 2020 Rachna contacted DBI to find out if BP No. 2018.10.31.4687 addressed all outstanding violation issues identified in DBI violation notices.

On March 11, 2020, DBI staff, Kevin McHugh informed Rachna that the scope of work under the permit application filed under BP No. 2018.10.31.4687 was altered by the permit applicant when it was submitted to DBI two days after initial triage at the time of submittal and required corrections.

On March 11, 2020, Rachna met with you at the Planning Department to discuss the outstanding violations and requested you to provide plans showing previously existing, current, and proposed conditions; and “before and after” photos including photos of kitchen in each dwelling unit. Rachna once again requested a site visit to the above property. You did submit the information required by Rachna.

On March 19, 2020, Mr. Hammond informed Rachna that his firm Clark Hill no longer represented you on this matter.

On May 29, 2020, the Planning Department sent you a NOV to allow you additional fifteen (15) days to abate the violation. That notice also advised you about the appeal process and accrual of penalty for failure to comply by the deadline. The NOV required you to 1) Submit a Project Application to the Planning Department with the pre-existing and proposed (as built) floor plans, elevations, and cross sections; as well as “before” and “after” interior and exterior photographs of the building at the above property. The NOV also required that the Project Application shall clearly and accurately specify the scope of work for which the approval was sought under BPA No. 2018.10.31.4687. Under this permit, you were required to seek legalization and/or removal of work done without permits, and 2) File a Conditional Use Authorization Application in order to reduce the number of dwelling units from five (5) to four (4) dwelling units at the above property.

On June 11, 2020, you filed a Request for Zoning Administrator Hearing to appeal the NOV.

On August 11, 2020, the Planning Department sent a Notice of Hearing to inform you that the above matter was scheduled for a virtual Zoning Administrator hearing on September 09, 2020.

On August 31, 2020, the Planning Department received a letter dated August 28, 2020 from your legal representative, Christopher J. Cannon requesting to postpone the Sept. 9<sup>th</sup> hearing due to Shelter in Place (SIP). Mr. Cannon stated that the according to NOV, the timeline to respond to NOV will not begin until both 1) the

Shelter in Place ends, and 2) all relevant City agencies are operating at a level necessary to abate the violation. Mr. Cannon stated that the Shelter in Place has not ended. As such, the hearing is prematurely scheduled. Mr. Cannon also stated that if the hearing proceeded virtually over Zoom platform as proposed, Mr. Korman would be very disadvantaged due to his inability to share documents and evidence remotely in an unfamiliar format. Mr. Cannon also requested additional time to allow him to visit the premises himself, review the case documents, and provide proof that the allegations in the NOV were unfounded. At Mr. Cannon's request, the hearing was postponed as a one-time extension.

In his August 28<sup>th</sup> letter, Mr. Cannon stated that according to his understanding, there were three issues, 1) Whether there is an intent to remove one of the dwelling units by merging two units. Mr. Cannon stated that there has been no attempt to eliminate a unit; 2) It was alleged that the building footprint was expanded. Mr. Cannon stated that there has been no unpermitted expansion of the building footprint at the above property; and 3) A permit was issued to correct any discrepancies but that permit was deemed invalid by DBI. Mr. Cannon stated that another permit was submitted in October 2018 and once that permit is granted, the property owner may cure the problems that led to that permit application. Mr. Cannon further stated that the property owner recently submitted a new application and a full set of drawings to DBI in an effort to resolve this matter.

On September 3, 2020, Rachna discussed the matter with Mr. Cannon and advised him about the outstanding issues, Zoning Administrator hearing, and the appeal process. Rachna also requested Mr. Cannon to facilitate submittal of the previously requested documents and arrange a site visit to allow Rachna to inspect the property. Mr. Cannon informed Rachna that he would get back to Rachna after discussing with Mr. Korman.

On September 17, 2020, the Abatement Appeals Board (AAB) conducted a hearing on DBI's Order of Abatement (OAA). Mr. Korman did not attend this hearing.

On October 13, 2020, the Zoning Administrator held a remote public hearing on the matter through the Microsoft Teams platform.

On October 21, 2020, the AAB conducted another abatement hearing on the matter and upheld the OOA after having heard oral testimony and reviewing documentary evidence provided by DBI staff, appellant, and other interested parties.

On January 12, 2021, Mr. Tam contacted Aurelio T. Alegria, your representative for BP No. 2018.10.31.4687 to request a meeting with you and the project architect to discuss the outstanding violation issues and explain how to bring the unpermitted construction work done at the above property into compliance with the Building Code and make such corrections in the submitted plans.

On January 12, 2021, Rachna sent an email to you and Mr. Alegria requiring you to submit a Project Application along with the "existing" and "proposed" plans and "before" and "after" photos to the Planning Department pursuant to the May 29<sup>th</sup> NOV.

On January 13, 2021, Mr. Alegria informed Rachna that the scope of work detailed in the May 29<sup>th</sup> NOV was beyond his expertise as a licensed professional Engineer and required the services of a licensed Architect. Mr. Alegria further informed Rachna that in his submittal of drawings to DBI, his understanding of the scope of work was a "simple roof replacement at the top floor level for conversion of sections of the roof to a roof deck." Mr.

Alegria indicated that he would discuss the next strategy on the expanded scope of work with you and reiterated that the scope of work definitely would require the services of a licensed Architect who would have a direct hand in the document submittals and NOV discussions with the City staff.

On January 13, 2021, Rachna sent an email to you and Mr. Alegria requesting you submit site photos and arrange a site visit with her to verify the site conditions. Rachna did not receive a response back from you or Mr. Alegria.

## **Evidence Presented at the Zoning Administrator Hearing**

Details of the hearing are discussed below.

At the hearing, Mr. Korman stated that he has permits for five (5) dwelling units at the above property and that he has no intention to reduce the number of units. Mr. Korman further stated that a permit application mistakenly indicated the number of units at the above property as four (4) units. Mr. Korman then inquired what was the violation and if there was any evidence of violation.

At the hearing, Mr. Cannon reiterated his concerns raised in his August 28<sup>th</sup> letter regarding the premature scheduling of hearing and Mr. Korman's technological inability to participate and present documents in a remote hearing. Mr. Cannon stated that to better understand the issues, he needed the documents that are yet to be provided by the City in response to Mr. Korman's multiple requests. Mr. Cannon also stated that it was a violation of the due process to hold a hearing prematurely and requested continuance of this matter.

Mr. Cannon further stated that a permit has already been submitted to cure any issues. Additionally, the property owner recently submitted a new application and a full set of drawings in an effort to resolve this matter.

Mr. Korman stated that he had not received the documents he requested from the City to understand the issues raised by the City and that he already has obtained all the required permits.

Mr. Teague then requested Mr. Tam to give an update on the status of case at DBI. Mr. Tam stated that the unpermitted construction has already been done at the above property. His next step was to review the previously issued permits and plans and find out how the building was originally built and compare with the submitted plans to identify the differences.

Mr. Cannon objected to Mr. Tam's statement and stated that Mr. Tam has not inspected the property himself and as such, his testimony was based on hearsay not evidence and as such, his statement was not sufficient to support the decision on the matter.

Mr. Teague then inquired Mr. Tam if he had any information on the DBI enforcement case since issuance of NOV and Order of Abatement in December 2019. Mr. Tam stated that due to COVID-19, it is likely that further action may have been postponed.

Mr. Teague then stated that there was a distinction between whether there was a violation and the timeline to abate the violation. Mr. Teague explained that the reason why he was not supportive of postponing the Zoning

Administrator hearing was because the purpose of this hearing was just to determine if there was a violation. The purpose of hearing was not to determine the timeline to abate the violation.

Mr. Teague then stated that the issues stated in the NOV were straightforward as these related to work done without benefit of permit and it seemed that in last couple years permits were filed to address that to some degree but such permits were found to be inadequate as these did not include the full scope of work. Additionally, the NOV does not state it definitively that one unit has been removed, it only stated that as a possibility due to the impact of work that has been done and had to be verified in person.

Mr. Teague then responded to the concern regarding the record requests that Mr. Korman alleged were not fulfilled. Mr. Teague stated that the Planning Department only has records related to the Planning enforcement case. The Planning Department cannot provide records such as building permits or permit appeals, which were kept by other agencies such as DBI or Board of Appeals (BOA), and such record requests should be submitted to the agencies who were keepers of these records.

Mr. Teague then stated that the Planning Department will issue a new letter after this hearing that can be appealed to the Board of Appeals. The letter will state whether or not there was a violation and would allow additional substantial due process for further determination on the violation.

Mr. Teague then stated that once the violation has been formally upheld, the Planning Department would require that the responsible parties begin to engage with the city to start the abatement process within 15 days. Mr. Teague added that the Planning Department was trying to adapt to the SIP order to the best of its ability and understood that a permit to abate violation may not be issued in 15 days. However, it was important that the responsible parties continue to engage sincerely to fulfill the abatement process requirements. Additionally, the 15-day timeline would not apply until this hearing decision letter has been issued. And if that decision is further appealed to BOA, the 15-day timeline would not start until after the BOA decision was issued as well.

Mr. Cannon inquired what evidence did the Planning Department have that there was a violation at the above property. Mr. Cannon then stated that he believed that no city staff attendees at the hearing have inspected the above property and the NOV was likely based on the information obtained from the third parties.

Mr. Teague stated that from the aerial photography, permit records, and DBI site inspections, it was evident that there was a violation. However, the full scope of work cannot be perfectly known if the property owner would not grant the planning staff permission to inspect the property. There were permit records and photos to show that the work was indeed done without permit.

Mr. Cannon stated that he believed that the information the staff had was not sufficient to show in fact that there was a violation at the above property. Mr. Cannon further stated that Mr. Korman has been trying to address the issues and would like to comply and have such permits and plans submitted to DBI and would like to have the permits reinstated to fix the violations.

Mr. Teague stated that what has been submitted so far was not sufficient for what the City needed to make sure all the work that has been done was adequately permitted and that the Planning Department was happy to continue to work with the responsible parties to make sure that the abatement was occurring.

Mr. Teague then stated that the purpose of this hearing process was to reaffirm the violation and the Planning Department would issue a letter to that effect and if any parties disagreed, the Zoning Administrator's decision could be appealed to BOA. Mr. Teague added that if there was no violation, there was no abatement, these are two separate things and one predicates the other.

Mr. Korman stated that he had emails from DBI staff to indicate that there were several permits issued for the work done and that there was no violation and that he complied with all the regulations and yet was issued OOA by DBI.

Mr. Teague stated that he could not speak to the DBI process and any notices issued by DBI. However, from the DBI Director's hearing, it was clear that it triggered the need for a permit to abate the violation.

Mr. Cannon stated that there really was no evidence of violation and it should be laid out in the decision letter.

Mr. Korman again expressed his concerns about DBI's OOA. Mr. Teague stated that any concerns with DBI process shall be brought to DBI's attention as it was not within the Planning Department's purview.

The Zoning Administrator then took the matter under advisement after hearing from all concerned parties.

## Submittals and Consideration After the Hearing

To date, no new information has been submitted. The Zoning Administrator has reviewed all submittals to date and considered statements made at the October 13<sup>th</sup> hearing.

Planning Code Section 171 requires that the above property shall be used only as authorized. Planning Code Section 172 requires that 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. Planning Code Section 175 requires a Building Permit for the construction, reconstruction, enlargement, alteration, relocation, or occupancy of any structure in compliance with the Planning Code. Planning Code Section 317(c)(1) requires a Conditional Use Authorization (CUA) for the removal or merger of residential units.

As stated in the NOV, you added a story to the rear of your property. Expanding your building's footprint and envelop requires a building permit and neighborhood notification per Planning Code Section 311. Depending on the location of this building addition, a rear yard variance may also be required. You did not provide the site photos and granted site visit to the Planning Department staff to verify the existing conditions. Additionally, you did not file the Project Application with accurate existing, as built, and proposed plans, and before and after photos to allow the Planning Department to guide you further on the required planning and permit processes. Moreover, you also did not provide any evidence to demonstrate that there was no violation.

## Decision

**NOTICE OF VIOLATION UPHELD.** Pursuant to Planning Code Section 176, the Zoning Administrator has a duty in administration and enforcement of the Planning Code. Accordingly, the Zoning Administrator upholds the

Notice of Violation issued on May 29, 2020 as the property owner has failed to demonstrate compliance with the Planning Code as described above.

The subject property owner shall abate the violation as follows:

- File a Project Application with the Planning Department in association with BPA No. 2018.10.31.4687. This application can be filled out online or submitted via email at [cpc.intake@sfgov.org](mailto:cpc.intake@sfgov.org). The Project Application is available from the Planning Department's website at <https://sfplanning.org/resources>. Project Application is also attached for your convenience.

Please note that pre-existing and proposed (as built) floor plans, elevations, and cross sections, as well as "before" and "after" interior and exterior photographs of the building at the above property are also required to be submitted with the Project Application. The Project Application shall clearly and accurately specify the scope of work for which the approval is sought under BP No. 2018.10.31.4687. As such, you are required to seek legalization and/or removal of work done without permits and obtain such approval from the Planning Department. **This application must be diligently pursued and completed.**

Please be advised that upon review of above Project Application, BP, 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.

The responsible party will need to provide adequate evidence to demonstrate that the violation has been abated. 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.

Please visit DBI website, <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 revisions and information as deemed necessary.

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

49 South Van Ness Avenue, 2nd/5th Floor (To submit permits only)  
San Francisco, CA 94103  
Phone: 628.652.3200  
Email: [dbicustomerservice@sfgov.org](mailto:dbicustomerservice@sfgov.org)  
Website: [www.sfgov.org/dbi](http://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](mailto:pic@sfgov.org)  
Website: [www.sfplanning.org](http://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 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 Violation and Penalty Decision 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. 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.

## Administrative Penalties

If any responsible party does not appeal this notice to the Board of Appeals **within 15-days from the date of this notice**, this Violation and Penalty Decision notice will become final. However, **administrative penalties will not begin to accrue until the 15-day period to respond expires.** 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 Notice of Penalty. Additional penalties will

continue to accrue until a corrective action is taken to abate the violation. Please be advised that payment of the penalty does not excuse failure to correct the violation or bar further enforcement action.

### **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. Accordingly, a fee of **\$7,619.91** for “Time and Materials” cost associated with the Code Enforcement investigation is now due to the Planning Department. **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 as 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.

### **Appeal**

This Violation and Penalty Decision notice and any assessed penalties may be appealed to the **Board of Appeals within the 15-day time limit** from the date of this Violation and Penalty Decision notice at:

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

The Board of Appeals may not reduce the amount of penalty below \$100 per day for each day that the violation exists, excluding the period of time that the matter has been pending either before the Zoning Administrator or before the Board of Appeals.

Sincerely,



Corey A. Teague, AICP  
Zoning Administrator

Enc.: Notice of Violation dated May 29, 2020

cc: Christopher J. Cannon via email  
John Hinchion, DBI, Code Enforcement Division via email

# EXHIBIT 14



# SAN FRANCISCO PLANNING DEPARTMENT

February 5, 2020

Nancy Ryti and Bob Korman  
3450 Sacramento 124  
San Francisco, CA 94118

RE: 2455 Jackson Street; 2018-015640ENF

Nancy and Bob,

In response to your record requests dated January 3<sup>rd</sup>, January 9<sup>th</sup>, January 10<sup>th</sup>, and January 21<sup>st</sup> regarding 2455 Jackson Street, there are no additional responsive records in addition to your last request dated August 6, 2019 and your attorney's request dated September 12, 2019.

In response to your request dated January 27, 2020, I've attached a copy of all your request, in which we have no responsive records. Rachna informed me that she has reached out to you and your attorney per your request.

This will deem your request completed. There are no other responsive records for your request.

Sincerely,

Chanbory Son  
Executive Secretary  
Commission Affairs  
San Francisco Planning Department  
1650 Mission Street, Suite 400 San Francisco, CA 94103  
Direct: 415.575.6926 | [www.sfplanning.org](http://www.sfplanning.org)  
[San Francisco Property Information Map](#)

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

Reception:  
**415.558.6378**

Fax:  
**415.558.6409**

Planning  
Information:  
**415.558.6377**

**BRIEF(S) SUBMITTED BY RESPONDENT DEPARTMENT(S)**



# Board of Appeals Brief

**Date:** April 29, 2021  
**Hearing Date:** May 5, 2021  
**Appeal No.:** 21-010  
**Address:** 2455 Jackson Street  
**Block/Lot:** 3721 / 014  
**Zoning/Height:** RH-2 (Residential – House, Two-Family)  
40-X Height and Bulk District  
**Staff Contact:** Scott Sanchez, (628) 652-7320 or [scott.sanchez@sfgov.org](mailto:scott.sanchez@sfgov.org)

## INTRODUCTION

On February 8, 2021, Chris Cannon on behalf of Robert Korman (Appellant) filed Appeal No. 21-010 on the Zoning Administrator’s issuance of a Violation and Penalty Decision (VPD) for the property at 2455 Jackson Street (Property). The VPD found the Property to be in violation of the Planning Code for work performed without required building permits, a determination similarly reached by the Department of Building Inspection (DBI) which also found that work occurred on the property without required building permits. The Appellant has failed to demonstrate that the Zoning Administrator erred or abused their discretion in issuing the VPD.

## PROPERTY INFORMATION

The Property is located at 2455 Jackson Street within the RH-2 Zoning District and 40-X Height and Bulk District. The subject building was constructed circa 1900 and contains 6,859 square feet and 5 dwelling units on 4 stories (per Assessor’s records). The property is owned by the Nancy E. Ryti Spousal Irrevocable Trust and the Korman Family Irrevocable Trust and appears to have been owned by one or more of the current owners for several decades.

## **BACKGROUND**

On January 27, 2021, the Zoning Administrator issued the VPD finding the Property in violation of the Planning Code for work performed without required building permits. Planning Code Sections 171 (Compliance of Uses Required), 172 (Compliance of Structures, Open Spaces, and Off-Street Parking and Loading Required) and 175 (Approval of Permits) require all uses and structures to comply with the requirements of the Planning Code and building permits to be obtained to demonstrate compliance with the Planning Code. The VPD provides a detailed chronology of the enforcement history for the Property and details specific construction on the Property (as verified by DBI) performed without required building permits. To date, the Appellant has not provided evidence that the work was performed with the required building permits, nor have they diligently sought the required building permits to legalize work on the property. The following is a summary of key background information for this violation.

On August 29, 2018, DBI received a complaint that a new story was being built at the back of the Property (Complaint No. 201888993).

On October 4, 2018, DBI issued a Notice of Violation finding that extensive work at the roof level was taking place without permits. The NOV followed numerous attempts by DBI to gain access and required the Appellant to obtain a permit with plans to legalize work done without permit.

On October 31, 2018, the Appellant submitted Building Permit Application (BPA) No. 201810314687 “to comply w/NOV #201888993 per arch/engineer plans + calculations for property line infills on all floor levels; replace + reinforce damaged portions of sloped roof rafters and wall studs and floor joists; to modify and update PA 201508315739 voluntary bldg. retrofit (seismic).” On this permit, the Appellant states that the Property contains 4 dwelling units, while the City’s legal records indicate that the Property legally contains 5 dwelling units.

On November 27, 2018, DBI issued an amended Notice of Violation (NOV) after verifying outstanding violations in a DBI inspection of the Property on October 23, 2018. The NOV found that extensive work had been performed on the top floor and roof, including extensive reframing of roof structure; addition of skylights, roof deck and expansion of top floor living space; and infill of west lightwell. These additions are further confirmed by a review of publicly available aerial photography between 2002 and present (Exhibit A – Aerial Photographs 2002 to Present) as available on the Planning Department’s Property Information Map via the SFGIS EagleView IPA / Integrated Pictometry App<sup>1</sup>. There are no permits or plans on file for the Property for the additions that are the subject of the NOV (Exhibit B – Building Permit Summary). The NOV required the Appellant to submit architectural and structural drawings showing the extent of work done without permit and obtain approval for such work from the Planning Department.

On December 21, 2018, the Planning Department opened Enforcement Case No. 2018-015640ENF in response to DBI’s NOV. In addition, the Planning Department issued a Notice of Complaint (NOC – Exhibit 1 of Appellant’s Brief). The NOC is a courtesy notice informing the property owner that a complaint has been filed on a property.

In March 2019, the Appellant met with Planning Department staff, Rachna, to discuss the complaint. Rachna informed the Appellant that BPA No. 201810314687 would need to be reviewed by the Planning Department to ensure that the existing and proposed conditions of the building were properly documented and all work without permit properly reviewed. Rachna informed the Appellant that he needed to submit plans showing pre-existing conditions on the property and the scope of the unauthorized additions that need to be legalized.

<sup>1</sup> Aerial photographs can be accessed through the Property Information Map at <https://sfplanninggis.org/pim/>. A direct link to the subject property can be found at: <https://sfgis-portal.sfgov.org/ipa?lat=37.79209&lon=-122.43542>.

On July 22, 2019, the Planning Department issued a Notice of Enforcement (NOE - Exhibit 6 of Appellant's Brief). In that notice, the Appellant was required to do the following by August 6, 2019: 1) submit the pre-existing and proposed (as built) floor plans, elevations, sections, and "before" and "after" interior and exterior photographs of the Property with BPA No. 201810314687; 2) file a Project Application (PRJ) with the Planning Department; and 3) address the discrepancy in the unit count of the property by restoring the property as 5 dwelling units, legalizing the merger of dwelling units or otherwise demonstrating that the property contains 5 dwelling units. To date, the Appellant has not provided the materials requested in the NOE.

On September 24, 2019, DBI held a Director's Hearing on Complaint No. 201888993.

On December 6, 2019, DBI issued an Order of Abatement (OOA) upholding Complaint No. 201888993.

On May 29, 2020, the Planning Department issued a NOV (Exhibit 8 of Appellant's brief) due to the lack of response to the NOE, and the Appellant filed a request for Zoning Administrator hearing as provided in the NOV.

On October 13, 2020, the Zoning Administrator held a public hearing on Complaint No. 2018-015640ENF.

On October 21, 2020, the Abatement Appeals Board (AAB) heard an appeal of the OOA (Case No. 6875). At this hearing, the AAB denied the appeal and upheld the OOA.

November 18, 2020, the AAB heard a rehearing request of the appeal of the OOA. At this hearing, the AAB denied the rehearing request.

On January 27, 2021, the Zoning Administrator issued the VPD finding the property to be in violation of the Planning Code for work performed without required building permits.

On February 8, 2021, the Appellant filed Appeal No. 21-010.

## **ISSUES ON APPEAL**

On April 1, 2021, the Appellant filed a brief for Appeal No. 21-010; however, they have failed to show that the Zoning Administrator erred or abused their discretion in finding the Property in violation of the Planning Code.

The Appellant argues that they have not been provided due process or a fair hearing; however, they have failed to demonstrate that the City failed to provide due process. As outlined in the timeline above and further detailed in the VPD, the Appellant has been provided clear and extensive notice of the nature of the violations, through the Notice of Complaint, Notice of Enforcement, and Notice of Violation. Additionally, the Appellant has been provided access to staff for meetings to discuss the complaint and the permit process to resolve the violation. Unfortunately, the Appellant has not fully responded to the requirements outlined in these documents to bring the Property into compliance with the Planning Code.

In addition, Appellant has been afforded extensive due process through the Zoning Administrator Hearing, Violation and Penalty Decision, and this appeal to the Board of Appeals. Further, the Appellant has been provided due process through a parallel enforcement process with DBI that has involved a site visit to verify the violation, Notices of Violation, Director's Hearings, Order of Abatement, Appeal to Abatement Appeals Board and Rehearing Request with the Abatement Appeals Board.

In an administrative hearing, all that is necessary to comport with due process "is that the procedures be tailored, in light of the decision to be made, to 'the capacities and circumstances of those who are to be heard,' [citation] ... to insure that they are given a meaningful opportunity to present their case." (*Mathews v. Eldridge*, 424 U.S. 319, 349.) The Planning Department followed all of its standard procedures in this case. These procedures, including numerous written and oral notices detailing the nature of the violations and instructions for how to cure the violations, as well as a Zoning Administrator's hearing, gave Appellant, who

has been represented by counsel throughout these administrative proceedings, a meaningful opportunity to present their case.

Contrary to Appellant’s assertion, administrative hearings in land use matters need not comply with formal rules of evidence, including the hearsay rule. It is well established that “a presentation to an administrative agency may properly include evidence that would not be admissible in a court of law.” (*Mohilef v. Janovici*, 51 Cal. App. 4th 267, 294 (1996) (citing *Carmel Valley View, Ltd. v. Board of Supervisors* (1976) 58 Cal.App.3d 817, 823.) In *Mohilef*, the Court of Appeal rejected the proposition that the hearsay rule applied to a hearing conducted by an associate zoning administrator in a nuisance abatement case, concluding that to apply the hearsay rule would make the process overly technical, cumbersome and burdensome to the parties, “injecting legalism” into a layperson’s proceeding. (*Id.* at p. 295–96.) “In general, judicial attention is focused upon the question whether the hearing was basically fair. If the board of adjustment in its conduct of the hearing allowed all persons who desired to speak an opportunity to do so, and afforded to each side a fair chance to articulate his point of view, reversal for failure to hold a fair hearing is unlikely.” (*Id.*) In addition, the court noted that due process does not require compliance with formal rules of evidence where an administrative agency has conducted an investigation, prepared a written report, and visited the site. (*Id.*) Furthermore, even if the hearsay rule did apply to the Zoning Administrator’s hearing, the City’s official records are excepted from the hearsay rule under Evidence Code Section 1280, which creates an exception to the hearsay rule for writings made within the scope of duty by a public employee, at or near the time of the event, where the sources of information and time and method of preparation indicate its trustworthiness.

Appellant also incorrectly argues that the Zoning Administrator improperly “inverted” the burden of proof. The Department’s finding of a violation, and issuance of an NOV on that basis, are entitled to a presumption of correctness. (Evid. Code Sec. 644, creating a presumption that an official duty has been regularly performed; *Lindell Co. v. Bd. of Permit Appeals of City & Cty. of San Francisco* (1943) 23 Cal. 2d 303, 323

Board of Appeals Brief  
Appeal No. 21-010  
2455 Jackson Street  
Hearing Date: May 5, 2021

[“In connection with the action of such a commission, composed usually of laymen, the fact that a certain action is taken raises the presumption that the existence of the necessary facts had been ascertained and found.”]); *Miller v. Plan. Comm'n of City of Torrance* (1956) 138 Cal. App. 2d 598, 602 [grant of variance was presumed to be supported by evidence]; *Harrington v. City of Davis* (2017) 16 Cal.App.5th 420, 436 [issuance of conditional use permit, City was presumed to have regularly performed official duty]); *Inyo Citizens for Better Plan. v. Inyo Cty. Bd. of Supervisors* (2009) 180 Cal. App. 4th 1, 13 [“...the presumption that an official duty has been regularly performed (Evid.Code, § 664) shifts the burden of proving the foundational issue of trustworthiness of the official action to the party objecting to the court's reliance on the official action.”].)

The Appellant argues that the Zoning Administrator Hearing was held prematurely; however, this is incorrect. This question was discussed at length during the Zoning Administrator Hearing. While it was noted that the City was providing additional flexibility as part of the permit process to correct violations due to COVID restrictions, it was noted that the NOV required that any appeals (either as an appeal directly to the Board of Appeals or a request for a Zoning Administrator Hearing) be made “within 15 days of this notice.” The request for the Zoning Administrator hearing was timely filed within 15 days of NOV issuance and the Zoning Administrator Hearing was properly held on October 13, 2020.

## **CONCLUSION**

In light of the foregoing, the Planning Department respectfully requests that the Board of Appeals deny the appeal and uphold the Zoning Administrator’s Violation and Penalty Decision (VPD) for the Property.

### **Attachments:**

Exhibit A: Aerial Photographs 2002 to Present

Exhibit B: Building Permit Summary

**Cc:** Chris Cannon, Sugarman and Cannon, Attorney for Appellant (by email)

Exhibit A

2002

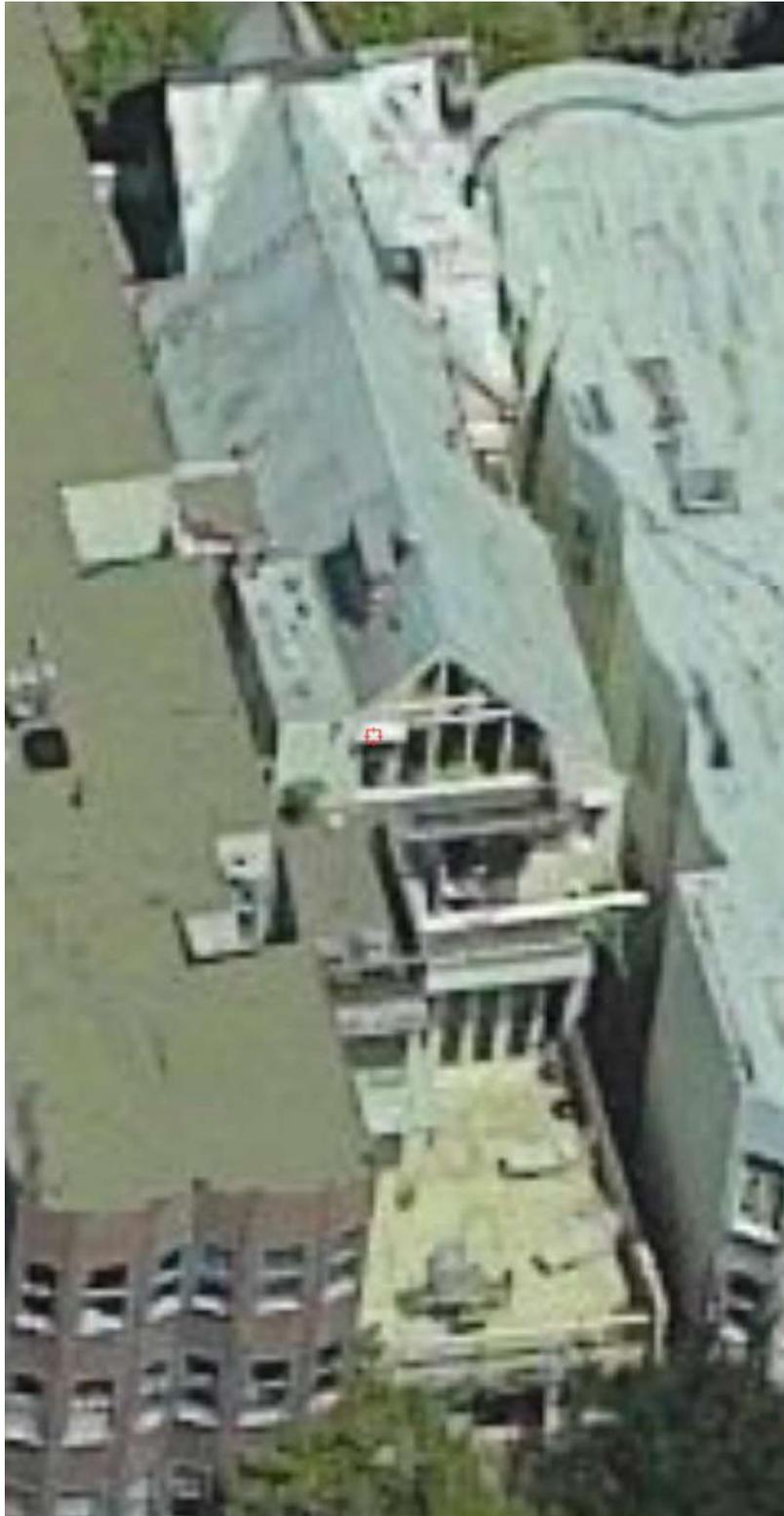


Exhibit A

2002



Exhibit A

2002



Exhibit A

2004



Exhibit A

2010



Exhibit A

2012



Exhibit A

2013

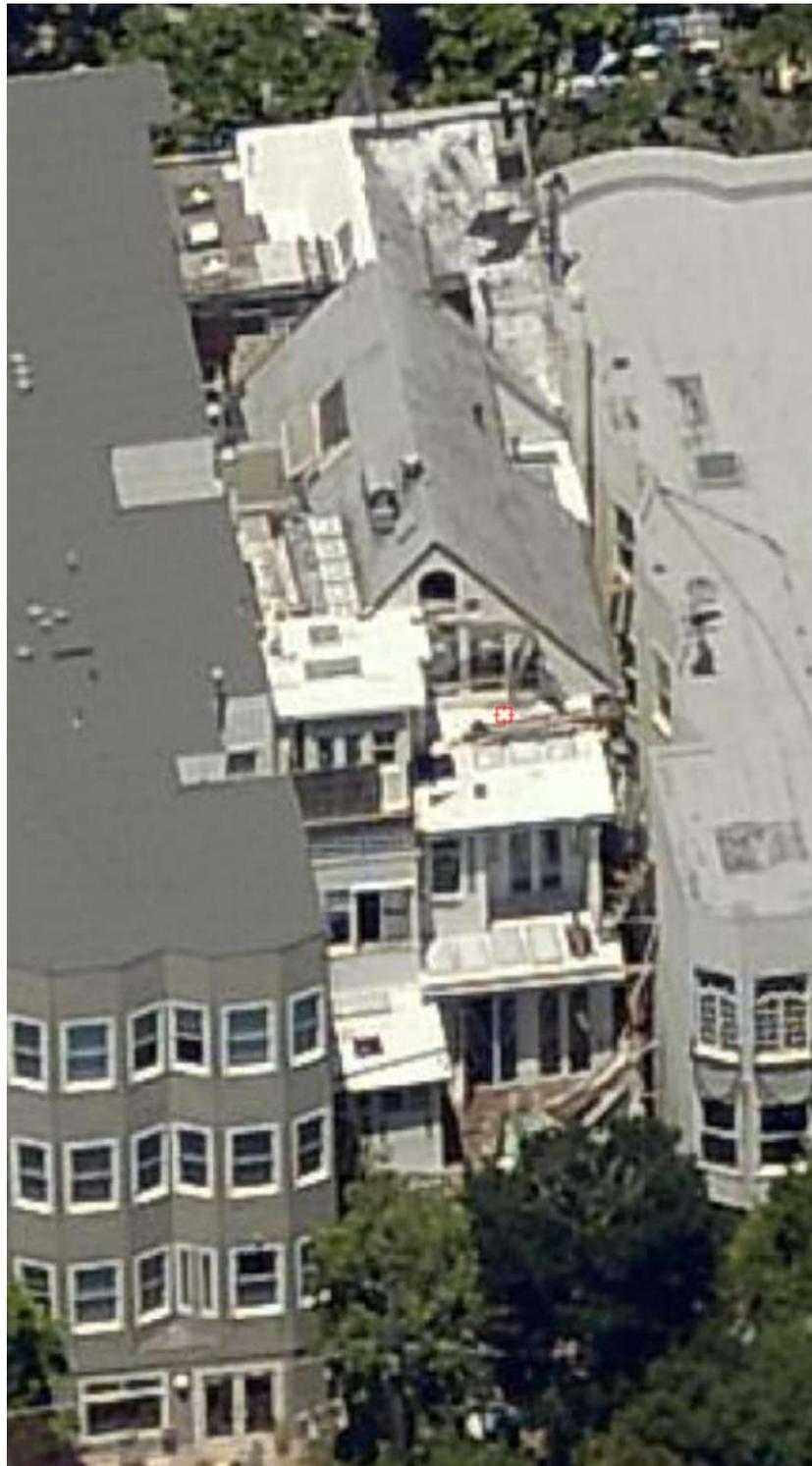


Exhibit A

2013



Exhibit A

2014



Exhibit A

2015

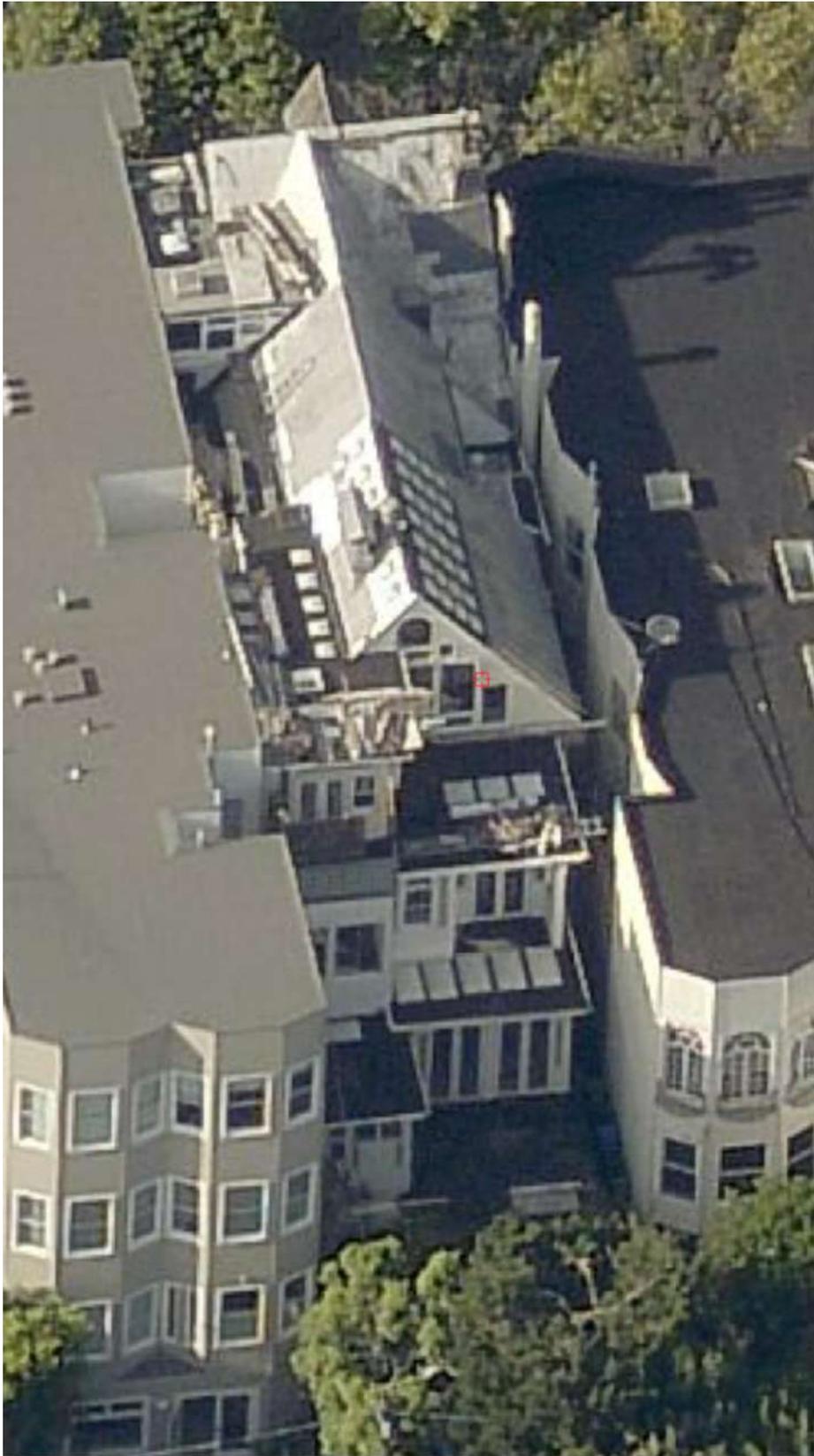


Exhibit A

2017



Exhibit A

2018



Exhibit A

2019



Exhibit A

2020



Exhibit A

2020



Exhibit A

2020





Report for: **2455 JACKSON ST**

## Building Permits

Applications for Building Permits submitted to the Department of Building Inspection.

### Active Permits

Permit 201810314687 [↗](#)

**Status:** FILED

**Status Date:** 10/31/2018

To comply w/ nov #201888993 per arch/engineer plans + calculations for property line infills on all floor levels; replace + reinforce damaged portions of sloped roof rafters and wall studs and floor joists; to modify and update pa 201508315739 voluntary bldg retrofit (seismic)

<b>Originally Filed:</b>	10/31/2018	<b>Address:</b>	2455 JACKSON ST
<b>Existing Use:</b>	APARTMENTS	<b>Parcel:</b>	0606/024
<b>Proposed Use:</b>	APARTMENTS	<b>Existing Units:</b>	4
<b>Construction Cost:</b>	\$2,000.00	<b>Proposed Units:</b>	4

### Completed Permits

Permit 201809281715 [↗](#)

**Status:** EXPIRED

**Status Date:** 12/6/2019

To comply with complaint #20188893 (9/26/2018) p/a 201712079370; 201106218559, 201111148788, change valuation to \$60,000

<b>Originally Filed:</b>	9/28/2018	<b>Address:</b>	2455 JACKSON ST
<b>Existing Use:</b>	APARTMENTS	<b>Parcel:</b>	0606/024
<b>Proposed Use:</b>	APARTMENTS	<b>Existing Units:</b>	5
<b>Construction Cost:</b>	\$60,000.00	<b>Proposed Units:</b>	5

Permit 201706199683 [↗](#)

**Status:** EXPIRED

**Status Date:** 12/6/2019

To obtain a final inspection for work already approved under pa# 201612079370, 201106218559 & 201111148788

<b>Originally Filed:</b>	6/19/2017	<b>Address:</b>	2455 JACKSON ST
<b>Existing Use:</b>	APARTMENTS	<b>Parcel:</b>	0606/024
<b>Proposed Use:</b>	APARTMENTS	<b>Existing Units:</b>	5
<b>Construction Cost:</b>	\$1.00	<b>Proposed Units:</b>	5

Permit 201706199673 [↗](#)

**Status:** EXPIRED

**Status Date:** 12/6/2019

To renew pa# 201508315739, to comply with voluntary as built seismic retrofit property line shear walls, east'ly & west'ly ground to roof, cover adj property non conforming p/l window, refer to completed pa# 201403039733.

<b>Originally Filed:</b>	6/19/2017	<b>Address:</b>	2455 JACKSON ST
<b>Existing Use:</b>	APARTMENTS	<b>Parcel:</b>	0606/024
<b>Proposed Use:</b>	APARTMENTS	<b>Existing Units:</b>	5
<b>Construction Cost:</b>	\$10,000.00	<b>Proposed Units:</b>	5

Permit 201508315739 [↗](#)

**Status:** EXPIRED **Status Date:** 12/6/2019

Voluntary seismic retrofit as built existing structure.

<b>Originally Filed:</b>	8/31/2015	<b>Address:</b>	2455 JACKSON ST
<b>Existing Use:</b>	APARTMENTS	<b>Parcel:</b>	0606/024
<b>Proposed Use:</b>	APARTMENTS	<b>Existing Units:</b>	5
<b>Construction Cost:</b>	\$75,000.00	<b>Proposed Units:</b>	5

Permit 201403039733 [↗](#)

**Status:** COMPLETE **Status Date:** 4/26/2016

Mandatory soft story retrofit ground /street level. Soft story retrofit per sfbc chapter 34b. Require

<b>Originally Filed:</b>	3/3/2014	<b>Address:</b>	2455 JACKSON ST
<b>Existing Use:</b>	APARTMENTS	<b>Parcel:</b>	0606/024
<b>Proposed Use:</b>	APARTMENTS	<b>Existing Units:</b>	5
<b>Construction Cost:</b>	\$60,000.00	<b>Proposed Units:</b>	5

Permit 201111148788 [↗](#)

**Status:** ISSUED **Status Date:** 11/14/2011

Replace defective: roof/window/door/flashing - drywall, sheathing, deck railings - on and in all 4 levels as - built. Unit #1, 3, 4, 5 repair, replace in like kind all rooms.

<b>Originally Filed:</b>	11/14/2011	<b>Address:</b>	2455 JACKSON ST
<b>Existing Use:</b>	APARTMENTS	<b>Parcel:</b>	0606/024
<b>Proposed Use:</b>	APARTMENTS	<b>Existing Units:</b>	5
<b>Construction Cost:</b>	\$1,200.00	<b>Proposed Units:</b>	5

Permit 201106218559 [↗](#)

**Status:** ISSUED **Status Date:** 6/21/2011

Lubricate pulley system fire escape drop ladder, install 40 gal water heater @same location, repair window, door trim, jambs. Repl deck tiles, wall shelves, deck railing, lattice. Minor roof leaks @rear, comply with abated nov# 200684038 (bid)

<b>Originally Filed:</b>	6/21/2011	<b>Address:</b>	2455 JACKSON ST
<b>Existing Use:</b>	APARTMENTS	<b>Parcel:</b>	0606/024
<b>Proposed Use:</b>	APARTMENTS	<b>Existing Units:</b>	5
<b>Construction Cost:</b>	\$10,000.00	<b>Proposed Units:</b>	5

Permit 201006164682 [↗](#)**Status:** COMPLETE**Status Date:** 7/26/2010

To comply with his nov. #201049338 dated 6/3/2010.1)repair, replace deterior guard rails #1,3,4.2) repair missing tiles area rear deck #1. 3) repair trim shingle rear exterior all at and over as built rear solarium #1 and #3

<b>Originally Filed:</b>	6/16/2010	<b>Address:</b>	2455 JACKSON ST
<b>Existing Use:</b>	APARTMENTS	<b>Parcel:</b>	0606/024
<b>Proposed Use:</b>	APARTMENTS	<b>Existing Units:</b>	5
<b>Construction Cost:</b>	\$2,000.00	<b>Proposed Units:</b>	5

Permit 201006023715 [↗](#)**Status:** COMPLETE**Status Date:** 6/14/2010

To comply with nov 200722651. Remove open wooden framing in light well.Roof area at west property line and revert back to original condition:remove front trellis and wood ply wood, platform now blocking extg fire escape and revert back to original condition.

<b>Originally Filed:</b>	6/2/2010	<b>Address:</b>	2455 JACKSON ST
<b>Existing Use:</b>	APARTMENTS	<b>Parcel:</b>	0606/024
<b>Proposed Use:</b>	APARTMENTS	<b>Existing Units:</b>	5
<b>Construction Cost:</b>	\$500.00	<b>Proposed Units:</b>	5

Permit 201005172590 [↗](#)**Status:** COMPLETE**Status Date:** 7/7/2010

To complete work and obtain final inspection for work approved under app#200412060742

<b>Originally Filed:</b>	5/17/2010	<b>Address:</b>	2455 JACKSON ST
<b>Existing Use:</b>	APARTMENTS	<b>Parcel:</b>	0606/024
<b>Proposed Use:</b>	APARTMENTS	<b>Existing Units:</b>	5
<b>Construction Cost:</b>	\$700.00	<b>Proposed Units:</b>	5

Permit 201002086109 [↗](#)**Status:** COMPLETE**Status Date:** 7/7/2010

Unit #4: to complete work & obtain final inspection for work approved under pa#200701302889 per john hinchon c.E. Comply with nov #201031529.

<b>Originally Filed:</b>	2/8/2010	<b>Address:</b>	2455 JACKSON ST
<b>Existing Use:</b>	APARTMENTS	<b>Parcel:</b>	0606/024
<b>Proposed Use:</b>	APARTMENTS	<b>Existing Units:</b>	5
<b>Construction Cost:</b>	\$5,000.00	<b>Proposed Units:</b>	5

Permit 200712100023 [↗](#)**Status:** CANCELLED**Status Date:** 6/16/2010

Renew pa# 2002/03/22/2167, pa# 2002/11/12/1171 & pa# 8409949. Note: to comply with nov# 200722651.

<b>Originally Filed:</b>	12/10/2007	<b>Address:</b>	2455 JACKSON ST
<b>Existing Use:</b>	APARTMENTS	<b>Parcel:</b>	0606/024

<b>Proposed Use:</b>	APARTMENTS	<b>Existing Units:</b>	5
<b>Construction Cost:</b>	\$1.00	<b>Proposed Units:</b>	5

Permit 200709061957 [↗](#)

**Status:** CANCELLED

**Status Date:** 6/8/2010

Build & construct 11 ft. 132' high, one hour parapet in existing lightwell on roof (11 ft. Tall)

<b>Originally Filed:</b>	9/6/2007	<b>Address:</b>	2455 JACKSON ST
<b>Existing Use:</b>	APARTMENTS	<b>Parcel:</b>	0606/024
<b>Proposed Use:</b>	APARTMENTS	<b>Existing Units:</b>	5
<b>Construction Cost:</b>	\$1,000.00	<b>Proposed Units:</b>	5

Permit 200709061954 [↗](#)

**Status:** CANCELLED

**Status Date:** 6/8/2010

To complete work in following appli #:200412060742, 200606214663, 200612079370, 200701302889

<b>Originally Filed:</b>	9/6/2007	<b>Address:</b>	2455 JACKSON ST
<b>Existing Use:</b>	APARTMENTS	<b>Parcel:</b>	0606/024
<b>Proposed Use:</b>	APARTMENTS	<b>Existing Units:</b>	5
<b>Construction Cost:</b>	\$1,000.00	<b>Proposed Units:</b>	5

Permit 200701302889 [↗](#)

**Status:** EXPIRED

**Status Date:** 10/4/2007

2455 jackson st. #4: replacement of windows and door at rear of building- apt. #4, top floor unit (facing south), all work & windows at rear of building is not visible from street; replacement of door & windows "in like kind" as indicated on drawings.

<b>Originally Filed:</b>	1/30/2007	<b>Address:</b>	2455 JACKSON ST
<b>Existing Use:</b>	APARTMENTS	<b>Parcel:</b>	0606/024
<b>Proposed Use:</b>	APARTMENTS	<b>Existing Units:</b>	5
<b>Construction Cost:</b>	\$5,000.00	<b>Proposed Units:</b>	5

Permit 200612079370 [↗](#)

**Status:** EXPIRED

**Status Date:** 10/4/2007

To comply with complaint# 200684038. Complete work in following application. Pa# 2004/12/06/0742 & pa# 2006/06/21/4663. Repair in apt# 1, 2, 3, 4 & 5.

<b>Originally Filed:</b>	12/7/2006	<b>Address:</b>	2455 JACKSON ST
<b>Existing Use:</b>	APARTMENTS	<b>Parcel:</b>	0606/024
<b>Proposed Use:</b>	APARTMENTS	<b>Existing Units:</b>	5
<b>Construction Cost:</b>	\$5,650.00	<b>Proposed Units:</b>	5

Permit 200606214663 [↗](#)

**Status:** CANCELLED

**Status Date:** 6/8/2010

Replace sheet rock, floor plywood, window in upper unit, fix damage over extend period of time.

<b>Originally Filed:</b>	6/21/2006	<b>Address:</b>	2455 JACKSON ST
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<b>Existing Use:</b>	APARTMENTS	<b>Parcel:</b>	0606/024
<b>Proposed Use:</b>	APARTMENTS	<b>Existing Units:</b>	5
<b>Construction Cost:</b>	\$4,350.00	<b>Proposed Units:</b>	5

Permit 200502034695 [↗](#)

**Status:** COMPLETE

**Status Date:** 5/6/2005

Underpinning for 12' section of foundation

<b>Originally Filed:</b>	2/3/2005	<b>Address:</b>	2455 JACKSON ST
<b>Existing Use:</b>	APARTMENTS	<b>Parcel:</b>	0606/024
<b>Proposed Use:</b>	APARTMENTS	<b>Existing Units:</b>	4
<b>Construction Cost:</b>	\$2,000.00	<b>Proposed Units:</b>	4

Permit 200412060742 [↗](#)

**Status:** EXPIRED

**Status Date:** 1/18/2006

Repair/replace/install roof,window trim,wall shingles,2 rafters,6 studs/flooring,sheetrock,sheet

<b>Originally Filed:</b>	12/6/2004	<b>Address:</b>	2455 JACKSON ST
<b>Existing Use:</b>	APARTMENTS	<b>Parcel:</b>	0606/024
<b>Proposed Use:</b>	APARTMENTS	<b>Existing Units:</b>	5
<b>Construction Cost:</b>	\$700.00	<b>Proposed Units:</b>	5

Permit 200211121171 [↗](#)

**Status:** CANCELLED

**Status Date:** 6/8/2010

Replace kitchen & bathroom cabinets apt#3 repair holes in sheetrock walls ceiling apt#1-5,caulk & fl

<b>Originally Filed:</b>	11/12/2002	<b>Address:</b>	2455 JACKSON ST
<b>Existing Use:</b>	APARTMENTS	<b>Parcel:</b>	0606/024
<b>Proposed Use:</b>	APARTMENTS	<b>Existing Units:</b>	5
<b>Construction Cost:</b>	\$3,000.00	<b>Proposed Units:</b>	5

Permit 200203222167 [↗](#)

**Status:** CANCELLED

**Status Date:** 6/8/2010

Replace bathroom & kitchen cabs sink bathroom fixtures repair holes in sheetrock walls/ceilings 1,3,

<b>Originally Filed:</b>	3/22/2002 3:45:41 PM	<b>Address:</b>	2455 JACKSON ST
<b>Existing Use:</b>	APARTMENTS	<b>Parcel:</b>	0606/024
<b>Proposed Use:</b>	APARTMENTS	<b>Existing Units:</b>	5
<b>Construction Cost:</b>	\$12,500.00	<b>Proposed Units:</b>	5

Permit 9100392 [↗](#)

**Status:** COMPLETE

**Status Date:** 4/8/1991

Open kitchen ceiling remove excess tar, repatch ceiling

<b>Originally Filed:</b>	1/9/1991	<b>Address:</b>	2455 JACKSON ST
<b>Existing Use:</b>	APARTMENTS	<b>Parcel:</b>	0606/024

<b>Proposed Use:</b>	APARTMENTS	<b>Existing Units:</b>	5
<b>Construction Cost:</b>	\$500.00	<b>Proposed Units:</b>	5

Permit 9014192 [↗](#)

<b>Status:</b> CANCELLED	<b>Status Date:</b> 4/23/1991
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Compelte work under permit #597449 app #8809278

<b>Originally Filed:</b>	7/19/1990	<b>Address:</b>	2455 JACKSON ST
<b>Existing Use:</b>	APARTMENTS	<b>Parcel:</b>	0606/024
<b>Proposed Use:</b>	APARTMENTS	<b>Existing Units:</b>	5
<b>Construction Cost:</b>	\$1.00	<b>Proposed Units:</b>	5

Permit 9012970 [↗](#)

<b>Status:</b> COMPLETE	<b>Status Date:</b> 1/30/1991
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Demo & excavate (e) brick foundation replace w/concrete

<b>Originally Filed:</b>	7/3/1990	<b>Address:</b>	2455 JACKSON ST
<b>Existing Use:</b>	APARTMENTS	<b>Parcel:</b>	0606/024
<b>Proposed Use:</b>	APARTMENTS	<b>Existing Units:</b>	3
<b>Construction Cost:</b>	\$2,500.00	<b>Proposed Units:</b>	3

Permit 8820464 [↗](#)

<b>Status:</b> EXPIRED	<b>Status Date:</b> 4/28/1989
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Augmentation to #8809278, replace several rotten beams

<b>Originally Filed:</b>	12/28/1988	<b>Address:</b>	2455 JACKSON ST
<b>Existing Use:</b>	APARTMENTS	<b>Parcel:</b>	0606/024
<b>Proposed Use:</b>	APARTMENTS	<b>Existing Units:</b>	5
<b>Construction Cost:</b>	\$750.00	<b>Proposed Units:</b>	5

Permit 8809278 [↗](#)

<b>Status:</b> EXPIRED	<b>Status Date:</b> 4/28/1989
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Remodel exist double bathrms, remove dryrotted non-struct'l

<b>Originally Filed:</b>	7/12/1988	<b>Address:</b>	2455 JACKSON ST
<b>Existing Use:</b>	APARTMENTS	<b>Parcel:</b>	0606/024
<b>Proposed Use:</b>	APARTMENTS	<b>Existing Units:</b>	5
<b>Construction Cost:</b>	\$12,500.00	<b>Proposed Units:</b>	5

Permit 8409949 [↗](#)

<b>Status:</b> EXPIRED	<b>Status Date:</b> 8/16/1985
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Replace & resurface existiing rear deck slats & rails

<b>Originally Filed:</b>	9/14/1984	<b>Address:</b>	2455 JACKSON ST
<b>Existing Use:</b>	APARTMENTS	<b>Parcel:</b>	0606/024
<b>Proposed Use:</b>	APARTMENTS	<b>Existing Units:</b>	0

**Construction Cost:** \$100.00                      **Proposed Units:** 3

Permit 8309323 [↗](#)

**Status:** COMPLETE

**Status Date:** 6/11/1984

Replace brick footings with reinforced concrete

**Originally Filed:** 9/20/1983

**Address:** 2455 JACKSON ST

**Existing Use:** APARTMENTS

**Parcel:** 0606/024

**Proposed Use:** APARTMENTS

**Existing Units:** 5

**Construction Cost:** \$3,050.00

**Proposed Units:** 5

Permit 8200851 [↗](#)

**Status:** COMPLETE

**Status Date:** 3/4/1983

**Originally Filed:** 2/4/1982

**Address:** 2455 JACKSON ST

**Existing Use:**

**Parcel:** 0606/024

**Proposed Use:**

**Existing Units:** 0

**Construction Cost:** \$99.00

**Proposed Units:** 0

Permit 0452652 [↗](#)

**Status:** COMPLETE

**Status Date:** 3/4/1983

Legalize existing ground floor

**Originally Filed:** 10/20/1975

**Address:** 2455 JACKSON ST

**Existing Use:** APARTMENTS

**Parcel:** 0606/024

**Proposed Use:** APARTMENTS

**Existing Units:** 5

**Construction Cost:** \$10,000.00

**Proposed Units:** 5

#### Additional Permits

Additional Permits [↗](#) (electrical, plumbing, etc) lodged with the Department of Building Inspections.

# PUBLIC COMMENT

**From:** [REDACTED]  
**Sent:** Friday, April 16, 2021 7:09 PM  
**To:** BoardofAppeals (PAB) <[boardofappeals@sfgov.org](mailto:boardofappeals@sfgov.org)>  
**Cc:** [REDACTED]  
**Subject:** Appeal No. 21010 2455 Jackson Street Letter of Opposition

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Board of Appeal Members —

We are the neighbors directly to the east of 2455 Jackson Street, the building code violations of which are the subject of the Hearing on April 21, 2021.

Our HOA received the hearing notification by mail and we were invited to submit our feedback regarding the issues at hand. We would like to supply you with some historical evidence of Mr. Korman's continued code violations.

Below you will find an email and photos sent on behalf of the HOA in December of 2019 that detail one of the challenges of living next to the ongoing construction at 2455 Jackson Street. Not outlined in the letter are the loose tarps and shower curtains at the side of the building which are a constant source of noise, especially during rainy weather. These tarps also shed water directly on our property to the extent that we have resorted to employing sandbags to redirect the flow of rainwater.

As neighbors, we are entitled to the quiet enjoyment of our property, but far more significantly, we believe the building is a major fire, seismic and personal safety risk in its current state, and has been for some time. It is deteriorating rapidly and needs urgent, efficient and timely remediation. The predominant construction activities have ceased, thankfully, but the issues remain in place.

We would also like to draw your attention to the rear portion of Mr. Korman's lot, which has been used for the storage of construction materials, old and disused equipment, plumbing fixtures, garbage cans, etc. This is a continued and long-standing activity (since at least 2006) that poses a health risk (some of us have observed rodents there) as well as an unsightly mess to all Mr. Korman's neighbors with windows facing onto his yard. As part of the remediation of the property, we are hopeful that the rear yard can be cleared of all these materials. (Photos attached.)

It is our opinion, based on the decades-long series of Code Violations regarding this property, that close, regular supervision and scrutiny by city officials is absolutely necessary for any construction activity allowed to take place going forward.

Thank you for your attention to our concerns.

2447–2449–2451 Jackson Street HOA

(Please remove our names and email addresses if providing this information to the public.)



Date: December 4, 2019 at 7:02:34 PM PST

[REDACTED]

(Letter follows)

Dear [REDACTED],

We are writing to let you know that on November 26, during the first rainstorm of the season, slightly before 6:30 pm PST, a large plywood panel fell into our 2451 Jackson Street primary access walkway between our and Mr. Bob Korman's property located at 2455 Jackson Street (see three photos attached showing the wood panel after the fall). It originated from Mr. Korman's property and may have been used to temporarily repair or cover his roof or other construction. There seems to be no discernible damage to our building, however, the plywood landed with such considerable force that it became embedded in between the bricks of our 2451 primary access walkway before breaking off. It could have created utmost harm to anyone present in the walkway during the fall, and had it hit a window directly across, it could have seriously injured anyone in the rooms, including a sleeping baby.

As we have informed you, over the years we have been enduring Mr. Korman's nearly continuous construction activities. Please refer to our emails on the subject, dating from between August and December

2018 and again from between August 2019 to the present. DBI has issued several notices of violation on Mr. Korman's illegal construction activities (Complaints Numbers [201995441](#) and [201888993](#)) and has subsequently referred his case(s) to Code Enforcement and to Directors' Hearings.

While we appreciate the fact that DBI has followed up on these complaints to an extent, it is clear that Mr. Korman's work remains not only a significant disturbance to us as his neighbors (including but not limited to noise resulting from loosely fixed tarps to cover construction, water pouring from Mr. Korman's roof construction directly into our walkway during rain, etc.) but continues to represent also an actual threat to our health and safety. The risk of construction debris falling onto our walkway was something we had specifically outlined in our previous emails to you, along with fire risk and incomplete seismic upgrades. This recent incident was not the first time debris has landed there, but it is by far the most severe.

Please note that complaints lodged with DBI concerning Mr. Korman's activities at 2455 Jackson Street date back to 1994, according to the DBI database. We do not understand why, for 25 years, DBI seems to have been unable to cease or remediate the results of his activities. We find that unacceptable.

We hereby request that DBI direct Mr. Korman (1) to immediately begin removing all construction falling within the scope of the two most recent complaints, (2) to ensure this removal involves at least a semi-permanent fix of the construction site, (3) to cause this removal to be performed and accomplished in a professional manner that will not affect our property or health in any direct or indirect means (e.g., as a result of falling objects, water pouring into our property, unacceptable noise level at night, fire hazards, etc.), and (4) to complete this removal within a reasonable, prescribed time frame and without delay.

Further, we understand that Mr. Korman recently submitted a drawing set to DBI. We would like to know what these drawings entail, what stage of review they are under, and we wish to be notified of any action regarding the approvals and neighborhood notifications.

Because DBI's mission is "[t]o serve the City and County of San Francisco and the general public by ensuring that life and property within the City and County are safeguarded, and to provide a public forum for community involvement in that process," we expect DBI to promptly take enforceable and verifiable action including frequent inspections, fines or possibly property liens. Mr. Korman's property and activities at 2455 Jackson Street continue to pose a real threat to our safety and property at 2447- 2451 Jackson Street, in direct contravention to DBI's mission.

Please note that we are currently investigating what courses of action may exist via other city or county agencies and would therefore appreciate knowing how such extreme cases are typically handled or referred by DBI.

We appreciate your help and look much forward to hearing from you at your earliest convenience.

Sincerely,

A solid black rectangular redaction box covering the signature area.

Photo taken on November 26, 2019 immediately after fall of plywood panel into 2447- 2451 Jackson Street HOA walkway.









**From:** [REDACTED]  
**To:** [BoardofAppeals \(PAB\)](#)  
**Subject:** REVISED LETTER. PLEASE USE THIS ONE! Appeal No. 21010 2455 Jackson Street  
**Date:** Tuesday, April 20, 2021 2:39:42 PM

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This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hello Again—

Could you please use this letter instead of the one I emailed yesterday? I'm having doubts about a couple of sentences in the original one so it is important that you substitute this one.

Will you please let me know that you received this, please?

Thank you!

> On Apr 20, 2021

>

> **\*\*PLEASE REDACT MY NAME AND EMAIL ADDRESS\*\***

>

> Hello —

>

> I am writing about the hearing on this appeal which has been moved to May 5.

>

> I am concerned about my personal safety concerning the person who owns the property, Bob Korman. Therefore I'd appreciate your discretion as to make this information public.

>

> Together with other neighbors beleaguered by his building activities, I have opposed his illegal construction. However, he views me as the person leading the opposition, which is a mistaken assumption.

>

> Korman has made no secret about his antipathy toward me personally over the years. Recently, he has made a couple of statements to a neighbor that I construe as threatening, saying if it weren't for me, he wouldn't have to spend money on lawyers to obtain a permit.

>

> I am deeply concerned about my safety around Korman. Even his outward demeanor is threatening. I worry what he might do to me in retaliation for what he perceives as my opposition leadership.

>

> I do have genuine sympathy for mentally ill people, especially those who have been incarcerated, but these two factors as they apply to Korman only increase my anxiety about what he might do.

>

> I hope that whatever leeway the Board decides to grant him, the police be notified of my concerns.

>

> Thank you for your understanding.

>