

BOARD OF APPEALS, CITY & COUNTY OF SAN FRANCISCO

Appeal of
NOEL FRELICOT, _____)
Appellant(s))
vs.)
DEPARTMENT OF BUILDING INSPECTION, _____)
PLANNING DEPARTMENT APPROVAL Respondent

Appeal No. **21-015**

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN THAT on March 5, 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 February 22, 2021 to Genaro Valazques, of an Alteration Permit (kitchen and bath remodel; remove one set of convenience stairs; fully infill small remainder of lightwell by connecting preexisting firewalls(blank against neighbor)) at 2472 Vallejo Street.

APPLICATION NO. 2020/12/30/1935

FOR HEARING ON April 21, 2021

Address of Appellant(s):

Address of Other Parties:

Noel Frelicot, Appellant(s) 2477 Vallejo Street San Francisco, CA 94123	Genaro Valazques, Determination Holder(s) 2360 Gaynor Avenue Richmond, CA 94804
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Date Filed: March 5, 2021

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

PRELIMINARY STATEMENT FOR APPEAL NO. 21-015

I / We, **Noel Frelicot**, hereby appeal the following departmental action: **ISSUANCE** of **Alteration Permit No. 2020/12/30/1935** by the **Department of Building Inspection** which was issued or became effective on: **February 22, 2021**, to: **Genaro Valazques**, for the property located at: **2472 Vallejo 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 **April 1, 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, julie.rosenberg@sfgov.org, scott.sanchez@sfgov.org and alex2909.af@gmail.com

Respondent's and Other Parties' Briefs are due on or before: 4:30 p.m. on **April 15, 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, julie.rosenberg@sfgov.org, scott.sanchez@sfgov.org and nfrelicot@sbcglobal.net

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, April 21, 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. 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 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.

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: Noel Frelicot

From: [Noel Frelicot](#)
To: [Longaway, Alec \(BOA\)](#)
Cc: [BoardofAppeals \(PAB\)](#)
Subject: Prmit appeal
Date: Friday, March 5, 2021 11:06:27 AM

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

I would like to file an appeal for the permit # 202012301935

issued on 02/22/2021 for the property 2472 Vallejo St.

By fully infilling the lightwell between our buildings my 2 lower units will loose all the daylight in their only kitchen and bathroom windows.

Also the workers don't really respect the neighbors they constantly double park their trucks on the street for hours many times blocking our driveway.

They put huge 2 by 4s with nails sticking out of them against the wall of my building.

I would appreciate your timely respons and resolution to these problems.

Noël FRÉLICOT

415-922-8900
2466 Vallejo St.

City and County of San Francisco

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- Permit Services
- Plan Review
- Inspection Services
- Most Requested
- Key Programs
- About Us

Home » Most Requested

Welcome to our Permit / Complaint Tracking System! Permit Details Report

Report Date: 2/25/2021 10:59:52 AM

Application Number: 202012301935
Form Number: 8
Address(es): 0559 / 019 / 0 2472 VALLEJO ST
Description: KITCHEN AND BATH REMODEL. REMOVE ONE SET OF CONVENIENCE STAIRS. FULLY INFILL SMALL REMAINDER OF LIGHTWELL BY CONNECTING PREEXISTING FIREWALLS(BLANK AGAINTS NEIGHBOR)
Cost: \$170,000.00
Occupancy Code: R-3
Building Use: 28 - 2 FAMILY DWELLING



Disposition / Stage:

Action Date	Stage	Comments
12/30/2020	TRIAGE	
12/30/2020	FILING	
12/30/2020	FILED	
2/22/2021	APPROVED	
2/22/2021	ISSUED	

Contact Details:

Contractor Details:

License Number: 1055104
Name: GENARO ALEJANDRO FLOORES VELAZQUEZ
Company Name: ALEX BUILDER
Address: 1005 PORTER ST APT 102 * VALLEJO CA 94590-0000
Phone:

Addenda Details:

Description:

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold Description
1	CES	1/4/21	1/4/21			1/4/21	HINCHION JOHN	ok to process
2	INTAKE	12/30/20	12/30/20			12/30/20	SHAWL HAREGGEWAIN	1/4/2021: FORWARD TO CPC. -VT
3	CP-ZOC	1/5/21	1/6/21	1/5/21	1/13/21	1/28/21	SUCRE RICHARD	Approved: infill of lightwell per ZA Bulletin No. 4 & interior alterations to the three existing dwelling units [routed to SFPUC]
4	BLDG	1/21/21	1/21/21			1/21/21	MULHEM AZIZ	OTC PROJECT, APPROVED BLDG and MECH, WKP999
5	BLDG	2/11/21	2/11/21	2/11/21	2/18/21	2/18/21	MULHEM AZIZ	OTC PROJECT, ADDED STRUCTURAL SCOPE, ATTACHED COMMENTS TO APPLICATION FORM, ROUTE TO COMMENTS BIN, WKP999 2/18/2021 Approved, Route to CPB
6	MECH	1/21/21	1/21/21			1/21/21	MULHEM AZIZ	OTC PROJECT, APPROVED BLDG and MECH, WKP999
7	SFPUC	1/29/21	2/10/21			2/10/21	IMSON GRACE	Capacity Charge not applicable. Existing fixture count (gpm) in the same tier as proposed fixture count (gpm). Please note that existing meter is undersized. Meter upgrade is recommended. Please contact SFPUC, New Installations, 525

								Golden Gate Ave, 2nd floor, San Francisco, CA 94102, Telephone: (415) 551-2900 for more info. Route to OTC CPB -02/10/2021
8	PERMIT-CTR	1/14/21	1/14/21			1/14/21	YAMAMURA WENDY	1/14/21 Revisions received. Plan set routed to DBI-OTC Intake CP-ZOC for re-check. No routing slip included
9	PERMIT-CTR	2/12/21	2/12/21			2/16/21	LENIHAN WILLIAM	02/12/21 Comments have been issued by plan review staff. 2/16/2021 - Revisions received. Plan set routed to OTC Intake BLDG for re-check.
10	CPB	2/19/21	2/19/21			2/22/21	BUFKA SUSAN	Sent to bldg & mech - missing bldg & mech approval on plans & pink application, no revised cost on app also 2/11/21 JJ.

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
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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.

[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](#).

BRIEF(S) SUBMITTED BY APPELLANT(S)

Date: April 1, 2021

Mr. Darryl Honda
President
Board of Appeals
49 South Van Ness Avenue
San Francisco, CA 94103

Re: 2472 Vallejo Permit Appeal
Building Permit Application #202012301935
BOA # 21-015

Dear President Honda and Board Members,

I, Noel Frelicot, along with my wife Elizabeth, reside at 2466 Vallejo Street and are the property owners adjacent to the proposed lightwell infill project located (the "Project") at 2472 Vallejo Street. We are requesting that the Board of Appeals rescind building permit application (BPA) #202012301935 (the "Permit"). First, the lightwell infill construction work associated with the Permit should have triggered notice procedures under San Francisco Planning Code Section 311. No such notice was provided, and we did not sign off on or otherwise provide consent to the Project. In addition, the Permit should not have been issued because infilling the lightwell in this location is inconsistent with the San Francisco Residential Design Guidelines. Accordingly, rescinding the Permit is appropriate here.

BACKGROUND

On 2/22/2021, the Permit for 2472 Vallejo Street was issued over the counter to Alex Builder for the purpose of:

*Kitchen and bath remodel, remove one set of convenience stairs. **Fully infill small remainder of lightwell by connecting pre-existing firewalls (blank against neighbor)***

See Exhibit A.

The lightwell is shared and does not connect to a blank wall. The permit for the lightwell infill was approved by the San Francisco Planning Department without providing the notice required by San Francisco Planning Code Section 311 ("311 Notice"). Planning Code Section 311 requires notification to property owners and residents on the project site, property owners neighboring the project site, and interested neighborhood organizations for "all building permit applications" for "demolition, new construction, or alteration of buildings" in San Francisco's residential districts, such as the RH district where 2466 Vallejo and 2472 Vallejo are located. (San Francisco Planning Code § 311(b).)

Zoning Administrator Bulletin (ZAB) No. 4 ("ZAB #4"), requires Section 311 notification for the infill of lightwells except in limited circumstances that do not apply here. In particular, ZAB # 4 indicates that lightwell infills must adhere to Section 311 and 312 procedures, must meet all other relevant Planning Code requirements, and must be consistent with the Residential Design Guidelines. See attached ZAB #4 and SF Planning Residential Design Guidelines labeled as Exhibit B and Exhibit C, respectively. It is our contention that the following conditions were not met per ZAB #4 pages 6-7 regarding lightwell infills as follows:

*If the plans (and accompanying photos, if necessary) clearly establish that the infill is **against a blank neighboring wall at the property line and not visible from any off-site location**, it may be approved with no 311/312 notification.*

The lightwell infill proposed under the Permit is clearly not against a blank neighboring wall at the property line and the infill is visible from our property. As shown in the photos of the existing lightwell labeled Exhibit D, we have a total of thirteen (13) windows in the lightwell which we use for light and ventilation. This is not a blank wall as required by ZAB #4. The

additional procedures for lightwell infill without notification have specific requirements and in addition require specific approval from the adjacent neighbor to “sign off” on a set of reduced plans. The proposed project neither meets these requirements nor have we been given any notice or plans to review, let alone had a chance to ‘sign off’ on the proposed lightwell infill.

In addition to not meeting ZAB #4 procedures, the proposed lightwell infill per the Permit does not meet the Residential Design Guidelines regarding shared lightwells. As noted in the pictorial diagram and text on Residential Design Guidelines page 16, bullet item 3 in Exhibit C, “properties shall provide shared light wells to provide more light to both parties”. The Residential Design Guidelines describe the existing condition that we have now. But the Permit will do the opposite by closing off the lightwell reducing light and air to the windows in our lightwell.

There also exists at 2472 Vallejo a deck and wall that we believe are unpermitted and that were built in the lightwell at the third floor. See Exhibit ‘E’. This deck does not meet the current Building or Planning Code requirements. Again, no notification was provided despite the fact it is not against a blank neighboring wall, does not meet the residential design guidelines and no permits appear to have been issued for this construction. BPA #202012301935 attempts to legitimize an unpermitted addition that goes against the Planning Code and guidelines and usurp the planning and building process along the way.

Lastly we understand that a new footing is planned along the lightwell property line. We have not received any plans or communication as to whether the excavation for the new planned footing will undermine the footings to our property. No work should be conducted until this has been reviewed and approved by the SF Building Department and Inspections.

We respectfully request that the Board of Appeals rescind building permit

application #202012301935 based on these facts and keep the shared lightwells for both properties open as originally designed and planned.

Sincerely,

Noel Frelicot

Elizabeth Mizerski

Noel Frelicot and Elizabeth Mizerski

EXHIBIT A

Permit Details Report

Report Date: 3/24/2021 10:11:14 AM

Application Number: 202012301935
 Form Number: 8
 Address(es): 0559 / 019 / 0 2472 VALLEJO ST
 Description: KITCHEN AND BATH REMODEL. REMOVE ONE SET OF CONVENIENCE STAIRS. FULLY INFILL SMALL REMAINDER OF LIGHTWELL BY CONNECTING PREEXISTING FIREWALLS(BLANK AGAINTS NEIGHBOR)
 Cost: \$170,000.00
 Occupancy Code: R-3
 Building Use: 28 - 2 FAMILY DWELLING

Disposition / Stage:

Action Date	Stage	Comments
12/30/2020	TRIALGE	
12/30/2020	FILING	
12/30/2020	FILED	
2/22/2021	APPROVED	
2/22/2021	ISSUED	
3/5/2021	SUSPEND	Per BOA Appeal No.21-015 dated 03/05/21

Contact Details:

Contractor Details:

License Number: 1055104
 Name: GENARO ALEJANDRO FLOORES VELAZQUEZ
 Company Name: ALEX BUILDER
 Address: 1005 PORTER ST APT 102 * VALLEJO CA 94590-0000
 Phone:

Addenda Details:

Description:

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1	CES	1/4/21	1/4/21			1/4/21	HINCHION JOHN	ok to process
2	INTAKE	12/30/20	12/30/20			12/30/20	SHAWL HARECEWAIN	1/4/2021: FORWARD TO CPB - VT
3	CP-ZOC	1/5/21	1/6/21	1/5/21	1/13/21	1/28/21	SUCRE RICHARD	Approved: infill of lightwell per ZA Bulletin No. 4 & interior alterations to the three existing dwelling units [routed to SFPUC]
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8	PERMIT-CTR	1/14/21	1/14/21			1/14/21	YAMAMURA WENDY	1/14/21 Revisions received. Plan set routed to DBI-OTC Intake CP-ZOC for re-check. No routing slip included
9	PERMIT-CTR	2/12/21	2/12/21			2/16/21	LENIHAN WILLIAM	02/12/21 Comments have been issued by plan review staff. 2/16/2021 - Revisions received. Plan set routed to OTC Intake BLDG for re-check.
								Sent to bldg & mech -

EXHIBIT B



ZONING ADMINISTRATOR BULLETIN NO. 4

Public Notification for Building Permits in Residential and Neighborhood Commercial Districts

Section 307 of the City Planning Code mandates the Zoning Administrator to issue and adopt such rules, regulations and interpretations as are in the Zoning Administrator's opinion, necessary to administer and enforce the provisions of the Planning Code. [Section 7.502 of the San Francisco Charter charges the Zoning Administrator with the responsibility of administering and enforcing the Planning Code.]

Date:
OCTOBER 2002
Reprinted:
OCTOBER 2018

Relevant Code Sections:
311 (Residential Permit Review Procedures for RH and RM Districts)
312 (Neighborhood Commercial Permit Review Procedures for all NC Districts)

Formerly known as: Zoning Administrator Bulletin No. 2002-01

Planning Code Section 311, adopted March 4, 1996, requires notice to neighbors and property owners for permits involving new construction, change of use, or building expansions in RH/RM Districts. This initiates a 30 day notification period for neighborhood review and comment to the Planning Department. Per Section 311, all building permit applications for new construction and alteration of residential buildings in RH and RM Districts are subject to this notification, with alteration defined as most changes of use in a residential building or an increase to the exterior dimensions of a residential building, except those features listed in Planning Code Section 136(c)(1) through 136(c)(24) and 136(c)(26). On January 15, 2001, Planning Code Section 312 extended similar notice requirements to projects in Neighborhood Commercial (NC) Districts.

The Zoning Administrator has issued a number of determinations intended to clarify what type of work on residential structures constitute "alterations" as intended by the section since its adoption in 1996. The Zoning Administrator issued a determination in the same month the ordinance was adopted that stated the general principal that "This subsection states that the notification requirement of this section shall apply to those residential building permits to change use or increase the exterior dimension of a residential building in RH and RM districts except for those features listed in Section 136(c)1 through 136(c)24 and 136(c)26. The Section 136 features referenced are minor additions, representing relatively small or no building volume, or are visually hidden by existing features such as parapets, etc. Since it appeared to be the intention of Section 311, and later 312, to exempt minor building features from notification, other features that don't increase the "envelope" of a building or other minor features may also be exempt from notification though not expressly mentioned as exempt by Sections 311/312. [A building's "envelope" is the theoretical cube into which the building would fit.]"

Since that time the Zoning Administrator has issued a series of interpretations addressing specific cases where it was not obvious under the language of the Code or the general principal expressed above, as to whether certain proposed work on residential buildings in an RH or RM district would constitute an “alteration” under Section 311 and 312. This Zoning Administrator Bulletin gathers together all such determinations made up to its publication date to provide further guidance to the public as to what type of alterations to existing residential structures might be deemed exempt from the notification requirement of Sections 311/312. This bulletin also provides information regarding notice requirements for 311/312 projects where other formal discretionary actions are to be taken with respect to the project such as conditional use authorization, variances, or discretionary review hearings.

Please note: but for two exceptions noted below, this Bulletin contains only a summation of previously adopted interpretations of the Zoning Administrator and is provided for the convenience of the reader. Further, the language presented in the Interpretations section of the Planning Code in full is controlling in the event of any apparent inconsistency between this summary and the original text.

Where prior interpretations have been superseded, we have listed only the currently “operative” interpretations.

Explanatory language that has been added to the Interpretation language as part of this bulletin is presented in italics.

311 and 312: Recent Legislation and Future Amendments

Code Section: 311/312

Subject: Notification Requirements in NC Districts in Supervisorial Districts 4 and 11.

Effective Date: 9/18

Ordinance 179-18, approved 7/27/2018, effective 8/27/2018, included amendments to Section 311 and the repeal of Section 312 that will become operative on 1/1/2019.

Ordinance 199-18, approved 8/10/2018, effective 9/10/2018, included additional amendments to Section 311, as amended by Ord. 179-18, regarding temporary notification requirements in NC Districts in Supervisorial Districts 4 and 11.

In accordance with Ord. 179-18, the Planning Code will not reflect the amendments to Section 311 or the repeal of Section 312 until 1/1/2019, and the provisions of these amendments will not be operative until that date. However, the substance of the amendments to Section 311, that are contained in Ord. 199-18 are in effect as of 9/10/2018, and upon that date the requirements of Section 312 shall be modified as stated below:

Notwithstanding subsection 312(c)(1), for NC Districts **in Supervisorial Districts 4 and 11, building permit applications for a change of use to the following uses shall not be subject to the provisions of subsections 312(d)(2)-(3) and 312(e):**

- Bar
- General Entertainment
- Limited Restaurant
- Liquor Store
- Massage Establishment
- Nighttime Entertainment
- Outdoor Activity Area
- Private Community Facility
- Public Community Facility
- Restaurant
- Tobacco Paraphernalia Establishment

These exceptions in Districts 4 and 11 will be in effect September 10, 2018 and will sunset on September 10, 2020 unless extended by the Board of Supervisors.

Note that as of January 1, 2019 the above modifications to notification procedures in NC Districts will be incorporated, along with the entirety of the provisions of Section 312, into an amended Section 311, and Section 312 will be repealed. **At that time, this interpretation shall no longer be in effect.**

311 Notification Exemptions

Code Section: 311(b)

Subject: Building permit notification, exemptions

Effective Date: 3/1996

This subsection states that the notification requirement of this section shall apply to those residential building permits to change use or increase the exterior dimension of a residential building in RH and RM districts except for those features listed in Section 136(c)1 through 136(c)24 and 136(c)26. The Section 136 features referenced are minor additions, representing relatively small or no building volume, or are visually hidden by existing features such as parapets, etc. Since it appeared to be the intention of Section 311 to exempt minor building features from notification, other features that don't increase the "envelope" of a residential building or other minor features may also be exempt from notification though not expressly mentioned as exempt by Section 311. [A building's "envelope" is the theoretical cube into which the building would fit.] Such features are listed below. These exemptions refer only to the initial notification of a building permit application required by Section 311(b)2. They do not exempt notification of parties for any public hearing to consider the project. [Note: bold print has no significance other than as an aid in finding the appropriate feature.]

4/1996: Since many building features listed in Section 260 are similar to the exemptions of Section 136,¹ certain Section 260 features will also be exempt from the notification requirement. They are:

- Mechanical equipment and appurtenances necessary to the operation or maintenance of the building or structure itself, including chimneys, ventilators, plumbing vent stacks, panels or devices for the collection of solar or wind energy and window-washing equipment, together with visual screening for any such features.
- Skylights and dormer windows unless they are large, or a size that effectively increases ceiling heights and building volumes.
- Ornamental and symbolic features of public and religious buildings and structures, including towers, spires, cupolas, belfries and domes, if they are part of a project that has recently required notice under conditional use authorization.
- Railings, parapets and catwalks, with a maximum height of four feet.
- Open railings, catwalks and fire escapes required by law, wherever situated.
- Unenclosed seating areas limited to tables, chairs and benches and associated open railings up to 42" high.
- Flagpoles and flags, clothes poles and clotheslines, and weather vanes. (Radio and television antennae where permitted as accessory uses if less than 3 meters in diameter.)

DORMERS & WINDOWS

Dormer windows are exempt from the neighborhood notice requirements of Sections 311 and 312 if they conform to the criteria established in Zoning Administrator Bulletin No. 3, which is based on an interpretation from April 1996 stating that they may be exempt only when they, along with all other features exempt from the height limit and notification on a building collectively do not exceed 20% of the roof area; and when each dormer is limited to a plan dimension of 8 feet by 8 feet, is setback at least 3 feet from the side property line and 10 feet from the front building wall and, at its highest point is no higher than the peak of the roof nor 10 feet above the height limit, whichever point is lower. All dormer windows, even if exempt from neighborhood notification, must be consistent with relevant design guidelines (i.e. Residential Design Guidelines).

“FILL-INS”

4/1996: The filling in of the open area under a cantilevered room or room built on columns is exempt only if the height of the open area under the room does not exceed one story or 12 feet. The exemption does not apply to space immediately under a deck nor to space under a room known to be illegal.

¹The list of Section 260 features exempt from 311/312 notification is selective rather than all inclusive. Thus, features that are specifically identified in Section 260 but excluded from the list of 311 exemptions should be assumed to require notification unless otherwise noted.

GENERAL RULE EXEMPTION

4/1996: Anything not visible from any off-site land or structure is exempt from 311 notification except that which constitutes a “change of use” which 311 includes in the definition of an “alteration” subject to this Section.

EXACT REPLACEMENT

4/1996: The replacement of a legally existing structure with a structure within the same envelope and locations as the structure being replaced is exempt if the demolition and reconstruction are included in the same permit or done as part of the same continuing project so that there is no significant time lapse between the demolition and reconstruction. This exemption is justified because the resulting structure would not be more obtrusive than the structure replaced. This exemption is from the Section 311 notification – not from other Code requirements. If the replacement feature is noncomplying, surrounding owners will receive notice of the variance hearing.

NOT “EXACT” REPLACEMENT

4/1996: A stairway conforming to Paragraph 136(c)14 is exempt from notification by Section 311(b). The exemption will also apply to a replacement stairway that is required by the Building Code for egress, if it is larger than the stairway it replaces only to the degree required by the Building Code and if the location and coverage are as close as possible to the replaced stairway. The exemption shall not apply if the replacement stairway includes a firewall while the replaced stairway wasn’t enclosed, unless the firewall in its entirety adjoins a blank wall or is no higher than a permitted fence.

10/96: The replacement of a legally existing feature or portion of a building with that of a feature that is the same size or smaller is exempt from the notification requirement provided the replacement structure is within the same footprint and envelope as the feature or portion removed and the removal and replacement are approved at the same time. This exemption is justified because the resulting structure would be less obtrusive than the structure replaced. This exemption is from the Section 311 notification -- not from other Code requirements. If the replacement feature is noncomplying, surrounding owners will receive notice of the variance hearing.

RENEWAL OF EXPIRED PERMITS

4/1996: No notice is required to renew a permit or issue a new permit to complete a job that has already been substantially completed with permit. “Substantially completed” shall mean that the final envelope of the structure has already been framed in.

DECKS

7/1996: This Section defines an alteration in such a way as to exclude all permitted obstructions of Section 136(c) except the 12 foot extension. Therefore, a deck that can only be approved pursuant to Section 136(c)(25) would be subject to the notification requirements of this section. If the deck could be approved pursuant to any other paragraph of Section 136(c), it would not be subject to the notice requirements of this section.

The above interpretation regarding treatment of decks under 311 was further refined in April 1998 as follows:

4/1998: Unenclosed decks and stairs in RH and RM districts require the notification of neighbors only when:

- (1) They encroach into the required rear yard via Sections 136(c)(25); or when
- (2) Multi-level decks or decks more than 10 feet above grade, are supported by columns or walls other than the building wall to which it is attached; or when
- (3) The deck is more than 10 feet above grade; or when
- (4) The Building Code requires a one-hour wall greater than 10 feet in height for the proposed deck and/or stair. *[This provision has been modified by policy to apply only to one-hour walls 10 feet or greater to be consistent with the exemption under Section 136 allowing fences of 10 feet or less in rear yards.]*

**New interpretation: The 4/1998 interpretation above is further refined to eliminate the conflict between items 2 and 3 to read as follows:*

9/2002: Unenclosed decks and stairs in RH and RM districts require the notification of neighbors only when:

- (1) They encroach into the required rear yard via Sections 136(c)(25); or when
- (2) They are decks that are supported by columns or walls other than the building wall to which it is attached and are multi-level or more than 10 feet above grade ; or when
- ~~(3) The deck is more than 10 feet above grade; or when~~
- (3) The Building Code requires a one-hour wall greater than 10 feet in height for the proposed deck and/or stair.

**New interpretation (This interpretation formally authorizes long-standing Department practice and does not constitute a change in policy.)*

LIGHTWELLS

For infill of lightwells, the following procedures apply only to notification requirements pursuant to Planning Code Sections 311 and 312. Please be aware that all proposals to infill a lightwell must also meet all other relevant Planning Code requirements and be consistent with the Residential Design Guidelines:

1. If the proposed lightwell infill is visible from any off-site location other than an adjoining lightwell, 311/312 notice is required.
2. If the plans (and accompanying photos, if necessary) clearly establish that the infill is against a blank neighboring wall at the property line and not visible from any off-site location, it may be approved with no 311/312 notification.
3. If the proposed lightwell infill is at the first floor where there is a matching lightwell, such permits may be approved with no 311/312 notification if the applicant produces evidence documenting that the lightwell infill is not higher than 10 feet above the grade of the adjacent property (measured at property line). The applicant must also submit a set of reduced plans signed off by the property owner and occupants of units with windows that directly abut the proposed lightwell infill.
4. For lightwell reductions at any level that match the adjacent lightwell in exact dimensions (both length and width), such permits may be approved over-the-counter with no 311/312 notification if the applicant also submits a set of reduced plans signed off by the property owner and occupants of units with windows that directly abut the proposed lightwell infill.
5. If the proposed lightwell infill is visible only from an adjacent property and does not meet the criteria of 2-4 listed above, the applicant must either: a) submit a set of reduced plans signed by the property owner and occupants of units with windows that directly abut the proposed lightwell infill; or, b) submit the plans with labels for owner/occupants (of that adjacent property). If Option (b) is selected, the permit will be routed to a Current Planner for review against the Residential Design Guidelines and a "10-day" letter will be sent to the affected owner/occupants to allow them an opportunity to voice any concerns, similar to a Block Book Notification.

Code Section: 312(b)

Subject: Notification of Change of Use in NC Districts

Effective Date: 12/2001

An earlier interpretation requires Section 311 notice for any change in the number of dwelling units. Code Section 312(b) requires notification for all building permit applications involving Demolition, New Construction, Alteration which expand the exterior dimensions of a building, or changes of use per use categories of Article 7. In a situation where there is a reduction or an addition of a dwelling unit(s) to the subject property within NC districts, with or without any changes to the existing building envelope, the project shall be subject to the notification process required by this code section.

Non-Exempt Projects by Department Policy

Stair and elevator penthouses on buildings in RH, RM, and NC districts, are considered under Sections 311 and 312 respectively, to be building expansions requiring notification.

However, less obtrusive roof exemptions permitted in Section 260, and listed in a well-known interpretation dated 4/96 (see above), are exempt from Section 311 (and by extension) 312 notice.

Non-Exempt Projects

Merger of Dwelling Units

Code Section: 311/312

Subject: Dwelling Unit Additions/Reductions

Effective Date: 04/2001

Section 311 and 312 require notice for changes of use. While the addition or removal through demolition of legal dwelling units may not literally constitute a change of use, the Department's recent practice has been to send out notice for increases in the number of dwelling units. Recent Commission practice has also made any dwelling unit merger subject to staff-initiated discretionary review. Therefore, the reduction or increase in the number of legal dwelling units (either through merger or demolition), although not necessarily a change of use, shall require 311 or 312 notice, as applicable.

Notification Requirements for Multiple Approvals

Code Section: 311/312

Subject: Notification Requirements

Effective Date: 02/2001

Sections 311 and 312 allow for the elimination of duplicate notices where there is a Conditional Use or Variance hearing. However, Sections 311 and 312 notice occupants within 150 feet of the subject property, while Conditional Uses and Variances only notice owners within 300 feet. In order for a Conditional Use or Variance notice to substitute for a 311 or 312 Notice, the Conditional Use or Variance notice must (1) acknowledge that the notice covers the 311 or 312 Notice and (2) be sent to the occupants within 150 of the project.



**San Francisco
Planning**

**FOR MORE INFORMATION:
Contact the San Francisco Planning Department**

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

TEL: **628.652.7600**
WEB: **www.sfplanning.org**

Planning counter at the Permit Center
49 South Van Ness Avenue, 2nd Floor
San Francisco, CA 94103

EMAIL: **pic@sfgov.org**
TEL: **628.652.7300**

EXHIBIT C



Although features such as bays and chimneys project into the side yards, the overall side yard pattern is consistent, creating a defining characteristic of the block face.

REAR YARD

GUIDELINE: Articulate the building to minimize impacts on light and privacy to adjacent properties.

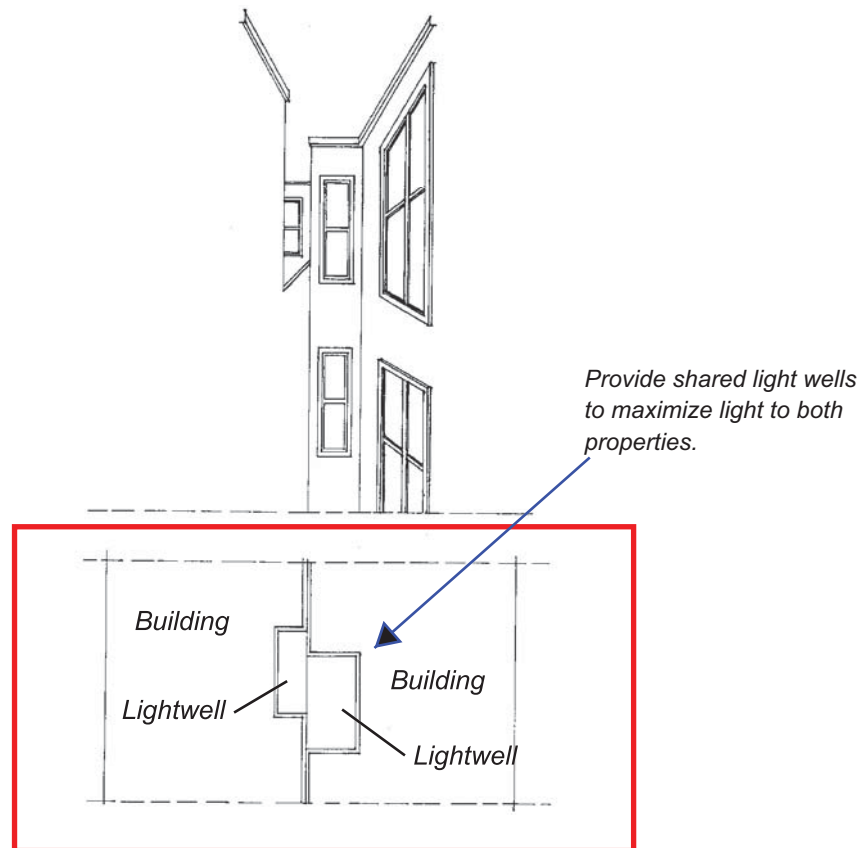
Rear yards are the open areas of land between the back of the building and the rear property line. When expanding a building into the rear yard, the impact of that expansion on light and privacy for abutting structures must be considered. This can be challenging given San Francisco's dense pattern of development, however, modifications to the building's design can help reduce these impacts and make a building compatible with the surrounding context.

Light

In areas with a dense building pattern, some reduction of light to neighboring buildings can be expected with a building expansion. However, there may be situations where a proposed project will have a greater impact on neighboring buildings. In these situations, the following design modifications can minimize impacts on light; other modifications may also be appropriate depending on the circumstances of a particular project:

- Provide setbacks on the upper floors of the building.
- Include a sloped roof form in the design.
- Provide shared light wells to provide more light to both properties.
- Incorporate open railings on decks and stairs.
- Eliminate the need for parapet walls by using a fire-rated roof.

Planning Code Section 101 states that one of the purposes of the Planning Code is to provide adequate light, air, privacy and convenience of access to property in San Francisco.



Privacy

As with light, some loss of privacy to existing neighboring buildings can be expected with a building expansion. However, there may be special situations where a proposed project will have an unusual impact on privacy to neighboring interior living spaces. In these situations, the following design modifications can minimize impacts on privacy; other modifications may also be appropriate depending on the circumstances of a particular project. Some of these measures might conflict with the “light” measures above, so it will be necessary to prioritize relevant issues:

- Incorporate landscaping and privacy screens into the proposal.
- Use solid railings on decks.
- Develop window configurations that break the line of sight between houses.
- Use translucent glazing such as glass block or frosted glass on windows and doors facing openings on abutting structures.

EXHIBIT D

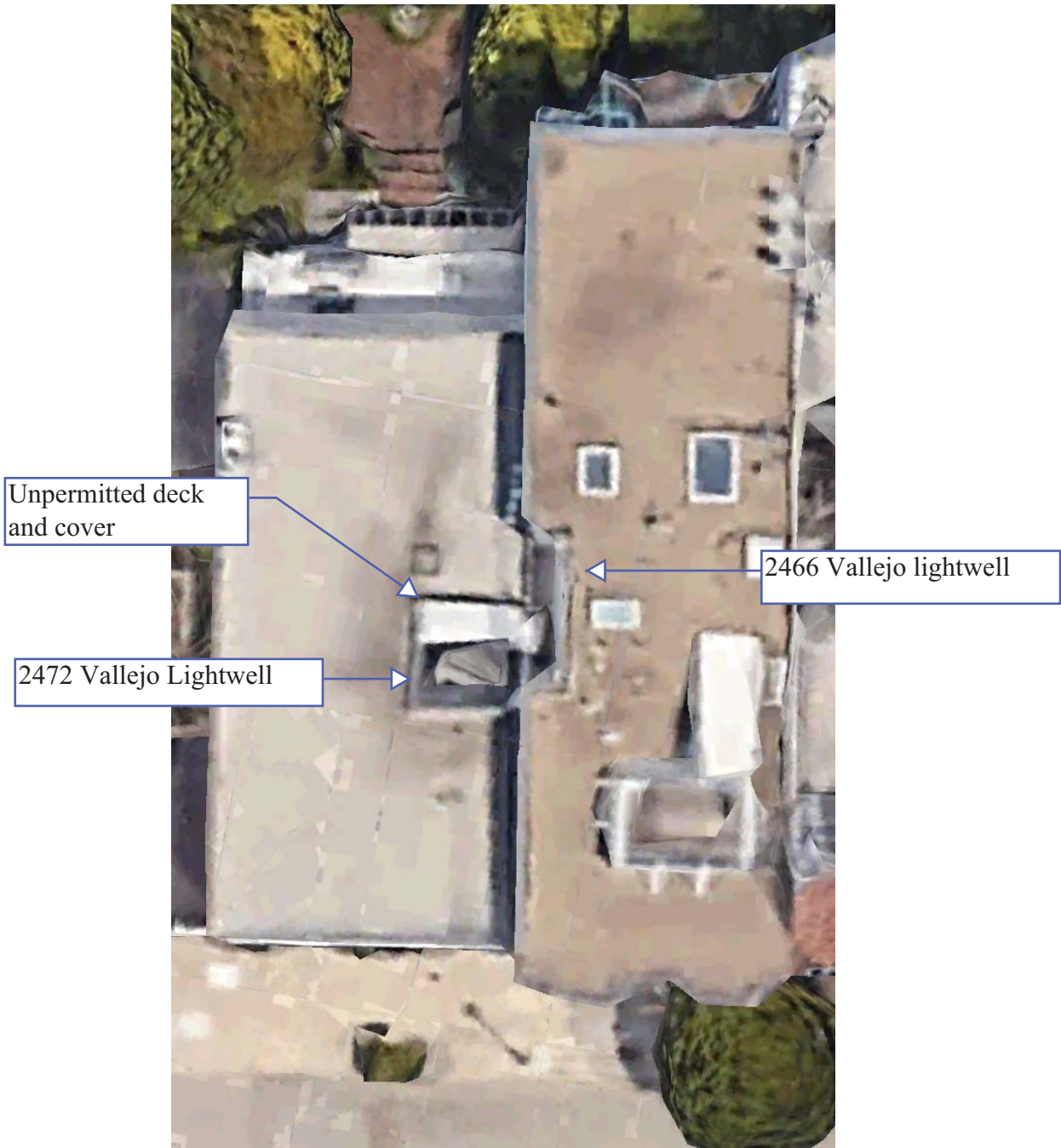


Photo of shared lightwell

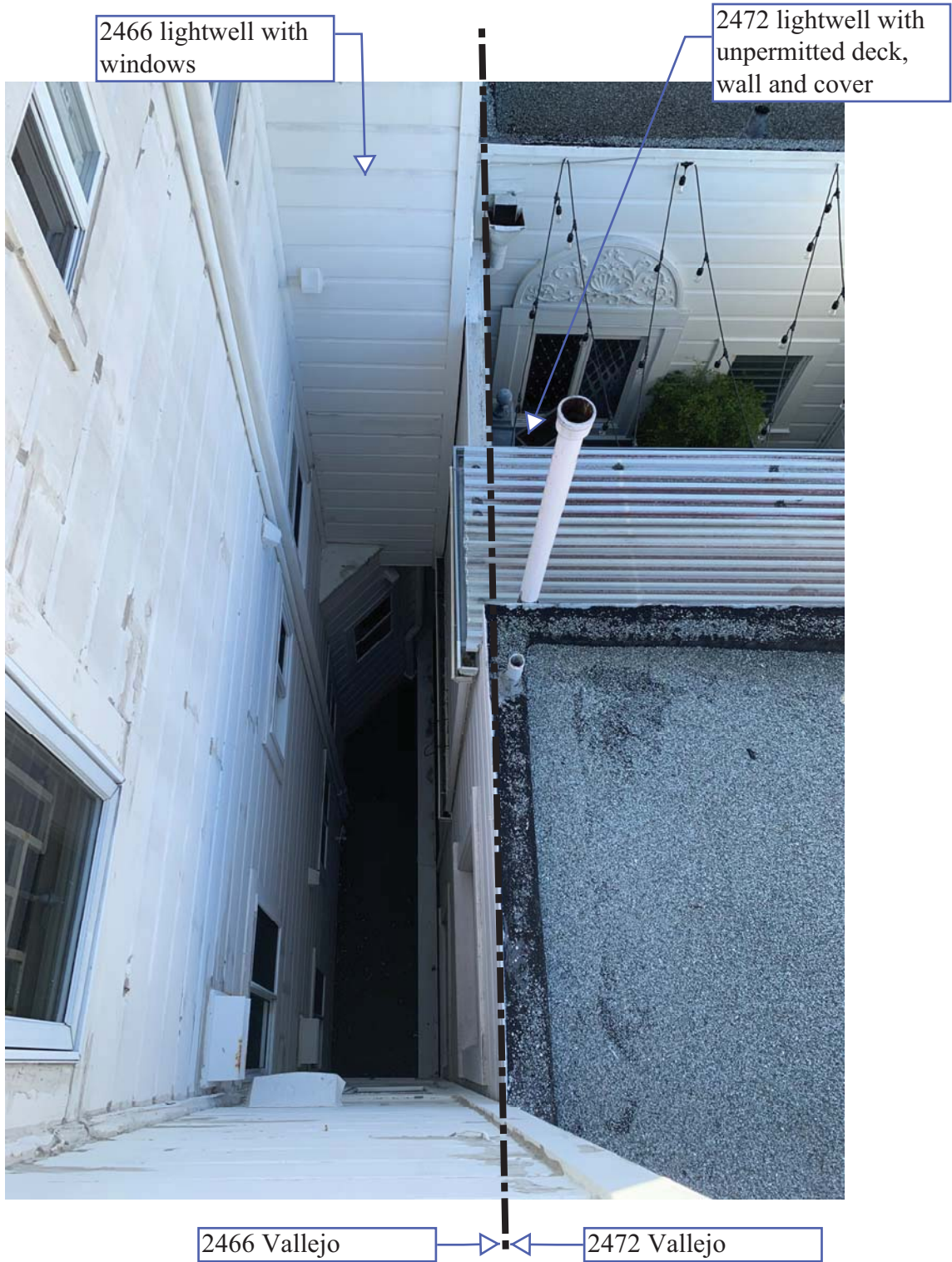


Photo of shared lightwell looking south

2472 Vallejo

2466 Vallejo

2472 lightwell with unpermitted deck and wall closing off lightwell



2472 Vallejo

2466 Vallejo

Photo of shared lightwell looking North

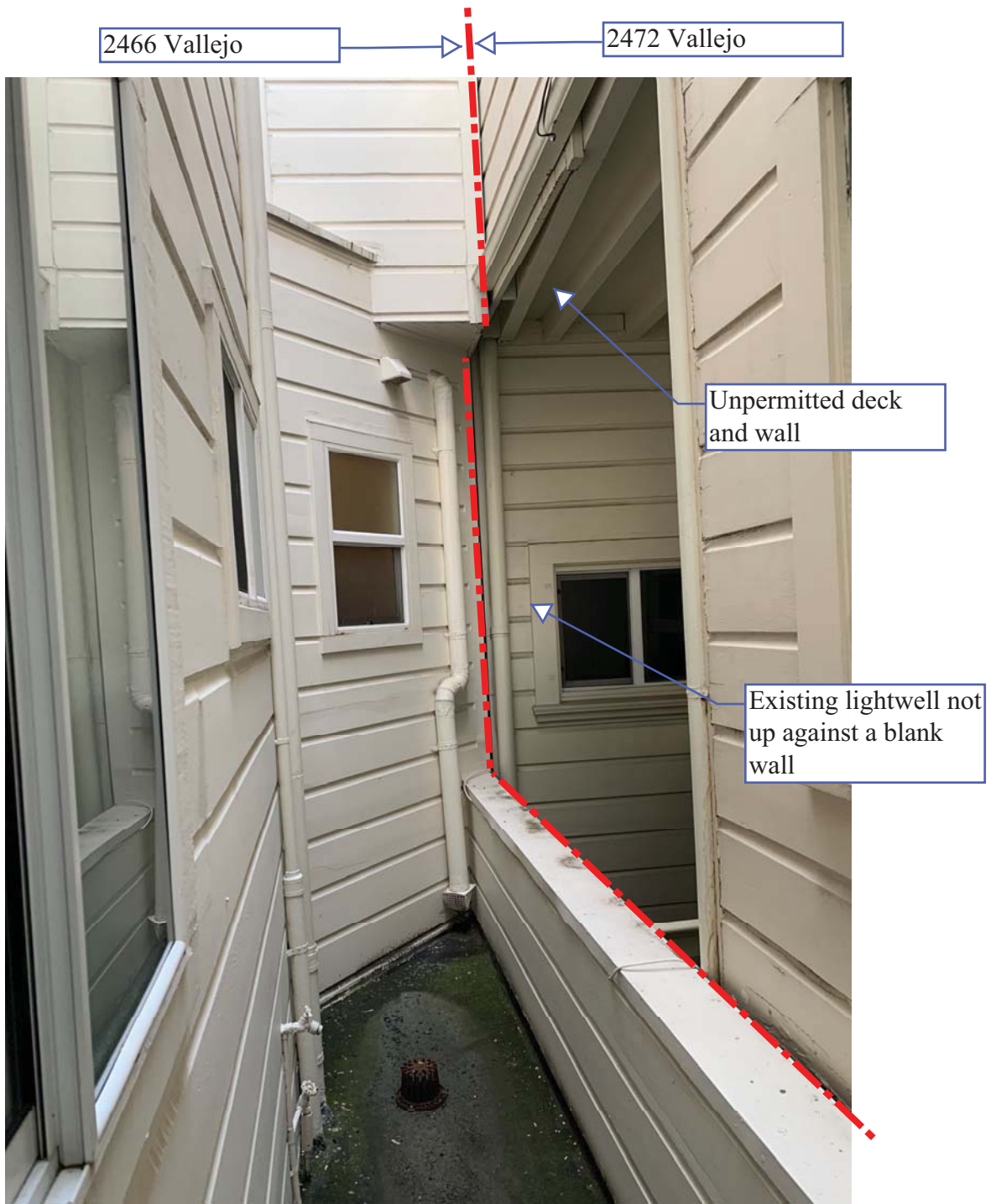


Photo of shared lightwell looking South

EXHIBIT E



Photo of 2472 Vallejo unpermitted deck

BRIEF SUBMITTED BY THE PERMIT HOLDER(S)

April 15, 2021

To: Board of Appeals of the City and County of San Francisco

From: Evelyn Hu, Trustee of the ED Living Trust, owner of 2472 Vallejo St

Case: 21-015

Date of Hearing: April 21, 2021

Dear Honorable Commissioners:

Two months ago, my husband and I became the new owners of the building at 2472 Vallejo St. We have a young family, consisting of two daughters, ages 3 and 6, who attend school a few blocks from the house, and my mother, age 68 who lives with us. We seek to remodel the lower two floors of 2472 Vallejo under our issued building permit 202012301935 and move in to live there for the rest of our lives. We look forward to walking our daughters to school every day and contributing to a warm and inclusive community of families, children, and grandparents in the neighborhood that we have already started getting to know with pleasure. Additionally, we have an elderly Tenant living on the 3rd floor, and we seek to maintain as much of his status quo as possible, minimizing disruption to his space as a result of our remodel, and even upgrading his services.

The permit for our remodel was issued correctly, as there is no impact on Appellant and no need for 311 notification. Additionally, there are conditions in Appellant's lightwell that render his arguments moot and underscore the necessity of a vertically continuous firewall at the property line. Regrettably, Appellant's newly-found objections (never raised during decades they have preexisted) appear to be personal to our family, and part of a pattern of harassment.

We respectfully request that the appeal be denied.

I. Planning's decision to approve infill without notification was correct.

A. Only a small gap in the middle of the existing firewall is being infilled.

The so-called "lightwell" infill portion of our permit scope intends to patch a small 6' high x 10' wide opening in the firewall on the second floor property line. This would connect the existing 3rd floor firewall that comes down from roof level, to the existing ground-to-partial-2nd-floor firewall that extends up from the foundation. It would result in a vertically continuous firewall, fulfilling the requirements of CA Building Code 706.6. The existing 3rd floor firewall and landing never produced light from our structure to benefit Appellant's property, because it is enclosed at the top, and such condition has existed for many decades without complaint. As seen in the photos, any light that reaches the Appellant's windows originates from his own lightwell, not from our property. Planning correctly determined that filling in the gap in the middle of the existing firewall will have no impact on the Appellant's property and does not require neighborhood notice under Planning Code section 311.

B. The area at issue is a stairwell, not a "lightwell."

Moreover, the project does not actually involve infilling a "lightwell" because this area is actually a stairwell. The firewalls and stairs and landings have existed for a very long time, but only recently were inaccurately labeled a "lightwell" in the 2017 approved permit plan set. Indeed, this area was alternatively labeled "lightwell" on some pages and "exit stairs" on other pages. In reality, this area is characterized by a stairwell with elongated landings at the 2nd floor

and the 3rd floor, doors that open onto the landings, and vertical firewalls at parts of the property line. Its 10"x11" footprint is wider than a typical lightwell, and there are no windows on the wall facing the property line. Although we refer to this area as lightwell in our brief for simplicity, its true nature is most likely a convenience stairwell. A representative of the estate of the prior owner, who has owned it in the family for generations, has stated that "servant's stairwell" is most likely the original use of this area when it was built. Thus, because this project does not involve a lightwell in the first instance, and simply closes a gap in our existing firewall, 311 notice is not required.

C. Appellant misrepresents his window conditions and the impact to them.

Appellant's ground floor is completely infilled already. Appellant's fourth floor is unobstructed, rising above our smaller property. There are only five small windows on the Appellant's second floor. Only three of those actually face directly onto our gap on the second floor, as there is an offset to Appellant's lightwell. Those three windows are in bathrooms, which do not require natural light and do not receive any light from our property. The two remaining windows on the second floor don't line up with the gap and are in Appellant's kitchen, which faces the opposite side of his property and receives sunlight through two rear-facing large glass patio doors that span the width of the lot. Moreover, all of Appellant's lightwell windows have been deliberately and heavily frosted, intentionally obscuring and diminishing any light they might otherwise receive. Even if our firewall gap were providing light to the Appellant's windows, which it does not, the impact of closing our 2nd floor opening on these small, heavily frosted windows would be de minimis.

D. This area had been approved as infilled since 2017. Existing conditions have persisted for decades without complaint. Appellant’s recent objections are both untimely and adversely motivated.

Furthermore, the prior approved plans already show this area as fully infilled. The 2017 plan set for 2472 Vallejo was approved as part of permit application number 201609299185. A continuous firewall at the property line in the “lightwell”/“exit stair” area extending vertically all three floors of the building, and a stairwell with elongated landings on the 3rd and 2nd floors, are shown on the sections and floorplans of that plan set. There was a 311 Notification for this approved permit, cover letter mailed 7/21/17, and the full set of plans mailed 8/4/17. No requests for Discretionary Review were filed. As per standard process, a pre-application meeting had been held in advance offering to show large-scale plans to neighbors, and no objections had surfaced. The permit wasn’t appealed, and it received final sign-off in Dec 2020.

Appellant has a very close relationship with our elderly Tenant who has a lifetime lease and lives on the 3rd floor. Our Tenant has enjoyed for decades that 3rd floor landing, installing a BBQ grill and fireplace and furniture on the landing (called “deck” by Appellant). The Appellant is known to have dinner every other Saturday with the Tenant and to enjoy the deck together. This has been their tradition for decades, as described by the Tenant himself.

The Appellant may look down anytime from his 4th floor windows to see our property’s 3rd floor firewalls and landing and the Tenant’s furnishings there. In the decades that have elapsed, the Appellant has never filed a complaint, and he did not request Discretionary Review of the plan set he received in the mail during the 311 process in 2017 showing the fully infilled condition.

Prior permits, such as the horizontal addition done at subject property in the last decade, would have impacted Appellant much more than the current permit. Appellant had never objected to such impactful work done by Tenant, yet now objects to our current permit despite the clear lack of impact from it. Appellant has seen and enjoyed the existing conditions with our Tenant for decades, but suddenly makes unsubstantiated allegations about them now that there is a new young family moving in.

II. Appellant's existing lightwell poses serious fire risk that our project will mitigate. A continuous vertical firewall must be maintained to protect our home.

Closing our second-floor firewall gap so we have one continuous firewall at the property line must be done to protect our property. We have very real concerns about fire risk given what appears to be unprotected openings in the Appellant's lightwell. The Appellant's current windows are located impermissibly close to the property line, do not appear to be fire rated, or have fire assemblies or automated sprinklers, are vinyl retrofits, and exceed the proportion of openings allowable on exterior walls. Such unprotected openings at the property line are not allowable under current code.

Appellant's property is an apartment building with higher occupancy and therefore greater fire danger. Any fire in Appellant's building could travel through the unprotected windows in the lightwell to other units or across the property line to our home. We have a genuine concern that our home be up to code in the event of such a hazard. Sealing up any gaps

in the firewall, and maintaining the current firewalls are not only legal, they are of paramount importance. Moreover, we are required by Section 706.6 of the CA Building Code to close the disjointed gap in the firewall to maintain a vertically continuous firewall spanning the full height of our building from foundation to at least 30 inches above the adjacent roofs. That is exactly what is being proposed in the subject permit.

III. There is no way we are “undermining” the Appellant’s foundation.

Our two adjacent properties have completely separate foundations, and we have an approved structural scope that allows us to reinforce our own foundation, supervised by a highly respected structural engineering firm. There would be no reason for our workers to “undermine” Appellant’s foundation footing, as all work is on the subject site only. The building inspector has also visited the site multiple times and dismissed these unfounded complaints. Simple shoring and underpinning methods are done all around the city to ensure adjacent foundations are not disturbed as new foundations are built. Double D Engineering is a reputable firm and they may be willing to educate Appellant as to scope and means and methods of construction required to pour a new property line foundation without affecting the neighboring foundation. If Appellant is genuinely concerned and can behave respectfully in a sit down meeting (see below for history of harassment), we’d be happy to arrange such meetings with our professionals.

IV. Appellant refuses dialogue with us. Revoking our permit does not remedy Appellant's sunlight. It is a continuation of Appellant's harassment of our family.

Appellant's proposed remedy of a total revocation of our permit is illogical given his purported sunlight concerns. Revoking our permit won't bring the Appellant more sunlight, as our permit scope doesn't touch the structures that he complains are blocking his light but have been there forever to obstruct his light always. Upholding our permit also won't impact the Appellant's sunlight because patching the 2nd floor gap below has no impact on his light above or across. His alleged concerns about sunlight are unrelated to his proposed solution.

We have tried very hard to have a neighborly dialogue with the Appellant, going back as far as summer of 2020 when we first visited the property. See attached log of our attempts to dialogue, met by Appellant's dismissal every time, along with his inexplicable angry behaviors (Exhibit 11). Despite our requests for his contact info, the first time we ever saw Appellant's email address was on his appeal request.

Besides refusing to dialogue at all, Appellant has engaged in a campaign of harassment against me, my family, and our workers, which has gotten so out of hand it has recently culminated in the granting of a Temporary Restraining Order (TRO) against the Appellant by the Court (see Exhibit 12).

Recall also that two out of his three originally stated reasons for this appeal had to do with his dislike for our workers who are of Hispanic descent. But Appellant's harassment against our workers continued even while they were performing only landscaping and painting work, which does not fall under the jurisdiction of permits, during the period they were respecting the permit suspension. His appeal is not about the subject permit or impacts of light

to his frosted windows, but rather a pattern of harassment and abuse against us. The motive is clear from his desired outcome - keep the young asian family out.

V. Appellant's behavior may also be influenced by his friend's efforts to obtain money from us.

As discussed above, the Appellant and the Tenant are close friends and have dinner every Saturday together. A few months ago while we were in contract to purchase the property, the Tenant sent us an unsolicited letter demanding a \$2.5 million buyout of his tenancy. We found this quite aggressive and uncalled for, as we had previously made it clear we are not able to afford any buyout. The Tenant also stated that he would block any construction - to us, to our project manager, to the listing agent, and even to a prior buyer in contract who then fearfully withdrew their offer before us.

The Tenant's desire to tortiously interfere with the sale and intimidate new ownership apparently originates from his strange notion that he is the rightful "owner" of the building. He has represented himself throughout the neighborhood as an "owner" during his decades of residence, despite the reality that he is a renter at far-below-market rate. We came to discover recently while meeting new neighbors that many were incredulous that he wasn't the owner this whole time. While prior owner Patricia Woodley lived in Hawaii and Los Altos for the last several decades, the Tenant assumed a caretaking role at the property, declaring himself the "owner" to others, and no one challenged the notion since no actual owners lived at the building.

While Patricia was battling pancreatic cancer in 2018, the Tenant attempted to record a statement from her that could give him an ownership stake in the building; in fact, he represented

to us that he possessed such a recording -- but of course could not produce it. Upon Patricia's death, Patricia's estate signed a 30-year lease with him at continued favorable terms, including the same very-below-market rent. The ownership was inherited by Patricia's sons. This should have been a happy outcome for the Tenant, but somehow has led to a psychologically troubling transition, in which he feels a relegation from his prior status of "owner" to now tenant.

We've been genuine about upholding his tenancy at very low rent for the rest of his life, and we're even upgrading his services. We went so far as to agree to his requests to build a roof deck and a breakfast nook for him, even agreeing to introduce him as "partner" or "part owner" to other neighbors because he asked for it and we felt sorry for him -- only to later read in his demand letter that he changed his mind and wants a \$2.5m buyout and will block our construction. He also attempted to allege that black mold and leaks exist at the property, fabricating a list of habitability issues in hopes that we too would back out of contract. When asked to enter his unit so photos and remedies could be provided for the conditions, he adamantly refused and dropped all mention of the claims.

There is a bizarre sense of entitlement and an unnecessary extortionary inclination that seems to be at play in every interaction. The Tenant says he dislikes San Francisco because he dislikes young people, and wants to move out of the city, yet is holding out for an irrational sum of money. The Appellant is fueled by the slanderous statements the Tenant makes about us, and avoids direct dialogue that would set the facts straight and relieve his unnecessary anger. Understandably, having a new owner tangibly challenges the Tenant's identity of "owner" that he has held for decades. On top of that, no one has been able to satisfy his irrational buyout demand - not us, not the prior buyer, not the sellers. While there is sympathy and understanding for these two gentlemen, we also hope they will both find better guiding light soon (no pun intended).

V. Conclusion

In conclusion, we believe the permit is correctly issued and 311 notice is not required because filling in a small gap in the middle of our firewall will have no impact on Appellant. A vertically continuous firewall is necessary here to protect our home from fire and is required by Code. We urge the Board to deny the appeal, uphold Planning's approval of the project, and allow us to move forward with the remodel so that we can move in soon to our rightful home.

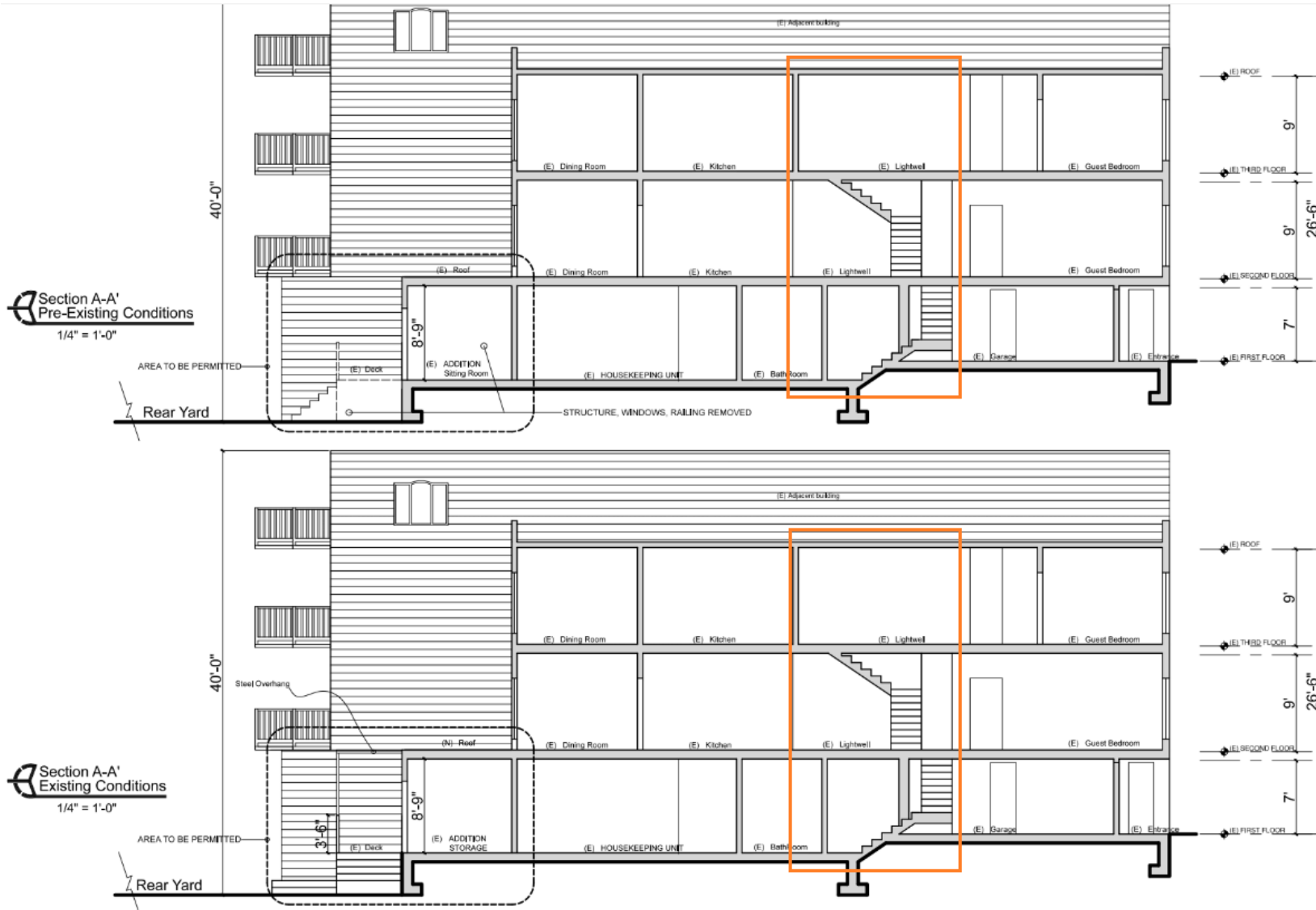
Respectfully submitted,

Evelyn Hu

Trustee of the ED Living Trust

[Exhibits attached](#)

Exhibit 1: 2017 approved plans show fully infilled preexisting condition of "Lightwell"/"Exit Stairs" in sectional view



EVOLVE DESIGN STUD
 jeffreydoney@gmail.com
 4115 19th Street, San Francisco, CA 94114
 415-998-8658

REVISIONS	BY

SECTION A-A'
 PRE-EXISTING AND EXISTING CONDITIONS

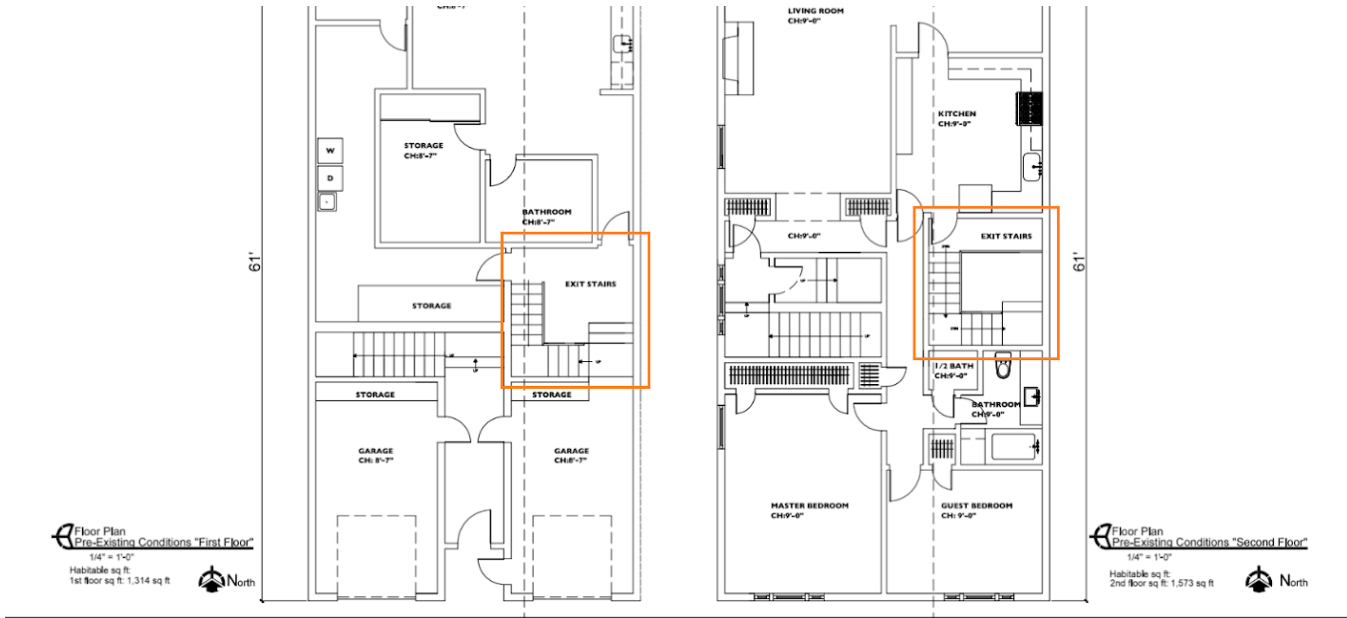
Scale: Design by: *Carlae Affinis*
 jeffreydoney07@gmail.com | 10/19/2017
 AS NOTED
 Jeffrey Doney

Date: 10/19/2017

Legalizing horizontal rear addition
 2472 VALLEJO STREET,
 SAN FRANCISCO CA, 94123

SHEET
A8

Exhibit 2: 2017 approved plans show fully infilled preexisting condition of "Lightwell"/"Exit Stairs" in plan view

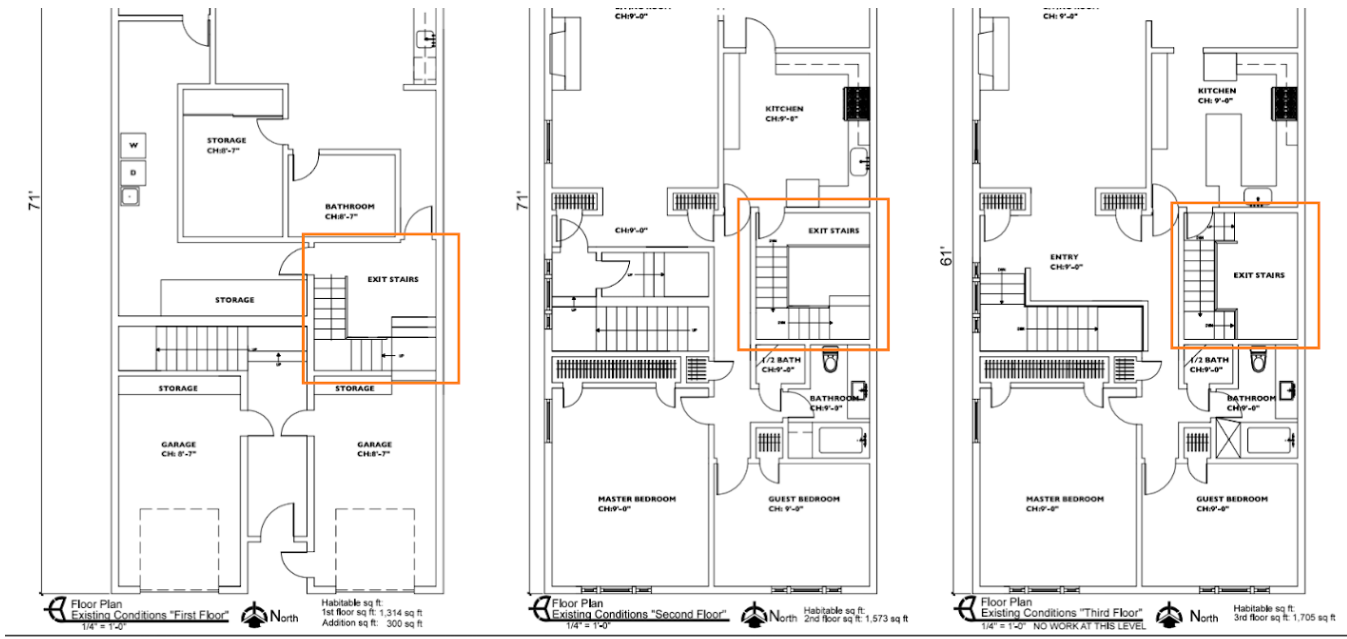


SITE PLAN
 EXISTING CONDITIONS

Legalizing horizontal rear addition
 2472 VALLEJO STREET,
 SAN FRANCISCO CA, 94123

Scale: AS NOTED
 Design by: Jeffrey Downey
 Drawn: Carlos Alvarado
 Date: 10/19/2017

SHEET A3



FIRST, SECOND AND THIRD FLOOR PLAN
 EXISTING CONDITIONS

Legalizing horizontal rear addition
 2472 VALLEJO STREET,
 SAN FRANCISCO CA, 94123

Scale: AS NOTED
 Design by: Jeffrey Downey
 Drawn: Carlos Alvarado
 Date: 10/19/2017

SHEET A4

Exhibit 3: 2017 approved plans went through 311 notification with no Discretionary Reviews filed

Application Number: 201609299185
 Form Number: 3
 Address(es): 0559 / 019 / 0 2472 VALLEJO ST
 Description: HORIZONTAL ADDITION, TO LEGALIZE WORK DONE WITHOUT PERMIT AT LOWER LEVEL FOR NOV #201608611. ADD BEDROOM & LIVING ROOM.
 Cost: \$54,300.00
 Occupancy Code: R-3
 Building Use: 28 - 2 FAMILY DWELLING

Disposition / Stage:

Action Date	Stage	Comments
9/29/2016	TRIAGE	
9/29/2016	FILING	
9/29/2016	FILED	
10/13/2017	APPROVED	
10/16/2017	ISSUED	
12/10/2020	COMPLETE	5770359 CFC ISSUED

Addenda Details:

Description:
SITE.

Step	Station	Arrive	Start	In Hold	Out Hold	Finish	Checked By	Hold Description
1	HIS	9/29/16	9/29/16			9/29/16		KEITH MATHER
2	CPB	10/4/16	10/4/16			10/4/16	TORRES SHIRLEY	
3	CP-ZOC	10/4/16	12/15/16			9/11/17	YOUNG SHARON	Approved.
4	CP-NP	7/21/17	8/4/17	7/21/17	7/27/17	9/11/17	YOUNG SHARON	Sec. 311 cover letter mailed: 7/21/17 Sec. 311 mailed: 8/04/17 exp: 9/03/17 (Milton) No requests for Discretionary Review were filed during the Sec 311 notification period.
5	BLDG	9/12/17				9/28/17	LAU (NELSON) CHI CHIU	
6	DPW-BSM	9/28/17	10/2/17			10/2/17	CHOY CLINTON	Approved SITE Permit only. 10/2/17: ADDENDUM requirement(s) for sign off. Minor Sidewalk Encroachment (existing potted planters at entrance way and mitigate unsafe sidewalk warping at garage entrance). Download sidewalk application(s) at http://www.sfpublicworks.org/services/permits/application-forms and submit them at 1155 Market, 3rd Floor. Your construction addendum will be ON-HOLD until all necessary permit(s) are approved or the assigned BSM plan checker(s) may recommend sign off to the satellite office via email. Please call BSM main office at (415) 554-5810 or view http://www.sfpublicworks.org/informationalbrochures for

Exhibit 4: California Building Code 706.6 requires firewalls to have vertical continuity from foundation to roof (and above)

706.6 Vertical Continuity

Fire walls shall extend from the foundation to a termination point not less than 30 inches (762 mm) above both adjacent roofs.

Exhibit 5: Preexisting firewalls on 1st and 3rd floor. Gap in the 2nd floor to be closed.

**Exterior View:
Third and partial Second Floors**



Third Floor Firewall - full height

Second Floor Opening - partial
To be infilled.

**Interior View:
Second and Ground Floors**



Second Floor Firewall - partial

Ground Floor Firewall - full height

**Exhibit 6: Ground floor and second floor of stairwell structure.
Various photo angles show the small gap in firewall to be infilled.**

Proposed infill is limited to this small gap in firewall on 2nd floor

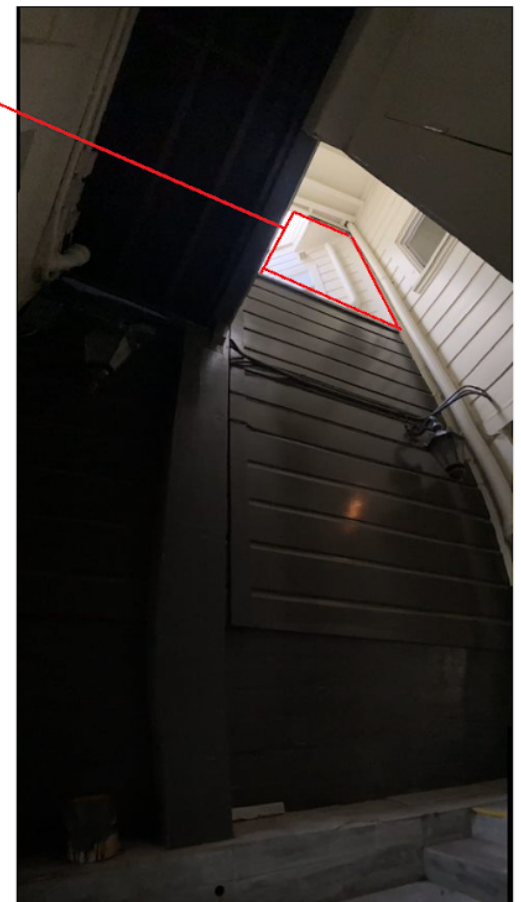
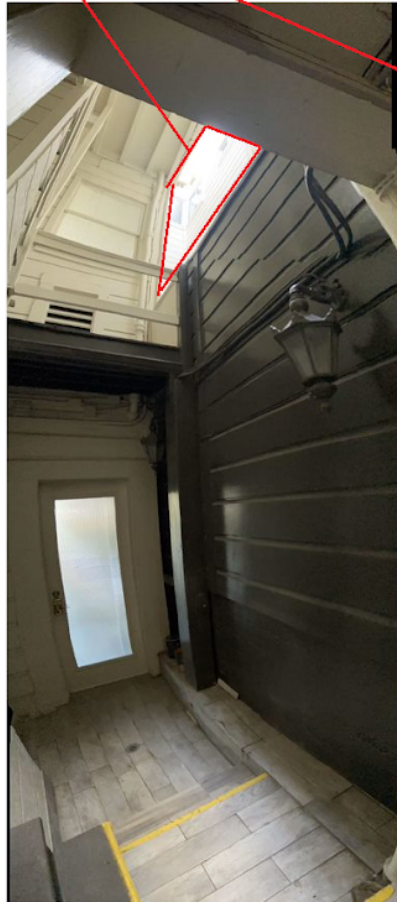


Exhibit 7: Third floor firewall and stairwell landing, as seen from both sides of property line.

3rd floor firewall as seen from Tenant's perspective

Appellant resides on the floor ABOVE



3rd floor firewall as seen from property line



Exhibit 8: The original top floor landing of the stairwell structure has never produced light to benefit Appellant's property.



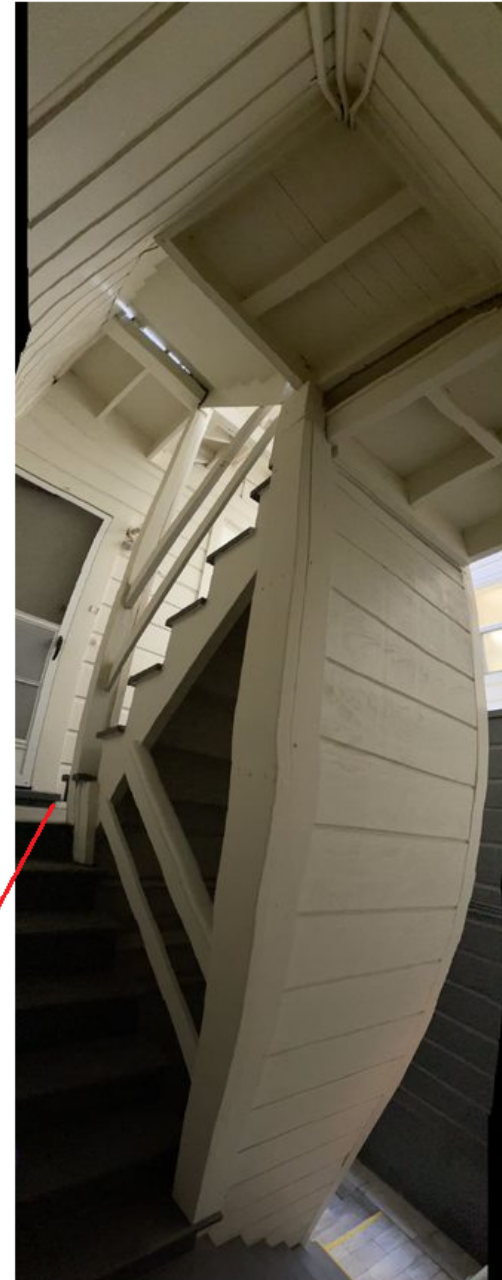
**Top landing
of this original
stairwell
obstructs all
light to below**

Exhibit 9: This is a stairwell structure original to the building, with elongated landings at each floor. The inaccurate “lightwell” label first surfaced in the 2017 plan set on sporadic pages.



**Underside of
3rd floor landing
which extends to
property line**

**Second floor
elongated landing
extends to
property line**



**Exhibit 10: Appellant only has five windows on the 2nd floor, not thirteen as alleged.
Only the three bathroom windows face our opening. The two kitchen windows do *not* face our opening.**

Kitchen windows (note the
light from rear glass patio doors)

Bathroom windows



Exhibit 11: Our attempts to dialogue with Appellant have all been shunned.

Summer 2020	While in contract to buy the property, Permit Holder spotted Appellant in the yard and said, "Hello, we're the new buyers in contract for the property. How are you?" Appellant looked away. Trying again, Permit Holder asked, "Do you live here or come often?" Appellant responded dismissively, "I'm always here" and walked away brusquely.
Fall 2020	Permit Holder's contractor asked Appellant for his email and phone contact to pass on, so Permit Holder could get in touch about the remodel plans. Appellant refused, saying "I will have nothing to do with whatever you're doing over there."
early February 2021	After closing escrow on the purchase of the property, Permit Holder attempted two separate times again to approach Appellant and tried to interact "Hi, I'm your new neighbor and my name is Evelyn." Appellant walked away dismissively each time.
February 2021	As construction began, Permit Holder's construction crew tried to say "hello" and each time met with a dismissive or deliberately rude gesture or glare.
February 2021	Several times a week, Appellant was spotted trespassing on our property. He seemed to be paranoid and angry. When we asked "Hello, can I help you?" he would turn and walk out quickly.
mid February 2021	Permit Holder was speaking with contractor in front of front door, next to mailbox. Appellant was holding a newspaper that he appeared to want to slide into Tenant's mailbox. Appellant made a great display of anger, forging between the talking individuals, exerted a loud grunting noise, and shoved the newspaper through the mail slot with exaggerated force, glaring as he walked away.
March 5, 2021	The first time Permit Holder obtained Appellant's email address was when the appeal request was emailed from Alec Longaway.
March 31, 2021	On the day before Appellant submitted his brief for this appeal, Permit Holder again said "hello" and pointedly asked, "Do you have anything you would like to say to me?" Appellant again said "No" but wanted a worker to move his car, which worker complied with. The next day Appellant filed his brief, with all claims revealed to Permit Holder for first time.

Exhibit 12: Appellant's Pattern of Harassment against Permit Holder, leading to Temporary Restraining Order.

CH-100 - Attachment - 7(a)(3) and 7(b) - Description of Harassment

I, Evelyn Hu, am Petitioner and recently purchased the property to reside in next door to Respondent Noel Frelicot. My husband and I have owned the residence property since February 2, 2021. There is a fence between my property and Respondent's property. I am an Asian female, approximately 5' 2" tall and 110 lbs. Respondent is a tall white older male.

In the short time that I have owned the residence property, Mr. Frelicot has engaged in a campaign of harassment and intimidation towards me and my family and workers at my residence property. His tone and demeanor and actions indicate to me that his conduct is driven by anger or animosity toward me based on my Asian heritage.

Initially, the interaction with Respondent involved him coming onto my property without my authorization or invitation. He appeared to be curious to the remodeling work I am doing and even taking photos. This occurred several times a week. During these intrusions, he was not wearing a mask. When I or someone from my work crew would confront him, he would leave.

My workers (of Hispanic descent) face near daily harassment from Respondent. He has threatened that they will be arrested and locked up.

His actions and aggression became downright scary to me when on March 8th at about 9:00 a.m., Respondent accosted me while I was on my driveway. He approached me within 1 foot of my face while holding a white slender tube about 2' to 3' feet long in his hand. He was not wearing a mask and strangely had pieces of scotch tape on his forehead and the side of his face. While invading my property and in my personal space, he shouted at me demanding to know what I am doing at my own property. Every time he spoke, he shook the long white tube at me in a threatening manner. He insisted that I drop what I was doing to prioritize him. I tried to calm the situation and told him that I would be happy to find a time to talk to him as respectful neighbors and tried to move away from him. However, he kept storming closer to me as I moved and kept insisting that I talk to him right then. I reiterated that I am busy and pointed to two workers who were now in the doorway. I again offered to set a time to meet to talk respectfully. He would not have it and twice had to be restrained from further accosting me by his own wife. The whole incident lasted about 5 minutes. I was shaken by the incident. I contacted the police and filed a report. (Copy of incident report No. 210-172-031 hereto attached and hereby referred to as Exhibit A). I am fearful that this aggressive behavior could escalate to something further.

Respondent's harassing behavior has continued. On March 20th at around 3:00 p.m., my 6-year-old daughter was celebrating her birthday in front of my property with several other little girls when respondent drove up to the driveway, came out of his car with no mask covering his face or nose (it was pulled up onto his forehead), walked toward the my daughter and her friends and bent over very closely to them to say something quietly. The girls all got quiet and ran off. Other parents were out front and, like me, were concerned by this intimidating conduct.

Then on March 25th at around 7:45 a.m., Respondent was seen throwing a bag of dog poop into my worker's truck, which was parked squarely in front of my property. I again contacted the police and filed a report. (Copy of incident report No. 210-186-747 and accompanying photographs hereto attached and hereby referred to as Exhibit B).

I am truly fearful for my family, me, and the workers working on my residence property. Based on all of this, I request the Court order the following:

- Respondent to stay at least 10 yards from me and the protected parties.
- Not to enter my property and my building.
- Stop harassing me, my family, and my workers.
- Attorney's fees in the amount of \$3,000.

I hereby declare under penalty of perjury under the laws of State of California that the foregoing is true and correct.

Dated: April 6, 2021


Evelyn Hu, Petitioner

The court has granted the temporary orders checked as granted below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.

5 Personal Conduct Orders

Not Requested Denied Until the Hearing **Granted as Follows:**

- a. You must not do the following things to the person named in ① and to the other protected persons listed in ③:
- (1) Harass, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, abuse, destroy personal property of, or disturb the peace of the person.
 - (2) Contact the person, either directly or indirectly, in any way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by e-mail, by text message, by fax, or by other electronic means.
 - (3) Take any action to obtain the person's address or location. If this item (3) is not checked, the court has found good cause not to make this order.
 - (4) Other (specify):
 Other personal conduct orders are attached at the end of this Order on Attachment 5a(4).
Some of Petitioner's requests are addressed in the below stay away order; other areas
- b. Peaceful written contact through a lawyer or a process server or other person for service of legal papers related to a court case is allowed and does not violate this order. However, you may have your papers served by mail on the person in ①.

6 Stay-Away Order

Not Requested Denied Until the Hearing **Granted as Follows:**

- a. You must stay at least 50 yards away from (check all that apply):
- (1) The person in ①
 - (2) Each person in ③
 - (3) The home of the person in ①
 - (4) The job or business of the person in ①
 - (5) The school of the person in ①
 - (6) The school of the children of the person in ①
 - (7) The residence of the children of the person in ①
 - (8) The vehicle of the person in ①
 - (9) Other (specify):
Stay 10 yards away when all parties are at or inside the residence at 2472 and 2466 Vallejo Street, SF CA
- b. This stay-away order does not prevent you from going to or from your home or place of employment.

7 No Guns or Other Firearms and Ammunition

- a. You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get guns, other firearms, or ammunition.
- b. You must:
- (1) Sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms in your immediate possession or control. This must be done within 24 hours of being served with this Order.

This is a Court Order.



Exhibit 13: Tenant's demand letter seeking a \$2.5 million buyout.

This came unsolicited while we were in contract to purchase property.

Appellant has dinner every other Saturday with Tenant in our building. They are close friends.

Tenant has vowed to block our remodel. Before us, he had interfered with a previous buyer, causing them to withdraw from contract.

August 19, 2020

Hello Vince,

Everything that was discussed in the last two times we met, in all honesty, those are major decisions and are not ones in a position to require to have under the constraints of your time pressure. And, at this time I don't see how next, if any, of it benefits me.

We're still waiting for your list of items we discussed at the meeting on July 20th. This being the only way to know we're all on the same page and neither party is expecting something that was or wasn't discussed. Neither have we received the architectural drawings you said you would be emailing not only for Gene's input with knowledge of the building, but so Gene would know what he'd be dealing with, with such a major remodel you intend to put the building through.

Here's a summary of what Todd and I remember that was discussed at our last meeting. Items we believe you stated you were willing to do benefiting your building, should the sale go through.

1. A full terrace off my living and dining room equal in size of the middle apartment, with the emergency exit door case going above it to stairs to the back porch.
It's my understanding that the City and the Marshall departments, in this case, require direct access from the backyard to the front public area. Feel free to correct me if I'm wrong. Based on your remodel intent of the building, without proof that the City and the Marshall department will not require this access, I will not agree to this change. To me, in case of an emergency to get out from the back of my apartment, those 3-5 stories on an open staircase concerns me greatly. I am afraid of heights! The second exit of both units in the building, the emergency exit, always has been where it currently is since 1922. Not only is this exit enclosed, it requires that I need only to go down 7 stairs with direct access to the front sidewalk and street. I will not agree to adding a full terrace at the back of my apartment.

2. Enclosure of the kitchen terrace, based only on the approval by the City and the Marshall departments allowing you to remove my emergency exit, as it stands currently, stating you are then giving me a larger kitchen terrace. That you would drop the current terrace down to the level of the kitchen floor and enclose the terrace with a glass roof. I am interested in this concept. I will not agree to this.

3. You discussed having a washer and dryer installed in my apartment. I have a perfectly good laundry room where it currently is, it's a full size washer and dryer with a spacious folding area. Adding a washer and dryer to the terrace makes absolutely no sense to me. I will not give up any of the square footage space in my apartment. The drainage and water hose up for the washer and the electrical for the dryer, I don't see how this would be possible. The current laundry room has been in the lower level since the building was built in 1922. I will not agree to this.

4. Replacement of all the windows in my apartment, is necessary at this time. Vince was made aware of the window problems - there are a few windows in my apartment I'm unable to open. I have brought this to Vince's attention three different times in the last year. As to all the replacement of the windows in my apartment will need to be done by a real professional window installer. As you have had the opportunity to see my apartment, I'm sure you have noticed the walls in my dining room, hand-painted, irreplaceable art, and the moldings, the shutters, etc. throughout my apartment. Not only these items, the fabrication and installer will need to understand that all the walls are fabric and plaster that easily crack and fall open. This type of wall treatment is a great deal different to repair, replace, than sheetrock walls.

6. I have no intent of ever giving up either of my storage units in the lower level. I have no intent of ever giving up my garage or any part of it, which includes the storage cabinets in the garage. My car will remain in my garage at all times. Do not park my car on the street at any time.

7. I'm have no interest in moving to France. Whether it be outside of or in the city of Paris, choose to open a satellite office in Santa Barbara and did purchase a secondary residence. I have no interest in having you finance any part of it. But thanks for the offers.

During the meeting on July 20th you asked the question, what will it take to make me happy and my life better.

Ultimately what will make me happy and my life better, buying out of my thirty year lease. It is my understanding that Vince has shared with you what my cash buy-out number is, 2.5 million. This figure, I feel is fair. I really have no intent of happily going through the remodel of the two units below me. The many months of numerous people coming and going throughout the day and possible on the weekends, the constant construction noise, the workers music, the construction mess, finding the front entry door left unlocked at the end of the day - on a daily basis. Based on your remodel plans I believe I'd be inconvenienced with my utilities being shut-off a great number of times, which I'd consider to be totally unacceptable. I'm just imagining when they tear-out all the heating ducted work to find out I'll not have heat during the day, or

night, in the winter. If asbestos is discovered, from the old radiant heat pipes in the walls, during the gutting of the garden apartment, Then what?

On such a large remodel as you've said you'd be doing and your choice not to use a licensed contractor, acting as your own contractor, I feel could be a conflict of interest between tenant landlord homeowner and "acting" contractor.

Buy me out then you have the entire building to do what you want and on your own time line. You'd have my apartment to living in during the construction of the middle and garden apartment and if you feel your family can live in the middle unit during the construction, then you have living space for your entire family. And, you'd not have the cost of doing anything to my apartment.

If I am not bought-out I will require any work to my apartment, that be done prior to any other work to the building begins. I will not be subjected to work on my apartment and work on the rest of the building going on at the same time. Plus, I know at the end of your remodeling, you'd be coming back saying you've come up short to do the work agreed upon on my apartment.

Once you are the current owners of the property, I will be requesting repairs which are highlighted in my list, to be taken care of immediately. A number of them I have advised the current property management a number of times, again, to no avail.

Thank you,

Eugene Anthony

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Thank you,

Eugene Anthony

PUBLIC COMMENT

From: [REDACTED]
Subject: Support for 2472 Vallejo Street, San Francisco /// [REDACTED]
Date: Thursday, April 15, 2021 3:34:04 PM

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

I would like my name and/or personal contact information to be redacted by Board staff.

Board of Appeals-

Over the years I have supported our neighbors efforts to upgrade and improve their properties. I am in support of Evelyn Hu and Derek Liu, the new owners of 2472 Vallejo Street, improvement work. They both have been very easy to work with so far and we welcome them to the neighborhood.

Thank you.

[REDACTED]